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# Congressional Record

PROCEEDINGS AND DEBATES OF THE 102<sup>d</sup> CONGRESS, SECOND SESSION

## SENATE—Monday, October 5, 1992

(Legislative day of Wednesday, September 30, 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 Rev. Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

*The Lord shall preserve thee from all evil; he shall preserve thy soul. The Lord shall preserve thy going out and thy coming in from this time forth, and for evermore.—Psalm 121:7-8.*

Gracious God, our Father in heaven, this morning let this generous promise from the Psalms be real and relevant for every Member of the Senate, every staff person, and the families of all who work in the Senate. As they are scattered, involved in the election or related issues, let Thy special blessing rest upon each one. Grant that they may have the sense of divine guidance in all their involvements and activities.

Grant that all who are running for reelection, whether in the administration or Congress, enjoy the sense of God-direction each day as they pursue whatever responsibility is laid upon them. Grant them grace for each moment, each step of the way—an awareness of the presence of God with them at all times, protection as they travel, labor or play, and a safe return to the tasks which await them when the 103d Congress opens.

In His name who is the Lord of Life and History. 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, October 5, 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, leadership time is reserved.

### RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the majority leader.

### THE JOURNAL

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

The ACTING PRESIDENT pro tempore. That is correct.

### SCHEDULE

Mr. MITCHELL. Mr. President, and Members of the Senate, today the Senate will take up a number of measures in an effort to complete action prior to adjournment. Among those matters which we must resolve today are the remaining appropriations conference reports. Those include the legislative, Department of Defense, and foreign operations measures. In addition, the energy conference report is expected to be taken up and acted upon by the House this morning.

We have the tax bill-urban aid package that is expected to be completed shortly, action on that measure, as well as the pending measure when the Senate returns to legislative session, the National Institutes of Health authorization report, and what remains unresolved, also, on the so-called Brady bill. So Senators can expect a full

schedule today, with the possibility of votes occurring at any time and a session extending late into the evening, if necessary.

I ask my colleagues for their patience and cooperation in this matter as we attempt to complete action on these important measures prior to adjournment.

Under the previous order, there will now be a period for morning business until the hour of 10 a.m., at which time, I inquire of the Chair whether or not the pending business would be the National Institutes of Health reauthorization bill.

The ACTING PRESIDENT pro tempore. That is correct.

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

### MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for morning business.

The Chair recognizes the Senator from Washington [Mr. ADAMS] for up to 30 minutes.

### THE OPPORTUNITY OF A LIFETIME

Mr. ADAMS. Mr. President, as the 102d Congress of the United States moves closer to adjournment, I want to take a few minutes to reflect upon my service here in the Senate, revisit a few of the issues that occupied my time and attention, and to express my appreciation to the people of the State of Washington for having granted me the opportunity of a lifetime: a term of service in the Senate of the United States.

A little over 6 years ago, I left the private practice of law to seek the Democratic Party nomination in my State for the U.S. Senate. In traveling around my State, I found communities that had not flourished during the economic boom of the early 1980's.

Chief among those was the tricity area of central Washington, Richland,

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

Pasco, and Kennewick, a region that had nearly 50 years of dependence on Federal spending at the Hanford Nuclear Reservation.

Although the breathtaking changes that have occurred over the last few years could not have been anticipated at that time, it was clear to me that the future economic stability of the triticities rested in moving beyond cold war weapons production and into a more diverse employment base.

With a campaign theme calling on the people of Washington State to "step up to the future" our message resulted in a close, hard fought upset victory.

During my 6 years in the Senate, I have watched with great pride as the community in the triticities has accepted the challenges brought by a changing world: Today there are more people working in a rapidly diversifying local economy than were working at Hanford before Federal cutbacks began.

The future of Hanford is now in high technology research labs, in cleanup of the defense-related waste at the site, and in a leadership role in developing technologies to assist the world in stepping back from the brink of nuclear war.

In our lifetimes, we will see the nuclear genie that was released at Hanford under the Manhattan project in the early 1940's safely contained and channeled into peaceful scientific endeavors that benefit mankind rather than threaten its very survival.

I am proud to have kept that promise to the citizens of Washington, and to the families in the triticities, in helping them step up to the challenge of an uncertain future, a future that today holds great promise.

The lesson of the Hanford experience is that those who look toward the future will be rewarded with opportunity: Those who yearn for a past that cannot be recreated will be frustrated. There is no turning back.

When I was a candidate for this Senate seat, the timber communities of my State were likewise in an era of transition. Despite record log harvests occurring in the early 1980's, brought about by severe storms, and by the Mount St. Helen's blowdown, over 25,000 jobs were lost, due primarily to increased automation, changes in technology and continuing exports of raw logs to foreign mills.

In all those many months on the campaign trail, not one single voter ever mentioned a shy little bird called the spotted owl. Yet today, to hear the rhetoric, you would think he was public enemy No. 1, responsible for locking up the forests, destroying families and towns, and creating a climate of economic chaos.

Such a strange way to look at a little bird whose unfortunate role it is to serve as an indicator species warning us of impending disaster in the ancient

forest ecosystems, if we do not change our ways in harvesting old growth timber from public lands. Like the miner's canary, the spotted owl warns us of the deadly consequences that will follow the destruction of the fragile, old-growth ecosystems.

Who would have thought, 6 years ago, that the Pacific Yew tree was anything more than just a nuisance undergrowth, to be slashed and burned in the course of clearcutting yet another section of the forest? Today we hear that the humble Yew may hold the secret to curing some forms of cancer.

Should we not ask ourselves: What other great secrets, and answers to human mysteries, rest hidden in the ancient forests of the Pacific Northwest? By what right does this generation destroy the opportunity of a future generation to unlock those secrets? I am proud to have fought to protect what is left of those great forests in my State and the Pacific Northwest.

The fight is not yet over. I leave to my successor the responsibility to protect the public interest in this debate.

I hope the next session of Congress provides a climate where responsible legislation will heed the warning of the spotted owl. By providing meaningful protection for the fragile ecosystem that is home to the owl, the salmon, and the old-growth trees, the timber communities can survive.

But like their counterparts in the triticities, citizens of Forks, Grays Harbor, Skamania, and Pend Oreille must look to the future rather than to the past. The Federal Government has a responsibility to help: I hope to see an expansion of the New Beginnings Program that has been such a phenomenal success in meeting the retraining needs of women in timber households in Forks, WA.

And I hope the 103d Congress will revisit the proposal I advanced, with the courageous and enlightened support of the Senator from Vermont [Mr. LEAHY], to redirect Federal tax policy toward reinvestment, and new business capital, in those timber dependent communities.

Their futures depend on innovative and thoughtful approaches that look forward, not on a politically motivated siren song promising a return to a past that is gone forever.

During the time I have served in this body, it has sometimes seemed as though the pace of current events has been on fast forward. Who would have predicted, 6 years ago, that we would witness the breakup of the Soviet Union and the collapse of international communism?

That a peaceful election would bring a return of democratic institutions to Nicaragua? Or that tiny, war torn El Salvador would at last begin to heal the wounds inflicted by a cruel civil war?

This great institution is sometimes called upon to exercise its own responsibilities under the Constitution in determining whether American men and women will go to war. It was during my term in the Senate, I am glad to say, that we reaffirmed once again that only Congress under the Constitution has the power to declare war.

I am proud to have stood on this floor on several occasions, whether discussing the reflagging of Kuwaiti tankers, or responding to the President's initiative in August 1990 when Iraq invaded Kuwait, debating congressional responsibility under the War Powers Act. There are many who say the debate that preceded our vote to authorize U.S. participation in the Persian Gulf war was the Senate and the House at their best.

If history records it as such, and if the pattern of this Nation's future deliberations on the issue of war follows a similar course, I will consider my efforts rewarded. In upholding the sole power to declare war under article I, section VIII, we avoided repeating the mistakes of past executive branch wars that led to so much national turmoil.

During my Senate term, I have been fortunate to serve on five Senate committees, working with many of my colleagues from both sides of the aisle. In the 100th Congress, I had the great honor of serving on the Foreign Relations Committee, under the able leadership of Senator CLAIBORNE PELL.

My longtime interest in national transportation issues was enhanced as a member of the Committee on Commerce, Science and Transportation, chaired by my friend, the senior Senator from South Carolina [Mr. HOLINGS]. And during my entire term I had the pleasure of serving on the Senate Rules Committee, under the capable stewardship of the Senator from Kentucky, Senator WENDELL FORD.

On the Senate Labor and Human Resources Committee these past 6 years, it has been my distinct pleasure to participate closely in legislative work that touches the lives of all Americans.

The health, educational, and workplace interests of working Americans; the needs of our disabled and elderly; the hopes of those suffering from AIDS and other dread diseases are all gathered within the jurisdiction of that committee. I salute and appreciate the hard work and determined leadership that Senator TED KENNEDY displays as chairman of that committee.

I enjoyed being a part of the many health initiatives of the committee, with particular pride in the several womens' health initiatives Senator BARBARA MIKULSKI and I cosponsored and brought before the Senate.

Mr. President, I am very proud of my tenure as chairman of the Labor Committee's Subcommittee on Aging. During the little more than 2 years that I have chaired the subcommittee, I be-

lieve we have contributed substantially to addressing the needs of our Nation's elderly. I am frankly at the diversity of the issues we have tackled through the subcommittee. I am also proud of my dedicated and hard-working staff of the subcommittee.

A partial list of our accomplishments include the reauthorization of the Older Americans Act and a great deal of work on issues affecting the health care needs of middle-aged and older women. The Congress is on the verge of enacting my legislation to establish national standards for screening mammography. I held the first congressional hearing concerning menopause. And, the subcommittee also addressed other critical issues such as pension reform, malnutrition among the elderly, the quality of care in nursing homes, long-term care, and the need to prohibit physicians from referring patients to the health care businesses in which they have financial interests. I leave knowing that the subcommittee has a solid foundation for continued action on these and other crucial matters affecting older Americans.

And of course, I have deeply appreciated the chance to sit on the Senate Appropriations Committee, and to chair the Subcommittee on the District of Columbia. Nearly 20 years ago, as a Member of the other body, in chairing the Subcommittee on Constitutional Law of the House District Committee, I helped bring home rule to the District of Columbia.

In my more recent role, I have come to see, up close, the challenges presented to a local government that must depend on the fair-mindedness and generosity of Federal legislators whose primary obligation is to the voters of their own States.

No single example better defines the frustration confronting a chairman of the District Appropriations Subcommittee than the recent veto of a bill that would allow the local government to use its own local funds to provide abortion services for some of this Nation's poorest women. Presidential meddling into this local issue, and congressional acquiescence in that action cries out for a remedy.

I have now come to the conclusion that the remedy for this imposed second class citizenship is statehood for the citizens of Washington, DC.

I know the citizens of my State appreciate the benefits that have flowed from my membership on the Senate Appropriations Committee. And although the subcommittee chairmanship I held might seem remote from their interests, a U.S. Senator has an obligation to serve the national interest in addition to the interests of his or her State.

The important benefit of that subcommittee chairmanship includes participation on all conferences within the committee's jurisdiction. It was a

great honor. Chairmanship of the District of Columbia Subcommittee can be a source of frustration, or it can be a labor of love.

For me, it has been the latter, in large measure because some of my more senior colleagues recognized the difficulty of the task, and were sources of encouragement. They remembered their own years chairing the subcommittee.

I refer to the Senator from Hawaii [Mr. INOUE] and to the Senator from West Virginia, Chairman BYRD.

Under the chairmanship of Senator ROBERT BYRD of West Virginia, the Senate Appropriations Committee has, during my 4 years as a member, struggled to do the best of things in the worst of economic times.

My own personal priorities, particularly funding of AIDS treatment under the Ryan White CARE Act, womens' health initiatives, worker retraining, public transportation alternatives, and the agricultural needs of my State have always gotten a fair hearing and a decent level of funding.

The obligation to allocate among the numerous competing interests, to remain within the constraints of a budget that is unfairly burdened with the debt heaped upon it by the folly of the early 1980's, and to meet the current needs of America's families, its elderly and its children, has fallen to the senior Senator from West Virginia.

His service in this body began over 33 years ago; he is the Senate's President pro tempore. But his love of this institution and its rules, his appreciation of the history of democracy from the ancient Greeks and Romans up to our present time, and his unswerving loyalty to the Constitution, all point to special talents and interests apart from seniority and tenure.

Like my colleagues on both sides of the aisle, when I look back with fondness on the time I have spent here, it will remain a matter of pride to recall that I served in the U.S. Senate with ROBERT C. BYRD.

I have spoken this morning of the changes that have come to my State, and the changes that have occurred around the world during my term in the U.S. Senate.

When the 103d Congress meets in a few short months, change will also come to this institution. In some important ways, the U.S. Senate will come to more closely resemble the face of America, and in subsequent years, I hope, will continue to see more women, more minorities, more sons and daughters of working families, bringing their range of skills and experience to the Senate.

For my part, I hope the new Senators who take the oath of office in January will help this body continue to grow, and to face up to the future with the kind of courage and vision the Founders expected.

The State of Washington is heavily dependent on the quality of that vision. Our State is home to great industries that welcome the opportunity to compete in the emerging, new world economic order.

Firms like Microsoft and Boeing have the work forces and management to do business anywhere in the world, but we must insist that our trading partners are willing to compete on a level field. With its location at the gateway to the Pacific rim, my State is eager to invite foreign capital, such as Nintendo, to find a home in the Pacific Northwest. National policies should encourage that participation.

From the perspective of having spent four decades of adult life in the private practice of law, in Congress, in a Presidential Cabinet, private business, and now the Senate, I see a great need for change in the way this Nation deals with the issue of the Federal budget.

Several of my colleagues who are also retiring have expressed their views on this topic in recent days. I hope it is not just the liberated feeling of those now longer standing for election that provokes such introspection and candor.

But it is beyond dispute that the national debt, the yearly deficit, and the growing interest on the debt that is currently the fastest growing category of domestic spending pose a serious threat to our Nation's future. We will be strapping an ever growing 800-pound gorilla onto the backs of our children and grandchildren we as a nation do not face up to the future by paying as we go in the present.

Having served as the first chairman of the House Budget Committee from 1975 to 1977, I have personal knowledge of the time when our Federal budget was under control. During the years I was in the private sector in the early 1980's, I watched with horror as the wave of mergers, acquisitions and binge economic policies created an illusion of prosperity for which the bills are now coming due.

As this Nation faces up to the future, we need to embark on a serious national discussion, defining the relationships between America's generations, and our common obligation to ensure that each is fairly treated.

In the upcoming months, I plan to devote some time to considering the elements of an honest and realistic budget. By clearly defining the relationship between our Nation's past investment and debt, present operating and capital budgets, and our investments in this Nation's future, we can chart the course out of the current budget mess.

As my thoughts on this topic develop, those of you who will grapple with the deficit monster can expect to hear from me. The solution to this problem must become our most urgent priority.

Finally, Mr. President, I must say that my long record of public service could not have been possible without the many friends and supporters from the State of Washington, who sent me to Congress seven consecutive times, and later elected me to the Senate.

Friendships that began on the playing fields of Seattle, and in the classrooms of Broadway High School and the University of Washington have endured these years of change.

Above all else, I have had the love and friendship of my wife Betty and four children in good times and bad. What more could anyone ask?

Here in the Senate, I am grateful to have been assisted by a loyal, talented, and dedicated staff that shared my desire to serve the public interest.

They have proof that the younger generation coming to the forefront of American political life has the skills and the idealism to continue carrying our Nation forward.

To my colleagues on both sides of the aisle, and to the dedicated men and women who serve the U.S. Senate in staff capacities, I extend my deepest appreciation for the 6 years we have worked together.

And I look forward to many more years of remaining active in the public discussion of the great issues that distinguished this Nation from all others.

Thank you, Mr. President.

I yield the floor.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DOLE. Mr. President, is my understanding correct that leader time has been reserved?

The ACTING PRESIDENT pro tempore. That is correct.

#### SALUTE TO JAKE GARN

Mr. DOLE. Mr. President, we all know that voters are frustrated with Congress and frustrated with Washington, DC.

They look at the Capitol and see an institution which is unwilling and unable to deal with the most pressing problems of our day.

For the past 18 years, Senator JAKE GARN has served as a voice for the people's frustration. And for the past 18 years, JAKE GARN's honesty and courage have served Utah and America very well.

Senator GARN's years in the Senate have been ones of both tragedy and triumph. We grieved with him over the tragic death of his wife, Hazel. We re-

joiced with him when he married Kathleen.

And we marveled at his courage when he flew aboard the space shuttle *Discovery*, and when he underwent a major operation to donate one of his kidneys to one of his children.

The courage exhibited by Senator GARN in his personal life, could also be seen in his service in the Senate.

Senator GARN has always called them as he saw them, and he has never been afraid to let this body know when it has failed in its duty.

From banking deregulation to export controls, JAKE GARN has tackled the tough issues, and he has made the Senate a better place.

We all know that many Members of Congress are retiring involuntarily this year. That is not the case with JAKE GARN. He won his last two elections with over 70 percent of the vote, and there is no doubt he could have been re-elected with a similar margin this year.

But Senator GARN has always known that the view from his home in Park City was far better than the view from his office on Capitol Hill.

And perhaps Senator GARN said it best when he said:

The Founding Fathers did not intend that we stay in session from January to December every year. \* \* \* I think they expected that we might live and work with the people who elected us to represent them.

And now that Senator GARN will be living with the people who elect us, I know he will keep speaking out on issues with the same courage and forthrightness that have become his trademark.

#### SALUTE TO STEVE SYMMS

Mr. DOLE. Mr. President, along with many of my colleagues, last week I attended a salute to our good friend, STEVE SYMMS.

There was a lot of good-natured ribbing, and a lot of one-liners. More importantly, however, there were a lot of kind words—from both sides of the aisle—for Idaho's senior Senator.

I was honored to be asked to share some of my thoughts and memories about STEVE SYMMS and his 12 years in the Senate.

I spoke of his loyalty and friendship to me, and the fact that he has stood beside me, solid as a rock, through some of the toughest times of my political life.

I spoke of his courage on a sweltering day in Nicaragua, when Senator SYMMS faced the dictator, Daniel Ortega, in his stage-managed confrontation with our Senate delegation.

And I spoke of the simple fact that STEVE SYMMS is a man who sticks to his principles.

There is no more staunch patriot in the Senate than STEVE SYMMS. For the past 12 years in the Senate, and 8 years

before that in the House, STEVE has been a leader in the efforts to keep America strong, to win the cold war, and to bring democracy to nations all around the world.

And all those who know STEVE know that when he retires from the Senate, he will not retire from the give and take of public debate. Rather, he will be where he loves to be—in the middle of the argument, standing up for America and standing up for freedom.

#### THE CONTINUED PLIGHT OF THE HAITIAN PEOPLE

Mr. PELL. Mr. President, a year ago this week, Haitian President Jean Bertrand Aristide was dragged from the Presidential Palace by members of the armed forces and forced into exile. Although President Aristide had an overwhelming mandate—over 67 percent of the popular vote in Haiti's Presidential elections—he had little protection from the wrath of the armed forces. As a result, Haiti's 7-month experience with democracy was abruptly halted.

At that time, I joined in introducing a resolution condemning the coup and calling upon international organizations to promote the restoration of democracy. The United States and the Organization of American States responded quickly, calling for the return of constitutional democracy and implementing an economic embargo against the impoverished country. Sadly, the implementation of that policy has proven far more difficult than anyone imagined. Today, the military continues to rule the country by force and Haitians live in a climate of fear, insecurity, and lawlessness.

In the year since the coup, it is estimated that more than 2,000 civilians have been killed, more than 37,000 have fled the country, and more than 15,000 have applied for refugee status at the U.S. Embassy. Tens of thousands are in hiding and thousands more have been victims of illegal arrests, torture, and harassment. According to a recent report by Amnesty International, extortion is an increasing form of repression as citizens are forced to pay to avoid arrest or ill-treatment, to secure better prison conditions, or to be released from detention.

The recent agreement to send 18 OAS observers to Haiti to monitor the human rights situation and evaluate needs for humanitarian assistance is a small step in the right direction. However, there is concern that the enormity of their task far outweighs their limited numbers. Unfortunately, President Aristide's original proposal of sending 500 observers was scaled down to 18 in negotiations between representatives of the de facto government and President Aristide.

There are no easy answers to Haiti's problems. The immediate issue, how-

ever, of the appalling lack of respect of human rights and personal security, must be addressed. Through continued international pressure, we must remind all Haitians that they will be held to internationally recognized standards of human rights. The United States, in conjunction with the Organization of American States, must continue to work for the restoration of constitutional order.

In the longer term, the international community must begin to work with Haitians to address the fundamental issues that have crippled democratic effort for decades. Any long lasting solution must include bringing the security forces under civilian authority, and separating and professionalizing the military and police. These steps along with the establishment of the rule of law and strengthening democratic institutions must be priorities in Haiti, otherwise many more Haitian democrats will meet the same fate of President Aristide and his supporters.

#### A NEW CHALLENGE FOR RHODE ISLAND LABOR LEADER EDWARD MCELROY

Mr. PELL. Mr. President, it gives me great pleasure to call the attention of the Senate to the appointment of Edward J. McElroy, one of Rhode Island's most respected and influential leaders of organized labor, to the post of secretary treasurer of the American Federation of Teachers [AFT] here in Washington, DC.

In his new position Mr. McElroy will be the second in command of the 800,000-member AFT, one of the Nation's largest, most innovative and progressive education organizations. Its president is the venerable Albert Shanker who is known to so many of us for his superb leadership, incisive thinking, provocative writing, about education in this country.

For 30 years, Ed McElroy has dedicated himself to the best interests of Rhode Island's working men and women, first as a leader of the Warwick Teachers Union, then as president of our State's AFT and, since 1972, as president of the Rhode Island AFL-CIO. His contributions are immense and, while my State will miss his leadership and energy, the AFT and, indeed, our Nation will benefit enormously from his vision and his talent.

A native Rhode Islander, Ed McElroy graduated from Providence College in 1962 and promptly began teaching social studies and English at Lockwood Junior High School in Warwick, RI. It was then and there that he began his involvement with organized labor as a member of the Warwick Teachers Union.

As the son of a union man, Ed McElroy understood the vital role that organized labor plays in protecting the rights of working men and women and

he was determined to work to expand those rights, especially in the case of public employees. He quickly rose to be president of the Warwick Teachers Union and was instrumental in securing passage by the Rhode Island General Assembly of legislation to give all Rhode Island teachers important new rights to bargain collectively.

Having demonstrated in the Warwick post his leadership ability, his understanding of the Rhode Island educational—and political—systems and his knack for building consensus, Ed McElroy was elected president of the Rhode Island Federation of Teachers in 1971.

The Rhode Island Federation of Teachers represents elementary and secondary school teachers in cities and towns across my State, as well as faculty and staff at Rhode Island College, professional staff at the Rhode Island Department of Education and some health care professionals. When Ed McElroy became the Rhode Island Federation of Teachers president, the Federation had 2,500 members. Today, it represents almost 10,000 Rhode Island teachers and other education professionals in 11 communities.

As president of the Rhode Island Federation of Teachers, Ed McElroy has been an avid and determined advocate for improving the quality of education in our State. He has vigorously opposed education budget cuts, has worked to improve the standards and training for Rhode Island teachers and has fought to give teachers a direct voice in creating better schools for Rhode Island's children. Ed McElroy has been a staunch and tireless warrior for the Rhode Island teacher, protecting their rights, improving their working conditions, and increasing the pay of a profession that should be the proudest and most rewarding one can pursue.

Ed McElroy's style of quiet, effective leadership and consensus building gained statewide recognition and respect. As a result, in 1972 he was elected president of the Rhode Island AFL-CIO, a position he has filled ably while continuing as president of the Rhode Island Federation of Teachers.

The Rhode Island AFL-CIO represents 80,000 Rhode Island workers and in a very real way, it also watches over the interests of all Rhode Island working people whether or not they happen to be a member of a labor union. Ed McElroy's 20 years as president of the Rhode Island AFL-CIO have been especially challenging because labor, both in Rhode Island and nationally, has been buffeted by aggressive opponents and by tough economic times.

In each battle, whether at the bargaining table or in the State House, Ed McElroy has been an indefatigable advocate, his energy boundless, his arguments persistent and persuasive. While he and organized labor have not won every skirmish, the fact that Rhode Is-

land's AFL-CIO remains today a strong, proud, and effective force is a tribute to the quality and tenacity of Ed McElroy's tenure as president.

Ed has faithfully served Rhode Island in other important ways for many years through his participation in the United Way, the Narragansett Bay Commission, Meeting Street School, Work Force 2000, and the Swearer Commission. I would also note that in addition to everything else, he has been a good friend and wise adviser to me for many years.

During his years serving Rhode Island, Ed McElroy has, in my view, been motivated by one principal vision: The belief that the quality of American education should be second to none in the world.

I salute the American Federation of Teachers for recognizing what we, in Rhode Island, have known for years; namely, that Ed McElroy is a rare and special breed of person. Never has he forgotten why he was chosen to lead. And never has he forgotten that his leadership is the vessel to help those who bestowed the responsibility of leadership upon him.

We, Rhode Islanders, will undoubtedly gain from his new role on the national scene. But, while we take pride in that accomplishment, we also feel a sense of loss in our hearts. For now we must share him, where once he was our special treasure, and ours alone.

#### TRIBUTE TO BROCK ADAMS

Mr. PELL. Mr. President, with the retirement of our colleague BROCK ADAMS at the end of the 102d Congress, the State of Washington and the U.S. Senate will be losing the service of a gifted public servant whose career has covered an exceptionally broad spectrum of issues and concerns.

It has been my privilege to share the same committee assignments with Senator ADAMS for at least part of his Senate career, and I can attest at first hand to his genuine concern for dealing constructively with major issues in each committee jurisdiction.

He served on the Committee on Foreign Relations during his first 3 years in the Senate and became deeply involved in our deliberations over protection of navigation in the Persian Gulf during the volatile final years of the Iran-Iraq war.

Senator ADAMS was a leading and sometimes lonely figure in challenging what he perceived to be the folly of re-flagging and escorting Kuwaiti tankers through the mine-choked waters of the gulf. I particularly admired and supported his valiant efforts to invoke the War Powers Act in that connection.

On the Committee on Labor and Human Resources he has been at the forefront of creative action on important social issues, most notably in his capacity as chairman of the Sub-

committee on Aging and as sponsor of the reauthorization of the Older Americans Act. He has been a key proponent of fetal tissue transplantation research, an endeavor that holds promise of alleviating debilitating and painful diseases such as Parkinson's disease.

He has also been a strong advocate of increased attention to women's health issues and has pressed the National Institutes of Health to increase its research activities in this area.

Senator ADAMS has also been an active member of the Committee on Rules and Administration on such issues as the uniform poll closing legislation which is so important to the Western States.

My association with BROCK ADAMS predates his arrival in the Senate. During his tenure as Secretary of Transportation in the Carter administration he was particularly helpful in advancing my interest in the improvement of rail passenger service in the Northeast corridor between Washington and Boston.

One aspect of that project to which he was especially attentive involved the realignment of the Amtrak right of way through downtown Providence, resulting ultimately in the virtual reconstruction of the heart of the city. Secretary ADAM's attentiveness and consideration were much appreciated by Rhode Island.

Mr. President, I have touched on only a few high points of Senator ADAM's multifaceted career. He has contributed richly and constructively to a very broad range of programs and issues. I regret his departure from the Senate and wish him well in all future endeavors.

#### TRIBUTE TO THE LATE GEN. JAMES A. VAN FLEET

Mr. THURMOND. Mr. President, I rise today to pay tribute to a great man, a great soldier, and a great patriot, Gen. James A. Van Fleet, who recently passed away at the age of 100.

General Van Fleet had a long and distinguished career as an Army officer, beginning with his graduation from the U.S. Military Academy in 1915. His class also included two other great Army officers, Gens. Dwight D. Eisenhower and Omar N. Bradley. Upon graduation, Van Fleet accepted a commission in the infantry, the "Queen of Battle," and was soon involved in hostile action as the commander of a machine gun battalion during World War I.

In the years between World War I and World War II, the young officer held a number of assignments in the United States and the Panama Canal zone, the most interesting being a double assignment as both an ROTC instructor and the football coach at the University of Florida.

The peace following World War I was brief, and it was not long before the

winds of conquest were fanning the flames of war throughout the world. Japanese expansion in Asia and Germany's actions in Europe made it only a matter of time before we once again found ourselves involved in global conflict.

During World War II, General Van Fleet spent 3 years commanding the 8th Infantry Regiment, 4th Infantry Division, conducting combat training and amphibious exercises at a number of stateside forts, including Fort Benning, the home of the infantry. In 1944, the division was sent to England where Van Fleet's regiment was selected to spearhead the landing of the 4th Division at Utah Beach in Normandy. Incidentally, I first met General Van Fleet during the D-day invasion when his unit linked up with the 82d Airborne Division, of which I was a member, in the town of St. Marie Eglise. General Van Fleet continued to serve in the European Theater in several different units, participating in some of the conflict's most crucial and key engagements. After the surrender of Germany to the Allied Forces, the General was slated to be sent to the Pacific Theater. He was in the United States when the war with Japan came to an end.

Despite the end of armed conflict with the Axis Forces, the United States and the free world faced a new and equally dangerous and ambitious enemy—our former Communist allies in the Soviet Union, Southeast Asia, and China. General Van Fleet soon found himself back in Europe, this time in Greece where he was the director of the Joint U.S. military advisory and planning group. The general's strategy and tactics soundly defeated the Communist insurgency, and the plan he implemented in Greece has been cited as an excellent example of how to defeat guerrilla forces.

The threat of Communist expansion was truly global, and on the Korean peninsula, American and South Korean forces were waging a vicious war against the North Korean Army which had invaded its southern neighbor without provocation. In April 1951, Van Fleet found himself in Korea, in command of the Eighth Army. During the 2 years he was in command, Van Fleet built up and maintained the morale of his troops at a high level. This was no easy task, considering that they had been pushed to Pusan Harbor, fought their way to the Yalu River, and then were forced back past the 38th Parallel where a static, almost trench war developed. In February of 1953, Van Fleet turned over command of the Eighth Army and retired, after having served our Nation for 38 years.

In his almost four decades of soldiering, General Van Fleet compiled an impressive record of awards and to this day, he is considered to be one of the outstanding combat commanders of

World Wars I and II, as well as a brilliant tactician. President Truman once called General Van Fleet "the greatest general we have ever had."

Mr. President, James Van Fleet enjoyed a long and full life and made many important contributions to the safety and future of the free world. We are all indebted to this great man and we shall miss him.

#### DACOTAH CHAPTER AFA AWARD

Mr. PRESSLER. Mr. President, I take this opportunity to congratulate the Sioux Falls, SD, Dacotah chapter of the Air Force Association. The Dacotah chapter has received the first annual North Central Region Chapter of the Year Award. The award is based on the chapter's performance in programs, newsletters, membership, and reports.

The Dacotah chapter also has received the Golden Community Partner Award, which is a national membership award. Its membership currently stands at 280. The Dacotah chapter is one of 337 chapters throughout the world, which together comprise the Air Force Association, an independent, civilian, nonprofit organization that promotes national defense through the use of aerospace technology and a volunteer total force Air Force. Worldwide membership is nearly 200,000.

The Dacotah chapter conducts programs to support several activities. Its members educate the public about aerospace defense by providing speakers, programs, and newsletters. The chapter administers support programs for the 114th Tactical Fighter Group of the South Dakota Air National Guard.

Another important part of the Dacotah chapter's mission is to provide support not available from Air Force sources. It assists recruiters and supports the South Dakota State University Air Force ROTC Detachment and the Arnold Air Society in ways the Air Force cannot. The organization also is an important supporter of the South Dakota Civil Air Patrol. The local chapter provides funding to the AEF Visions of Exploration Program at local elementary and junior high schools. It also sponsors civil leader tours to USAF bases.

The Air Force Association is an admirable organization. It was formed as an organization in which people could address the defense responsibilities of our Nation using the dramatic advances in aerospace technology. The association also educated its members and the public on how technology can contribute to the peace and security of the world.

Mr. President, I congratulate the Dacotah chapter and all those involved in attaining this honor, including President Charles Nelson, Vice President D.K. Koller, Secretary Dale Faeth, Treasurer Frank McQuire, and

all the other hardworking members of the Dacotah chapter of the Air Force Association.

#### YEAR OF RECONCILIATION EVENTS

Mr. PRESSLER. Mr. President, I am pleased Congress has adopted and the President has signed into law a resolution which I coauthored declaring 1992 a National Year of Reconciliation between American Indians and Non-Indians. This proclamation marks the culmination of a combined effort by members of both the Indian and non-Indian communities. This joint effort is an example of how we should proceed in achieving greater reconciliation.

Mr. President, the resolution should facilitate efforts for reconciliation across the Nation. As the senior Senator from South Dakota, I would like to see the residents of South Dakota, and especially our young people, actively participate in reconciliation by building bridges of understanding between American Indians and non-Indians.

To encourage this effort, I contacted more than 12,000 teachers in my home State to encourage their students to participate in the Spirit of Reconciliation. Students are sending me either a poster or an essay based on this theme. All participants will receive a certificate of merit for their individual efforts toward reconciliation. In addition, every essay and poster I receive will be displayed in my offices—both here in Washington, DC, and in my State offices.

The first essay received is an excellent example of the mail I am receiving. The essay was written by Kari Nicole Cox. She is a second grader at the Hawthorne School in Sioux Falls, SD. Kari ended her essay with this sentence: "Reconciliation is a big word, but my heart is big too." This reflects the attitude of many of the students I am hearing from. I ask unanimous consent that Kari Cox's complete essay be entered in the RECORD.

I will be holding a listening meeting with South Dakota tribal leaders in the near future. Listening meetings, such as this one, are important in keeping abreast of all the latest developments in Indian country.

In closing, I urge my colleagues to join me in taking an active role in reconciliation during the remainder of this year and on into the future.

SIoux FALLS, SD.

During this National Year of Reconciliation I have an Indian friend. I think she is beautiful. She thinks I am too. I am mixed race. I know that people can get along if we all try. That is my wish. *Reconciliation* is a big word, but my heart is big too.

Love,

KARI COX.

Second grade, Hawthorne School.

#### CORN PALACE CELEBRATES CENTENNIAL

Mr. PRESSLER. Mr. President, the World's Only Corn Palace, located in Mitchell, SD, is celebrating its 100th anniversary. This one-of-a-kind landmark was created in 1892. For 100 years it has been one of South Dakota's greatest tourist attractions.

The Corn Palace is a castle-like structure decorated with over 3,000 bushels of colored corn, as well as grains and grasses. Its exterior murals are changed each spring to express the year's chosen theme, which is selected by the Corn Palace Committee.

The manner in which the palace is decorated is well planned and similar to a paint-by-numbers approach. First the palace artist sketches and color-codes the designs which are enlarged and transferred onto sheets of roofing paper attached to the exterior panels. Then the corn and other decorative items are nailed or stapled to the panels to create the mural designs.

An official pictorial record is displayed inside the palace, showing each year's decorative theme since its inception. For years the murals were designed by Oscar Howe, a famous South Dakota artist. Mitchell artist and educator, Cal Schultz, has been designing the murals since 1977.

The history of the Corn Palace has been researched in depth by Clyde Goin, who is known as the Corn Palace historian. Mr. Goin's findings are contained in "The Corn Palace Story," which reports that the Corn Palace was created to revitalize immigration to South Dakota to convince the Corn Belt farmer that corn and wheat could be grown in abundance in South Dakota. Mr. President, I ask unanimous consent that "The Corn Palace Story" be printed in the RECORD immediately following my remarks.

While the Corn Palace may have been created to attract settlers to the area, it has since grown to serve a multitude of purposes. In addition to drawing over 750,000 visitors each year, the Corn Palace is the focal point of the Mitchell community. It serves as a center for entertainment—over the years attracting such stars as Bob Hope, Red Skelton, Lawrence Welk, and the Mills Brothers. The Corn Palace also has hosted politicians, including John Kennedy in 1960. In fact, President Bush stopped at the Corn Palace during his first Presidential race.

The Mitchell Corn Palace serves as the sporting arena for the athletic teams of Mitchell High School and Dakota Wesleyan University as well as for many of the State regional sporting events. It also houses the Mitchell Teen Center.

The annual Corn Palace week celebration each September is a favorite highlight for the community. This week-long event provides daily entertainment, including the Polka Fes-

tival, which brings visitors from 40 States.

The Corn Palace is world renowned and I am pleased to tell my colleagues its features have been included in the "Seeds of Change" exhibit currently displayed at the Smithsonian's Museum of Natural History. In fact, the exhibit's Director has confirmed the Mitchell Corn Palace was the inspiration for the grand entrance to the "Seeds" exhibit. The "Seeds of Change" exhibit runs through May 1993.

Mr. President, recently the Corn Palace was presented with the 1992 Special Achievement Award by the Black Hills, Badlands & Lakes Association, South Dakota's largest private tourism organization. The award appropriately recognizes the Corn Palace for its 100 years as a premier visitor attraction. I ask unanimous consent that the award announcement as printed in the Rapid City Journal be printed in the RECORD.

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

#### CORN PALACE GETS AWARD

The Black Hills, Badlands & Lakes Association 1992 Special Achievement Award was presented to the Corn Palace Saturday night.

Jim Sellars, Corn Palace general manager, accepted the award from BHB&L President Bill Honerkamp.

Honerkamp said the award was given in recognition of the Corn Palace's 100 years as a premier South Dakota visitor attraction.

"For 10 decades, this architectural showcase has captured the imagination of visitors and showcased America's foremost performers," Honerkamp said. "The Corn Palace is a monument to South Dakota ingenuity and to one community's quest to create and preserve a landmark that is singular on this planet."

#### THE CORN PALACE STORY

On July 26, 1892, in executive session, the Corn Belt Real Estate Association initiated plans to revitalize immigration to South Dakota to convince the Corn Belt farmer that corn and wheat could be grown in abundance in South Dakota. The idea of a Corn Belt Exposition was accepted by the association membership and presented to leading businessmen of Mitchell's commercial sector the following day. The major problem was the lack of a suitable building for such a venture.

With the real estate association's commitment to underwrite part of the expense, Mitchellites picked up on Sioux City, Iowa's Corn Palace which had been cancelled for 1892. In deference to the Corn Belt Real Estate Association, which had initiated the idea, it was to be called the Corn Belt Exposition.

An out-of-state band was engaged along with several free street acts. Each of the 26 counties represented in the real estate association purchased booth space to exhibit the crops produced and goods manufactured in their county—and to tout the fertility of their land and the productivity of its people—just a great place to live!

From the day of its inception, July 26, 1892, until the first day of the Exposition, the City of Mitchell and the Corn Belt Real Estate

Association had joined forces. An Exposition building had been built and decorated from top to bottom with native grasses and grains and a variety of colored corn. Entertainment had been booked and the entire city was decked out in nature's finest raiment. The doors opened on September 28, 1892—only 64 days later!

The venture was a great success! Plans were immediately underway for 1893. The building was enlarged to accommodate more purveyors as well as larger audience. The designs would again be mostly geometric patterns. The second year was equally successful.

By early 1894, economic conditions in the country were disastrous; severe drought conditions gripped the entire farm belt. The Exposition was cancelled. Economic conditions worsened and the celebration was set aside until 1900, when it was revived only to be dropped again for 1901. The year 1902 saw a resurgence of the economy. The Corn Belt Exposition was back for good!

By 1905, the twice-enlarged original building had served its purpose. Plans were formulated for a new building, which was located one block north of the original building. It was completed in 55 days, time enough for the 1905 celebration. This building stood until the very early spring of 1920. During the winter months of 1919-1920 the dirt floor had been flooded providing Mitchellites with South Dakota's first indoor ice skating rink.

In 1919, concern for safety precipitated laws governing buildings and their use. Large groups of people could no longer congregate in wooden structures. The third and present building made entirely of steel and concrete, was designed by architects Rapp & Rapp of Chicago who also designed Radio City Music Hall in New York City, as well as many other famous theatrical buildings throughout the United States.

It was obvious early in 1920 that complications would not allow construction to be completed in time for the 1920 fall Festival. Construction was planned for 1921. Time for the Festival was rapidly approaching with no building, so plans were made to stage the show with circus theme in a huge tent two blocks north of the new building site. The plan met with great enthusiasm but foul weather held crowds to a minimum. The new building was completed in 1921 just in time for the show. The first performance was delayed approximately two hours so some final touch-up painting could be completed.

The general condition and existing inconveniences of the Palace dictated a general overhaul in 1964. A bond issue of \$395,000 was passed by the people and new seating, lighting, air circulation, stage props and a sizeable addition, to include modern dressing rooms, gave the Palace new life. In 1987, the Corn Palace lobby and infrastructure received another \$650,000 worth of renovations.

In 1979, the Palace experienced its only major disaster. A fire near the largest minaret, located on the roof directly above the front entrance, blazed nearly out of control. The amount of water necessary to extinguish the blaze cascaded through the roof entrance, down the stairs and spread throughout the building. Plaster walls and ceilings were devastated along with the parquet basketball floor. Damage was well over one million dollars. To this day the community owes a great debt of gratitude to our local fire fighters who literally "saved the Palace".

#### DECORATING THE PALACE

Decorations on the Palace consisted of dock, wild oats, brome grass, blue grass, rye

straw and wheat tied in bunches and nailed in attractive designs with corn of different colors, sawed in half, lengthwise, and nailed flat-side to the Palace. All grains and grasses were applied in pre-determined design. Usually the earlier Palaces had sugarcane as the bottom decoration due to its hardness and easy replacement.

Until the 1979 fire, the Palace was always decorated from top to bottom. However, since that time any flammable material must be at least eight feet above ground level. Over time the hammer and nails have given way to air nailers and staplers, the old wood scaffolding has been replaced by tubular steel, and the hand saw method of cutting corn has bowed to a specially designed table saw. Normally, decorating starts in mid summer and is completed in mid-September. The total annual cost of decorating can vary from \$25,000 to \$60,000, depending on the amount of surface to be worked.

#### ENTERTAINMENT

The entertainment during the early years was, by popular demand, the concert bands—Pat Conway, Karl King and John Phillip Sousa to name a few. By the early 1920's stage revues were in demand. The first of the "big band" era to play the Palace was Benny Meroff's Orchestra in 1931. Virtually all the big bands played the Palace at least once through 1959. For the next 20 years, the greatest of the "standup" comedians and entertainers held sway. Recent years have seen a shift to shows with several different entertainers for one day stands, leaning toward country western. The history of Palace entertainment mirrors the change in entertainment over the past century.

The Corn Palace is more than just the home of a festival or a point of interest for tourists. The Palace is a practical structure adaptable to many purposes. It is a convention center, a facility for dances, stage shows, meetings, and industrial displays. One of the most important functions is as a sports arena for local and area schools. Sports for all age groups from elementary school to college constantly use the facilities. Time was, the Palace's main purpose was to attract people to South Dakota. Today, the Palace strives to stop folks so they may enjoy a bit of what is now a 100 year old tradition.

#### RECOGNITION OF JANET KRAMER DICKERSON OF MADISON, SD

Mr. PRESSLER. Mr. President, I rise today to recognize the outstanding research completed by Janet Kramer Dickerson, extension home economist for Lake County, SD, residents, headquartered in Madison, SD. Her research paper, entitled "Use and Care of Protective Clothing by Certified Private Pesticide Applicators: A South Dakota Study," was presented during the National Association of Extension Home Economists [NAEHE] conference held last week in Washington, DC. During the NAEHE conference, Mrs. Dickerson received a national home laundering award from her peers for this outstanding research.

Mr. President, agriculture is the driving force behind the economy and plays an important role in the lives of the people in my home State of South Dakota. It is well known that agricul-

tural production is increased through the use of pesticides. The purpose of Mrs. Dickerson's study was to identify the attitudes of South Dakota certified private pesticide applicators toward the use and care of clothing worn during the handling, mixing, and application of pesticides.

Research findings indicated that reading and following directions on pesticide labels could greatly reduce health risks related to pesticide exposure. The South Dakota Cooperative Extension Service incorporated this data into statewide training seminars conducted for commercial and private pesticide applicators. Each seminar participant received a magnet, similar to a refrigerator magnet, which can be attached to a washing machine. The magnet clearly outlines the correct procedures for laundering pesticide contaminated clothing.

Funding for the project was provided by the Environmental Protection Agency through the South Dakota Department of Agriculture, the South Dakota State University Research Station, and the South Dakota State University Cooperative Extension Service.

I commend Mrs. Dickerson for identifying this problem and finding a creative way to deal with it. It is estimated that 12,000 magnets have been distributed to homes throughout South Dakota in the past 2 years. This type of education is helpful in protecting worker safety.

In 1960, Mrs. Dickerson—nee Kramer—a 4-H member from Spink County, and I attended the National 4-H Club Congress in Chicago, IL, as a member of the 4-H delegation from South Dakota. That experience had a significant impact on both of our lives. It was a pleasure to meet with her and other South Dakota extension home economists last week.

Mr. President, I ask unanimous consent that an abstract of Mrs. Dickerson's research on the proper handling of pesticide-contaminated clothing be inserted in the RECORD.

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

Dickerson, Janet A. "Use and Care of Protective Clothing by Certified Private Pesticide Applicators: A South Dakota Study." Thesis, Master of Science, 1991, South Dakota State University, Brookings.

*Purpose.* The purpose of this study was to identify the attitudes of South Dakota Certified Private Pesticide Applicators toward the use and care of clothing which is worn for the handling, mixing and application of pesticides. Information related to the effectiveness of the educational information presented by the South Dakota Cooperative Extension Service at the Private Pesticide Certification seminars and through the home study examination is also included in the study.

*Method.* A two part survey questionnaire was mailed in November, 1990, to 2680 of the 21,297 certified private pesticide applicators in South Dakota. These individuals were

identified during the systematic sample, stratified by county procedure. Part I of the survey, consisting of 34 questions was designed to be completed by the certified private pesticide applicator. Part II of the survey, consisting of 36 questions was designed to be completed by the individual in the household who is responsible for the laundry of the clothing worn while handling, mixing and applying pesticides. Results were analyzed using the Statistical Analysis System computer program. Methods of statistical analysis used included frequencies and cross tabulations. Chi-square was used for the statistical test as the data collected was discrete. The  $P \leq .01$  probability level for chi-square test was selected as criteria for identifying statistically significant differences.

**Findings.** Results of this study indicated applicators generally feel the use of pesticides for increased crop production highly outweighs the human health risks and that the reading and following of directions on the pesticide label could greatly reduce health risks related to pesticide exposure. Although both the launderer and the applicator perceived that there were health risks involved due to exposure to pesticides, data collected for this study does not imply that all precautions were taken to eliminate exposure. The applicators (>80%) identified protective clothing choices as long sleeved shirts, jeans or work pants, leather or canvas shoes and baseball style caps with 63.1% selecting vinyl/rubber gloves for use when handling, mixing and applying pesticides. 88.6% of the launderers reported washing pesticide contaminated clothing separate from the family laundry and of these same individuals only 19.3% reported wearing vinyl/rubber gloves while handling these clothes. Effectiveness of the educational information received through certification training processes was rated by respondents as 81.2% to 95.8% very adequate to adequate.

**Implications for Extension.** Using research data obtained through the study, the South Dakota Cooperative Extension Service incorporated the data into the training seminars conducted for commercial and extension staff field agents beginning winter 1992. Research data in the form of transparencies with script were provided for the extension agent's use in conducting the seminars for the private pesticide applicators. Emphasis for education to applicators was placed in the areas of protective clothing selection, laundry, communication and thorough reading of pesticide labels.

15,000 magnets were produced which outline the correct procedures for laundering clothing worn by the applicator of pesticides. These magnets have been distributed to those individuals receiving private and commercial pesticide certification in 1992. It is estimated that 10,000 of these magnets are in South Dakota homes.

Results of the research were shared with all individuals participating in the survey.

Results from the laundry segment of the research were published in the fall edition of the South Dakota Farm & Home Research, 42(3), 13-15, Agricultural Experiment Station, South Dakota State University, Brookings.

Further use of the research will be incorporated into the protective clothing, laundry and safety aspects of pesticide usage as a means of preventing human health risks associated with pesticide usage. Information will be distributed to the public via measures which must be observed to protect all humans from the health risks associated with pesticides.

**LAUNDRY DAILY ALL CLOTHING WORN BY  
PESTICIDE APPLICATORS**

Follow these steps:

Prerinse or presoak separately.  
Wash in hot water.  
Use heavy-duty liquid detergent.  
Use the full water level.  
Use the maximum wash cycle.  
Line dry clothing.  
Rinse machine using detergent and complete cycle.  
Wear rubber gloves.  
Wash separately from family clothing.

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

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

The bill clerk proceeded to call the roll.

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

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

**BRADY HANDGUN VIOLENCE  
PREVENTION ACT**

Mr. MITCHELL. Mr. President, I ask unanimous consent that, notwithstanding the provisions of rule XXII, the Senate now proceed to the consideration of Calendar Order No. 749, S. 3282, a bill to require a waiting period before the purchase of a handgun; that when the bill is considered, it be considered under the following limitation; that there be 2 hours for debate on the bill, equally divided in the usual form; that no amendments or motions to commit be in order; and that, when all time is used or yielded back, the Senate, without any intervening action or debate, vote on passage of the bill.

The PRESIDING OFFICER. Is there objection?

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, on Friday, the Senate was unable to complete action on a comprehensive crime control bill. Although 55 Senators voted for it and only 43 voted against it, under the rules of the Senate, that was not enough to end the filibuster against the bill by Republican Senators. So the crime bill is dead. It will not be passed this year. It cannot be passed this year.

But there is one part of that bill that might still be passed this year. I have just tried to get consent to let the Senate consider and vote on the Brady bill this year, but Republican Senators objected. It is obvious that the only way the Brady bill can be passed is if President Bush is willing to help. So, I address an appeal directly to President Bush.

Mr. President, you have said that you are for the Brady bill if it is part of a

broader bill. It was part of a broader bill, but that broader bill has been killed by Republican Senators.

Last night, on national television, you said that you support the improved version of the Brady bill that Senator DOLE and I and Senators METZENBAUM and KOHL worked out last year. The Senate approved it by a vote of 67 to 32.

I ask you to support and work for enactment of that improved version of the Brady bill now on its own.

Presidents Nixon, Ford, Carter, and Reagan recently urged the Senate to pass the Brady bill. These four former Presidents—three of them Republicans—urged us to put aside partisan politics and do what is right for the American people.

Every major police organization in America has asked the same thing. So did Jim and Sarah Brady. So have six former Attorneys General of the United States.

Consider that; four former Presidents, six former Attorneys General, every major police organization in America has asked the same thing. I join them. I ask now. There is not much time. But with your direct and active involvement, we can pass it now, by itself, no filibuster, no other crime provisions. Without your help we all know it cannot be done. It is up to you, Mr. President. I hope that for the American people you will say yes. If you do say yes, I will do everything in my power as majority leader to get it done.

I now ask unanimous consent that there be placed in the RECORD, an open letter to the U.S. Senate from former Presidents Nixon, Ford, Reagan, and Carter, and an article which appeared in Saturday's Washington Post written by six former Attorneys General of the United States.

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

[An advertisement from Roll Call,  
Sept. 28, 1992]

SEPTEMBER 28, 1992.

To the U.S. Senate:

It is not often that the four of us agree on a major issue of the day. But we share common ground on the desperate need to pass the Brady Bill before the 102d Congress adjourns.

We were proud to join together last year in urging passage of this commonsense measure, and gratified that both Houses passed the legislation with broad, bi-partisan support. But the Brady Bill, requiring a national waiting period and background check for handgun purchases, has been tied up in the debate over an omnibus crime bill for nearly ten months. And as each day passes, we lose 63 more American men, women and children to handgun fire.

Every major law enforcement group in the nation, and dozens of medical, civic, professional and religious organizations, have urged Congress to help save some of these lives by passing the Brady Bill.

The time has come to put aside partisan politics and do what is right for the Amer-

ican people. You will soon have an opportunity to show your commitment to this lifesaving legislation. We strongly urge every Senator to stand up for the nation's law enforcement community, as well as for public safety, by voting for the Brady Bill and sending it immediately to President Bush, whom we urge to sign this important bill.

Sincerely,

RONALD REAGAN.  
GERALD FORD.  
JIMMY CARTER.  
RICHARD NIXON.

[From the Washington Post]

IT'S TIME TO PASS THE BRADY BILL

As individuals who have had the privilege of serving as attorneys general, we watched with dismay as the congressional debate about the crime bill became increasingly partisan and divisive. This is not to say that we all agree on the difficult issues that defined the debate, such as habeas corpus reform or expansion of the federal death penalty. Our dismay, rather, has been directed at the failure to pass an anti-crime measure on which we all agree: the Brady bill's national waiting period and background check for handgun purchasers.

The Brady bill was a key part of the Omnibus Crime Control Act, which had been stalled by a Senate filibuster since November 1991 and failed to survive a closure vote yesterday. It can, and still should be, enacted without delay.

Handgun violence in America is a national tragedy. According to the Justice Department, handguns are involved every year in more than 600,000 violent crimes, including an average of 9,200 murders, 12,100 rapes, 210,000 robberies and 407,600 assaults. Despite this record of mayhem, our laws continue to tolerate the instantaneous, over-the-counter sales of these deadly instruments of crime to anyone who can pay the price.

Handguns are sold to anyone who fills out a form denying that he or she is a convicted felon, drug abuser or other prohibited buyer. In most states, no one checks the veracity of the buyer's answers before the gun is sold. In short, we have an "honor system" for handgun sales in which those who already have committed serious crimes are trusted to tell the truth about their past.

In states that already have waiting periods, criminals attempting to buy guns have been stopped in their tracks. California, which has a 15-day waiting period applicable to all firearms, stopped more than 5,800 prohibited persons from buying guns in 1991 and another 1,300 during the first quarter of 1992. These prospective buyers included 760 people convicted of drug violations, 47 of homicide, 30 of sex crimes, 418 of burglary, 132 of robbery, 10 of kidnapping and 3,613 of assault.

Despite the proven success of waiting periods in states such as California, the black market in handguns will continue as long as other states permit "cash and carry" sales. It is hardly surprising that the handguns used in crime in cities and states with strict gun control laws originate in jurisdictions without such laws. A study by the Bureau of Alcohol, Tobacco and Firearms showed that between 1987 and 1990, 94 percent of the guns used in crime in New York City came from out-of-state sources. The primary source states were Virginia, Texas, Florida, Georgia, South Carolina and Ohio, all of which have weak gun laws. Only federal legislation will ensure that nowhere in our country can convicted felons buy handguns over the counter with no questions asked.

Of all the arguments advanced by opponents of the Brady bill, surely the most specious is the charge that it would infringe a constitutional right. For more than 200 years, the federal courts have unanimously determined that the Second Amendment concerns only the arming of the people in service to an organized state militia; it does not guarantee immediate access to guns for private purposes. The nation can no longer afford to let the gun lobby's distortion of the Constitution cripple every reasonable attempt to implement an effective national policy toward guns and crime.

Congress knows what needs to be done. It knows that, according to a Gallup poll, 95 percent of the American people want the Brady bill to become law. It knows that the Brady bill has been endorsed by every major police organization in the country. It knows that among its own members, the Brady bill enjoys remarkable bipartisan support. In May of last year, the Brady bill passed the House of Representatives by 53 votes; it later passed the Senate by a margin of 67 to 32 and was incorporated into the crime bill.

The question now is whether Congress has the will to do what needs to be done. Since the crime bill filibuster began last November, thousands of Americans have lost their lives to handgun violence. It's time for Congress to pass the Brady bill and send it to the president. The American people have been waiting too long.

NICHOLAS DEB.  
KATZENBACH.  
RAMSEY CLARK.  
ELLIOT L. RICHARDSON.  
EDWARD H. LEVI.  
GRIFFIN B. BELL.  
BENJAMIN R. CIVILETTI.

(The writers are former attorneys general of the United States.)

Mr. MITCHELL. Mr. President, I now ask unanimous consent that there be 1 hour for debate on this matter, with the time to be controlled by Senator CRAIG and Senator METZENBAUM.

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

The Senator from Idaho [Mr. CRAIG] is recognized.

Mr. CRAIG. Mr. President, we have just heard the majority leader speak of the overwhelming support that he has so characterized around a provision that has come to be known nationwide as the Brady bill, or a 7-day waiting period for the purchase of a firearm.

While that particular provision does hold some support, I think it would be grossly unfair to characterize S. 3282—or the provision that was, in fact, attempted in its introduction here a few moments ago, and it is the issue at hand at this moment—to be one that is widely supported. Because I think that is simply false.

Why would I suggest that the majority leader might in some way be misportraying the issue before us? Let me make myself as clear as I can, Mr. President.

While his arguments were directed at the Brady bill, the provision before us is not the Brady bill. In fact, it is not even the compromise that was worked out by Senators in the crime provision, which was to be a 5-day waiting period and then a move toward an instantane-

ous background check. The language in S. 3282 did not appear in any Senate crime bill. The language in S. 3282, certain portions of it, did not even appear in the House provisions of the crime bill.

What happened was some magic sleight-of-hand that occurred during the crime conference which brought about some unique language that the law enforcement community had argued they wanted in the crime bill if there was to be a waiting period for the acquisition of a firearm.

It is so interesting that this Senate is wanting to vote on something that would take away the civil rights of the average American citizen, that would grant an openness, or a nonliable environment for a law enforcement person who would be charged with the responsibility of building a background check on an individual during a waiting period of time which would clear them to acquire a handgun.

I can understand why the law enforcement community does not want to be held liable. They really did not want to be held liable in the issue of Rodney King. But the American citizens said we must hold them responsible for their acts. They cannot be exempt when it comes to taking away the civil liberties of an individual citizen of this country.

While I totally respect the law enforcement community of our country and find them so necessary and appropriate, I cannot grant them absolute immunity from any liable or libelous act that they might enter into in the enforcement of law.

What am I talking about? That seems to be a pretty serious charge, Mr. President, but that is exactly what the language of the provision speaks to. It is what is embodied in S. 3282. Let me read a little bit. It says that:

A chief law enforcement officer or other person responsible for providing criminal history background information pursuant to this subsection shall not be liable in an action at law for damages or for damages for failure to prevent the sale or transfer of a handgun to a person whose receipt or possession of the handgun is unlawful under this section; or for preventing such a sale or transfer to a person who may lawfully receive or possess a handgun.

What does that all mean? Well, it all means that in the process of the information clearing, if you had a law enforcement officer who simply did not want handguns to move in his or her jurisdiction, they could find reason to disallow the clearing of a background check or to put a cloud over it, which would stop the sale. And then a law-abiding citizen would have to go to court, spend his or her money and employ lawyers to argue that they were, in fact, law-abiding citizens and, therefore, were eligible to acquire a handgun.

Now, we know that a criminal would not follow this procedure. In fact, criminals do not live by the law. They

never have. So, we really are not talking about blocking handguns or firearms from the criminal element. We are really talking about a new loophole, or not a loophole—I guess a loophole for the law enforcement community—but a whole new series of jumps and hurdles and processes that the law-abiding citizen, under his or her constitutional right, must now abide by if we are, as this lawmaking body, to pass a Brady-type bill.

Now, you can see why these new provisions were not in the original Senate provision. They would not have passed muster here, Mr. President. It is why they were not in the House provision. It is why they thought they might slip them through in a conference report on the crime bill, except for a few of us who spend some of our late hours reading the fine print.

Section (2), subsection (B)(7) (A) and (B) of one section of the law speaks just exactly to that. The effect of granting this immunity is to give law enforcement authorities unlimited and unqualified power to disapprove—to disapprove—any firearms sale to any law-abiding citizen.

I did not think the test was on the citizen. I did not think that a citizen ought to be tested for living within the Constitution. But that is what is about to be argued here if we are, in fact, to try to move forward on the provision, or the bill, separate from the crime bill that was introduced by the majority leader, S. 3282. That is what is at issue here today.

The President supports the Brady bill? Well, he has spoken to that. Does he support these new provisions? No; he has not spoken to that. Law enforcement organizations, yes, some of them do support it. But I would like to provide for the RECORD ample information that shows that there are literally thousands of law enforcement personnel out across America today who do not support the idea of violating the second amendment to the Constitution simply because the courts of this country have failed to handle and prosecute lawbreakers over the last good many years.

That is the issue at hand, Mr. President. That is why we are here today; not to debate a crime bill, because we decided not to do that, but to debate, really, an entirely new set of language around the Brady bill concept, something that has never been debated on this floor or discussed. And I think as the debate goes on, Mr. President, you will see why—because it could not stand the open test of the committees, because these committees, I do believe, would not intentionally create the kind of loophole that we are granting the law enforcement community, in an arbitrary way, and fail to grant to law-abiding citizens their constitutional rights.

I retain the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. METZENBAUM. Mr. President, I yield 5 minutes to the Senator from Wisconsin, who has been resolute in his support for the Brady bill.

The PRESIDING OFFICER. The Chair recognizes the Senator from Wisconsin.

Mr. KOHL. Mr. President, if anyone wonders why people do not trust Government, the answer lies in what we have done with gun control. What Government has done, Mr. President, is worse than nothing. What it has done is fooled people.

A year ago—now over a year ago—both the House and Senate voted for the Brady bill. Now, the way most people learn basic Government, and the way we teach it in the "How Our Laws Are Made" brochure we send to thousands of our constituents every year, if both Houses of Congress pass a bill, then it should go to the President.

But that did not happen here. Not at all.

The House passed the Brady bill as a freestanding measure and sent it to the Senate. Instead of taking up that freestanding bill, the Senate passed the Brady bill as part of a larger crime bill. Then the House approved the Brady bill again as a part of the conference report on the crime bill. But the Senate did not act on the conference report. And now, the Senate has declined to act on the freestanding Brady bill.

So there we are. Two votes in favor of the Brady bill in the House. Two votes in favor of the Brady bill in the Senate. No Brady bill sent to the President. And no Brady bill signed into law.

"How Our Laws Are Made."

Mr. President, some of the 15,000 American citizens murdered by firearms since the Senate passed the Brady bill 465 days ago might still be alive if we had made a law rather than played a political game. Now those lives have been lost. But other lives can still be saved if we stop playing the game.

Sixty-seven Senators voted for the Brady bill. Ninety percent of the American people support the Brady bill. Every major law enforcement organization has endorsed it. Even the President has said that he would sign it as part of a comprehensive crime bill, and more recently he said that he was flexible about the Brady bill standing alone.

So, we will soon find out if the President meant what he said.

There has been an objection to moving to the bill today. Unless that objection can be removed, the bill will die when the Congress adjourns. But between now and then, the President can exercise some leadership. Between now and then, the President can call upon Republican Senators who have objected to step aside and let this bill become law. Between now and then, the Presi-

dent can translate his rhetorical support for the Brady bill into action. He can call, as former Presidents Ford, Nixon, Carter and Reagan have, for action. He can exercise his leadership. He can make it happen.

The people of America deserve and need his help now. I hope President Bush will hear our call, free the Brady bill, and save some lives.

I thank the Chair.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER (Mr. KERREY). The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, I yield myself 10 minutes.

Mr. President, let us not kid ourselves what the issue is on the floor today. The issue has nothing to do with the specious question raised by the Senator from Idaho. I will address myself to that later. He is one of those unalterably opposed to the Brady bill.

The crime bill is dead, and there is only one reason the crime bill is dead, it is by reason of a filibuster by the Republican Members. And, Mr. President, let us make it clear, the reason we do not have a Brady bill or a crime bill is that the President has not put his shoulder to the wheel. If the President did, he could cause the Brady bill to become law before we adjourn. It is his responsibility; it is on his doorstep. He can get the few extra votes needed to cut off a filibuster.

But the President is not willing to do that. First he said he would support the Brady bill only as a part of the crime bill. So we put it into the crime bill. And we still cannot pass the crime bill because of a filibuster from the other side of the aisle.

Sixty-seven Senators on June 28, 1991, indicated their support for the Brady bill. Ninety percent of Americans have indicated their support for the Brady bill. And in a Time-CNN poll, 87 percent of gunowners support the Brady bill. But a few over on that side of the aisle, too many, enough to keep us from moving forward, will not join in helping us pass the Brady bill.

The President is the only one who has the persuasive powers to use in order to bring those Senators in line. Every law enforcement group in this country supports the Brady bill. These men and women, day in and day out, are out on the front lines fighting for their lives and fighting to protect the lives of all Americans. They want this bill. They want it very badly. They know that the fewer guns that are on the street, the more protected will they be, and they know that the only way to move in that direction is to pass the Brady bill. It has already been stated. Four former Presidents, three of them Republicans, six former attorneys general, all support the Brady bill.

Every year there are 24,000 people killed in this country with handguns.

That means 65 people today, 65 people tomorrow, 65 people the next day and 65 people yesterday. This is a question that is in the hands of the President.

I say to the President of the United States, and I do not do this often, "Mr. President, I plead with you. Mr. President, I appeal to you, I cajole you, I entreat with you, I ask you in every humanly possible way, help us pass the Brady bill at this moment in time. You are the only person in the United States who can cause the Brady bill to become law. You owe it to Jim Brady. We all owe it to Jim Brady. We all owe it to law enforcement officers in this country who are out there every day and week fighting to protect the lives of Americans. We owe it to the American people. Mr. President, do not let the people down. Do not let them stand in the way of passing the Brady bill. You can do it if you will do it."

Mr. President, I yield 5 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that an op-ed piece in the Washington Post of October 3, 1992, be printed in the RECORD. I believe the majority leader made this request. I make it as well.

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

#### IT'S TIME TO PASS THE BRADY BILL

As individuals who have had the privilege of serving as attorneys general, we watched with dismay as the congressional debate about the crime bill became increasingly partisan and divisive. This is not to say that we all agree on the difficult issues that defined the debate, such as habeas corpus reform or expansion of the federal death penalty. Our dismay, rather, has been directed at the failure to pass an anti-crime measure on which we all agree: the Brady bill's national waiting period and background check for handgun purchasers.

The Brady bill was a key part of the Omnibus Crime Control Act, which had been stalled by a Senate filibuster since November 1991 and failed to survive a cloture vote yesterday. It can, and still should be, enacted without delay.

Handgun violence in America is a national tragedy. According to the Justice Department, handguns are involved every year in more than 600,000 violent crimes, including an average of 9,200 murders, 12,100 rapes, 210,000 robberies and 407,600 assaults. Despite this record of mayhem, our laws continue to tolerate the instantaneous, over-the-counter sales of these deadly instruments of crime to anyone who can pay the price.

Handguns are sold to anyone who fills out a form denying that he or she is a convicted felon, drug abuser or other prohibited buyer. In most states, no one checks the veracity of the buyer's answers before the gun is sold. In short, we have an "honor system" for handgun sales in which those who already have committed serious crimes are trusted to tell the truth about their past.

In states that already have waiting periods, criminals attempting to buy guns have been stopped in their tracks. California, which has a 15-day waiting period applicable

to all firearms, stopped more than 5,800 prohibited persons from buying guns in 1991 and another 1,900 during the first quarter of 1992. These prospective buyers included 760 people convicted of drug violations, 47 of homicide, 30 of sex crimes, 418 of burglary, 132 of robbery, 10 of kidnapping and 3,613 of assault.

Despite the proven success of waiting periods in states such as California, the black market in handguns will continue as long as other states permit "cash and carry" sales. It is hardly surprising that the handguns used in crime in cities and states with strict gun control laws originate in jurisdictions without such laws. A study of the Bureau of Alcohol, Tobacco and Firearms showed that between 1987 and 1990, 94 percent of the guns used in crime in New York City came from out-of-state sources. The primary source states were Virginia, Texas, Florida, Georgia, South Carolina and Ohio, all of which have weak gun laws. Only federal legislation will ensure that nowhere in our country can convicted felons buy handguns over the counter with no questions asked.

Of all the arguments advanced by opponents of the Brady bill, surely the most specious is the charge that it would infringe a constitutional right. For more than 200 years, the federal courts have unanimously determined that the Second Amendment concerns only the arming of the people in service to an organized state militia; it does not guarantee immediate access to guns for private purposes. The nation can no longer afford to let the gun lobby's distortion of the Constitution cripple every reasonable attempt to implement an effective national policy toward guns and crime.

Congress knows what needs to be done. It knows that, according to a Gallup poll, 95 percent of the American people want the Brady bill to become law. It knows that the Brady bill has been endorsed by every major police organization in the country. It knows that among its own members, the Brady bill enjoys remarkable bipartisan support. In May of last year, the Brady bill passed the House of Representatives by 53 votes; it later passed the Senate by a margin of 67 to 32 and was incorporated into the crime bill.

The question now is whether Congress has the will to do what needs to be done. Since the crime bill filibuster began last November, thousands of Americans have lost their lives to handgun violence. It's time for Congress to pass the Brady bill and send it to the President. The American people have been waiting too long.

NICHOLAS DEB.  
KATZENBACH.  
RAMSEY CLARK.  
ELLIOT L. RICHARDSON.  
EDWARD H. LEVI.  
GRIFFIN B. BELL.  
BENJAMIN R. CIVILETTI.

Mr. WELLSTONE. Mr. President, this was written by six former Attorneys General.

Handgun violence in America is a national tragedy. According to the Justice Department, handguns are involved every year in more than 600,000 violent crimes, including an average of 9,200 murders, 12,100 rapes, 210,000 robberies and 407,600 assaults. Despite this record of mayhem, our laws continue to tolerate the instantaneous, over-the-counter sales of these deadly instruments of crime to anyone who can pay the price.

Mr. President, I have attended two press conferences in the last 2 weeks with Sarah and Jim Brady, with Senators KOHL, METZENBAUM, BIDEN, and

with law enforcement officials representing law enforcement people all across this country. I have to say that these have been two of the most emotional press conferences I have ever been to, at least in my experience in politics.

The words that people spoke were so real, not just Sarah Brady and not just Jim Brady, but the law enforcement officials. The reason that there were tears in people's eyes is because 90 percent of the people in this country, or thereabout, support the Brady bill. The law enforcement people know what it means to have somebody with a history of violence to be able to go in and obtain a gun with no check whatsoever, no waiting period. They know what it means to have a fellow officer murdered as a result of that.

Mr. President, the arguments have been made back and forth, back and forth. I respect the Senator from Idaho. He knows that. He will say what he believes. But I think ultimately what we have today in the Senate as we come near the end of our session is a test case of who in the world owns the Congress, who owns the Senate. If 75, 80 or 90 percent of the people say it is reasonable to have the waiting period, if 75, 80, or 90 percent of the people say stop the violence, if 75, 80, or 90 percent of law enforcement people say it is the right thing to do, then is it the National Rifle Association that owns the Senate, is it the National Rifle Association that owns the House of Representatives, or do the people in this country?

This is once again a test case of whether or not we have democracy for the few or democracy for the many. We should have democracy for the many. People have instructed us that they want to see the Brady bill passed. It is time to pass the Brady bill.

Mr. President, we have passed arms control agreements in the Senate. Let us do something about arms control in our own country. This is absolutely insane for people to come in with no check whatsoever and be able to obtain these handguns. Now is the time to take the action.

Mr. President, I heard President Bush last night live, on the "Larry King Show," say he was in favor of this compromise bill that had been worked out. I think it is now time for the President of the United States to instruct all of us in the Senate and in the House to pass this piece of legislation. It is good Government policy. It is what the people in this country want.

We can no longer be run by one or two powerful financial organizations. It is time we start listening to what people are telling us. It is time we move beyond what the President has called gridlock.

I support what the Senator from Ohio said. There is only one person in the United States of America who can

make the Brady bill the law of the land, and that is President Bush, and he can do it today. He can pick up the phone; he can exert the leadership; and we will pass this piece of legislation. When we pass this piece of legislation, people in the country will say this is what we thought it was all about. This is real representative democracy. We spoke. You listened. That is what we have to do, Mr. President.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. I yield myself such time as I may consume.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, a good many of us have wondered for some time why the leadership and Members on the other side of the aisle did not bring up the crime bill more quickly than this. Why would they wait until the final days of the Senate, or, more importantly, why would they wait until the final days of a Presidential campaign to raise such critical and important issues? I think now we know. We just heard it: Only the President of the United States can solve this problem.

Let me suggest to you, Mr. President, that the President of the United States is not a Member of this body. No, only this body, with properly worded language, with a proper compromise can solve this issue, not running at the last minute to the floor with language that was never seen on this floor, creating a massive loophole in the law that will allow law enforcement officers to create their own law in their own environment. That is what we are talking about today.

Let me tell you what happened in Los Angeles, or have we forgotten so quickly that the days following the tragic Rodney King decision brought violence to that great city, and thousands upon thousands of people poured to gun shops to buy firearms to protect themselves and their property, only to find out that a 15-day waiting period stopped them. They grew violent about it. Even the law enforcement community of California said we wish we could bend the law. We cannot protect the law-abiding citizens. And they had to resort to law-abiding citizens protecting themselves, their lives, and their property.

How quickly we forget why our Founding Fathers in fact put the second amendment into the Constitution, for the situations like Los Angeles when law enforcement broke down and could no longer protect the private citizen and the private citizen must protect oneself. And that is what it is all about.

None of us in any way justify, or attempt to justify, the kind of violence that goes on in the streets of America today. We all know it is tragic. But we

also know we must stand for the vast majority of law-abiding citizens who otherwise would have their constitutional rights trampled by those who would represent this type of legislation.

Mr. President, I would now like to yield to my colleague from New Hampshire 6 minutes.

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

Mr. SMITH. I thank the Chair. I thank my colleague from Idaho for yielding.

With all due respect to my colleagues on the other side of this issue, the basic premise of the Brady bill is that all of the violent people in America who own guns, who have an intention of committing a crime with that weapon, are going to line up and voluntarily register their weapons. That is what the premise of this whole debate is, that the violent people who intend to commit crimes are simply going to say: "I will register; I will wait 7 days before I pick up my weapon to commit the crime."

Mr. President, with all due respect, that is ridiculous. It is simply not going to happen.

As Senator CRAIG has already stated, what is going to happen is that millions of innocent, law-abiding American citizens, many of whom are the victims that the other side has been talking about, are simply going to have to go through a hassle to be able to have a weapon for recreation, sport or even self-defense.

Mr. President, I am not going to be a part of that. It is about time Congress realizes what the American people realize, that we need to control crime, not guns.

Frankly, this is just a smokescreen because this Congress does not want to deal with the criminal. It is the criminal that is causing the problem in America today. We will not deal with that criminal. We do not want to pass the mandated sentences that are necessary for the repeat offenders who over and over again commit crimes with a gun.

It is very easy to get these people off the street so that we can walk across the street from our offices or other people around this country can walk around the larger cities of this Nation without being threatened and intimidated by guns. It is the person behind that weapon. Should we ban baseball bats? How about cars? They kill 50,000 people a year. Do we want to have a 7-day waiting period to buy an automobile?

Obviously, it is the intent of the individual behind the weapon that causes the crime.

Mr. President, because roughly 80 percent of all illegally used firearms are acquired illegally, gun control will do little to curb the incidence of crime

and violence on America's streets. This reality is illustrated even more clearly by the fact that virtually every jurisdiction which has enacted or extended its waiting period for a firearm purchase, including States like Connecticut, California, and Washington, has witnessed an increase in violent crime substantially exceeding the national average, an increase substantially exceeding the national average.

So if a waiting period works, why has it not worked, for example, in Indiana, California, Minnesota, New York, and Connecticut, all of which have waiting periods. For the period between 1967 and 1989, these waiting period States all witnessed homicide increases exceeding the national average. In Indiana, homicide rates rose 70 percent; in California, 82 percent; Minnesota, 56 percent; Connecticut, 146 percent; in New York, gun control nirvana, the homicide rate increase was 131 percent.

Mr. President, consider the homicide rates over the same time period in States with no waiting period. In Alaska—we are talking about the rates now, not the number of people—rates were down 16 percent; in Nevada, down 24 percent; prior to its adoption of a waiting period, Delaware homicide rates dropped 35 percent; Vermont, 39 percent down; Idaho, down 40 percent.

Violent crime statistics tell the same story. States with waiting periods have experienced vast increases in violent crime compared to States without them. In New Jersey, violent crime rose 223 percent between 1967 and 1989; in Massachusetts, 429 percent; and in Connecticut the rate of violent crimes soared 434 percent.

Now, the nonwaiting period States over the same period: In Virginia, the crime rate was up a relatively modest 63 percent compared to those numbers; in West Virginia, 51 percent; Montana, 38 percent.

I am not happy with the rates of violent crime in any State, but the fact is the average rate increase in those States, three nonwaiting period States, was 51 percent, and the average in New Jersey, Massachusetts, and Connecticut, the three waiting period States, was 362 percent. The statistics do not back up the argument of the opposition, Mr. President.

Will a 7-day waiting period cut down on crimes of passion? The answer according to the statistics is "no", a resounding "no." According to FBI supplementary homicide reports, the average rate of domestic homicide in cities with waiting periods is 2½ times the average rate of domestic homicide rates in cities without waiting periods.

Do the people of America want a 97-percent increase in homicide rates, a sevenfold increase in violent crime, a 2½-percent increase in domestic violence? Of course they do not. The American people want to decrease this, and the way to do it is to take the criminal off the street.

A comprehensive study exhaustively researched and written by ACLU spokesman David B. Kopel shows why waiting periods are more dangerous to the public than they are helpful: Waiting periods distract law enforcement officials from criminals, fail to keep guns out of the hands of felons, and violate "prior restraint" and "least restrictive means" principles protecting citizens under the Bill of Rights.

Mr. President, I ask unanimous consent that Mr. Kopel's study be printed in the RECORD in full.

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

[From the Independence Institute, Denver, CO., Mar. 25, 1991]

WHY GUN WAITING PERIODS THREATEN PUBLIC SAFETY

(By David B. Kopel)

EXECUTIVE SUMMARY

"Honey, I forgot to duck." Remember the day Ronald Reagan was shot? The President, grinning up from his hospital bed on March 30, 1991, was able to joke about a gunman's attempt on his life. But his press secretary, James Brady, fared much worse; shots from the same pistol left him permanently disabled. The nation was shocked, the gun control movement galvanized.

This month's observance of ten years since the day Reagan and Brady were shot by John Hinckley is an occasion for renewed consideration of what can realistically be done to keep firearms from falling into the wrong hands and being used for the wrong purposes.

The leading proposal before Congress and state legislatures is to require that any retail purchase of a handgun be preceded by a waiting period, during which a background check on the purchaser's criminal and mental record could be conducted.

A waiting period has strong initial appeal. The tradeoffs appear positive: relatively small costs in exchange for significant gains in public safety.

But an exhaustive study of the issue by attorney and gun control expert David Kopel concludes that his perception is misleading. When all the evidence is dispassionately weighed, all the consequences traced, Kopel finds that there is a very real possibility that gun waiting periods threaten public safety.

The reason: law enforcement resources diverted and law-abiding citizens disarmed. Proponents are doubtless right in saying that a federally imposed waiting period would save at least one life somewhere, the author concedes. But he says that is beside the point if America as a whole would be marginally less secure against crime, violence, and fear as a result of the new restriction. Kopel's research and analysis show why the waiting period's vast cost is likely to more than cancel its apparent benefits.

Advocates of the waiting period use the Hinckley case as a symbol, opinion polls to suggest momentum, criminological studies and state experience for empirical validation. None of the four stands up to scrutiny, however. The proposed law would not in fact have halted purchase of the gun used to shoot Reagan and Brady. Polling results turn out to be flawed and mixed. No criminologist has shown that waiting periods work. California and other states with waiting periods show only a minuscule arrest rate and widespread unfairness to the law-abiding.

There is shock value in the scenario of guns "too easily bought" by drug dealers, psychotic killers, persons bent on killing a spouse or themselves, or purchasers intending to use them in hot blood. Yet hard data and common sense show little benefit from a waiting period even in such lurid situations.

Against the meager-to-nil impact of waiting periods on crime control must be set their clearly negative impact on the average American's ability to count on police protection or protect himself.

Specifically: Is it desirable to have law enforcement agencies bogged in a vast new paperwork morass and harried with lawsuits over insufficient background checks? To have a threatened person face dangerous, sometimes indefinite, delays in obtaining a self-defense gun? To set in place a mechanism for *de facto* universal gun registration and a political stepping stone to outright gun prohibition? To legislate in disregard of the "no prior restraints" and "least restrictive means" principles that should safeguard not only the Second Amendment, but the whole Bill of Rights? All these are foreseeable effects of the proposal.

Alternatives to the waiting period proposal might include a Virginia-style instant phone check on the purchaser's background, creation of a firearms owner ID card, or adding one's fingerprint to a computerized driver's license (the so-called "smart card"). These measures are preferable in many respects, since they are at least as effective as waiting periods at disarming criminals, and are less likely to be used to disarm citizens. Yet these alternatives, like the waiting period, are subject to evasion by criminals and abuse by government administrators, and create serious risks of privacy violations.

Ultimately, the Kopel study concludes, practicality and constitutionality are best served by strategies that aim to cut gun crime not by targeting the legitimate retail firearms trade, but instead by aiming at the black market where most criminals get most of their guns.

NOTE.—The Independence Issue Papers are published for educational purposes only, and the authors speak for themselves. Nothing written here is to be construed as necessarily representing the view of the Independence Institute or as an attempt to influence any election or legislative action.

INTRODUCTION

Waiting periods: Many states already have them; most national police organizations, most people, and most gun owners are for them. In the 1970s, even the National Rifle Association supported the idea of a carefully-crafted state waiting period. So who could be opposed?

This paper suggests that sometimes a majority of NRA members, a majority of gun owners, and even a majority of all the people may not always be right.

Waiting periods come in two basic shapes. The "limited" waiting period is a relatively short wait for retail handgun purchases. Proposals for such a law have attracted many co-sponsors in Congress, and lost by margins that (while not narrow) are far from the landslides usually thought to be the National Rifle Association's norm in crushing gun control. The wide support for a limited handgun waiting period in Congress reflects the growing persuasiveness of Handgun Control, Inc., the anti-gun lobby.

The more comprehensive waiting period applies to all guns, including long guns, and applies to all transfers, including gifts between family members. The wait itself is much longer. The comprehensive wait is also

supported by Handgun Control, Inc. (HCI). HCI has persuaded legislatures in California, Connecticut, and Rhode Island to adopt a comprehensive wait, supplanting the existing limited handgun wait in those states.

Although HCI backs the new comprehensive waits in California and other states, the ultimate goal is an even stronger comprehensive wait. In 1990, Colorado State Senator Pat Pascoe introduced a waiting period bill which HCI Chair Sarah Brady called "everything on my wish list."<sup>1</sup> The bill provided:

As in California, a comprehensive background check and waiting period on both handguns and long guns, for all transactions, including intra-family gifts.

Each gun purchase would require a background check of up to two weeks, followed by a waiting period of one week. An applicant would then be given a permit to purchase, good for 60 days.

The applicant would pay a fee of up to \$20 for each purchase permit.

There would be no exception for a person who needed a firearm for self-defense. In fact, even if the police strongly wanted the citizen to acquire a gun because of imminent deadly threats, a one week delay would still be mandatory.<sup>2</sup>

Presently the only state with a law that is more severe than Colorado's very strict proposal is New Jersey.

The waiting period concept (both limited and comprehensive) reflects the belief that there should be a police check before a person buys a gun. In the form of an instant telephone check, the National Rifle Association is essentially willing to accept the police assent principle, providing the system is structured properly. The instant check is currently in effect in Virginia, with few apparent problems (and some successes) so far. Hand Control, Inc. accepted the instant check in Virginia, and opposed it in Ohio.

Since the instant telephone check is sometimes offered as an alternative to the waiting period, the telephone check is discussed in this paper. Other regulatory alternatives to a waiting period are considered.

The paper discusses the following issues: Would a waiting period have stopped John Hinckley? What do the polls of police and of citizens say about waiting periods, and what implications should be drawn from the results? What have the criminologists learned about waiting periods? What good have they done in states where they already exist? If a waiting period could save at least one life (and it certainly could) isn't it a good idea? What are the disadvantages and risks of waiting periods and other police permission systems like the instant telephone check? Are there meritorious alternatives to waiting periods? The paper also offers suggestions about how a waiting period should be structured, if a legislature elects to enact one.

The views of Handgun Control, Inc. on waiting periods and gun control are discussed throughout, because, as HCI puts it, the waiting period is the group's "flagship" bill and HCI is by far the most important gun control lobby.

I. JOHN HINCKLEY

Synopsis: Handgun Control, Inc. claims that a waiting period and background check "certainly" would have stopped John Hinckley, who attempted to assassinate President Reagan. Yet Hinckley had no felony record, and no public record of mental disability. HCI asserts that Hinckley was not a resident

<sup>1</sup>Footnotes at end of article.

of Texas, the state where he bought the gun, and that a background check would have revealed that he was illegally buying a handgun in state where he was not a resident. The evidence indicates that Hinckley was a legal Texas resident. In any case, HCI's proposed background check involves only criminal and mental records, and not an address check. Accordingly, it is very unlikely that the background check would have affected Hinckley.

The national waiting period is commonly known as "the Brady Bill." Its supporters named it after Sarah Brady, the Chair of HCI. To many people, the fact that a waiting period would have stopped John Hinckley from shooting President Reagan and crippling his Press Secretary Jim Brady is reason enough to enact such a law.

Both the perpetrator and the main victim of Hinckley's attack agree that a waiting period would have prevented the crime. Currently under indefinite commitment to St. Elizabeth's mental hospital in Washington, John Hinckley has petitioned to be allowed access to reporters so that he can speak out for handgun control and for a waiting period. Hinckley explains that he was in "a valium depression" when he acted, and a waiting period might have given his better self time to reassert control. But in fact, Hinckley bought the assassination gun in October 1980, months before the assassination attempt. A wait would obviously have had no impact.

Legislators usually pay little attention to the policy suggestions of the criminally insane. The more persuasive spokesperson for the waiting period is Sarah Brady, wife of the man crippled by Hinckley. "Had a waiting period been in effect seven years ago, John Hinckley would not have had the opportunity to buy the gun he used," says Mrs. Brady.<sup>3</sup>

Mrs. Brady bemoans the fact that Hinckley was able to buy the gun with no waiting period to see if he had a criminal or mental illness record.<sup>4</sup> But Hinckley had no public record of mental illness; hence a mental records check would have done no good.<sup>5</sup>

As for a criminal records check, a police background check was run on Hinckley a few days before he bought the gun, and nothing turned up. Hinckley was caught trying to smuggle a gun aboard a plane on October 9, 1980, in Nashville. His name was run through the National Crime Information Center, which reported, correctly, that he had no felony convictions in any jurisdiction. He was promptly released after paying a fine of \$62.50 and pleading guilty to a misdemeanor.<sup>6</sup>

Although Mrs. Brady complains about the lack of a criminal/mental check on Hinckley, she does not explicitly affirm that such checks would have affected him. Instead, Mrs. Brady's detailed explanation involves Hinckley's residence status.

On October 13, 1980, John Hinckley walked into Rocky's Pawn Shop, in Dallas, Texas, and walked out shortly thereafter with two .22 caliber RG revolvers. As with the retail purchase of any gun, the gun dealer was required to complete a federal form which listed Hinckley's address. Because Hinckley was buying two guns in the same five-day period (in fact, at the same moment), the dealer also filled out another federal form. That federal form was sent to the local office of the Bureau of Alcohol, Tobacco, and Firearms.

By federal law, the dealer was required to verify that Hinckley was a resident of Texas, the state in which he was buying the handgun. When asked for identification, Hinckley offered his Texas driver's license.<sup>7</sup>

Mrs. Brady details how a background check might have helped: "He lied about his address and used an old Texas driver's license to purchase that revolver. He was not a Texas resident. A police check would have stopped him from buying a handgun in Texas."<sup>8</sup> As she puts it, "He lied on his purchase application. Given time, the police could have caught the lie and put him in jail."<sup>9</sup>

Accordingly, Mrs. Brady states: "A simple check would have stopped him . . . John Hinckley might well have been in jail instead of on his way to Washington."<sup>10</sup> Indeed, her assurance that the waiting period would have stopped Hinckley is often unequivocal: "There's no doubt that he would not have been able to purchase that gun."<sup>11</sup> Or, "John Hinckley would never have walked out of that Texas pawnshop with the handgun that came within an inch of killing Ronald Reagan."<sup>12</sup>

But the facts are hardly as clear-cut as Mrs. Brady asserts.

Hinckley moved around a great deal, from one Texas address to another. The Lubbock address he listed on his federal gun form (the address for a rooming house) was different from both his driver's license address and his address in the then-current Lubbock phone book.<sup>13</sup> Of course moving frequently is not a federal crime. Because the only purpose of the driver's license is to prove residence in the state, there is no federal requirement that a handgun purchaser reside at the street address shown on his license, as long as the address is in the same state. Even if Hinckley had deliberately made a false statement about his address, the act would not have been illegal; a false statement on the federal form is illegal only if it relates to the purchaser's eligibility.<sup>14</sup> While a person's state of residence does relate to eligibility, address within that state does not.

In other words, Hinckley's purchase would have been illegal under federal law only if he was not a resident of Texas. Merely offering a Texas driver's license with a street address that was no longer current and was different from the address put on the federal form was not in itself illegal.

Was Hinckley a Texas resident? Contrary to what Handgun Control implies, it has never been determined that Hinckley was not. During the previous summer, he had attended both summer sessions at Texas Tech in Lubbock. According to federal rules, a university student is considered a resident of the area where he attends school, and may purchase firearms there.<sup>15</sup> Notably, when Hinckley was arrested in Nashville (a few days before he bought the handguns), he identified himself as a Texas resident.

Significantly, Hinckley, after the assassination attempt, was the subject of an intensive federal investigation. The federal government used every resource possible to ensure Hinckley's conviction. Notably, Hinckley was not charged with illegally purchasing the handguns in Texas. Had the prosecutors believed that Hinckley was guilty of an illegal gun purchase, the charges would likely have been brought. After all, Hinckley would then have had to convince a Texas jury that he was insane not just on the day of the assassination, but six months beforehand.

If the full resources of the Department of Justice did not find enough evidence even to charge Hinckley with an illegal gun purchase, it is not realistic to claim that a 7-day background check would have found the exact same transaction illegal.

Moreover, law enforcement authorities already had an opportunity to run a check on

Hinckley. Because Hinckley bought two handguns on the same day, his purchase was immediately reported to the Bureau of Alcohol, Tobacco and Firearms, as required by federal law. BATF reportedly runs name checks as standard procedure, but does not run detailed background checks on multiple handgun purchasers (such as Hinckley) even though it has the legal authority to do so. Perhaps BATF has concluded that the expense of running the checks exceeds the likely benefits.

Let us hypothesize the fact that Mrs. Brady assumes (but for which the Justice Department apparently had no evidence): Hinckley was no longer a Texas resident. Assume that the address listed on the federal form was false. Would the assassination have been prevented by a background check? Almost certainly not.

How would the police have found Hinckley's "lie"? If they had looked in the phone book, they would have seen Hinckley listed as a Lubbock resident. To ascertain that Hinckley did not reside in Texas, the police would have had to visit his purported residence at least once. Since many police departments do not have the time to visit the scene of residential burglaries, it is not realistic to assume that they would have bothered to verify the address listed on Hinckley's residence.

Most importantly, the police never would have found the "lie" about Hinckley's address, because they would not be checking addresses. Under the Brady Bill (and the similar state proposals), the police would not be verifying anyone's address. The Brady Bill does not discuss any kind of address/residence check. As one of Handgun Control's key Congressional supporters explicitly insisted during the debate on the 1988 proposal, "The 'investigation' is limited to the review of police and court records."<sup>16</sup>

Thus, at the same time that Handgun Control's Congressional forces were reassuring Congress that the "Brady bill" involved solely a criminal/mental records check, and not an address or other check, Mrs. Brady was imploring the public to support her bill because an address check would have stopped John Hinckley.

Assume that, despite the evidence to the contrary, Hinckley actually was not a Texas resident, and further assume that the Texas police would have found it worthwhile to do what the federal BATF did not, and run a background check; and further assume that although the background check was intended to be run according to HCI's description, and to apply only to criminal/mental records, the Texas police would have expanded the background check and tried to verify Hinckley's address; and additionally assume that the police would have committed the manpower necessary to verify that Hinckley was not a Texas resident. If all these assumptions are valid (and if any one of the assumptions were incorrect, Hinckley clearly would not have been stopped), would Hinckley have been stopped? Perhaps.

Assuming the police found that Hinckley was trying to make a purchase without the proper residency status, would they have arrested him for that offense? Would he have been imprisoned for more than a day, if that long? Only a few days before Hinckley bought the Texas guns, he had been caught attempting to smuggle a gun onto a plane, and had been released from custody almost immediately, having pleaded guilty to a misdemeanor. Unless Hinckley were imprisoned for a term of years for the out of state gun purchase, he would have speedily been back

on the streets. He could have taken any of the other handguns which he owned, and gone on to Washington for the assassination with one of them. (Among the guns he could have used was the .38 special he bought in Colorado, in full compliance with the law. Had he used that gun, rather than the .22 from Texas, President Reagan and Mr. Brady would likely have been killed.)<sup>17</sup>

Handgun Control, Inc.'s version of the assassination is false in other details as well. For example, one Handgun Control, Inc. advertisement depicts Mrs. Brady saying "A \$29 dollar handgun shattered my family's life."<sup>18</sup> Actually, Hinckley's gun cost \$47.<sup>19</sup> The difference is of no real importance, except that it shows the Handgun Control copywriters to be unwilling to offer a truthful presentation of even the most basic facts of the case.<sup>20</sup>

Handgun Control, Inc. and Sarah Brady have garnered substantial press support by claiming that the "Brady Bill" would have stopped John Hinckley.<sup>21</sup> Indeed, the strength of the push for the waiting period is very largely based on Sarah Brady and her assassination story. Sarah Brady heads Handgun Control, Inc., and HCI's fundraising letters are mostly personal testimonies by Mrs. Brady and her husband. The image of a man crippled by an assassin, but who could have been saved by "The Brady Bill" is compelling to press and politicians alike.

To say the least, the evidence suggesting that a waiting period would have stopped John Hinckley is underwhelming. Yet Mrs. Brady insists: "[T]his shooting could have been prevented if legislation such as that proposed here and been in force in 1981."<sup>22</sup> The unequivocal assertion is, in light of the facts, quite close to a fraud. Only a very unlikely set of events would have enabled police armed with a "Brady Bill" to stop John Hinckley. It is perfectly proper for victims of gun crimes to campaign for gun control. They should do so truthfully.

## II. PUBLIC AND POLICE OPINION

Synopsis: Polling data show that large majorities of American citizens, as well as of big-city police chiefs, favor a waiting period. Polls of command-rank officers find them skeptical about waiting periods. For all the polling, flaws in the wording of the questions probably exaggerates the extent of public support and command-rank police hostility. In any case, polls are poor guides to public policy, particularly when Constitutional rights are involved. The reflexive hostility of some police officials towards the Second, Fourth, and Fifth Amendments to the Constitution should not be entitled to much weight in the deliberative process.

### A. Police

Handgun Control, Inc. and its Congressional allies claim that a waiting period is supported by "every major police organization" in the country.<sup>23</sup> The assertion is based on a selective definition of "major police organization." The American Federation of Police, with 103,000 members, is the second-largest rank and file police organization in the United States, and is headed by Saginaw County Deputy Dennis Ray Martin, who has won awards from President Bush for anti-drug work. Martin and the American Federation of Police oppose a waiting period. The National Association of Chiefs of Police, with 10,000 members, is the second-largest command rank organization in the United States. It opposes a waiting period. Apparently neither of these organizations, being merely the second-largest in their field qualifies as a "major police organization."<sup>24</sup>

Many important police organizations do support a waiting period.<sup>25</sup> Yet a very few of these police organizations have actually bothered to ask the police what they think. One group that did ask was the Police Executive Research Forum (PERF), a Washington think tank comprising about 500 present and former big-city police executives. PERF's membership poll found 92% in favor of a national seven-day waiting period for handguns, and 6% opposed.<sup>26</sup> Thus, among big-city police chiefs, support for a waiting period is nearly unanimous.

The National Association of Chiefs of Police (NACOP) conducts annual national surveys of the opinion of command rank police officers. The survey is sent to all known commanders, not only NACOP members. In the 1989, the waiting period questions and responses were:

"Do you believe that a waiting period to purchase a handgun or any type of firearm will have any effect on criminals getting firearms?" Yes—29.1%; No—70.9%.

"The 'Brady Bill' offers a national 7 day waiting period that gives local police or sheriffs an option to check for previous criminal activities, possible drug or alcohol dependency and mental instability. Do you think you would be able to conduct such an investigation in a 7 day period?" Yes—44.7%; No—55.3%

"Some states have longer waiting periods and some less. Would you agree that it should be a state mandated law rather than a federal regulation as regards to firearms purchase requirements?" Should be State—62.7%; Should be Federal—37.3%.<sup>27</sup>

In 1990, the questions and answers were:

"Do you believe that a waiting period to purchase a handgun or any type of firearm will have any effect on criminals getting firearms?" Yes—23.9%; No—76.1%.

"Do you believe that in the national 7 day waiting period proposed before Congress (Brady Bill) that you can fully determine that the applicant has no criminal record; is not mentally unsound; or is an abuser of drugs or alcohol?" Yes—14.4%; No—85.6%.

"No funds to carry out this 7 day 'investigation' are provided in this Bill for police. Do you believe that your department has the manpower to conduct this investigation without taking patrol officers off the Street?" Yes—10.6%; No—89.4%.

"There is no provision to protect you from a lawsuit in the event that you approve (after 7 days) an applicant who is a criminal, may be mentally unsound, or a drug or alcohol abuser. Do you believe that the 'Brady Bill' may leave you open to a future civil lawsuit? No—10.2%; Yes—89.8%.<sup>28</sup>

While the NACOP polls are interesting evidence regarding police opinion, they must be interpreted cautiously. Although every fact stated in the NACOP questions is true, the tone of some of the questions was slanted against the waiting period. A graphic example of a pollster's ability to elicit different responses by slight changes in the question is shown in the contrasting 1989 and 1990 answers on whether 7 days was enough time to complete the background check. In 1989, 55% said that 7 days would not be long enough. In 1990, the question was revised to ask if the background check could be fully completed 7 days, and the time question was followed by a question which noted that no extra funds for the check would be available. For the 1990 survey, the number of respondents who said that 7 days was not long enough shot up to 86%.

In both the 1989 and 1990 surveys, the questions about waiting periods affecting crimi-

nals were phrased in a neutral way. But the 1990 questions regarding police civil liability clearly did, like the Gallup poll on waiting period, elicit a particular response. Notably, the neutral questions (about waiting periods affecting criminals) drew responses of about 70-76% negative on the waiting period, while the most biased question (about civil liability), drew about a 90% negative.

Accordingly, NACOP's most extreme figures, of 90% command rank hostility to the waiting period, are likely too high, for the same reason that Gallup's 91% pro-wait figures for the general public is too high. (The Gallup poll is discussed below.) The NACOP survey does seem to indicate that a majority of command rank officers (perhaps something less than 70%) are skeptical about waiting periods. The most definite conclusion that can be drawn from the NACOP and PERF surveys is that Handgun Control's claim to have the near-unanimous support of the police is true only for major urban chiefs.<sup>29</sup>

A large number of working officers seem to agree with Willis Booth, a former police chief, and Executive Director of the Florida Police Chiefs Association: "I think any working policeman will tell you that the crooks already have guns. If a criminal fills out an application and sends his application . . . he's the biggest, dumbest crook I've ever seen."

Put aside the evidence regarding police opinion, and hypothesize that every police chief in the United States supported a national waiting period. Should their position determine the law?

The opinion of police chiefs is not the arbiter of our Constitutional rights. Some police executives criticize the exclusionary rule; they claim that a strong Fourth Amendment causes crime. Some police executives criticize the *Miranda* decision, and claim that a strong Fifth Amendment causes crime. Many police executives say that a strong Second Amendment causes crime. In every case the executives are wrong.<sup>30</sup>

Police chiefs are, after all, not generally renowned for their regard the Constitution. As the NACOP polling indicates, huge majorities of command ranks favor sharp limits on death penalty appeals, draconian drug laws, and widespread drug testing.

Likewise, self-proclaimed allies of law enforcement have eroded their credibility by supporting bans on "plastic guns" (which do not exist) or by claiming that a law which lets a Pennsylvania hunter drive to Maine without obtaining a New York gun permit would threaten the lives of police officers.<sup>31</sup>

In short, the reflexive hostility of some police officials towards the Second, Fourth, and Fifth Amendments is not entitled to much weight in the deliberative process.

Why does the waiting period have nearly unanimous support among big-city police executives? While it is true that some big-city chiefs (such as Ari Zavaras of Denver and Joseph McNamara of San Jose) are ardent enemies of the right to bear arms, not all chiefs are out to destroy gun ownership. One reason for supporting the waiting period is its intuitive appeal; at first glance, it seems like a way to interdict at least some criminals, without interfering with legitimate gun owners.

Perhaps another reason that some police chiefs favor the waiting period is that police chiefs, like any other administrators of large government offices, often seek to expand their official power. From the perspective of a police administrator, more power may mean more officers performing administra-

tive tasks and supervising more transactions by the citizenry. The same mentality leads to the creation of paperwork empires in the Pentagon or in the Hubert H. Humphrey building, even if the emphasis on paperwork hinders the agency's performance of its assigned mission.

#### B. Public opinion polls

The Gallup Poll reports: "91% of Americans Favor Brady Amendment."<sup>32</sup> If the polls are for it, who can be against it?

One reason to be cautious about polls is that the bias of the pollster can skew the poll. By modifying the wording of a question, "You can come up with any result you want," says Peter Hart, pollster for the Dukakis campaign.

The Gallup poll about waiting periods posed the question in a way that assumed the waiting period really would help the police keep guns away from illegitimate persons: "Would you favor or oppose a national law requiring a seven-day waiting period before a handgun could be purchased, in order to determine whether the prospective buyer has been convicted of a felony or is mentally ill."<sup>33</sup> As discussed below, the criminological and real-world evidence on waiting periods shows that they do virtually no good in keeping illegitimate users from getting guns; criminals do not buy guns in gun stores.

Most people are for something that works. If the question assumes that a waiting period would work, it is bound to receive nearly unanimous support. But the real question is whether waiting periods work as well as Gallup assumed they do.

The most important reason polls should not always prevail is because the Constitution does not depend on polls. Violating the Constitution can be a popular thing. By huge majorities, Americans would favor all of the following:

Banning use of civic auditoriums by atheists, or by people denouncing the government, or by patriotic groups advocating war against a foreign enemy;

Using a federal censorship board to decide which television shows are permissible;

Infiltrating non-violent dissident groups with FBI agents.<sup>34</sup>

Every one of those popular ideas would violate the Constitution. The precise reason for putting certain fundamental rights in the Constitution is to protect them from transient majorities.<sup>35</sup>

No measure could have been more unconstitutional than herding American citizens of Japanese descent into concentration camps during WWII. Public opinion and the press almost unanimously favored this repression, despite the total lack of evidence that these Americans were disloyal.

Even though the public sometimes backs unconstitutional measures, the public still has the common sense to know that the Constitution is more important. One survey asked: "Suppose the President and Congress have to violate a Constitutional principle to pass an important law the people wanted. Would you support them in this action?"

28% said yes, "because the Constitution shouldn't be allowed to stand in the way of what the people need and want."

49% said no, "because protecting the Constitution is more important to the national welfare than any law could possibly be."<sup>36</sup>

Finally, while the majority of the public does favor a waiting period (although probably by less than the 91% majority found by Gallup's biased question), the public opposes "a law giving police the power to decide who may or may not own firearms" by a 68% to

29% margin.<sup>37</sup> Accordingly, if a waiting period were conducted within the limits implied in the Gallup poll (every legitimate owner got the gun in no more than seven days), the public might well support a waiting period. But if waiting periods turned out to give police the opportunity to interfere with citizens' right to buy firearms, the large majority of the public would oppose a waiting period. As detailed below, waiting periods in practice often lead to the kinds of police abuses which the public overwhelmingly opposes.

#### III. CRIMINOLOGICAL STUDIES

Synopsis: Criminologists of every persuasion have examined waiting periods, and not one has found statistically significant evidence that waiting periods are effective. Studies of felony prisoners show that virtually none of them obtain crime guns by personal over the counter purchase, the only kind of criminal gun acquisition that a background check could stop.

"Virtually every study ever conducted proves that where there are local or state laws requiring a waiting period and background check, handguns are harder to obtain by those who are prone to misuse them," claims Handgun Control, Inc.<sup>38</sup> The claim is false. Every study of waiting periods has found no evidence that they are effective. There is not a single study published in any academic journal which concludes waiting periods are effective. The results show just the opposite.

Professor Matthew DeZee states: "I firmly believe that more restrictive legislation is necessary to reduce the volume of gun crime." Yet his comparative study of state laws, including waiting periods, found "The results indicate that not a single gun control law, and not all the gun control laws added together, had a significant impact . . . in determining gun violence. It appears, then, that present legislation created to reduce the level of violence in society falls short of its goals. . . . Gun laws do not appear to affect gun crimes."<sup>39</sup>

Professors Joseph P. Magadino and Marshall H. Medoff, both of California State University, Long Beach, performed two studies of waiting periods at the state level. The first study, using data from 1979 and previous years, compared the 1979 robbery and homicide rates in states that had waiting periods with states that did not. The study also looked at changes in the robbery and homicide rates in states which had recently changed their laws regarding firearms sales. Both aspects of the study found that there was no correlation between waiting periods and lower homicide or robbery rates.<sup>40</sup>

The second Magadino-Medoff analyzed state gun laws and rates of homicide, robbery, and aggravated assault in 1960 and 1970. The results were consistent with the hypothesis that stricter state gun control laws have no impact on crime.<sup>41</sup>

When the U.S. Senate Judiciary Committee investigated the issue, the Committee found no evidence that waiting periods affect crime. There was no correlation between a waiting period and lower crime rates.<sup>42</sup>

Duke University's Philip Cook, who is generally supportive of gun control, explains why there is no apparent statistical impact: [W]e suspect that most felons and other ineligible who obtain guns do so not because the state's screening system fails to discover their criminal record, but rather because these people find ways of circumventing the screening system entirely. . . . Under these circumstances, developing a more intensive and reliable screening process is probably

not worth the additional cost. . . . It is known that such screening systems are widely circumvented and, furthermore, that state criminal record files are sufficiently incomplete that a felon who did choose to submit to the required police check before buying a handgun would have a sporting chance of having his application accepted.<sup>43</sup>

Assistant Attorney General John Bolton observes, "Those persons with a criminal record who are prohibited from purchasing a handgun are the ones most likely to obtain false identification documents to support a new name."<sup>44</sup>

Of course the Magadino-Medoff, Senate Judiciary, and DeZee studies do not completely destroy the case for a waiting period. It might be that state waiting periods have a small impact on crime, even if that impact is too small to be statistically significant. Moreover, even if state waiting periods were acknowledged as demonstrable failures, it might be that a federal wait would be effective.

Under the Carter Administration, the National Institute of Justice offered a grant to the former president of the American Sociological Association and two colleagues to survey the field of research on gun control. Peter Rossi and his coauthors Jim Wright and Kathleen Daly began their work convinced of the need for strict national gun control. Indeed, Wright had already written about the need for more control. After looking at the data, however, the three researchers found no convincing evidence that gun control curbs crime.<sup>45</sup>

A few years later, Wright and Rossi conducted another National Institute of Justice study, this one of the gun use patterns of criminals. They interviewed prisoners in ten state systems. The study confirmed that many criminals are indeed frightened of armed citizens.<sup>46</sup> Notably, the second National Institute of Justice study discovered that felons in states with strict laws found obtaining a gun no more difficult than in states with more moderate laws. Almost all felons, regardless of the severity of their state's laws, reported that they would have little or no difficulty obtaining a gun soon after release.

Wright and Rossi asked the prisoners where they obtained their last handgun, and 21% replied at a gun store. Hence, HCI argues, a waiting period and background check would affect a significant figure of gun crimes. But Wright and Rossi disagree with HCI's interpretation of their data. They write:

"One might as a matter of federal policy require that every firearms transaction be reported to the cognizant authorities, and the appropriate criminal records check undertaken; but one quickly senses that this measure would have little or no effect on the criminal users whom we are trying to interdict and a considerable effect on legitimate users. . . . The ideal gun crime policy is one that impacts directly on the illicit user but leaves the legitimate user pretty much alone."<sup>47</sup>

Careful analysis of the Wright-Rossi data shows that far less than 21% of criminal gun users would be affected by a background check. The 21% who obtained their last crime handgun at a gun store included 5% who had obtained the gun by theft, rather than by purchase. Of the 16% who had obtained the gun by purchase, at least some likely did not have disqualifying criminal records at the time of purchase.

Further, not all of the guns acquired by criminals are acquired for crime. (Many

criminals live in neighborhoods with other criminals, and hence own guns for defense.) The more likely a felon was to be a serious gun criminal, the less likely he was to have acquired a retail gun. For example, of the criminals who specialized in unarmed crime, 30% obtained their most recent handgun at a store (by purchase or by theft). Of the "handgun predators" who specialize in handgun crime, only 7% had gotten a handgun from a store. For criminals as a whole, of the guns that had been obtained "to use in a crime," 12% came from a store.<sup>48</sup>

Since about one-fourth of the handguns from stores were stolen from stores, only about 9% of handguns obtained to use in a crime, (and about 5-6% of handguns obtained by handgun predators) came from a retail purchase. Nine percent or even five percent still seems to be a significant number of criminals buying guns in gun stores. But Wright and Rossi explain that their data:

"does not imply that the men in question themselves simply walked into a gun shop and bought themselves a gun, in direct defiance of the Gun Control Act of 1968. In many cases, these purchases would have been made in the felon's behalf by friends or associates with "clean" records, which is, to be sure, still quite illegal. Although, we asked these men where and how they had obtained their most recent guns, we did not ask who, exactly, had obtained them."<sup>49</sup>

Assuming that only half the purchases were made by legal surrogates, the background check is entirely irrelevant to 95-98% of crime gun acquisitions.

The large majority of all gun acquisitions are by people who already own a gun. If the pattern also holds true for criminals, then the background check would impact only a fraction of the already tiny percentage of criminals who personally buy guns at retail. In other words, of all guns acquired for crime, only about 0.5% to 2% are personally bought at a retail outlet by a person with an existing criminal record who does not already have another gun.<sup>50</sup>

The basic problem with waiting periods is shown by a Bureau of Alcohol, Tobacco and Firearms study of gun dealer sales in Des Moines and Greenville. The study found that about one to two percent of sales were to dangerous criminals.<sup>51</sup> In short, waiting periods have no statistically noticeable impact on any type of crime because only a tiny fraction of crime guns are purchased at retail by ineligible buyers.

Waiting periods have existed in some states for over half a century. Yet after all this time, there is not a single criminological study ever published which shows waiting periods to have any beneficial impact. While the researchers who have studied waiting periods have very diverse views on the gun debate in general, all researchers have concluded that there is no evidence that waiting periods cause any statistically significant benefits.

#### IV. THE WAITING PERIOD (IN)ACTION

Synopsis: Although no evidence ties waiting periods to reduce crime rates, the experience of states with waiting periods shows only a small percentage of retail gun buyers are denied because of criminal records. Of these, about 1% are deemed worth arresting. The number of people who are illegally or arbitrarily denied their right to bear arms by abuse of a background check system is about as large as, and sometimes far larger than, the number of criminals denied.

Although the academics have never found any statistically significant effect from waiting periods, it would be incorrect to con-

clude that waiting periods accomplish nothing. The following section reports results in several jurisdictions that already have waiting periods. The particular jurisdictions discussed were selected because: 1. The police have compiled and released data for that jurisdiction; and 2. The jurisdiction is cited as a success story by Handgun Control, Inc; 3. Data is available to test the veracity of the figures from the police or HCI. The data shows that: 1. Some people with criminal or mental records do attempt retail gun purchases, and are stopped by a background check; 2. Handgun Control, Inc, consistently overstates the efficacy of the background check in its model jurisdictions.

California: Officials state that their background check for handguns interdicted 1,900 illegal purchases in 1989.<sup>52</sup> Nevertheless, California's handgun homicide rate rose 21% from 1979 to 1988, even as gun laws grew tighter.<sup>53</sup> California has no appeals process, so it is impossible to determine how many of the denials are proper. As discussed below, the California waiting period forms have been used to build a government data-base of gun owners.

About 10% of California's 300,000 "assault weapon" owners have registered their weapons, as required by law. The group that complied with the retroactive registration law surely qualifies as highly law-abiding set of people. Yet this group of highly law abiding gun-owners, when they attempt to buy a new rifle or pistol following California's 15-day waiting period, find that the California Department of Justice has put a 1 to 4 month hold on their application, because they are registered "assault weapon" owners.<sup>54</sup>

A Los Angeles City Councilman, noting the thriving market in stolen Rolex watches, has suggested that all Rolex watches be registered, and a five-day waiting period be imposed on transfers of second-hand Rolexes. The Rolex waiting period has been ridiculed by most other Los Angeles politicians, and written up in the national press as another instance of California silliness. It might be asked why so many people who dismiss the idea that registration and a waiting period would affect the criminal sale of Rolex watches think that registration and a waiting period would affect the criminal sale of firearms.

Broward County, Florida: Handgun Control correctly notes that in 1984-85, 37 persons were kept from buying guns by the county's ten day waiting period (which has since been preempted by state law).<sup>55</sup> Handgun Control fails to point out that nearly half of the rejections were for unpaid traffic tickets or similar offenses which do not legally disqualify Floridians from gun ownership.<sup>56</sup> HCI also fails to point out that gun suicides actually increased after the waiting period was implemented.

Columbus, Georgia: HCI claims that the city's 3-day wait catches two felons a week trying to buy handguns.<sup>57</sup> HCI exaggerates the rate four-fold, and implies that the number related to arrests, rather than merely to denials.<sup>58</sup>

Illinois: Prospective gun purchasers must obtain a Firearms Owners Identification card (FOID), which is valid for five years. There are about 5,000 applications every week for the card. Over the weekend, a list of applicants is run through the state Department of Mental Health, revealing about 10 applicants who are ineligible to buy because of mental disability.<sup>59</sup> Illinois' automated licensing system often takes 60 days to authorize a clearance.<sup>60</sup>

Illinois issues FOID cards to about 78% of applicants. Another 17% are issued a card

after following up an initial rejection, for a total of about 200,000 FOID cards issued annually. Around 5% of applications are ultimately rejected. In 1988, there were 2,470 persons (about 2.5% of applicants) denied an FOID card on the basis of felony convictions, and 779 previously-issued cards were revoked due to felony convictions.<sup>61</sup>

The most thorough study of the Illinois system was conducted by Professor David Bordua. Happily, "the system was run with real attention to due process protections for firearms owners." Unfortunately, "even its administrators were not convinced it was effective." The system, which costs over a million dollars a year to process, was summarized as "inherently weak."<sup>62</sup>

Maryland: About 700-800 of every 20,000 applicants in a given year are denied. (The waiting period/police permission applies to all handguns and to long guns considered "assault weapons.") According to state police testimony before a Congressional subcommittee, the hundreds of denials typically lead to only a handful of prosecutions.<sup>63</sup>

Notably, 78% of appeals result in a reversal of the initial denial by the police.<sup>64</sup> The success rate on appeals likely understates the police error rate in initial denials. Many police who have been improperly denied may have neither the finances nor the energy to pursue an appeal. (Similarly, the ACLU indicates that only a minority of people improperly denied welfare benefits appeal.)

Although the waiting period is by statute supposed to last only one week, the police may take longer, and gun shops will not release the firearm until the police have completed their review.

New Jersey: Firearms laws in New Jersey are the strictest of any American state. Handgun Control states that "10,000 convicted felons have been caught trying to buy handguns."<sup>65</sup> The cost to legitimate gun owners has been severe. The number of New Jersey citizens arbitrarily denied the right to possess arms under the New Jersey law is almost as large as the number of criminals who were prevented from law-abiding transactions.<sup>66</sup> About one-quarter of the rejections in New Jersey are based on the hunch of police that it would be a good idea for a person to own a gun, rather than on any specific disqualifying criterion.<sup>67</sup> Although New Jersey law requires that the authorities act on gun license applications within 30 days, delays of 90 days are routine; some applications are delayed for years, for no valid reason.<sup>68</sup>

The cost to the non-gun owning citizens of New Jersey has also been severe. The New Jersey licensing system is so expensive that it costs \$4,442.13 (more than the salary of state trooper of one month) for each denial based on criminal, mental or alcohol abuse records.<sup>69</sup> It might be that the resource diverted into the licensing system might have saved far more lives if they had been spent on putting state troopers on patrol, instead of putting troopers behind a desk.

The overall crime rate and the gun crime rate in New Jersey has remained consistent with the rate in other states in the region, even though none of them imposes gun control as strict as New Jersey's.

Pennsylvania: In Pennsylvania, handgun buyers face a 48 hour waiting period (72 hours in practice), during which local police or sheriff may conduct a check.<sup>70</sup> After the buyer picks up the handgun, the transaction record is sent to the state police firearms unit, which checks the name against a list of violent felons. Data for the first check by local police is kept at the county level, so

there are no comprehensive figures available.

In addition to checking the approximately 130,000-150,000 handgun transfers that occur in a year, the state police are also automating their old records of firearms transfers (which date back to 1931), and checking the old names against the same list of violent felons. In 1988, the state police performed about 230,000 total records checks, resulting in about 80 "hits."

When a "hit" is found, state troopers are sent to confiscate the gun, and the local district attorney may bring charges for unlawful gun possession by a felon. Ms. Sharon Crawford, head of the state police firearms unit, recalled only one case in her memory where a person had committed a crime in the two to three week interval between taking possession of the gun and the arrival of the state trooper, or had refused to hand the gun over to the trooper. In the one case, the person had shot (not fatally) someone else during an argument.

The explanation for the generally peaceful behavior of the persons caught with illegal guns is that the purchases were not with the intention of use in a crime, but rather were self-defense and/or hunting purchases by persons who did not realize they were ineligible or who hoped to slip through the system.<sup>71</sup>

The Pennsylvania data validates the findings by Wright and Rossi: there are many attempted and/or completed firearms acquisitions by ex-felons that are unrelated to any effort to use the gun in a crime. Accordingly, the number of crimes prevented by a system that keeps ex-felons from buying guns in stores is likely to be significantly less than the number of ex-felons who are caught buying guns. (All this is not to say that the "felon-in-possession" cases should not be prosecuted or taken seriously; the point is simply that most attempted acquisitions were not for a criminal purpose.)

It would not be correct to use the Pennsylvania state data to conclude that background checks are pointless. The data above refers only to the State police check of names against violent felony convictions. The data do not show what impact the first check, by the local police, has had. It might be that most felons buying guns for crime are stopped at the local level, and are hence never checked by the state system.

Virginia: In 1989, Virginia enacted an instant telephone check, with the consent of both HCI and the NRA. About 16 to 20% of phone applications result in a "hit," requiring the rejected applicant to submit fingerprints to the police to prove his noncriminal identity.<sup>72</sup> The ultimate denial rate of about 1/2% to 1% is the same as in other states with longer waiting periods. The first year the check was in effect, there were 540 denials, leading to arrest of 7 fugitives, including one wanted for murder.<sup>73</sup> (There was also at least one false arrest.) The Virginia system required 16 new full-time state employees, and \$391,000 in annual operating costs.<sup>74</sup> Because the Virginia system appears to be working reasonably well, it is touted as model by many right-to-bear arms advocates.

In sum, the evidence shows that a permission system does result in some denials, at least half of which turn out to be incorrect. Even for the denials that are correctly applied to ineligible purchasers, it is not correct to assume that the denial has thereby prevented a crime. Virtually no one who intends to commit a gun crime buys from a gun store. Ineligible people do sometimes attempt retail transactions, but that act is hardly proof that they intended a crime.

Of the people who are rejected by permission systems, a mere 1% are arrested.<sup>75</sup> In other words, where a permission system is in effect, about 1 in 10,000 applicants turns out to be a criminal who is arrested. A success rate of one true "hit" for every 10,000 searches is, literally, not much better than the odds of finding a needle in a haystack—and is not a cost-effective method of catching needles.

#### V. PARTICULAR TARGETS OF WAITING PERIODS

**Synopsis:** The suggestion that people who transact in illegal drugs could be denied firearms under any gun control system is patently silly. Psychotic mass murderers have repeatedly bought guns in states with waiting periods. There is no evidence that waiting periods prevent suicides or domestic homicides. Hardly any crimes could even theoretically be prevented by a "cooling off" period. A perfect waiting period or other permission system would not even stop criminals from getting even retail guns. False identification is not hard to procure. And although a fingerprint or other biometric check would defeat false identification, most criminals would still likely know someone without a felony record. The surrogate buyer could still buy a gun for a criminal at retail.

Although waiting periods might have little impact on the average street criminal, it is sometimes suggested that waiting periods might deter particular kinds of gun misusers.

#### A. Drug dealers

In 1988, Handgun Control, Inc. attempted to hang its national waiting period on the drug bill, under the theory that the waiting period would disarm narcotics distributors. HCI still continues to promise that a waiting period will help take guns away from drug dealers.<sup>76</sup>

It stretches credulity to promise that any kind of gun legislation, including a waiting period, would have the slightest impact on drug dealers. Dealers, being expert in the black market, would have the readiest access to false identification, and to underground supplies. They are the last people gun control could impact.

Drug dealers obviously cannot count on the police or the courts for protection from violence. Because of this, and because dealers are a valuable robbery target, it would virtually be suicide for them not to carry a gun.<sup>77</sup>

In addition, drug dealers cannot use normal legal and social commercial dispute resolution mechanisms. Like the gangsters of alcohol prohibition days, drug dealers need guns to protect their business's income and territory. Thus, many drug dealers must own a gun for their lives and their livelihood.

No matter how scarce guns become for civilians, there will always be one for a criminal who can pay enough. Street handguns now sell for less than \$100. If the price went up to \$2,000, dealers would still buy them, because dealers would have to. Spending a few hours' or days' profits on self-protection is the only logical decision for a dealer. Can anyone really believe that an individual who buys pure heroin by the ounce, who transacts in the highly illegal chemicals used to produce amphetamine, or who sells cocaine on the toughest street-corners in the worst neighborhoods will not know where to buy an illegal gun?

#### B. Homicidal maniacs

Patrick Purdy, who killed five children in Stockton, California, bought five guns over the counter in California, despite the state's strict 15-day waiting period. Laurie Dann

bought a handgun and shot up a second grade classroom in Illinois, killing one child, wounding five, and then killing herself despite that state's requirement that all gun owners be licensed, and still undergo a waiting period before each firearm acquisition.<sup>78</sup> Mark David Chapman, John Lennon's assassin, bought a handgun in Hawaii, a state with one of the strictest waiting periods in the nation. Canada has a nationwide licensing system, yet a deranged man was able to buy a rifle with which he shot and killed 14 women in December 1989.<sup>79</sup> Criminals like Eugene Thompson (a felon and a cocaine addict who shot up a Denver suburb in March 1989) do not buy guns legally; they steal them. The criminally insane are criminally insane day off and on for years and years, not just for the three weeks covered by a waiting period. They periodically consult psychiatrists and acquire firearms without immediately or soon thereafter perpetrating crimes of insanity.

The latest claim that a waiting period would have stopped a maniac involves a mental patient who bought a gun in an Atlanta suburb without a wait, shot up shoppers at Atlanta's Perimeter Mall, killed one of them, and wounded four others. DeKalb County promptly approved a 15 day waiting period.<sup>80</sup> Handgun Control's national fundraising claims that the killer would have been stopped had a waiting period been in effect.<sup>81</sup> The claim is false; the killer's record of mental disorder was entirely private, and he had never been adjudicated mentally incompetent, or involuntarily committed.

#### C. Suicides

There are simply too many ways for people to kill themselves. After Canada implemented a national licensing system in 1978, its gun suicide rate did drop;<sup>82</sup> but the overall suicide rate remained the same.<sup>83</sup> Japan almost totally bans guns, but suffers a suicide rate twice the U.S. level.<sup>84</sup>

#### D. Domestic homicides

Many handgun control advocates assume that a waiting period would prevent "impulse killings."<sup>85</sup> But most domestic killings occur at night, gun stores are closed. Most perpetrators are intoxicated with drugs and alcohol, and thus legally forbidden to buy a gun anyway. The image of a murderously enraged person leaving home, driving to a gun store, finding one open after 10 p.m. (when most crimes of passing occur), buying a weapon, and driving home to kill is a little silly.<sup>86</sup>

In any case, hundreds who kill wives rarely use guns. Wives who kill husbands do often use guns, and are usually defending themselves or their children against felonious attacks.<sup>87</sup>

#### E. People in need of "cooling-off"

Criminologist Gary Kleck points out that for a "cooling-off" period to prevent homicide, a number of conditions must be fulfilled: 1. The gun the killer used was the only one he owned, or the only one he could have used in the crime; 2. The killer acquired the gun from a source that would be expected to obey gun control laws (a licensed dealer); 3. The gun was purchased and used in the homicide in a time period shorter than the "cooling-off" period. Discussing an analysis of 1982 Florida homicides, Kleck found that 0.9% (about 1 in 100) homicides fit all three criteria. He estimated that nationally about 0.5% (1 in 200) would fit all three criteria.

Nevertheless, Kleck suggested that a waiting period would not prevent even 1 in 200 homicides. For the homicide to actually be prevented, several other conditions would all

have to be fulfilled: 1. The killer was the kind of person who would not have been willing to kill even after waiting; in other words, the killing was an isolated act, rather than the culmination of a long history of assaults by the killer; 2. The killer would not have acquired and successfully used a gun that did not require cooling off (such as a long gun, in most states); 3. The killer would not have been able to complete the homicide with any weapon other than a gun; 4. The killer would not have been able or willing to obtain a gun from a non-retail source. Considering all the necessary criteria, Kleck did not find any Florida homicides which a cooling-off period clearly would have prevented.<sup>88</sup> While supporting a background check, Kleck concluded that a cooling-off period would in itself do no good. Hence, he thought the waiting period to offer no advantage over the instant check.

*F. Summary: What benefits can be expected from a waiting period?*

New York City Mayor David Dinkins asserts that "The Brady Bill could save thousands of lives in its first year."<sup>89</sup> Although many credulous New Yorkers believed their Mayor, and flooded House of Representatives Speaker Tom Foley's office with phone calls demanding passage of the waiting period, there is not a serious criminologist in the United States who thinks the Mayor's assertion has any basis in reality.

A perfect waiting period or other permission system would not even stop criminals from getting retail guns. False identification is not hard to procure. And although a fingerprint or other biometric check would defeat false identification, most criminals would still likely know someone without a felony record. The surrogate buyer could still buy a gun for a criminal at retail.

When pressed for whether the waiting period will deprive criminals of guns, HCI demurs, but expresses confidence that a waiting period will make gun acquisition more troublesome for criminals.<sup>90</sup> Likewise, the federal Task Force which studied background checks acknowledges that "[E]ven a perfect felon identification system would not keep most felons from acquiring firearms,"<sup>91</sup> but nonetheless supported a permission system, hoping that by forcing some criminal buyers onto the black market would leave them less able to obtain high-quality firearms.<sup>92</sup>

But would a waiting period or other permission even inconvenience criminals, considering that hardly any of them obtain crime guns through dealers anyway? Moreover, the current black market supplies even fully automatic firearms, which have been under a strict federal licensing system since 1934, and have been illegal to manufacture for civilians since 1986. If the black market can supply machine guns, it is doubtful that it cannot supply other high-quality weapons.

Still, as Professors Cook and Blose point out, there must be at least a few inexperienced or impecunious criminals for whom even a porous permission system would delay gun acquisition for at least some period. Moreover, the waiting period, simply because it will reduce gun sales to legal purchasers (see below) would reduce the number of guns in circulation. It seems likely that one of those unbought guns might one day have been part of a suicide or homicide or accident that might not otherwise have occurred.

Proponents of permission systems say that they will be successful if they save a single life.<sup>93</sup> It seems clear that a waiting period or other permission system would, inevitably,

prevent at least one firearms fatality. Even if a waiting period would have no discernible impact on crime in general, it would save at least one life. Is it therefore a good idea? The next Part discusses that question.

**VI. PROBLEMS CAUSED BY A WAITING PERIOD**

**Synopsis:** Substantial police resources are inefficiently diverted from street patrol to desk work. A background check consumes about \$40,000 in police salary for every arrest it produces. Resources may be further consumed by lawsuits regarding allegedly insufficient background checks. Waiting periods prevent a person from acquiring a gun for several days, and if implemented improperly (as they often are) waiting periods may result in total denial of a person's legitimate right to bear arms. The diversion of police resources, coupled with the interference with the acquisition of self-defense guns, may mean that a waiting period would cause a net loss of lives.

Severe problems with the data quality of existing criminal justice records will result in large numbers of false denials, requiring the victims to undergo a lengthy process to prove that they are not criminals. An initial denial stands only a 50% chance of being accurate and proper.

Moreover, waiting periods may provide a mechanism for gun registration, erode the confidentiality of medical records, and work a substantial financial hardship on the firearms dealers and users. Advocates of gun prohibition see waiting periods as a useful first step towards their ultimate goal.

*A. The Drain on Police Resources*

Police resources are finite. The question is not whether a waiting period would save one life, but whether other uses of the police resources spent administering a waiting period might save more lives if used elsewhere.

Under a national comprehensive waiting period, the drain on police resources would be staggering. There are approximately 7.5 million firearms transactions annually.<sup>94</sup> If a waiting period were to be rigorous enough to stop future Hinckleys, it would have to include in-person address verification. (See Part I, above.) How many hours would it take for a policeman to run national criminal records check, and to visit the home of every person who applied? One hour, at the very least. That would be 7.5 million police hours spent checking up on honest citizens, instead of looking for criminals. In the haystack of applications by honest citizens, police would search for a few needles left by the nation's very stupidest criminals. Looking for crime, police officers would be directed onto a paperwork enterprise particularly unlikely to lead to criminals. Would not all those millions of police hours be better spent on patrol, on the streets instead of behind a desk?<sup>95</sup>

According to the Task Force, implementing a national comprehensive permission system would require the FBI to hire 395 additional clerical employees to process the requests for fingerprint card readings for the (approximately) 725,000 citizens who would be denied permission to purchase because they have the same name as a criminal, or because police records noted an arrest but not a subsequent acquittal.

A national waiting period and background check could cost from tens to hundred millions of dollars.<sup>96</sup> Applying the 1 arrest per 10,000 applicant review figure, each arrest would cost approximately 40,000 dollars, or the one-year salary of a full-time, fairly senior police officer.<sup>97</sup>

Such profligate use of police manpower is an impediment to crime control. One useful

modification to existing waiting periods would be to exempt persons who already have a gun. (Proof of lawful purchase of another gun might suffice for the exemption.) After all, a person who buys a second revolver is hardly more dangerous than a person with only one gun.

The waiting period is an impediment to effective law enforcement in a more subtle way also: Local politicians who are failing to take effective steps to control crime use the campaign for a national waiting period as a tool to divert the attention to the national scene away from local law enforcement. For example, after Utah tourist Brian Watkins was stabbed in a New York City subway in the summer of 1990, New York Mayor Dinkins announced that what was needed to stop New York City crime was a national gun waiting period, or even gun prohibition. The Mayor now makes the call for a national "Brady Bill" the centerpiece of his response to publicized shootings in New York, regardless of whether evidence indicates that a waiting period would have had an effect on the particular shooting.<sup>98</sup>

*B. Lawsuits against the police*

At a time when local police resources are already stretched thin, the national waiting period bill imposes very substantial paperwork and manpower requirements on most police forces in the country. The bill claims it is cost-free, because the background check would be optional. But the bill's prime lobbyist, Handgun Control Inc., has already announced that its legal defense fund will sue police departments that do not implement the background check.<sup>99</sup> Much to the delight of Handgun Control, a woman has already won \$350,000 from the city of Philadelphia for not conducting a thorough enough background check of a man who killed her husband.<sup>100</sup>

In this regard, it is astonishing that persons who claim to speak for the nation's police want a law to make police departments everywhere vulnerable to a brand new form of tort litigation.

*C. Covert registration*

Waiting periods and other permission systems can operate as de facto gun registration. Once the police are told who is applying to buy a gun, they may simply add that person's name to their list of gun owners, as is the practice in New Jersey, New York and other states. The California Justice Department has used the waiting period, without statutory authorization to do so, to compile a list of a handgun owners.<sup>101</sup> In Oregon, the police are allowed to retain handgun purchase records up to five years.

One attempted solution to problem of covert registration is to require the police to destroy the purchase application records. The national waiting period bill purports to require record destruction, but does not really do so.<sup>102</sup> Moreover, not even the toughest language in a federal bill could compel a state officer to destroy records, because Congress has no authority to compel an act by a state or local officer which is not required by the U.S. Constitution.<sup>103</sup>

Under neither proposed federal nor existing state systems is the pretense of required destruction backed up by meaningful enforcement. Police who keep illegal records are subject to no penalties or civil liability. Significantly, the practice of making daily computer back-up tapes means that even if original records are destroyed, back-up records will still exist.

Precisely because most waiting periods amount to covert registration, many other-

wise law-abiding gun owners will resist them.<sup>104</sup> The principal objection of Constitutionalists to gun registration is that it has frequently been a prelude to and a tool for gun confiscation.<sup>105</sup> Additionally, the government has no authority to register people merely for exercising their Constitutional rights.<sup>106</sup>

In states where waiting periods already exist, the legislature should specify liquidated damages against officials who illegally compile registration lists. In cases of intentional wrong-doing, criminal prosecutions, similar to existing criminal prosecutions for federal Privacy Act violations, should be allowed.<sup>107</sup>

#### D. Privacy of medical records

The vast majority of people with mental illnesses, such as John Hinckley, never enter state treatment systems. Pressure will inevitably build to end the confidentiality of private medical records, so the police can check those records as well. In California, legislators enacting a comprehensive waiting period were told that mental health records would be kept fully confidential. But the same year the law was enacted, the California Department of Justice began ordering public and private mental health clinics to report their clients to the state, which puts them in a database along with felons that is useable by the police. Included in the databases are non-violent persons who have voluntarily checked themselves into private facilities for problems such as anxiety or stress.<sup>108</sup> A number of jurisdictions already require purchasers to waive the confidentiality of their medical or mental health records.<sup>109</sup> Illinois queries, "Are you mentally retarded?"<sup>110</sup> New Jersey asks the McCarthy-style question "Have you ever been attended, treated or observed by any doctor or psychiatrist or at any hospital or mental institution on an in-patient or outpatient basis for any mental or psychiatric condition?" The State also inquires, "Do you suffer from a physical defect or sickness?"<sup>111</sup> The mother who consulted a psychiatrist on one occasion because her son had died must confess herself to the New Jersey police, upon pain of criminal prosecution.<sup>112</sup>

And it is not only the government that can use firearms background checks to disclose private medical information. An employer can conduct inexpensive inquiries into the mental health records and criminal background of prospective or current employees by ordering them to produce proof that they are eligible to buy a gun, and hence have no mental or criminal record. Some employers in Illinois use this tactic.

#### E. Denial of ability to obtain a gun

A waiting period provides anti-rights police administrators with an easy opportunity for abuse. In New Jersey, the police often simply refuse to process gun purchase applications.<sup>113</sup> In cases of budgetary constraint, firearms applications may suffer inordinate or even permanent delays.<sup>114</sup>

Although a statute may specifically limit the reasons for disqualifying a buyer, police may disqualify for other, illegal reasons. In Maryland, where an appeals process exists, the police are over-ruled on 78% of appeals.<sup>115</sup>

Indeed, many of the police departments which most vociferously champion "reasonable" gun controls routinely abuse those controls once enacted. The St. Louis police have denied permits to homosexuals, nonvoters, and wives who lack their husband's permission.<sup>116</sup> Although New Jersey law requires that the authorities act on gun license applications within 30 days, delays of

90 days are routine; some applications are delayed for years, for no valid reason.<sup>117</sup> Mayor Richard Hatcher of Gary, Indiana, ordered his police department not to give license application forms to anyone.<sup>118</sup> The Police Department in New York City has refused to issue legally-required licenses, even when twice commanded by appeals courts to do so. The Department has also refused to even hand out blank application forms.<sup>119</sup>

Most police, fortunately, are law-abiding, and would not engage in the abuses typical in New York City and Maryland. Nevertheless, even in law-abiding jurisdictions, the waiting period, by definition, delays for a number of days a citizen's acquisition of a firearm. For a hunter planning a trip next month, the delay is inconsequential. For a young woman being threatened by an ex-boyfriend, the delay may be fatal.

Simply put, seven days is too long for a woman whose ex-boyfriend is promising to come over and batter her. Seven days is too long for families when a burglar strikes three homes in a neighborhood in one week, and may strike that night. Twenty-four hours is too long to wait when the Gainesville serial murderer is loose, and every woman is a potential victim.

The issue is not hypothetical. In September 1990, a mail carrier named Catherine Latta of Charlotte, North Carolina, went to the police to obtain permission to buy a handgun. Her ex-boyfriend had previously robbed her, assaulted her several times, and raped her. The clerk at the sheriff's office informed her the gun permit would take two to four weeks. "I told her I'd be dead by then," Ms. Latta later recalled. That afternoon, she went to a bad part of town, and bought an illegal \$20 semi-automatic pistol on the street. Five hours later, her ex-boyfriend attacked her outside her house, and she shot him dead. The county prosecutor decided not to prosecute Ms. Latta for either the self-defense homicide, or the illegal gun.<sup>120</sup>

In 1985 in San Leandro, California, a woman and her daughter were threatened by a neighbor. Instead of being able immediately to obtain a handgun for self-defense, the women had to wait 15 days. The day after she finally was allowed to pick up her gun, the neighbor attacked them, and she shot him in self-defense. Had the man attacked 14 days after his initial threat, rather than 16 days after, the woman and her daughter would have been raped. Of course the state of California would have denied liability, as it has repeatedly denied liability for its failure to protect citizens against specific threats from specific criminals.

The national waiting period proposal does allow a waiver of the 7-day wait if the locality's chief law enforcement official (or his designee) issues a written order stating that immediate purchase is necessary to protect the life of the gun purchaser or someone in her household.<sup>121</sup> In practical terms, it is very doubtful that a potential crime victim (particularly the poor and minorities who are the victims of most violent crime), will be able to obtain a rapid appointment with the police administrator who will issue a gun authorization. If the administrator is out of town, or busy, or uninterested, the victim is out of luck. And if the potential victim is receiving threatening phone calls that deal only with rape, aggravated assault, or mayhem, even a sympathetic police chief cannot issue an exemption, since there is no threat to the victim's life.

Some of the people killed by a waiting period could, ironically, be people who have volunteered to defend the United States.

Members of the armed forces are allowed to carry personal handguns as sidearms, if they so choose. Many infantry grunts might want a Colt .45 or a Glock 9mm on their hip, in case their government-issue M-16 rifle jams in a firefight. Television stations in Texas and Alabama reported high levels of sales of 9 millimeter handguns to servicemen shipping out to Saudi Arabia. But in states like California, with a minimum wait of 15 days, the short period between notification of call-up and departure date is not enough time for a soldier to be cleared by the firearms control apparatus. As a result, soldiers from California and similar states were placed in greater peril.<sup>122</sup> Happily, the rapid collapse of the Iraqi army reduced the importance of back-up sidearms.

As the Fifth Circuit Court of Appeals has held, "the right to defend oneself from deadly attack is fundamental."<sup>123</sup> A waiting period puts that fundamental right on hold.<sup>124</sup>

A person who is falsely imprisoned by the state can get out of jail a week later, with perhaps no permanent harm done. Newspapers which libel a person by mistake can always publish corrective stories the next day. A person who is denied the right to bear arms for a week may, at the end of the week, be dead. A deprivation of even 24 hours of the means to self-defense may mean a deprivation of life itself.

Of course the number of persons who would be killed or injured because of the waiting period would be small, so small as to be statistically unnoticeable. But so would the number of persons saved by a waiting period. Proponents of a waiting period have not carried the burden of demonstrating that a waiting period would be a net saving of lives, taking into account the people who die because they cannot defend themselves, and taking into account the diversion of police resources away from street patrol.

To reduce the abuses and injuries that waiting periods could cause, a number of prophylactic measures make sense: Any waiting period should have an explicit appeals process. At the appeal, the government should have the burden of proving that the citizen is not entitled to possess a firearm. Normal rules of evidence should apply, and citizens should not be victimized by anonymous rumors and other sorts of hearsay evidence. Citizens who are victorious in their appeal should be entitled to attorney's fees.

Moreover, any person injured by the failure of police to properly and promptly approve an application should have a right to sue for damages. (When a person is killed because the police failed to act, the survivors would have the right to sue.)

Under the legal doctrine of sovereign immunity, the police have no duty to protect any individual citizen from crime, even if the citizen has received death threats and the police have negligently failed to provide protection.<sup>125</sup> In cases where the government affirmatively interferes with a person's ability to protect herself (the interval between an application to purchase a firearm and approval), the doctrine of sovereign immunity should not apply. The government should not be able to strip a person of her right to defend herself, and then assert that it has no responsibility for the consequences.

#### F. Financial hardships

Almost all waiting period/permission systems require the firearms purchaser to pay the entire cost of the system. It is Constitutionally odious to make people pay the government so the government can satisfy itself that they are fit to exercise their Constitutional rights. The young woman in the ghet-

to who needs an inexpensive handgun for self-defense, or the young man in Appalachia who wishes to hunt squirrel with a .22 rifle are not the cause of the crime problem. Even an \$8 fee may drive the cost of their \$50 gun out of reach.

For all firearms purchasers, not just poor people who need a defense gun, a waiting period requires an additional trip to the firearms store, more time spent by the clerk at the store, lost sales due to people who do not have the time to make repeated trips, and a host of other transaction costs. For a person who lives in a small town, and needs to make a long trip to get to a store with a good selection of merchandise, the inconvenience can be substantial.

The waiting period severely impacts firearms dealers and manufacturers. The reason is that most guns are bought by persons who already own guns, often as an impulse addition to a collection. If two trips to the store are required, the buyer often loses interest in the sale. For example, the number of handgun sale records reviewed by the Pennsylvania state police is one-third less than the number of handgun purchase applications. Most of the drop-off is caused by potential purchasers who, after a few days, decide not to buy the gun.<sup>126</sup>

The waiting period also indirectly impacts government resources. A substantial decline in firearms sales mean a substantial decline of several million dollars in firearms excise taxes, and perhaps also a substantial decline in revenue for wildlife commissions.<sup>127</sup>

From a criminal justice standpoint, the loss of gun sales is inconsequential. The fact that a person who already legally owns three guns ends up not buying a fourth does not make him more vulnerable to crime, nor does it make him more dangerous to the public. (There is no correlation between gun density and gun crime.<sup>128</sup>

The loss in sales, irrelevant to the crime issue, is very harmful to retailers and manufacturers. Automobile dealers, liquor stores, and tobacco outlets all sell products that kill many people, but they are not burdened with a rule that makes lawful users make repeated trips for the same transaction.

It should be emphasized that substantial burdens on firearms owners and the firearms industry might well be justified if tangible benefits resulted. But as the evidence discussed above indicates, waiting periods simply do not prevent guns from coming into the wrong hands.

#### G. The data quality problem

The existing state of criminal records in most jurisdictions is simply too primitive to support a background check that is part of a waiting period (or part of an instant telephone check).

The FBI "estimates that approximately one-half of the arrest charges in their records do not show a final disposition."<sup>129</sup>

Only 40 percent to 60 percent of the nation's felony records are automated.<sup>130</sup> Many states do not have fully automated criminal records name indexes.<sup>131</sup> Many indexes are not currently searchable by information transmitted from the outside, such as telephone lines or computers. In some states, the same master index (such as a fingerprint index) that contains all felons will also include child care workers, various license holders, and firearms permit holders.<sup>132</sup>

For citizens regarding whom false information has been incorrectly recorded on a "rap" sheet, there is no remedy. Courts have held that even after an acquittal or dismissal of charges, a person has no Constitutional right to have an arrest purged from his

record.<sup>133</sup> (It should be noted that racial minorities are disproportionately victimized by arrests that do not prove worthy of a conviction.)

According to the Department of Justice study, performing a reliable background check under current data quality conditions would take 30 days. The Department found that shorter background checks (such as one week or three weeks) were no more reliable than instant checks. That conclusion is consistent with opinion in the police surveys, which shows most command rank officers do not believe that seven days would give them enough time to do a background check.<sup>134</sup>

Because of the severe problems with the existing data quality, the Department of Justice Task Force concluded: "[A]pproximately 50 percent of the cases where persons appear to have a criminal history record based on an initial name search are eventually found to be false hits. . . . Indeed, in many (perhaps most) cases an initial indication of a criminal record would eventually be shown to be untrue because it resulted from misidentification with someone else with a common name and date of birth." As a result, only 84-88 percent of gun purchasers would be able to pass an initial check.<sup>135</sup>

If there were a national comprehensive check, approximately 725,000 persons a year would be falsely denied under either the waiting period or the instant telephone check.<sup>136</sup> The 725,000 faced with false denials would then have to prove their innocence by being fingerprinted, and entered in a data base of eligible gun buyers. The "secondary verification process" (proving their non-criminal identity to the police) that would take four to six weeks.<sup>137</sup>

The list of people processed through secondary verification would be another basis for gun registration.

Accordingly, a minimum condition for any kind of background check system should include the establishment of a data base consisting only of convicted felons and other ineligible.

#### H. A step towards prohibition

Why waiting periods? It is understandable why many legislators would be attracted to an idea that, at first glance, seems eminently plausible. Many legislators accept the reasoning "guns don't kill people; people kill people." So instead of controlling guns (through gun registration), why not control people who may abuse guns?<sup>138</sup>

But the anti-gun lobbies, being expert in the issue, know better. They know the facts of the Hinckley assassination. So why do they support a waiting period?

The National Coalition to Ban Handguns [recently renamed the Coalition Against Gun Violence] candidly admits that gun controls do nothing to prevent criminals from obtaining guns.<sup>139</sup> The CSGV believes that criminals are not the issue; handguns have no place in civilian hands. Moderate controls over handguns are a step toward to a ban. Policy statements distributed by the NCBH forthrightly admit as much.<sup>140</sup>

Even in the most academic settings, the question may come down to whether a person is "for" guns or "against" them. At a debate at the American Society of Criminology Conference in November 1989, the participants were asked what number of lives saved would be necessary for them to consider a waiting period worthwhile. Both sides of the debate agreed that the number of lives saved was not determinative of their positions. Dr. Paul Blackman, the National Rifle Association representative, replied that he thought

the waiting period might end up with a net cost of lives. He also stated that alcohol Prohibition had saved lives, but still was not a good idea. Darrel Stephens, Executive Director of the Police Executive Research Forum, replied that he would still favor a waiting period even if it were proven not to save any lives. He reasoned that the extra effort required to purchase a gun would convince some people not to buy a gun, and less guns in civilians hands would be good in itself.<sup>141</sup>

What about Handgun Control, Inc., the more powerful of the two major anti-gun lobbies? Their stated motto is merely "Keeping handguns out of the wrong hands." But their agenda is prohibition. HCI's former Chairman has stated that he favors intermediate control as a waystation to near-total handgun prohibition.<sup>142</sup> The organization supports handgun prohibition as a policy matter.<sup>143</sup> As one of HCI's congressional allies acknowledges, the 7-day handgun wait "is not really enough, but it is a start."<sup>144</sup>

What good does a waiting period do for the goal of handgun prohibition? Waiting periods facilitate gun registration, which HCI praises as a prelude to gun prohibition.<sup>145</sup> The national waiting period proposal includes a number of subtle provisions which facilitate prohibition: an anti-gun police chief could indefinitely delay a purchase application by refusing to mail back acknowledgement of receipt of the application; and the definition of "handgun" is elastic enough to include a number of long guns.<sup>146</sup>

As discussed above, waiting periods sharply reduce gun sales. While there are no anti-crime benefits, HCI sees reduced sales (rather than just reducing uncontrolled sales) as good in itself, and a necessary precondition to prohibition.<sup>147</sup>

Most importantly, the waiting period is social conditioning. It sends the message that citizens do not possess a right to bear arms, but merely a privilege dependent on police permission.<sup>148</sup>

#### VII. CONSTITUTIONAL ISSUES

Synopsis: Waiting periods are a prior restraint on the exercise of Constitutional rights. The very point of basic rights like free speech, or free exercise of religion, or the right to keep and bear arms, is that a citizen does not need to ask for government approval to exercise those rights. Waiting periods, because of their inefficacy and potential for abuse, are not the least restrictive means of attacking gun crime without interfering with the right to bear arms. A federal waiting period violates the 10th Amendment by forcing state officials to perform background checks.

Is a federal waiting period Constitutional? The issue has never been directly tested in court. State waiting periods are common, but the prevalence of a practice is no guarantee of its Constitutionality. Racial segregation, after all, was the norm in most of the U.S. for the century after the Civil War, even though the Constitution forbade it.

One view of Constitutional interpretation was articulated by Justice Black. He viewed the Constitutional prohibitions literally. For example, he took the First Amendment's command "Congress shall make no law respecting the freedom of speech . . ." to mean that Congress could pass no law regarding free speech. Justice Black viewed the Second Amendment with a similar literalness: "its prohibition is absolute."<sup>149</sup> The more prevalent view, however, is that no Constitutional provision is absolute.

Regardless of which view is adopted, the most appropriate guide for analysis of the Second Amendment is the First Amendment.

Of the entire Bill of Rights, only the First, Second, and Third Amendments guarantee particular substantive rights.<sup>150</sup> Amendments Four through Eight are due process requirements for the government to obey, while Amendments Nine and Ten are non-specific reservations of rights. The Supreme Court has indicated that the First and Second Amendments should be interpreted according to the same principles.<sup>151</sup> Indeed, it is necessary to interpret the Second Amendment with just as much vigor as the First in order to obey the Court's command that all Constitutional rights must be treated with equal respect, with no right being particularly favored or disfavored.<sup>152</sup> And of course all Constitutional rights must be broadly construed.<sup>153</sup>

#### A. Prior restraints on constitutional rights

While the First Amendment protects freedom of speech, there are legitimate debates about what kinds of communication are considered "speech." Pornography, picketing, price-fixing, and perjury are activities which, at least arguably, are not included within the freedom of speech. Likewise, the right to bear "arms" is sometimes said not to apply to machine guns, nunchakus, brass knuckles, switchblades or antiaircraft rockets.

For communication that is clearly within the freedom of speech (such as political commentary), the single clearest principle is that prior restraints are virtually never lawful. While the government (through laws against libel or against criminal incitement) may punish speech after it occurs, the government may almost never impose a prior restraint by requiring a person receive permission before speaking.<sup>154</sup>

The various police permission proposals destroy the normal presumption of innocence and impose prior restraints. A person is forbidden to exercise her right to bear arms unless the police satisfy themselves that the person is not guilty.<sup>155</sup> Citizens who wish to protect themselves should not have to wait to receive police permission. The very point of basic rights like speech, or free exercise of religion, or the right to keep and bear arms, is that a citizen does not need to ask for government approval to exercise those rights.<sup>156</sup>

A judicial decision permitting a prior restraint on the right to bear arms would inevitably endanger the right to abortion. If prior restraints and waiting periods on the right to bear arms are allowed, why not require women who need an abortion to submit to a waiting period, pass a simple test on the nature of fetal life and risks of abortion, and obtain permission from a local health agency?

The chance that any given person acquiring gun by any method, including by theft, will perpetrate a homicide is 1 in 3,000. In future years, a legislature dominated by pro-life forces could point out that a woman seeking an abortion does so with the intention of killing the fetus. If a chance of a killing smaller than 1 in 3000 justifies a prior restraint, then surely the certainty of a killing in case of abortion would also justify a prior restraint.

#### B. Balancing tests

Another principle, originally developed under First Amendment analysis, but now considered to have general applicability, is that of "least restrictive means." When the government regulates Constitutionally-protected activity (such as speech or interstate commerce), even if the government is pursuing a substantial purpose:

"That purpose cannot be pursued by means that broadly stifle fundamental personal liberties when the end can be more narrowly achieved. The breadth of legislative abridgement must be viewed in light of less drastic means for achieving the same basic purpose".<sup>157</sup>

Courts have directly applied the principle to strike down infringements on the right to keep and bear arms.<sup>158</sup>

Because a waiting period is so patently ineffective, it is not the least restrictive means to achieve the substantial government interest in reducing gun misuse. The waiting period fails the less restrictive means test because it imposes a broad restriction on all firearms purchases (or all handgun purchases for a limited wait) that is not narrowly tailored. There are a large number of less restrictive methods the government might adopt, discussed below in Part VIII, to reduce gun misuse.

#### C. Federalism

Handgun Control, Inc. claims that 22 states have waiting periods. The statement is not completely accurate. The majority of American states impose no major restrictions on firearms purchases in addition to those under existing federal law. Federal law requires the purchaser of any gun to fill out a form which is permanently retained by the dealer, and is available for inspection by federal authorities. Some states require handgun purchasers (or all gun owners) to obtain a license. Once granted a license, the licensee may obtain an unlimited number of firearms of all types without further approval, for as long as the license is valid (for life, or a term of one or more years).<sup>159</sup> South Carolina runs a background check after the person has picked up the gun.<sup>160</sup> Wisconsin has a two day waiting period, but no background check.<sup>161</sup>

Only 16 states actually have a system like what is proposed by Handgun Control, Inc. as a federal law, and pushed by HCI in the state legislatures: a statute requiring individual police permission for every single handgun purchase. In four of those states (Pennsylvania, Oregon, Indiana, and Washington), a person who holds a permit to carry a concealed firearm is exempt from the waiting period; the police are statutorily required to grant concealed carry permits to all citizens unless there is a particular legal disability. Connecticut exempts from its wait anyone with a state hunting or local gun license, and allows transfers in less than 14 days if approval is granted earlier.<sup>162</sup> Tennessee also allows an instant transaction if the police approve, and in some rural counties, the waiting period is not enforced. Of the 12 states that require handgun purchasers to receive individual permission for each purchase under all circumstances, 3 have a waiting period shorter than the 7-day standard commonly proposed.<sup>163</sup> Thus, the 7-day waiting period for every handgun purchase by Handgun Control is more severe than the existing laws in 41 of the 50 states.

Forty-one of the fifty states have decided not to implement laws as severe as the proposed uniform 7-day wait. Sometimes the federal government, viewing a growing trend in the states, makes the progressive state legislation into federal law. It cannot be said that there is a national trend in favor of waiting periods. It is true that some states that already had waiting periods for handguns have extended them to long guns.<sup>164</sup> (The move is logical since long guns, especially shotguns, are so much deadlier than handguns.)<sup>165</sup> Similarly, Florida, which already allowed counties to have limited 3-day

waiting periods, voted in November 1990 to make the wait statewide. The new Florida law had several provisions which made it more palatable to supporters of the right to bear arms; the law provides for a wait only, with no background check or police permission. Persons with handgun carry permits (which are required by law to be issued to all qualified applicants) are exempt from the wait. As a state constitutional amendment, the Florida wait prevents the state legislature from enacting stricter gun laws.

In states that do not already have waiting periods, there has been no willingness to adopt one. In the last decade, not one state without a waiting period has added one. Even Ohio, the home state of both sponsors of the federal waiting period, has repeatedly rejected a waiting period.<sup>166</sup> Indeed, the large majority of states, through preemption laws, have forbidden or abolished local waiting periods.<sup>167</sup>

It is sometimes asserted that the lack of a waiting period in some states makes enforcement of the law impossible in states that have one.<sup>168</sup> But ever since the federal Gun Control Act of 1968, citizens are only permitted to buy handguns in the state where they reside. If a Marylander wished to evade his state's 7-day wait, and buy in a state without a wait (such as West Virginia), he could not do so without providing proof that he was a resident of the other state. Only persons possessing false identification could evade the background check in one state.

When faced with the federalism argument, some supporters of a national waiting period reply that the proposals merely allow the choice of a background check. States already have that choice, of course. The state legislature of Iowa could enact a background check if it wished; it does not need the assistance of the federal government to have a "choice." Besides, as discussed above, Handgun Control, Inc. has already announced it will sue police departments that do not "choose" to conduct a background check. Because of HCI's lawsuit strategy, the seven-day wait would in practice be mandatory—even though the large majority of states have apparently decided that public safety is enhanced if their citizens can acquire the means of self-defense in less than a week.

Since the net effect of Handgun Control's strategy would be to impose on state officials a federal obligation to conduct a background check, the national waiting period is an unconstitutional exercise of Congressional power. As the Supreme Court has ruled: "the Federal Government, under the Constitution, has no power to impose on a State officer, as such, any duty whatever, and compel him to perform it; for if it possessed this power, it might overload the officer with duties that would fill up all his time, and disable him from performing his obligations to the State, and might impose on him duties of a character incompatible with the rank and dignity to which he was elevated by the State."<sup>169</sup>

The Supreme Court's concerns are particularly apt in the case of the national background check. The mandatory check would require each state to assign some number of police officers or other employees (ranging from a few dozen in a small state doing a retail handgun-only check to several hundred in a large state under HCI's comprehensive check) to the job of checking the backgrounds of its citizens. Although the state legislature would have preferred to devote the time of its employees to the more urgent task of fighting criminals, the federal government would force the state to use its own

resources to process paperwork from honest citizens.

The national waiting period violates, at the very least, the spirit of the Tenth Amendment.<sup>170</sup>

#### VIII. ALTERNATIVES

Synopsis: There are a number of alternatives that—while clearly superior to the waiting period—do not represent good policy choices in themselves. The Instant Telephone Check and the 7 day waiting period/background check both use the same (often inaccurate) database; the Instant Check has the obvious advantage of being speedy, and not interfering with expeditious acquisition of a self-defense gun. Firearms Owners Identification Cards take a long time to obtain initially, and serve as a basis for gun-owner registration and overly broad fingerprinting of the general population. Turning drivers licenses into "smart cards" also requires citizens to submit fingerprints to the government in order to exercise their Constitutional rights. The most effective way to deal with criminals possessing guns is to better enforce laws regarding criminal gun acquisition and to target the black market trade that supplies the gigantic majority of criminal funds. Researchers from the National Institute of Justice have suggested several possibilities to directly attack the black market; none of the NIJ proposals interferes with Constitutional rights.

Henny Youngman was once asked how he liked his wife. "Compared to what?" he replied. There are a number of alternative controls on retail gun sales that, compared to a waiting period, are quite attractive.

If the only issue to be decided is what kinds of restrictive controls on retail gun sales are best, all of the alternatives detailed below compare favorably to the waiting period. They are just as effective at stopping legal purchases by ineligible buyers as a waiting period would be. Because the alternatives do not give the abusive administrators an easy opportunity maliciously to block every retail transaction, these alternatives are much less likely to result in wholesale denials of the right to bear arms, and hence less likely to threaten public safety. At the same time, they consume police resources at a rate equal to or significantly less than the rate at which a waiting period would consume police resources. Hence, the alternatives are clearly superior to a waiting period from all perspectives.

On the other hand, if the question is not how to further restrict retail gun sales, but instead if any such restrictions would be worthwhile none of the alternative controls appear satisfactory. Like a waiting period, the alternative controls on legitimate sales can be evaded, and will likely do virtually nothing to disarm criminals. And while the alternative controls are not as dangerous to civil liberties as is a waiting period, the alternatives still pose some danger.

The most effective way to promote public safety and preserve civil liberties is to crack down on the black market that supplies criminal guns. A number of approaches for attacking the black market are suggested below.

##### A. "Instant" checks

One alternative to waiting periods is an "instant telephone check." The first state to enact such a check was Virginia; and Florida and Delaware have recently followed suit. When a Virginia gun dealer sells any handgun or certain long guns to a Virginia resident, the dealer calls a toll-free number at state police headquarters, to verify that the

purchaser has no legal disqualification. If everything proceeds properly, the sale can be consummated with no more delay than a credit card check might entail.

Support of an instant check is widespread. Criminologists and legal scholars such as Gary Kleck, Don Kates, and Robert Cottrol who are generally skeptical of gun prohibition support the instant check system. Even big-city police chiefs who generally agree with Handgun Control, Inc., split from that group in preferring the instant check over a national firearms identification care.<sup>171</sup> The National Rifle Association also supported the instant telephone check in Virginia.

In terms of sorting out ineligible buyers, the instant check is just as effective as a 7-day waiting period, according to the Department of Justice Task Force, and for that reason is supported by Attorney General.<sup>172</sup> Unfortunately, in terms of preventing incorrect denials of the right to bear arms, the instant check is just as bad as the waiting period. Because the data quality for instant checks is, according to the Task Force, equivalent to that for a one or three week background check, only 84%-88% of applicants will be initially allowed to purchase if there were a national instant check. The unlucky remainder must go through a secondary verification process (such as submitting fingerprints at state police headquarters) that would take several weeks.<sup>173</sup>

Of course a criminal can evade an "instant" check just as easily as he can evade any other check. All he needs is a fake driver's license with another name. Since false social security and alien registration cards may sometimes be bought for as little as \$35,<sup>174</sup> and since those cards are usually sufficient to obtain a driver's license, the instant check is likely to be just as porous as longer checks. The instant check, therefore, like the waiting period, could be evaded by anyone with false identification.<sup>175</sup>

For the purchasers who are rejected initially, fingerprint checks might be required to verify their identity. It is estimated that, if the instant check were national and comprehensive, the FBI would need 395 new clerical employees and 8,000 more square feet of office space to process the fingerprint work.<sup>176</sup> Given the limited efficacy of any police permission system, it might be considered whether 395 additional FBI employees might be better employed at projects focused on criminals, rather than on law-abiding citizens.

An instant check will cost between \$7.07 and \$9.39 per purchase.<sup>177</sup> For a person buying a high-quality target pistol, the cost is hardly noticeable. For a poor person buying a \$40 used revolver for self-defense, the cost is considerable. The cost could be justified, if it yielded important benefits.

Significantly, the instant check is subject to the same problem of creating a gun and gun-owner registration system as is a waiting period. As the Task Force observes, "Any system that requires a criminal history record check prior to purchase of a firearm creates the potential for the automated tracking of individuals who seek to purchase firearms."<sup>178</sup> If a transaction number must be placed on the dealer gun sale form (to prove he made the check), and if the state retains its own record of transaction numbers, the record-keeping could easily be perverted into gun registration.

At the least, any instant check system should include protections to absolutely bar gun-owner record retention, and should specify that if computer or other failure prevents the police from approving the sale, the

sale should be delayed no more than 24 hours.

The instant check is clearly preferable to a waiting period. The instant check uses the same criminal/mental data base as would a waiting period, and would therefore be equally effective in denying ineligible buyers. Because the large majority of sales would be approved on the spot, abusive administrators would have much less of an opportunity to interfere with the right to bear arms. It is true that an instant check eliminates the "cooling off" feature of a waiting period; but as discussed above, the number of crimes that could be prevented by "cooling off" is very, very small. The loss to public safety from the elimination of the "cooling off" period is more than offset by allowing persons who need a gun for immediate self-defense to get one, and by substantially reducing the numbers of arbitrary denials of firearms purchases.

##### B. Firearms owners identification cards

One suggested alternative to waiting periods for each firearm purchase is the creation of a Firearm Owners Identification Card (FOID). A person applies once for FOID card and submits her fingerprints to the authorities; after a four to six week review process, the person is granted a card which allows her to make unlimited purchases, with no further approval, as long as the card remains valid. (The card might expire after one year, or three years, or be valid for life.) Massachusetts and Illinois are among the states currently using a FOID system. Faced with the choice between the instant telephone check and the FOID card, Handgun Control, Inc. prefers the FOID card.<sup>179</sup>

The Task Force suggests that each FOID card would cost \$30. Approximately 1,700 new FBI employees would be required to process the necessary fingerprint checks of FBI files. According to the Task Force, the FOID card, taking up to six weeks to process, would be substantially more accurate than an instant check or a short waiting period.

As with the instant check or the waiting period, the list of FOID owners would be a de facto registration list of gun owners. The more serious civil liberties problem, however, involves massive fingerprinting.

The National Association of Police Organizations favors the collection of fingerprints of gun owners as the first step towards a comprehensive fingerprint system: "Hence the development of such an integrated national fingerprint system should be considered not merely for its benefits in connection with felon identification concerning firearms purchases but also in connection with improving law enforcement in general."<sup>180</sup>

The American Civil Liberties Union states "limited criminal history record checks, with fingerprint cards, are justified in certain licensing and employment situations. However, we oppose routine fingerprinting of all individuals who seek to buy firearms as an intrusion into privacy that cannot be justified by the minuscule benefit that may be achieved. . . ."<sup>181</sup> Of course, the ACLU's principle should also apply not only to proposed national fingerprint proposals, but also to the current practice in states such as New York and Illinois which routinely fingerprint the large fraction of the population which exercises its right to bear arms.

The same argument that lead one to reject a national or identity card apply to federal gun licensing through a FOID. A national licensing system would require the collection of dossiers on half the households in the United States (or a quarter, for handgun-only record-keeping).

Implementing national gun licensing would make introduction of a national identity card more likely. Assuming that a large proportion of American families would become accustomed to the government collecting extensive data about them, they would probably not oppose making everyone else go through the same procedures for a national identity card.

Although the problem of illegal immigration is immense, Congress has repeatedly rejected calls for a national ID card. The same reasons that impelled Congress to reject that national ID card should impel Congress (and the states) to reject large steps towards such a card.

#### C. Smart Cards

Another suggestion for screening of firearms purchasers has been the development of "smart" cards. As the Task Force explains, "every adult would carry an identification card issued by the state of residence, such as a driver's license, that would have electronically imprinted identifying information."<sup>182</sup> An instant fingerprint check in gun stores will within a few years be technologically feasible.<sup>183</sup>

The Smart Card seems to pose no serious problems from a pure Second Amendment viewpoint. There would be no false denials, since the cardholder would not be confused with other people with similar names and birth dates. There would be hardly any delays in purchases, since almost everyone would have a smart card.<sup>184</sup> There would be less risk of creating a gun registration system, although some states would be tempted to include gun registration data directly on the smart card.

Nevertheless, civil libertarians (including those with no interest in the gun issue) should oppose the smart card for the same reason that they oppose a firearms owners identification card (FOID). Both smart and FOID cards are a huge step towards a national identity card. Smart/FOID cards would of course be introduced with the assurance that they would only be used for limited purposes. But the Social Security Number, it was promised, would only be used for Social Security; today, the SSN is in effect a mandatory universal identification number, demanded by all levels of government and by businesses.

The National Rifle Association rejects the idea that persons who fill out the federal gun purchase form (form 4473) should be required to affix a fingerprint: "Exercise of a constitutional right cannot be conditioned on making fingerprints available to the police."<sup>185</sup> Indeed, the Supreme Court has held that the Constitution forbids states to collect fingerprints of people merely because they exercise their Constitutional rights.<sup>186</sup> But the smart card requires a citizen to offer his fingerprint for government approval before exercising his right to bear arms.

The instant driver's license fingerprint scan offers few anti-crime advantages over the instant telephone check. Both can be evaded with false identification. (In the case of the fingerprint scan, the criminal just makes sure to have someone else's print placed on his fake driver's license.)<sup>187</sup> The instant fingerprint scan proposal would result in every state having a fingerprint of all of its adult citizens. It is questionable whether states currently ought to be fingerprinting citizens who obtain drivers' licenses. It is repugnant to federalism to force states to erode the privacy of their citizens by forcing the states to collect fingerprints.

Like the FOID card, the smart card looks handsome when compared to the waiting pe-

riod, since it is more effective in denying ineligible buyers, and is less susceptible to repeated abuse by anti-gun administrators. But standing on its own, the smart card fails important civil liberties tests.

#### D. Anti-crime alternatives that do not infringe civil liberties

If the goal is really to keep felons from obtaining guns (rather than imposing gun control on honest citizens for its own sake), then the focus on retail sales is entirely misplaced. Hardly any felons buy crime guns in stores; almost all of the guns come from the underground market. A system aimed at disarming criminals should aim primarily at the black market.

The National Institute of Justice authors, Wright and Rossi, suggest "stiff penalties for firearms transfers to felons whenever these were detected and, in the same framework, stiff penalties for the crime of gun theft."<sup>188</sup> Enhanced penalties for transfers to felons were added to federal law in 1986, and should be added to state laws as well. To assist prosecutions of gun theft, states should follow Virginia's lead, and make sale of a stolen firearm a special, serious offense.<sup>189</sup> In many states, the theft and sale of \$75 gun amounts to only petty larceny. Selling a "hot" \$75 pistol should be a more serious offense than selling a "hot" \$75 toaster-oven.

Other ways to keep criminals away from guns include closer monitoring of parolees and probationers, and more intensive crackdowns on fencing operations for stolen firearms. State or federal strike forces aimed directly at gun-runners might be introduced or augmented. To deal with the rare cases of criminals with non-false identification buying guns at retail, police departments could distribute wanted posters and/or gun felon lists to gun stores.<sup>190</sup>

Funding for any of the above programs should come from the same general revenues that support all law enforcement, or from a special assessment on convicted gun felons.<sup>191</sup> Persons exercising their Constitutional right to bear arms should not be forced to pay a special tax to support enforcement efforts against gun criminals, any more than camera owners or magazine readers should be taxed to pay for enforcement or child pornography laws.

#### IX. CONCLUSION

One night a man was walking down the street, and saw a friend crawling on the sidewalk, near a lamppost. The friend explained that he was looking for his wallet. The man got down on his knees, and helped the friend look. After about 15 minutes, the man said "I don't think your wallet is anyplace near this lamppost."

"Of course it isn't," the friend replied. "It fell out of my pocket over there, in that dark alley."

"Then why are you looking all the way over here, by the lamppost?" the man asked. "Because the light is so much better over here."

Where should police officers look for armed criminals? In the dark alleys and black markets where criminals sell guns? Or behind a desk, where the light is better, so they can examine paperwork filled out by law-abiding citizens?

Especially when a legislature is considering laws that impact fundamental rights, it is improper to pass legislation simply because "it might help a little" or "it won't do much harm." Proponents of a new law have the burden of proving that their new law will accomplish a significant positive good. The burden is all the higher when proposed legis-

lation affects a significant number of people, and waiting periods regulate the 50% of American households that choose to possess firearms. Proponents of a waiting period have failed to carry their burden of persuasion.

The criminological evidence is solidly against the waiting period. Most police do not favor the waiting period, and even if they did, their opinions do not over-ride Constitutional commands. While the Constitutional question is not at all well-settled, analysis of core Constitutional principles suggests that a waiting period cannot pass muster under the bar on prior restraints or the requirement of "least restrictive means."

Of all the proposals for increased restrictions on retail firearms sales, the waiting period scores last in terms of disarming criminals, and first in terms of threatening the exercise of the right to bear arms. Alternative restrictions share many of the Tenth Amendment guaranteeing state autonomy. All of the proposals facilitate gun registration. All of the proposals force a citizen wishing to exercise his right to bear arms to receive, at least once, permission from the government. The waiting period gives abusive administrators a chance to interfere with every firearms transaction, while the alternatives allow interference with some transactions. In terms of fighting crime, all of the proposals are essentially trivial. They will force police officers to carry out a surveillance of ordinary citizens that will almost never result in the arrest of a criminal.

The strongest evidence against a waiting period comes from the copywriters of Handgun Control, Inc., the lead proponent of the bill. They have chosen to build their case on a misrepresentation—the empirically false claim that a waiting period would have stopped John Hinckley. If Handgun Control, Inc.'s most compelling argument is false, why should legislators or other citizens believe HCl's other assertions? Why should the public accept controls like waiting periods which are designed as intermediate steps towards prohibition? Why should Americans accept alternatives like instant telephone checks or smart cards which—although better in every respect than waiting periods—fail to eliminate the civil liberties problem created by forcing people to risk being put on a government list because they exercise their rights.

The premise of the waiting period—and of most suggested alternatives—is that citizens can be required to ask police permission before exercising their rights. But the Constitution does not create a privilege to possess "sporting" guns. The Constitution recognizes a fundamental human right to keep and bear arms.<sup>192</sup> And that is why waiting periods, besides being ineffective, are illegal and immoral.

#### FOOTNOTES

<sup>1</sup>Sarah Brady said Pascoe's bill is "everything on my wish list that I've been wishing for a federal level." Gary Massaro, "Brady's Appeal for Gun Control," Rocky Mountain News, Jan. 26, 1990.

<sup>2</sup>Senate Bill 90-93, Colorado Senate, 57th General Assembly, Second Regular Session (1990).

<sup>3</sup>Mrs. Brady quoted in Sam Meddis, "Petitioners Taking Aim at Gun Laws," USA Today, July 20, 1988.

<sup>4</sup>Mrs. Sarah Brady, Testimony before House of Representatives Judiciary Committee, Oct. 28, 1985, quoted in Congressional Record, Feb. 5, 1987, p. S.792.

<sup>5</sup>James Brady, Fund-raising letter for Handgun Control, Inc., "Wednesday morning" (summer 1990), p. 1: "John Hinckley—a man with a history of mental problems—purchased an easily concealed handgun." Most recipients of the fund-raising letter are not aware, as Mr. Brady surely must be, that no

background check could have discovered Hinckley's entire private record of consultation with mental therapists. The fund-raising letter, which includes substantial portions of Mr. Brady's standard testimony before Congressional committees, is herein-after cited as James Brady Fund-raising letter.

<sup>7</sup>Hinckley transcript, pp. 1489-1559; Opposition to Defendant's Motion for Bail. He also forfeited the guns he had been attempting to carry onto the plane.

<sup>8</sup>Texas driver's license #9457099, issued to John W. Hinckley, Jr., 1612 Avenue Y, Lubbock, Texas. Hinckley trial pp. 1751-52.

<sup>9</sup>Sarah Brady, "How to Deter Future Hinckleys," New York Times, Nov. 8, 1985. Also: Barbara Lautman, HCI Communications Director, "Only the Criminals Are Hurt By Waiting," USA Today, May 26, 1987, p. 12A; Handgun Control, Inc., "Briefing Paper on the Brady Amendment" (1988): "Had a waiting period been in effect and a background check undertaken, it could have been determined that Hinckley committed a felony by lying about his address on the federal forms and he could have been stopped." Ohio Senator Metzbaum (the lead Senate sponsor of the waiting period) claims that Hinckley submitted "a defective driver's license." Sen. Metzbaum, Congressional Record, Feb. 4, 1987, p. S.792.

<sup>10</sup>Advertisement, "A \$29 handgun shattered my family's life." The New Republic, July 18, 1988, inside front cover. Also, same advertisement, New York Times, August 1, 1988, p. 1. Rep. Edward Feighan (House sponsor of waiting period), "Feighan Introduces Bill to Deter Criminals and Save Lives," Press Release, February 4, 1987: "One check would have told a Texas dealer that John Hinckley was using a false address and could have prevented him from purchasing a handgun."

<sup>11</sup>Mrs. Sarah Brady, Congressional testimony, quoted in "Flagship Bill Introduced," Washington Report (Handgun Control, Inc. newsletter), Spring 1987, pp. 1-2.

<sup>12</sup>"Brady Backs a Wait on Handgun Sales," USA Today, June 17, 1987, p. 2A.

<sup>13</sup>Advertisement, "A \$29 handgun shattered my family's life." The New Republic, July 18, 1988, inside front cover. Also, same advertisement, New York Times, August 1, 1988, p. 1.

<sup>14</sup>Southwestern Bell, Lubbock-Slaton Telephone Directory (November 1979) (listing "John W. Hinckley . . . 409 University Av.").

<sup>15</sup>18 United States Code §522(a)(6).

<sup>16</sup>ATF Rul. 80-21, reprinted in Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, (Your Guide to) Federal Firearms Regulation 1988-89, ATF P 5300.4 (6-88), p. 73.

<sup>17</sup>Rep. James Sensenbrenner, Jr. (R-Wisc.), "Facts Versus Fiction on the Brady Amendment," August 11, 1988 (part of "Dear Colleague" letter titled "NRA Shoots Self in Foot"), p. 2.

<sup>18</sup>Shots from a .38 caliber are almost twice as likely to kill as .22 calibre attacks. Franklin Zimring, The Medium is the Message: Firearms Caliber as a Determinant of Death from Assault, 1 Journal of Legal Studies 97 (Jan. 1972). The campaign Mrs. Brady and HCI wage against "Saturday Night Specials" (cheap handguns like the RG .22) is particularly odd in light of the fact that Hinckley owned guns more powerful than a "Saturday Night Special," and had a ban on "Saturday Night Specials" been in effect, Hinckley would not have been able to buy the cheap handguns in Texas, and probably would have used the higher-quality (and deadlier) handguns.

<sup>19</sup>Advertisement, "A \$29 handgun shattered my family's life." The New Republic, July 18, 1988, inside front cover. Same advertisement, New York Times, August 1, 1988, p. 1. See also James Brady Fund-raising letter, p. 1: "That shot—from a \$29 Saturday Night Special—changed my life . . ." Also, Sarah Brady: "Nine years ago, I got thrown into the issue when John Hinckley bought a \$29 handgun in Dallas," in Peter Nye, "National Gun-Control Position," The National Voter (League of Women Voters), October/November 1990, p. 5.

<sup>20</sup>"Gun Used to Shoot Reagan called a \$47 'Saturday Night Special,'" Baltimore Sun, March 31, 1981 (reporting testimony of federal agents based on their examination of the purchase record for the transaction involving Hinckley). See also, Pete Earley, "The Gun: A Saturday Night Special From Miami," Washington Post, March 31, 1981: "[W]hen model RG14 finally reaches the public, its price tag is about \$47.50—one of the cheapest pistols available." (article about model of gun used by Hinckley).

<sup>21</sup>Mrs. Brady also offers diverse stories about her own involvement in the anti-gun crusade. In a November 1985 New York Times op-ed, she explained her involvement as directly triggered by NRA's attempt to repeal federal gun control through the McClure-Volkmer bill: Last July, the Senate passed the McClure-Volkmer bill, which would make it even easier for the kind of tragedy that struck down my husband to happen again. This bill would severely undermine federal gun laws by allowing anyone to buy a handgun across state lines, by limiting Government inspections of gun dealers' records and by repealing certain handgun record-keeping requirements. I decided I had to do more than think about the problem. Sarah Brady, "How to Deter Future Hinckleys," New York Times, Nov. 8, 1985 (emphasis added). As a New York Times reporter described it: Mrs. Brady first enlisted in the fight for gun control in the summer of 1985 when it appeared that the Senate was about to adopt a measure backed by the NRA that was designed to weaken the 1968 Gun Control Act. "It just enraged me," she recalled of the effort to alter the comprehensive law . . . Barbara Bamarekian, "Fighting the Fight on Gun Control," New York Times, Feb. 10, 1987, p. B10. But another newspaper states that Mrs. Brady has actually been an anti-gun activist since 1973, not since 1985, as she twice claimed in the New York Times. According to a USA Today profile, "Sarah Brady has spent nearly a third of her life arguing for tougher gun laws . . . Brady, daughter of an FBI agent, began her fight for stronger gun laws in 1973, when she tried to ban Saturday Night Specials . . ." "Brady Backs a Wait on Handgun Sales," USA Today, June 17, 1987, p. 2A (emphasis added). In light of Mrs. Brady's deceptions about matters large and small, her attack on the NRA, "I think they tend to prevaricate quite often" seems a case of the pot calling the kettle black. ABC News/Time Forum, January 24, 1990, show #ABC-11, transcript. It is also ironic that she congratulates herself: "I have tried very hard not to make it an emotion issue because I think that is what the gun lobby has done." New York Times, Feb. 10, 1987. A reader of Handgun Control's late 1990 fund-raising letter might find the rhetoric somewhat emotional: [Y]ou are at risk. You are in danger of also becoming a victim of the senseless handgun violence . . . [S]top our insane national handgun war . . . Frankly, what makes me livid is that the NRA opposes the Brady Bill because they claim it's an inconvenience . . . For their convenience, I experience pain—sometimes so intense I cry . . . I need help getting out of bed, help taking a shower, help getting dressed and, damn it, even help going to the bathroom . . . The NRA lobbyists can go to hell! . . . [T]he NRA lobbyists scream FOUL! . . . But the mighty NRA roars NO! And the cowards in Congress cringe! . . . I desperately need your help. James Brady Fund-raising letter (emphasis in original).

<sup>22</sup>For example, Hank Johnson, Executive Editor, "Making a Case for Gun Control," Athens Daily News (Georgia), September 16, 1990 ("Had such a waiting period been in effect when John Hinckley walked into a Dallas pawn shop . . . he could have been stopped.")

<sup>23</sup>Sarah Brady, Vice Chair, Handgun Control, Inc., Statement (press release), February 4, 1987, p. 1. Presumably she meant to say "1980."

<sup>24</sup>Handgun Control, Inc., "Briefing Paper on the Brady Amendment" (1988); Rep. Feighan (sponsor of waiting period), remarks, Congressional Record, September 15, 1988, p. H7636.

<sup>25</sup>The National Sheriffs Association, which currently supports the waiting period, certainly qualifies as a major law enforcement organization, since it is the largest group of sheriffs in the United States. Interestingly, Handgun Control, Inc. claimed in 1988 to have the support of "every major law enforcement organization," even though in 1988 the NSA had voted not to support a waiting period. Apparently when the NSA later changed its mind and supported Handgun Control, the NSA then qualified as a "major police organization." Both NACOP and AFP are for-profit organizations, and are associated with retired police chief Gerald Arenberg, who is also associated with other for-profit organizations. Handgun Control, Inc., sometimes announces this fact as if it somehow delegitimizes the NACOP and AFP—although the more than 100,000 law enforcement officers who have joined these organizations apparently do not agree. Perhaps no major law enforcement organization has been more tainted by financial impropriety than has the International Association of Chiefs of Police, a strong supporter of the waiting period; the questionable financial prac-

tices of IACP's former leadership should certainly not disqualify it as a voice for its members. A fortiori, the for-profit status of NACOP and AFP, untainted by any hint of scandal, should not disqualify these groups as police voices.

<sup>26</sup>The Federal Law Enforcement Officers Association, Fraternal Order of Police, International Brotherhood of Police Officers, International Association of Chiefs of Police, Major Cities Chief Administrators, National Association of Police Organizations, National Organization of Black Law Enforcement Executives, National Sheriffs Association, National Troopers Coalition, Police Executive Research Forum, Police Foundation (a think-tank), and Police Management Association. Congressional Record, Sept. 15, 1988, p. H7639; Handgun Control, Inc., "Briefing Paper on the Brady Bill," p. 2.

<sup>27</sup>"What PERF Members Think About Police Education, Assault Weapons, Toy Guns, Etc." Subject to Debate (PERF newsletter) March/April 1989, p. 1. It cannot be said that PERF has done an outstanding job of informing its members of the technicalities of the firearms debate. Ninety-four percent of PERF members favored a ban on nondetectable weapons, apparently unaware of testimony from the Bureau of Alcohol, Tobacco and Firearms and from the Federal Aviation Administration that there was no such thing as an undetectable weapon currently in existence or technologically feasible in the foreseeable future.

<sup>28</sup>National Association of Chiefs of Police, "American Law Officers Survey for 1989." The NACOP survey was sent to 16,259 command officers, and 16% responded. The 16% represented departments which employ 172,355 officers. Both the NACOP and the PERF surveys were conducted by mail, and response was voluntary. Because the surveys were not conducted by random sampling, it is not possible to assign a confidence interval to either survey. Accordingly, it is statistically possible that either or both of the surveys is not a correct measure of its population's opinion. On the other hand, it seems very possible that both PERF and NACOP were accurate measures. The responses to other questions in the surveys revealed results that would be expected of the sample populations. The big-city chiefs (PERF), favored: educational requirements for entry-level police (77%); an "assault weapon" ban (76%); funds for drug research (85%); and collection of data on hate crimes (78%). Likewise, the NACOP survey found results that are consistent with the expected conservative orientation of national police commanders as a whole: belief that the death penalty deters crime (93.8%); opposition to drug legalization (94.4%); belief that "the courts are too soft on criminals in general" (95.6%); and belief that their department was undermanned (87.3%). In any case, it is doubtful that Handgun Control, Inc. would criticize the NACOP survey, since NACOP's survey methodology is the same as PERF's, and Handgun Control cites the PERF survey in its own informational literature. Handgun Control, Inc., "Waiting Periods Work."

<sup>29</sup>National Association of Chiefs of Police, "American Law Officers Survey for the Year 1990." The NACOP survey was sent to approximately 16,000 command officers, and 10% responded. See the previous endnote for caveats regarding the response rate.

<sup>30</sup>Handgun Control, Inc. claims that the NRA has lost police allies because it has "gone off the deep end" by opposing reasonable gun controls. Interestingly, when HCI tried its "deep end" advertisement in Police magazine, the magazine received mail "unrivaled by any subject in the last two years," most of the writers "saying they didn't like the contents of the ad one bit." Police's editor composed an editorial condemning Handgun Control, Inc., defending the NRA, and warning that "HCI is trying to erode the Second Amendment." F. McKeen Thompson, "Readers Respond to HCI . . . And We Agree," Police (The Law Officer's Magazine), vol. 11, no. 12 (December 1987), p. 4. In any case, the NRA is not the only group to lose friends over its extreme stands. On most issues, the Fraternal Order of Police is a staunch ally of Handgun Control. (The FOP leadership switched sides on the gun debate in anger over the NRA's stand on armor-piercing bullets.) But when Handgun Control helped push the New Jersey legislature to enact a bizarre and overbroad "assault weapon" ban (it even applied to BB guns), the local chapter of the Fraternal Order of Police strongly opposed the law. Apparently, the FOP did not agree with HCI that BB guns should be confiscated as assault weapons. Dewey R. Stokes, "Major Issues Face FOP," National FOP Journal, Summer 1990, p. 4 (de-

scribing FOP stand in New Jersey, and national FOP support for New Jersey's opposition.)

<sup>30</sup>Regarding the criminal procedure amendments to the Constitution, only a small percent of cases are not prosecuted or are reduced to lesser charges because of the rules against illegally seized physical evidence and coerced confessions. Peter F. Nardulli, "The Societal Cost of the Exclusionary Rule: An Empirical Assessment," 1983 American Bar Foundation Research Journal (1983): 585-610; Thomas Y. Davies, "A Hard Look at What We Know (and Still Need to Learn) about the 'Costs' of the Exclusionary Rule: The NIJ Study and Other Studies of 'Lost' Arrests," 1983 American Bar Foundation Research Journal (1983): 611-90; "Legal Safeguards Don't Hamper Crime-Fighting," National Law Journal, December 12, 1988, p. 5: Six-tenths of one percent to 2.35% of cases are dismissed because of bad searches; in a survey of prosecutors, 87% said that 5% or less of their cases were dismissed because of Miranda problems.

<sup>31</sup>See for example the remarks of Rep. Mel Levine (D-Calif.), Congressional Record, April 10, 1986, p. H1746 (allowing interstate transportation of handguns for sporting purposes will cause "mayhem . . . on our streets . . . and further handicap law enforcement efforts to control handgun crime."); remarks of Rep. Howard Wolpe (D-Mich), *ibid.*, ("[T]he police in my district are concerned that the Volkmer substitute would add considerably more peril to their job than already exists.")

<sup>32</sup>"91% of Americans Favor Brady Amendment," Subject to Debate, Nov/Dec. 1988, p. 10.

<sup>33</sup>Subject to Debate.

<sup>34</sup>Polling data from Herbert McCloskey & Alida Brill, *Dimensions of Tolerance: What Americans Believe About Civil Liberties*. (New York: Russell Sage Foundation, 1988).

<sup>35</sup>"It established some rights of the individual as unalienable and which consequently, no majority has a right to deprive them of," Albert Gallatin, Congressman and Cabinet officer of the early American Republic, quoted in Richard E. Gardiner, "To Preserve Liberty: A Look at the Right to Keep and Bear Arms," 10 Northern Kentucky Law Review 63, 79n. (1982).

<sup>36</sup>McCloskey and Brill.

<sup>37</sup>Wright, Rossi, and Daly, pp. 223-35.

<sup>38</sup>Sarah Brady, Fund-raising letter for Handgun Control, Inc., "Wednesday," (no date, 1988).

<sup>39</sup>Matthew DeZee, "Gun Control Legislation: Impact and Ideology," Law Policy Quarterly 5 (July 1983): 363-79. Although DeZee stated that he supported stricter gun laws, he did not offer any proposals.

<sup>40</sup>"Homicides, Robberies and State 'Cooling-Off' Schemes," in ed. Donald B. Kates, *Why Handgun Bans Can't Work* (Bellevue, Wash: Second Amendment Foundation, 1982), pp. 101-12.

<sup>41</sup>"An Empirical Analysis of Federal and State Firearms Control Laws," in *Firearms and Violence: Issues of Public Policy* (Cambridge, Mass.: Ballinger, 1984): 225-58 (the study also found no perceptible impact on crime or gun acquisition from the federal Gun Control Act of 1968).

<sup>42</sup>Report on the Federal Firearm Owners Protection Act, S. rep. no. 3476, 97th Con., 2d sess. (1982), pp. 51-52.

<sup>43</sup>Philip J. Cook & James Blase, "State Programs for Screening Handgun Buyers," *Annals of the American Academy of Political Science* 455 (May 1981), pp. 88-90. Although skeptical about screening systems as a panacea, Cook and Blase still favor screening since it might increase the marginal price or time needed to obtain a gun for inexperienced criminals (such as teenagers), and might keep weakly-motivated criminals from obtaining guns at all, *ibid.*, pp. 90-91. Although Cook and Blase do not offer evidence, their intuition about possible benefits is not implausible. But since waiting periods and other screening systems do not show any statistical effect, it must be that the number of criminals actually affected is fairly small. Parts IV and V below discuss how the potential benefits of a waiting period compare to the potential harms. One study I have cited in earlier works (Cato Institute and Senate Testimony, both 1988) for the inefficacy of gun control is Douglas Murray, (1975). My citation to Murray was an error. As Wright, Rossi, and Daly point out, Murray's statistical model has a design flaw which minimizes any possible relationship between gun laws and gun crime.

<sup>44</sup>Assistant Attorney General John R. Bolton, Letter to House Judiciary Chairman Peter Rodino, March 19, 1986.

<sup>45</sup>James Wright, Peter Rossi, and Kathleen Daly, *Under the Gun: Weapons, Crime and Violence in America* (Hawthorne, N.Y.: Aldine, 1983).

<sup>46</sup>James Wright and Peter Rossi, *Armed and Considered Dangerous: A Survey of Felons and Their Firearms* (New York: Aldine, 1986). Three-fifths of the prisoners studied said that a criminal would not attack a potential victim who was known to be armed. Two-fifths of them had decided not to commit a crime because they thought the victim might have a gun. Criminals in states with higher civilian gun ownership rates worried the most about armed victims.

<sup>47</sup>The Armed Criminal in America, p. 46 (reports to National Institute of Justice; later republished as *Armed and Considered Dangerous*). One of the authors, Professor James Wright nevertheless sees little disadvantage in a waiting period. He calls it "a reasonable precaution" and argues "Few legitimate purposes to which a firearm might be put are thwarted if the user has to wait a few days, or even a few weeks, between filing the application and actually acquiring the weapon." James D. Wright, *Firearms* chapter in ed. Joseph F. Sheley, *Criminology* (Wadsworth Pub., 1991), p. 442. Professor Wright's view seems to be that while the waiting period, like any screening system might yield only small benefits, it is worthwhile because it exacts virtually no costs. The counter-argument that the waiting period's small benefits are outweighed by the damage it does to public safety is discussed below. Professor Wright's assumption that a waiting period "leaves the legitimate user pretty much alone" is true in theory but not in fact; as detailed below, a waiting period can be and often is administratively abused and made into a prohibition.

<sup>48</sup>Wright & Rossi, pp. 181-87.

<sup>49</sup>*Ibid.*, p. 188, n. 3.

<sup>50</sup>There is of course some value in keeping a criminal from obtaining a second gun or a better gun, but the process would be unlikely to stop a criminal from perpetrating a given armed crime.

<sup>51</sup>Bureau of Alcohol, Tobacco and Firearms, Assistant Director of Criminal Enforcement, Memorandum to Director, July 10, 1975 (Greenville survey; of 20,017 names submitted to FBI for record checks, 68 had felony convictions; of those, 41 had not been represented by counsel at their conviction or who committed crimes in the distant past; twenty-seven buyers were prosecuted) of the 1.3% of buyers selected for prosecution, 9% had non-violent felony convictions, and 4% had violent convictions). Bureau of Alcohol, Tobacco and Firearms, Assistant Director for Criminal Enforcement, memorandum to Director, May 8, 1975 (of 374 records checked, 39 were purchasers with felony records who were not appropriate for prosecution because of age or non-violent nature of felony; six purchasers were prosecuted).

<sup>52</sup>Douglas A. Blackmon, "Gun Sale Limits Don't Cut Crime, Experts Say," *Atlanta Journal & Constitution*, May 29, 1990, p. A-9. The numbers for previous years were: for 1981, 1365; for 1982, 1008; for 1983, 1148; for 1984, 1349; for 1985, 1413; for 1986, 1515. Anita Lagunas, Supervisor, Firearms Control Unit, California Attorney General, Letter to Richard Gardiner, National Rifle Association, March 23, 1987.

<sup>53</sup>California Board of Criminal Statistics, in Blackmon.

<sup>54</sup>William Davis, "Gun Law Backfires," *Los Angeles Daily News*, Mar. 4, 1991 (letter to the editor from law enforcement officer and licensed federal firearms dealer whose application was put on hold). There are also reports that all "assault weapon" registrants have been placed in police computer lists of persons who pose a special hazard. California's practice of enforcing its laws with special severity against persons who are especially law-abiding makes the registrants seem naive, and seems to vindicate the intuitive distrust of gun registration felt by most gun-owners.

<sup>55</sup>Handgun Control, Inc., "Briefing Paper."

<sup>56</sup>"Gun Control: It Threatens the Right People," *Tallahassee Democrat*, February 1, 1985 (In six month period since waiting period went into effect, 37 of 1,425 applicants were denied; of the 37, 14 were denied for "outstanding arrest records for traffic offenses and other misdemeanors").

<sup>57</sup>Handgun Control, Inc., "The Case for a Waiting Period."

<sup>58</sup>In response to a letter from the NRA requesting information about the Columbus waiting period, the police department analyzed its records and found that in the period January 1, 1985 through July 22, 1985, thirty of the 1,419 handgun purchase applications had been refused. Due to man-hour limitations, the department was not able to provide data

for other periods. G.J. McCain, Major, Bureau of Support Services, Columbus Police Department, letter to Richard Gardiner, National Rifle Association, September 12, 1985. Of the 32 denials, seven were because of outstanding warrants, four were due to marijuana cases, three for other drug cases, thirteen were for felony convictions other than marijuana, and five were due to age.

<sup>59</sup>Bureau of Justice Statistics, *Identifying Persons, Other Than Felons, Ineligible to Purchase Firearms: A Feasibility Study* (May 1990) (report performed under contract by Enforth Corporation, Cambridge, Massachusetts), p. 25.

<sup>60</sup>Pete Shields, *Guns Don't Die—People Do* (New York: Arbor House, 1981), p. 83.

<sup>61</sup>Task Force, p. 86.

<sup>62</sup>David Bordua, "Operational and Effects of Firearms Owners Identification and Waiting Period Legislation in Illinois," (University of Illinois: unpublished paper, 1985).

<sup>63</sup>Sgt. R.G. Peppersack, Sr., Maryland State Police, Commander, Firearms License Section, written testimony and oral questioning before United States Senate Committee on the Judiciary, Subcommittee on the Constitution, regarding S. 466, "Handgun Violence Prevention Act," June 16, 1987 (In 1986, there were 20,704 applications, 1,102 initial disapprovals, 370 approvals granted upon appeal, and 14 currently active cases involving an applicant who had a conviction of a crime of violence, of which 5 of 6 had been selected for prosecution for attempting an illegal purchase.)

<sup>64</sup>Peppersack, p. 2 (of 471 appellants in 1986, 370 [78%] were ultimately approved). Because so many initial denials are overturned, it is misleading for Handgun Control, Inc. to characterize the entire total of initial denials as "people who were trying to purchase handguns illegally." "The Case for a Waiting Period."

<sup>65</sup>"The Case for a Waiting Period." Also, "Flagship Bill Introduced," Washington Report (Handgun Control, Inc. newsletter), Spring 1987, p. 1.

<sup>66</sup>From 1966 (when current controls were enacted) until June 1988, there were 1,153,400 applications for either a permit to purchase a handgun or a firearms identification card. Of those applications, 28,850 (2.5%) were denied. According to reporter Eugene Kiley, of the *Bergen Record*, the state police conducted a random survey of 507 applicants in 1985. Applying the percentages from the 1985 survey to the data as a whole leads to the following breakdown for the denials: Criminal Record: 29%, 8,366 Falsifying Application: 35% 10,097; Public Health Safety & Welfare: 20% 5,770; Mental or Alcoholic: 7% 2,020; Insufficient Reason to Issue: 6%, 1,731. In other words, the total denials for actual danger (8,366 criminal record, plus 2,020 mental or alcoholic = 10,386) uncomfortably close to the number of denials for patently arbitrary reasons (5,770 public health, plus 1,731 insufficient reason = 7,501). If the denials based on falsifying application (10,097) are also considered arbitrary (since the category does not include falsifications relating to criminal, mental, or alcoholic ineligibility), the number of arbitrary denials significantly exceeds the number of arbitrary denials significantly exceeds the number of legitimate denials.

<sup>67</sup>*Ibid.*

<sup>68</sup>Statement of Robert F. Mackinnon, on behalf of the Coalition of New Jersey Sportsmen, before the House Committee on the Judiciary, on Legislation to Modify the 1968 Gun Control Act, part 2, serial no. 131, 99th Congress, 1st and 2d sess., Feb. 27, 1986 (Washington: Government Printing Office, 1987), p. 1418. For example of the New Jersey law in operation, see W. Peter Haas, Chairman, Public Safety Committee, Borough of Mountain Lakes, letter to Police Chief Joseph Spinozzi, July 29, 1968 ("It is my opinion that you as Chief of Police of our Borough deny any applications and fully process that application to the point of approval or disapproval, then disapproved and notify the applicant of your decision and their recourse through the County Court . . . Article 4 Section 2A: 151-33 (d) . . . authorizes the disapproval of any person where the issuance would not be in the public interest or welfare. It is my belief that it is not in the public interest to issue permits. . .")

<sup>69</sup>Each application takes about four hours to process. Colonel Clinton Pagano, testimony before the New Jersey Assembly Law and Public Safety Committee, hearing on A. 594, February 1988. If one assumes that each man hour costs the state of New Jersey ten dollars, the licensing system has cost New Jersey \$46,136,000. (The figure is in 1988 dollars, and based on the figure of 1,153,400 total applications

in 1966-88, cited in the previous endnote.) There have been 10,386 denials based on criminal, mental, or alcohol records (see previous endnote), and dividing that number into the total dollar cost yields the cost per denial of \$4,442.13.

<sup>70</sup>The dealer must report the sale to local police within 6 hours. The police have 48 hours to veto the sale, but in practice dealers generally wait 72 hours, to be sure to avoid liability for a sale to an ineligible person. Weekends and holidays do not count for purposes of the 48 hour computation. Police believe that the law requires all private transfers to be routed through retail dealers, so that police can perform the check, but the requirement, if it exists, is widely ignored. All information regarding Pennsylvania comes from the author's August 28, 1990 telephone conversation with Ms. Sharon H. Crawford, head of the state police firearms unit, in Harrisburg.

<sup>71</sup>A good number of "hits" are based on felony convictions from many years before, or on a conviction of aggravated assault, which some people (negligently) do not realize is a disqualifying felony.

<sup>72</sup>Task Force, p. 87.

<sup>73</sup>Blackmon.

<sup>74</sup>Task Force, p. 89.

<sup>75</sup>In Virginia, 8 of 673 ineligible (1.2%) were arrested. Handgun Control, Inc., "The Case for a Waiting Period" (1990). See also the Maryland date discussed above.

<sup>76</sup>James Brady Fund-raising letter, p. 3: "Seven days to help police thwart a purchase by a drug dealer."

<sup>77</sup>As Sterling Johnson, New York City's former special narcotics prosecutor acknowledged, "you either have to protect yourself with a gun or get out of the [drug] business." Anthony M. DeStefano, "City Teens: Armed and Dangerous," New York Newsday, Sept. 24, 1990, p. 30.

<sup>78</sup>Blackmon.

<sup>79</sup>"Killer Fraternalized with Men in Army Fatigues," The Globe and Mail, December 9, 1989; "Killer's Letter Blames Feminists," The Globe and Mail, December 8, 1989. To be precise, Canada does not have a formal waiting period. In 1978, Canada implemented a national law which required police permission for every handgun purchase, and a one-time license (good for five years) for long gun purchases. The license application requirement served, in effect, as a waiting period for most first-time gun purchasers.

<sup>80</sup>Blackmon.

<sup>81</sup>James Brady Fund-raising letter.

<sup>82</sup>Elisabeth Scarff, Decision Dynamics Corporation, Evaluation of the Canadian Gun Control Legislation (Ottawa: Canadian Government Publishing Centre, 1983) (prepared for the Solicitor General of Canada), pp. 5, 29.

<sup>83</sup>A study of Toronto indicated that the gun laws decreased firearms suicide by men, but "the difference was apparently offset by an increase in suicide by leaping." Charles L. Rich, James G. Young, Richard C. Fowler, John Wagner, Nancy A. Black, "Guns and Suicide: Possible Effects of Some Specific Legislation," American Journal of Psychiatry, 147 (no. 3, March 1990), p. 342.

<sup>84</sup>World Health Organization, World Health Statistics, 1984 (Geneva: W.H.O., 1984), pp. 183, 189; United States Bureau of the Census, Statistical Abstract of the United States, 1989 (Washington: Government Printing Office, 1989), p. 820.

<sup>85</sup>"Legislation: Pass Handgun Law," Denver Post, January 24, 1975.

<sup>86</sup>David Hardy, "Legal Restrictions on Firearms Ownership as an Answer to Violent Crime: What Was the Question?" Hamline Law Review 6 (July 1983): 404. It might be wondered if lives would be saved if homicidally enraged husbands "cooled off" while driving around at night looking for open firearms dealers willing to sell to drunken and agitated customers, rather than staying home and finding alternative weapons.

<sup>87</sup>In a Detroit study, 75% of wives who shot and killed their husbands were legally defending themselves or their children against illegal attacks. The figure for Miami was 60%, and for Houston, 85.7%. "[When women kill, their victims are . . . most typically men who have assaulted them." Martin Daly and Margo Wilson, Homicide (New York: Aldine, 1988), pp. 15, 200, 278. Saunders, "When Battered Women Use Violence: Husband Abuse or Self-Defense," Violence and Victims 1 (1986), p. 49; Barnard et al., "Till Death Do Us Part: A Study of Spouse Murder," Bulletin of the American Academy of Psych. and the Law 10 (1982): 271. Donald T. Lunde, Murder and Madness (San Francisco: San Francisco

Book Co., 1976), p. 10 (in 85% of decedent-precipitated interspousal homicides, the wife kills an abusing husband); E. Benedek, "Women and Homicide," in ed. Bruce Danto, The Human Side of Homicide (New York: Columbia, 1982). It is sometimes suggested that the abused woman is to blame for not leaving the relationship. Many women do leave, only to be followed and killed by their former mate. See generally Lenore E. Walker, Terrifying Love: Why Battered Women Kill and How Society Responds (New York: Harper and Row, 1989); Cynthia K. Gillespie, Justifiable Homicide: Battered Women, Self-Defense, and the Law (Columbus: Ohio State University Press, 1989).

<sup>88</sup>Gary Kleck, Guns and Violence (Hawthorne, New York: Aldine, 1991, forthcoming) chapter 8. The study of 1982 data Kleck reviewed is Ted Mannell, "Handgun Control," Report to the Executive Office of the Governor, State of Florida (Tallahassee: University of Florida, 1982) (unpublished).

<sup>89</sup>"Excerpts from Dinkins' Address: Mobilizing to Fight Crime," New York Times, October 3, 1990, p. B2.

<sup>90</sup>Eric Stenson, "Laws Limiting Access to Guns Putting Dent in NRA's Clout," Asbury Park Press, Aug. 5, 1990.

<sup>91</sup>54 Fed. Reg. 43532.

<sup>92</sup>Task Force, p. 24.

<sup>93</sup>For example, the Lakewood, Colorado, police chief defended the Pascoe 21-day comprehensive wait: "If we can save one life, it's worth it." Also, Richard Boyd, President of Fraternal Order of Police, quoted in "Two Sides Spiritedly Debate Bill on Gun-purchase Waiting Period," The Capital Times (Madison, Wisc.), June 18, 1987; Rep. Edward Feighan (House sponsor of waiting period), "Feighan Introduces Bill of Deter Criminals and Save Lives," Press Release, February 4, 1987 ("If this bill can save even one life, which I know it can, Congress should act on it now."); Fraternal Order of Police: "If the seven-day waiting period will save just one life—the life of a law enforcement officer or a citizen—then [Congress] work will be successful." quoted in Handgun Control, Inc., "Waiting Periods Work." If the criteria for legislation is whether it will save a single life, legislatures would also want to consider a ban on new private swimming pools and on cigarette lighters, as well as a reduction of the speed limit to 15 m.p.h. There is of course no Constitutional right to swim or light fires or drive at a particular speed; and pools, cigarette lighters, and cars are not usually considered useful for self-defense. Cars kill many more people than guns. Cigarette lighters cause more fatal accidents for children than do guns. (In 1984, the number of accidental deaths from all types of guns for children under the age of 5 was 34, while that same year 90 children aged 0-4 were killed by cigarette lighters. Centers for Disease Control, "Mortality and Morbidity Weekly Report," March 11, 1988, p. 145; Consumer's Research, May 1988, p. 34.)

<sup>94</sup>Bureau of Alcohol, Tobacco and Firearms estimate cited in Task Force on Felon Identification System, Report to the Attorney General on Systems for Identifying Felons Who Attempt to Purchase Firearms (Washington: Department of Justice, October 1989), p. 34 (hereinafter "Task Force"). The Task Force was chaired by Assistant Attorney General Richard B. Abel, and included the Bureau of Alcohol, Tobacco and Firearms; the Bureau of Justice Assistance; the Bureau of Justice Statistics; the Federal Bureau of Investigation; the Immigration and Naturalization Service; the National Institute of Justice; and the U.S. Marshals Service.

<sup>95</sup>The current federal proposal applies only to retail handgun sales, reducing the number of transactions the police have to check down to "only" two and a half million. Since the anti-gun lobby has already pushed several states to include long guns in the waiting period, and pushed California to include even gifts between family members in the waiting period, it is appropriate to consider cost estimates for waiting period schemes on the ultimate system that will be implemented, rather than on what is proposed as a "first step." One way to reduce the number of required checks by the police would be to exempt low-volume firearms dealers (50 or less sales per year) from the required check. Most such dealers sell only to persons they already know (such as members of their shooting club) and therefore, in effect, perform their own background check prior to sales. The New York City system takes the equivalent of almost 100 full time personnel. Research Associates Inc., A Preliminary Cost Analysis of Firearms Control Programs (Silver Spring, Maryland: R.A.I., 1968), prepared for the National Commission

on the Causes and Prevention of Violence, pp. 23, 27-28. In Washington, DC the firearms ballistic lab is so underfinanced that it is nearly two years behind in providing ballistic analysis of firearms used in crimes. Sari Horwitz, "Caseload Weighs Down D.C.'s Ballistics Lab," Washington Post, March 8, 1989. Given that Washington, D.C. spends more per capita on police than any other city in the United States, and given the utter failure of the police department to meet even minimal standards in protecting public safety, it is disheartening to see Washington, D.C.'s current police chief spending his time lobbying for a national waiting period, which would impose significant manpower and paperwork costs on other police departments.

<sup>96</sup>The Department of Justice Task Force did not specifically analyze the cost of a 7-day waiting period, since the Task Force found that such a wait would be no more effective than an instant check. The Task Force did analyze the cost of a Firearms Owner Identification card, under which a card good for three years would be issued, allowing unlimited purchases after an initial background check lasting 30 days. Since the FOID system would not require repeated checks for the same person buying several guns, the FOID system would likely cost significantly less than a waiting period. The Task Force estimated the start-up cost of FOIDs at \$148-153 million, and the annual operating costs at \$136-161 million. Task Force, p. 106. The cost estimate makes the assumption that most jurisdictions would undertake the "voluntary" background check out of fear of being sued by HCL. If the check were truly voluntary and most police departments declined to perform it, the additional costs of the law would be small. In any case, the total costs of the "Brady Bill" are nowhere near the "billions" which the NRA cited as the upper cost range in its 1988 campaign against the bill. A figure of billions would only be justified only by combining the costs for several years of operation of the bill. A national check on every gun transfer, retail and private, long gun and handgun, might well cost billions. Even though the comprehensive billion-dollar check seems to be the long-term goal of Handgun Control, Inc., there is no current national proposal to that effect. For an instant telephone check, the Virginia police had requested an \$8 per transaction fee to cover costs. If costs in other jurisdictions are about the same, a national check for retail handgun sales would cost about \$20 million (\$8 2.5 million sales). A national check on all gun transfers would be about \$60 million (\$8 7.5 million transfers).

<sup>97</sup>The cost analysis improves if one assumes that in addition to leading to the arrest of one criminal, the 10,000 background checks and cooling off periods prevented several people without criminal records from obtaining guns that they would have used in crime or a suicide attempt. See the discussion in Part III for the expected very small size of those groups.

<sup>98</sup>For example, David Seifman, "City's Latest Crime Shocker Falls to Stir Mayor's Anger," New York Post, Sept. 5, 1990, p. 4; Donatalla Lorch, "Girl is Killed by Stray Bullet in Brooklyn," New York Times, Sept. 24, 1990, p. A1 (Although the newspapers did not report that the gun involved was a "bad" gun like a "Saturday Night Special" or an "assault weapon," the Mayor stated: "Her death leaves me grief stricken and outraged . . . at the failure of our state and federal government to bring an end to the manufacture and distribution of these tools of death."); "Excerpts from Dinkins' Address: Mobilizing to Fight Crime," New York Times, Oct. 5, 1990, p. B2 (The speech concluded "we ache for the protection that only a federal law can give us—the Brady Bill." He implored New Yorkers to call U.S. House Speaker Foley to demand passage of the "Brady bill," "which could save thousands of lives in its first year, including yours.")

<sup>99</sup>N.T. "Pete" Shields, fund-raising letter for Handgun Legal Action Fund, "confidential, Wednesday morning" (1988), pp. 2-3. See *Warren v. District of Columbia*, 44 A.2d 1 (D.C. App. 1981). Unfortunately, after police departments begin complying with the paperwork rules, citizens who are victimized by crime will have no right to sue the police chiefs for putting their officers behind a desk, instead of on anti-crime patrol.

<sup>100</sup>Eileen Welsome, "Killing Spree Leads to Talk of Gun Control," Albuquerque Tribune, n.d.; Shields, fund-raising letter (1988), p. 3.

<sup>101</sup>"Background Checks Done Strictly by the Book," San Diego Union, February 21, 1990 ("We have an archive where we keep all those records, alphabetized by the gun owners' names," said Entricon. [Justice Department official]).

<sup>102</sup>The 1991 version of the national police permission bill, H.R. 7, explicitly states that it imposes no obligation on law enforcement officials. §(a)(2).

<sup>103</sup>*Puerto Rico v. Branstad*, 483 U.S. 219 (1987). Of course Congress could compel destruction of registration records if it made a finding that gun registration violates the Second Amendment. Congress has the power under section five of the Fourteenth Amendment to outlaw state violations of Constitutional rights. Logical consistency would mandate that the registration ban apply to other state and local gun registration as well.

<sup>104</sup>Registration is routinely flouted. In Illinois, for example, a 1977 study showed that compliance with handgun registration was only about 25 percent. Donald B. Kates, "Handgun Control: Prohibition Revisited," *Inquiry*, December 5, 1977, p. 20, n. 1. Compliance with retroactive registration of semiautomatics in Boston and Denver has been about 1 percent. About 10 percent of California's 300,000 "assault weapons" owners registered as required by law.

<sup>105</sup>Registration lists facilitated gun confiscation in Greece, Ireland, Jamaica, and Bermuda. B. Bruce Briggs, "The Great American Gun War," *The Public Interest*, (Fall 1976), p. 59; Kates, *Why Handgun Bans Can't Work*, p. 16. The Washington, D.C., city council considered (but did not enact) a proposal to use registration lists to confiscate all shotguns and handguns in the city. When reminded that the registration plan had been enacted with the explicit promise to gun owners that it would not be used for confiscation, the confiscation's sponsor retorted, "Well, I never promised them anything!" "Wilson's Gun Proposal," *Washington Stat-News*, February 15, 1975, p. A 12; Lawrence Francis, "Washington Report," *Guns & Ammo*, December 1976, p. 86. The Evanston, Illinois, police department also attempted to use state registration lists to enforce a gun ban. Paul Blackman, "Civil Liberties and Gun-Law Enforcement: Some Implications of Expanding the Power of the Police to Enforce a 'Liberal' Victimless Crime," Paper presented at the annual meeting of the American Society of Criminology, Cincinnati, 1984, p. 14. In 1989, the Illinois Legislature considered a proposal to confiscate semi-automatics, using the existing gun registration forms to find out where to round up the guns. When Illinois Firearms Owners Identification Cards were first issued, persons with a felony conviction were eligible to possess a firearm if the conviction was more than 5 years in the past. Later, the Illinois legislature retroactively changed the bar date to 20 years. Registered owners who had a felony conviction more than 5 years old and less than 20 had their guns confiscated. Since there are always proposals to expand the class of prohibited persons (such as barring all persons with even a single misdemeanor drug or violent offense, no matter how long ago), and always proposals to confiscate various lawfully-acquired types of weapons, many gun-owners are leery of being placed on any kind of government list—even if they are in full compliance with the (current) law. For more on registration, see note 52 and accompanying text.

<sup>106</sup>The Supreme Court has ruled that the Constitution prohibits the government from registering purchasers of newspapers and magazines, even of foreign Communist propaganda. *Lamont, DBA Basic Pamphlets v. Postmaster General*, 381 U.S. 301 (1965). The U.S. Post Office intercepted "foreign Communist propaganda" before delivery, and required addressees to sign a form before receiving the items. The Court's narrow holding was based on the principle that addressees should not have to go to the trouble of filling out a form to receive particular items of politically oriented mail. Since the Post Office had stopped maintaining lists of propaganda recipients before the case was heard, the Court did not specifically rule on the list-keeping practices. One may infer that the Post Office threw away its lists because it expected the Court would find them unconstitutional. See also *Thomas v. Collins*, 323 U.S. 516 (1944) (registration of labor organizers).

<sup>107</sup>*United States Code §552a(f)(1)*.

<sup>108</sup>Carl Ingram, "Gun Law Forces Mental Hospitals to Name Patients," *Los Angeles Times*, Feb. 7, 1991.

<sup>109</sup>For example, Arlington, Virginia, requires handgun applicants to "authorize a review and full disclosure of all arrest and medical psychiatric records." Form 2020-63 (Form 4/88).

<sup>110</sup>State of Illinois, Department of Public Safety, *Firearm Owners Identification Application*, question 9, FOID-1.

<sup>111</sup>State of New Jersey, "Application for Firearms Purchaser Identification Card," form STS-3 (rev. 9-1-79).

<sup>112</sup>A number of studies have argued that former mental patients are no more prone to commit violent crimes than is the public as a whole. U.S. Senate Subcommittee on the Constitution, Judiciary Committee, "Hearings on the Constitutional Rights of the Mentally Ill," 91st Congress, 1st and 2d sessions (Washington: 1977), p. 277; B. Ennis, *Prisoners of Psychiatry* (1970), pp. vi, 225; G. Morris, "Criminality and the Right to Treatment," in *The Mentally Ill and the Right to Treatment* (1970), pp. 121-24; Livermore, Malmquist, & Meehl, "On the Justifications for Civil Commitment," 117 *University of Pennsylvania Law Review* 75, 83 n.22 (1969), all cited in David T. Hardy & John Stompolo, "Of Arms and the Law," 51 *Chicago-Kent Law Review* 62, 97 (1974). Some studies have suggested that committal decisions are often unfair and incorrect. A. Wiley, "Rights of the Mentally Ill," p. 11; Ennis, p. vii.

<sup>113</sup>Rep. Marlenee, CONGRESSIONAL RECORD, Sept. 15, 1988, pp. H7643-44.

<sup>114</sup>For several months in 1970, the F.B.I. ran out of funds to process state requests for fingerprint checks. Some New Jersey chiefs of police stopped processing firearms permit applications, and told gun applicants to sue in court to obtain a license. J. Edgar Hoover, Director, Federal Bureau of Investigation, Letter to All Fingerprint Contributors, May 21, 1970; Joseph Santiago, "Chief Balks on Permits for Guns," *The Record*, July 10, 1970; John Spencer, "Registration of Guns Becomes Prohibition of Guns," (letter to the editor), *The Record*, n.d. (written Aug. 27, 1970).

<sup>115</sup>Testimony of Sergeant R.G. Peppersack, Md. St. Police Commander, Firearms Lic. Sect., before Subcomm. on the Const., June 16, 1987.

<sup>116</sup>Donald B. Kates, "On Reducing Violence or Liberty," *Civil Liberties Review*, (American Civil Liberties Union) August/September 1976, p. 56.

<sup>117</sup>Statement of Robert F. Mackinnon, on behalf of the Coalition of New Jersey Sportsmen, before the House Committee on the Judiciary, on Legislation to Modify the 1968 Gun Control Act, part 2, serial no. 131, 99th Congress, 1st and 2d sess., Feb. 27, 1986 (Washington, D.C.: Government Printing Office, 1987), p. 1418. According to the Department of Justice Task Force, the typical delay in New Jersey is 6 to 10 weeks. Task Force, p. 84.

<sup>118</sup>For a variety of cases of lawless enforcement of the gun laws, see *Motley v. Kellogg*, 409 N.E.2d 1207 (Ind. App. 1980) (police chief "denied members of the community the opportunity to obtain a gun permit and bear arms for their self-defense"); *Schubert v. DeBard*, 398 N.E.2d 1339 (Ind. App. 1980) (police determination that self-defense did not constitute "good reason" for gun permit voided by court); *Buffa v. Police Dept. of Suffolk County*, 47 A.2d 841, 366 N.Y.S.2d 162 (2d Dept. 1975) (mere "withdrawal of police approval" was insufficient grounds to revoke license); *Storace v. Mariano*, 35 Conn. Sup. 28, 391 A.2d 1347, 1349 (1978) ("in my opinion, he is an unsuitable person to carry a gun" was not a suitable reason for denying a permit); *Salute v. Pitchess*, 61 Cal. App. 3d 557, 132 Cal. Rptr. 345, 347 (2d Dist. 1976) (sheriff's unilateral determination "that only selected public officials can show good cause for a permit" was illegal); *Schwanda v. Bonney*, 418 A.2d 163, 165 (Me. 1980) (voiding police effort to impose criteria not based on statute); *Iley v. Harris*, 315 So.2d 336, 337 (Fla. 1977).

<sup>119</sup>For some examples of the New York City Police Department's flagrant abuse of the statutory licensing procedure, see *Shapiro v. Cawley*, 46 A.D.2d 633, 634, 360 N.Y.S.2d 7.8 (1st Dept. 1974) (ordering N.Y.C. Police Department to abandon illegal policy of requiring applicants for on-premises pistol license to demonstrate unique "need"); *Turner v. Codd*, 85 Misc. 2d 483, 484, 378 N.Y.S.2d 888, 889 (Special Term Part 1, N.Y. County, 1975) (ordering N.Y.C. Police Department to obey Shapiro decision); *Echtman v. Codd*, no. 4062-76 (N.Y. County) (class action lawsuit which finally forced Police Department to obey Shapiro decision). Also: *Bomer v. Murphy*, no. 14606-71 (N.Y. County) (to compel Department to issue blank application forms for target shooting licenses); *Klapper v. Codd*, 78 Misc.2d 377, 356 N.Y.S.2d 431 (Sup. Ct., Spec. Term, N.Y. Cty.) (overturning refusal to issue license because applicant had changed jobs several times); *Castelli v. Cawley*, *New York Law Journal*, March 19, 1974, p. 2, col. 2 (Applicant suffered from post-nasal drip, and repeatedly cleared his throat during interview. His interviewer "diagnosed" a "nervous condition" and rejected the application. An appeals court overturned the decision, noting that the applicant's employment as a diamond cutter indicated "steady nerves.")

<sup>120</sup>Gary L. Wright, "Woman Won't Be Charged; Boyfriends Slaying Ruled Self-Defense," *Charlotte Observer*, October 3, 1990.

<sup>121</sup>H.R. 7, §(a)(1)(B).

<sup>122</sup>Robert E. McSherry, Jr., letter to the Editor of Orange County Register, reprinted in Gun Owner's ACTION Committee, We 'The People' (newsletter), September 1990, p. 7.

<sup>123</sup>*United States v. Panter*, 688 F.2d 268, 271 (5th Cir. 1982).

<sup>124</sup>Notably, many gun control activists do not consider self-defense legitimate. The United Methodist Church, which founded the National Coalition to Ban Handguns, and whose Washington office building also houses the NCBH, declares that people should submit to rape and robbery rather than endanger the criminal's life by shooting him. Methodist Board of Church and Society, "Handguns in the United States" (pamphlet); same statement in Rev. Brockway, "But the Bible Doesn't Mention Pistols," *Engage-Social Action Forum*, May 1977, pp. 39-40. The Presbyterian Church, another affiliate of the National Coalition to Ban Handguns, supports a complete ban on handguns because it opposes "the killing of anyone, anywhere, for any reason," including defense of others against a life-threatening attack. Rev. Young, Director of Criminal Justice Program for Presbyterian Church, testifying in 1985-6 Hearings on Legislation to Modify the 1968 Gun Control Act, House Judiciary Committee, Subcommittee on Crime, vol. I, p. 128. The Washington Post condemns "the need that some homeowners and shopkeepers believe they have for weapons to defend themselves" as representing "the worst instincts in the human character." Editorial, "Guns and the Civilizing Process," *Washington Post*, September 26, 1972.

<sup>125</sup>See, for example, *Bowers v. DeVito* 686 F.2d 616 (7th Cir. 1982) (no federal Constitutional requirement that police provide protection); *Calogrides v. Mobile*, 475 So. 2d 560 (Ala. 1985); *Cal. Govt. Code §8845* (no liability for failure to provide police protection) and *846* (no liability for failure to arrest or to retain arrested person in custody); *Davidson v. Westminster*, 32 Cal 3d 197, 185 Cal. Rep. 252; 649 P.2d 894 (1982); *Stone v. State* 106 Cal. App. 3d 924, 165 Cal. Rep. 339 (1980); *Morgan v. District of Columbia*, 468 A.2d 1306 (D.C. App. 1983); *Warrent v. District of Columbia*, 444 A.2d 1 (D.C. App. 1981); *Sapp v. Tallahassee*, 348 S.2d 363 (Fla. App. 1st Dist.), cert. denied 354 So.2d 985 (Fla. 1977); *Ill. Rev. Stat.* 4-102; *Keane v. Chicago*, 96 Ill. App. 2d 460, 240 N.E. 2d 321 (1st Dist. 1968); *Jamison v. Chicago*, 48 Ill. App. 3d 567 (1st Dist. 1977); *Simpson's Food Fair v. Evansville*, 272 N.E.2d 871 (Ind. App.); *Silver v. Minneapolis* 170 N.W.2d 206 (Minn. 1969); *Wuetrich v. Delia*, 155 N.J. Super. 324, 326, 382, A.2d 929, 930, cert. denied 77 N.J. 486, 391 A.2d 500 (1978); *Chapman v. Philadelphia*, 290 Pa. Super. 281, 434 A.2d 753 (Penn. 1981); *Morris v. Musser*, 84 Pa. Cmwh. 170, 478 A.2d 937 (1984). The law in New York remains as decided by the Court of Appeals the 1959 case *Riss v. New York*: the government is not liable even for a grossly negligent failure to protect a crime victim. In the *Riss* case, a young woman telephoned the police and begged for help because her ex-boyfriend had repeatedly threatened "If I can't have you, no one else will have you, and when I get through with you, no one else will want you." The day after she had pleaded for police protection, the ex-boyfriend threw lye in her face, blinding her in one eye severely damaging the other, and permanently scarring her features. "What makes the City's position particularly difficult to understand," wrote a dissenting opinion, "is that, in conformity to the dictates of the law, Linda did not carry any weapons for self-defense. Thus, by a rather bitter irony she was required to rely for protection on the City of New York which now denies all responsibility to her." *Riss v. New York*, 22 N.Y.2d 579, 293 N.Y.2d 897, 240 N.E.2d 806 (1958). Ruth Brunell called the police on 20 different occasions to beg for protection from her husband. He was arrested only one time. One evening Mr. Brunell telephoned his wife and told he was coming over to kill her. When she called the police, they refused her request that they come to protect her. They told her to call back when he got there. Mr. Brunell stabbed his wife to death before she could call the police to them that he was there. The court held that the San Jose police were not liable for ignoring Mrs. Brunell's pleas for help. *Hartler v. City of San Jose*, 46 Cal. App. 3d 6 (1st Dist. 1975). The year after winning the Hartzler case, the San Jose government appointed Joseph McNamara Police Chief. Chief McNamara has since become the leading police spokesman for HCL.

<sup>126</sup>The 1/2 figure comes from the author's conversation with Ms. Sherman, head of the Pennsylvania state police firearms unit, cited above. Part of the 1/2 drop-off may be caused by people who are disqual-

fled by the local police background check, but (based on data from other states) ineligible buyers only account for, at most, a few percent of buyers. The rest of the 1/2 drop-off, therefore, is best explained by buyers changing their mind, as would buyers of virtually every product, if forced to make two trips for a single purchase.

<sup>127</sup>Research Associate, Inc., p. 34 (A firearms control program that substantially reduced gun sales would result in a tax revenue loss, in 1968 dollars, of over one hundred million dollars.)

<sup>128</sup>Gary Kleck, "The Relationship Between Gun Ownership Levels and Rates of Violence in the United States," in ed. Donald B. Kates *Firearms and Violence: Issues of Public Policy* (Cambridge, Mass., Ballinger, 1984): 99-132.

<sup>129</sup>Task Force Draft, 54 Federal Register 43528, Oct. 25, 1989.

<sup>130</sup>Task Force, p. 10.

<sup>131</sup>Eleven states do not have automated records. Ten other states have less than 65% of their records automated. Task Force, p. 8.

<sup>132</sup>"Testimony of Gary L. Bush Chairman, Search Group, Inc., Before the Subcommittee on Crime of the House Judiciary Committee," January 25, 1990, p. 14.

<sup>133</sup>*Hammons v. Scott*, 423 F. Supp. 618 (N.D. Cal. 1976); *Roulett v. Fairfax*, 446 F. Supp. 186 (W.D. Mo. 1978).

<sup>134</sup>See the National Association of Chiefs of Police surveys discussed in Part IIA above. See also the testimony of David Hall, undersheriff of Lake County, Florida: Q. Can't you do one in seven days? Would you be able to do it? Hall: It would be a very cursory check. Q. Would you be satisfied with that kind of check . . . ? Hall: No, sir, I personally wouldn't feel comfortable with it. State of Florida, Commission on Assault Weapons, Report (May 18, 1990), transcript on February 5, 1990, p. 9.

<sup>135</sup>64 Fed. Reg. 43545.

<sup>136</sup>The figure is based on the BATF estimate of 7.5 million firearms transactions per year, and the Task Force estimate of an initial "hit" rate of 12 to 16% of applicants.

<sup>137</sup>Task Force, p. 15.

<sup>138</sup>Rep. Dan Lungren, CONGRESSIONAL RECORD, Sept. 15, 1988.

<sup>139</sup>As Josh Sugarman, former communications director for the Coalition Against Gun Violence, wrote in *The Washington Monthly*: "handgun controls do little to stop criminals from obtaining handguns." Josh Sugarman, "The NRA Is Right: But We Still Need to Ban Handguns," *Washington Monthly*. Sugarman authored the November 1988 strategy memo suggesting that the press and the public had lost interest in handgun control. He counseled the anti-gun lobby to switch to the "assault weapon" issue, which the lobby did with spectacular success in 1989.

<sup>140</sup>National Coalition to Ban Handguns, "Twenty Questions and Answers" (no date), question 8 ("Banning 'Saturday Night Specials' would be a useful first step towards an ultimate solution.")

<sup>141</sup>The author was a member of the panel that questioned the two debaters.

<sup>142</sup>Founding Chair Pete Shields explained his strategy for prohibition: "The first problem is to slow down the number of handguns being produced and sold in this country. The second problem is to get handguns registered. The final problem is to make possession of all handguns and all handgun ammunition—except for the military, police, licensed security guards, licensed sporting clubs, and licensed gun collectors—totally illegal." Richard Harris, "A Reporter at Large: Handguns," *New Yorker*, July 26, 1976, p. 58.

<sup>143</sup>Handgun Control, Inc. has supported bills like the Russo bill in New Jersey to outlaw all handgun sales or transfers, and require that handguns be handed over to the police upon the death of their owner. HCI endorses the laws in Chicago and Washington, D.C. which prohibit the lawful acquisition of handguns. Handgun Control, Inc., "Fact Card," District of Columbia Code §§6-2132(4) and 6-2372.

<sup>144</sup>Rep. Traficant, CONGRESSIONAL RECORD, Sept. 15, 1988, p. H7644.

<sup>145</sup>See note 142.

<sup>146</sup>H.R. 7, §§(a)(1)(A)(i)(I) (a sale may proceed only if "the transferor has received written verification that the chief law enforcement officer has received the statement"); (a)(2) ("Paragraph (1) shall not be interpreted to require any action by a chief law enforcement which is not otherwise required."); (b) ("The term 'handgun' means—(A) a firearm which has a short stock and is designed to be held and fired by the use of a single hand"). The HCI handgun defi-

nition could be read to apply to rifles or shotguns that have folding stocks and extended pistol grips.

<sup>147</sup>See note 142. "And most importantly, you've helped us hurt the NRA and its friends in the handgun industry in the wallet, where it counts—and a 10-year low in new handgun sales proves it!" Sarah Brady, Fund-raising letter for Handgun Control, Inc., "Monday" (1988), p. 2.

<sup>148</sup>Representative Hughes of New Jersey, a prime sponsor of the waiting period, calls himself a sportsman, and claims to protect "the privilege of owning weapons in this country." Congressional Record, Sept. 15, 1988, p. H7654. Of course what makes this country different from other countries is that gun ownership is an explicit right, not a privilege.

<sup>149</sup>Speaking before a New York University Law School audience, Justice Black said: "Although the Supreme Court has held the Amendment to include only arms necessary to a well-regulated militia, as so construed, its prohibition is absolute." Hugo L. Black, "The Bill of Rights," 35 *New York University Law Review* 865, 873 (1960). In *United States v. Miller*, the Court held that only arms useful to a well-regulated militia were protected by the Second Amendment. Seeing no military utility to a sawed-off shotgun, the Court upheld a strict federal licensing system. As for the meaning of "a well-regulated militia," the Court noted that to the authors of the Second Amendment, "The Militia comprised all males physically capable of acting in concert for the common defense. . . . Ordinarily when called for service these men were expected to appear bearing arms supplied by themselves and of the kind in common use at the time." 307 U.S. 174, 179 (1939).

<sup>150</sup>Amendment I: "Congress shall make no law respecting and establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances. Amendment II: "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed." Amendment III: "No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law." The Third Amendment, having hardly ever been breached, has developed little case law.

<sup>151</sup>In *United States v. Verdugo-Urquidez*, the Court ruled that the Fourth Amendment "right of the people to be secure in their persons, houses, papers, and effects" applied to the same group protected by the Second Amendment "right of the people to keep and bear arms" and the First Amendment "right of the people peaceably to assemble." In every case, said the Court, the "right of the people" refers to individual citizens of the United States. 110 S.Ct. 1056, 108 L.Ed. 2d 222 (1990). In *Konigsberg v. State Bar of California*, the Court rejected Justice Black's absolutist approach to Constitutional interpretation. The Court noted that the First Amendment on its face was absolute, and the Second Amendment contained an "equally unqualified command." Nevertheless, both Amendments were subject to reasonable limitations. 363 U.S. 36, 51 n. 24 (1961).

<sup>152</sup>"Each establishes a norm of conduct which the Federal Government is bound to honor—to no greater or less extent than any other inscribed in the Constitution. Moreover, we know of no principled basis on which to create a hierarchy of Constitutional values. . . . Valley Forge Christian College v. Americans United For Separation of Church and State, Inc., 454 U.S. 464, 484 (1982). See also *Ullman v. United States*, 350 U.S. 422, 426-29 (1956): "As no constitutional guarantee enjoys preference, so none should suffer subordination or deletion. . . . To view a particular provision of the Bill of Rights with disfavor inevitably results in a constricted application of it. This is to disrespect the Constitution."

<sup>153</sup>*Byars v. United States*, 273 U.S. 28, 32 (1927); *Fairbank v. United States*, 181 U.S. 283 (1901).

<sup>154</sup>*New York Times v. United States* 403 U.S. 713, 714 (1971); *Organization for a Better Austin v. Keefe*, 402 U.S. 415, 419 (1971); *Bantam Books v. Sullivan*, 372 U.S. 58, 79 (1963); *Near v. Minnesota*, 283 U.S. 697, 716 (1931) ("Liberty of the press has meant principally, although not exclusively immunity from prior restraint or censorship.")

<sup>155</sup>Rep. Bosco derides the quaint notion that "gun purchasers in America should be considered innocent until they prove themselves guilty." Congressional Record, Sept. 15, 1988, p. H7651.

<sup>156</sup>The right to bear arms obviously includes the right to purchase them, just as the right to free speech includes the right to purchase printed matter.

<sup>157</sup>Shelton v. Tucker, 364 U.S. 479, 488 (1960). See also *Schneider v. State*, 308 U.S. 147, 161, 165 (1939); *American Communications Association v. Douds* 339 U.S. 382 (1950); *Louisiana ex rel. Gremillion v. NAACP*, 366 U.S. 293 (1961); *NAACP v. Alabama*, 377 U.S. 288, 307-8 (1963); *Talley v. California*, 362 U.S. 60 (1960); *Dean Milk v. Madison*, 340 U.S. 349 (1951).

<sup>158</sup>"[T]he legitimate governmental purpose in regulating the right to bear arms cannot be pursued by means that broadly stifle the exercise of this right where the governmental purpose can be more narrowly achieved." *State ex rel. Princeton v. Buckner*, 377 S.E.2d 139, 144 (W.Va. 1988). See also *City of Lakewood v. Pillow*, 180 Colo. 20, 501 P.2d 744, 745 (Colo. 1972) (voiding ban on gun sales within city limits and a requirement that persons carrying firearms be licensed: "Even though the governmental purpose may be legitimate and substantial, that purpose cannot be pursued by means that broadly stifle fundamental personal liberties when the end can be more narrowly achieved.")

<sup>159</sup>Some states with a license system are Indiana (license for handguns valid for 4 years); Iowa (handguns, 1 year); Massachusetts (all guns, lifetime); Minnesota (handguns, 1 year).

<sup>160</sup>Pennsylvania runs a state records check after the person picks up the handgun following a 48 hour wait. Task Force, pp. 82-83.

<sup>161</sup>Task Force, p. 83.

<sup>162</sup>Rep. Kennedy, Congressional Record, Sept. 15, 1988, p. H7650.

<sup>163</sup>The states with waiting periods for each handgun purchase are listed below. In some cases, the time period is not a minimum waiting period, but the maximum time the police are allowed to process an application for a permit to purchase a handgun [the time limits are not always observed, see Parts IV and V above]: Alabama (2 days); California (all guns, 15 days); Connecticut (all guns, 14 days); Hawaii (handguns, 15 days); Maryland (handguns and "assault weapons," 7 days); Michigan (handguns); Missouri (handguns, must issue within 7 days); New Jersey (all guns, 30 days); New York (handguns, 180 days); North Carolina (handguns, 30 days); Oregon (handguns, 15 days); Pennsylvania (handguns, 2 days); Rhode Island (all guns, 7 days); South Dakota (handguns, 2 days); Tennessee (handguns, 15 days); Washington (handguns, 5 days); Wisconsin (handguns, 2 days). Identifying Persons, Other Than Felons, p. 114, exhibit B.4 (and updated to account for 1990 changes in state laws).

<sup>164</sup>California and Rhode Island in 1990. Maryland extended its wait to "assault weapons" in 1989.

<sup>165</sup>At close range, the shotgun is the most formidable and destructive of all arms. . . . Unlike bullets, shotgun pellets rarely exit the body. Therefore, the kinetic energy of wounding in shotguns is usually equal to the striking energy. . . . all the kinetic energy is transferred to the body as wounding effects." Vincent J.M. DiMaio, *Gunshot Wounds: Practical Aspects of Firearms, Ballistics, and Forensic Techniques* (New York: Elsevier, 1985), pp. 182-83. "Shotgun injuries have not been compared with other bullet wounds of the abdomen as they are a thing apart. . . . [A]t close range, they are as deadly as a cannon." R. Taylor, "Gunshot Wounds of the Abdomen," *Annals of Surgery* 177 (1973): 174-75.

<sup>166</sup>The lead sponsors are Rep. Feighan in the House and Sen. Metzenbaum in the Senate.

<sup>167</sup>Forty-one states have some form of preemption. Of the 41, 36 are statute, and 5 by judicial decree. Some of the preemption states (such as Massachusetts) allow local gun controls if the state legislature approves them; some other preemption states (like Virginia) have grandfathered in restrictive local ordinances.

<sup>168</sup>Rep. Hoyer (Maryland), Congressional Record, Sept. 15, 1988, p. H7640.

<sup>169</sup>*Kentucky v. Dennison*, 65 U.S. (24 How.) 66, 107-8 (1860) (state official's refusal to deliver escaped slave under federal Fugitive Slave Act).

<sup>170</sup>The Tenth Amendment reserves state authority regarding powers not delegated the federal government: "The powers not delegated to the United States by a Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

<sup>171</sup>Members of the Police Executive Research Forum (a think-tank for major urban police chiefs) supported an instant check over a firearms licensed care by a margin of 49% to 46%. Task Force, p. 113; Police Executive Research Forum, Comments on Justice Department's "Draft Report on Systems for Identifying Felons Who Attempt to Purchase Firearms," July 26, 1989, p. 2.

<sup>172</sup>The Attorney General of the United States insists that any verification system for firearms pur-

chasers be at the point of sale, without further delays; he reasons that any check that would be significantly more accurate would take a month, and "Such a delay would impose an unreasonable burden on legitimate gun purchasers." Richard Thornburgh, Attorney General, Letter to Dan Quayle, November 20, 1989, p. 2; Identifying Persons, Other Than Felons, p. 91.

<sup>173</sup>In Florida, where an instant check began a few weeks before the publication date of this monograph, a man was denied the right to purchase because the police computer located a 10-year-old outstanding bench warrant. The warrant turned out to be for a lawsuit involving a bad check; the man had never even been told that a lawsuit had been filed against him.

<sup>174</sup>"U.S.'s Barriers to Employment Are Not Stopping the Influx," New York Times, October 9, 1989, p. 13 (quoting I.N.S. assistant district director for investigation for Los Angeles. Several illegal workers said that a good set of papers cost \$300.)

<sup>175</sup>54 Fed. Reg. 43537.

<sup>176</sup>Task Force, p. 40.

<sup>177</sup>Task Force, p. 39.

<sup>178</sup>54 Fed. Reg. 43546.

<sup>179</sup>Handgun Control, Inc., letter to Walter Barbee, Office of the Assistant Attorney General, July 26, 1989.

<sup>180</sup>Comments to the Task Force.

<sup>181</sup>Comments to the Task Force.

<sup>182</sup>54 Fed. Reg. 43530.

<sup>183</sup>William S. Sessions, FBI Director, "The FBI and the Challenges of the 21st Century," FBI Law Enforcement Bulletin, January 1989, p. 3 (near-term feasibility of instant fingerprint readers in police cars).

<sup>184</sup>People without driver's licenses or other official identification might face delays if such a card were mandatory for a purchase. Currently firearms dealers may sell to someone whose identity they have verified, and verification may include personal knowledge. Currently, a small dealer can sell to a friend even if the friend does not present official identification, since the dealer knows the purchaser's bona fides based on personal knowledge.

<sup>185</sup>National Rifle Association, "Comments of the National Rifle Association of America, Inc. on Draft Report for Identifying Felons Who Attempt to Purchase Firearms," (July 26 1989), p. 30.

<sup>186</sup>In *Schneider v. State*, 308 U.S. 147, 164 (1939), the Court voided a New Jersey law requiring pamphleteers to undergo a "burdensome and inquisitorial examination, including photographing and fingerprinting." New Jersey, noted for its disdain of Second Amendment rights, apparently needs to be repeatedly reminded to obey the First Amendment as well. Despite the plain language of *Schneider*, a New Jersey township enacted a law requiring political canvassers to be fingerprinted. A federal appeals court found the fingerprinting, "stigmatizing, and an inappropriate burden on their right to do political work." *New Jersey Citizen Action v. Edison Township*, 797 F.2d 1250, 1262-65 (3d Cir. 1986), cert. denied, 479 U.S. 1103 (1987).

<sup>187</sup>As the Task Force explained, "the biometric card does not solve the problem of individuals using fraudulent 'breeder' documents, such as birth certificates, to obtain the biometric ID card."

<sup>188</sup>Wright & Rossi, p. 191. The "McClure-Volkmer" firearms law reform in 1986 enhanced penalties for gun transfers to felons. 18 United States Code §922(d).

<sup>189</sup>Virginia Code §18.2-108.1 (1988).

<sup>190</sup>The measure would be Constitutional according to the principles of *Paul v. Davis*, 424 U.S. 693 (1976) (distribution of names and photos of "active shoplifters" to retail stores).

<sup>191</sup>18 United States Code §3013.

<sup>192</sup>*United States v. Cruikshank*, 343 U.S. 542, 551-53 (1976). The Court stated that the rights to peaceably assemble and to keep and bear arms were not created by the Constitution, but merely recognized in the document. Those rights, the Court said, were not dependent on the constitution for their existence, but were found "wherever civilization exists."

Mr. SMITH. Ironically, the Washington interest groups pushing these dubious gun control solutions are in some cases the same people who a decade ago were blaming society for the incidents of crime in our country. Congressional liberals who throughout the decade of the seventies were proposing the legalization of marijuana use, and reduction

of penalties for violent crime, are now running for political cover.

Unfortunately, their targets are not violent felons but rather the peaceful, law-abiding citizens, gun owners of the United States of America.

The American people are way ahead of Congress on this issue as they usually are. They realize violent crime is a serious problem and an avoidable one. They realize it is criminals, not society, and not gun owners, who are responsible for crime.

Furthermore, they realize the only way to reduce crime in our Nation's streets is to take the criminals off those streets. And unless Congress begins to take a leadership role in this area, unless Congress begins to punish the criminal rather than the American people, I am convinced the people will find leaders who will.

That is really is the crux of the issue, and that is the crux of the Republican crime bill, which was not mentioned on the floor today by the opposition. It is not a matter of just a crime bill. It is a difference in opinion as to where the focus should be.

If the Democrats want a crime bill, I will give them an opportunity to consider an anticrime bill, the Republican bill. It will not make it easier for criminals to get out of jail with a habeas corpus petition, or make it easier for criminals to exclude incriminating evidence. It will not do that. That is the major difference between the two parties on this issue, Mr. President.

Mr. President, I yield the remainder of my time.

Mr. METZENBAUM. Mr. President, I yield 3 minutes to the distinguished Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mrs. BURDICK. Mr. President, as the newest Member of this group, and acting on a temporary basis, I would like to speak to this issue.

I did not think that gun control was a political issue, either Republican or Democratic. I feel that the waiting period for guns, handguns, the Brady bill, would give us a little bit more assurance that those who are not in control of their faculties might be checked before they went ahead and purchased. I realize we are not talking about the hardened criminal, but many people get involved with guns who could be prevented from doing it, and lives could be saved.

Since there is such a demand in this country that the Brady bill be passed, and as a housewife, the mother of six children and seven grandchildren, I would like to see the Brady bill passed.

Thank you.

Mr. METZENBAUM. Mr. President, I yield 2 minutes to the Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I know there are others who wish to speak. I just want to respond briefly to

the Senator from New Hampshire, I wanted to say to the Senator from New Hampshire that I think he knows and I think all of us know that you learn in social science work that the correlation does not make causation. We are really talking about two difference factors. I do not think the Senator from New Hampshire was trying to suggest with his statistics that passage of the Brady bill would really cause more violent crime. If so, I think that very claim really makes his argument fairly preposterous.

Rather than going back and forth on the floor of the Senate, except to remind my colleagues gently, that this correlation does not mean causation and there are surely other factors that affect incidents of violent crime in the various States that he talked about.

Mr. President, I have a letter that I ask unanimous consent be printed in the RECORD, from a variety of different law enforcement officials.

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

LAW ENFORCEMENT SAYS VOTE "YES" ON THE BRADY BILL

OCTOBER 1, 1992.

Hon. PAUL WELLSTONE,  
U.S. Senate, Hart Senate Office Building,  
Washington, DC.

DEAR SENATOR WELLSTONE: Within the next few days you will have the opportunity to pass a bill which has been at the top of law enforcement's legislative agenda for almost five years. Of course, we are referring to the Brady Bill, S.3282, which Senate Majority Leader George Mitchell re-introduced on September 28.

The organization signing this letter represent more than 375,000 chiefs, sheriffs, troopers and rank and file police officers. Since the Brady Bill was first introduced in Congress in 1987, more than 100,000 Americans have lost their lives as a result of handgun violence. In the same period, more than 200 police officers have been shot and killed with handguns. According to their 1991 FBI Uniform Crime Reports, there were a record number of homicides last year.

Law enforcement recognizes that the Brady Bill will not eliminate violent crime, but it will provide us with an important tool to reduce gun violence in America. We have presented all of our arguments in past hearings, personal visits, meetings, letters and telephone contacts. We urgently request your support for the common sense public safety measure. We ask you to stand with law enforcement and vote to enact the Brady Bill, S. 3282.

Sincerely,

Rick Darling, Chairman, National Troopers Coalition, Neil Behan, Legislative Liaison, Major Cities Chiefs, Hubert Williams, President Police Foundations, Dewey Stokes, President, Fraternal Order of Police, Ira Harris, Executive Director, National Organization of Black Law Enforcement Executives, Bob Scully, President, National Association of Police Organizations, Charles B. Meeks Executive Director, National Sheriffs Association, Victor Oboyski, President, Federal Law Enforcement Officers Association, Chris Sullivan, Legislative Director, Inter-

national Brotherhood, of Police Officers, Darrel Stephens, Executive Director, Police Executive Research Forum.

Mr. WELLSTONE. My only point is it seems to me that all of these law enforcement organizations representing men and women in law enforcement all across the country do not believe that the Brady bill is the end all or be all. No one is making that claim. No one is saying that passage of this bill would end violent crime. But what all of these men and women are saying, who are down in the trenches, in our cities, in our towns, and in our rural communities, is the Brady bill would be an important step forward.

I think, Mr. President, that they know more about what we need to do to make our cities and our neighborhoods and our communities safe than just about anybody else that would enter into this debate.

Mr. CRAIG. Mr. President, I yield myself such time as I may use. Let me respond very briefly and directly to the Senator who just spoke.

Mr. President, to the great myth of the law enforcement community and where they stand on this issue—because I know that all of us want to stand solidly behind the law enforcement community in its enforcement of laws and in its apprehension of the criminal element of this country, in an effort to make our communities safer places to live—historically police forces in this country have always been in favor of gun control.

We recognize that, and admittedly it would make their lives a great deal easier and probably their jobs a safer place to be involved.

But our Founding Fathers also knew that the citizen had rights that had to be protected. So let me suggest that not all in the law enforcement community are represented by the arguments you just heard.

In 1992, this year, U.S. police chiefs and sheriffs by the National Association of Chiefs of Police were polled. Some 15,000 of them were sent a questionnaire.

When they were asked, Do you believe that a waiting period of purchase a handgun or any other firearm may have an effect on criminals getting firearms, 79.5 percent said no.

Do you believe that in the national 7-day waiting period proposed by the Congress—Brady bill—that you can fully determine that an applicant has no criminal record, is not mentally unsound, or is an abuser of drugs or alcohol, 86.4 percent said no.

So we can use a lot of facts and we can use a lot of figures. I submit to the RECORD these figures because they are important and necessarily valid as we argue this critical issue.

I ask unanimous consent they be printed in the RECORD.

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

#### REPORT OF THE FIFTH ANNUAL NATIONAL POLL OF LAW ENFORCEMENT AGENCY HEADS (1992)

While concerns about illegal drugs and firearms grow among the heads of U.S. law enforcement agencies, these same "top cops;" fear that the current state of the economy will result in decreased funding for law enforcement in their areas. These are among the findings of the fifth annual poll of all U.S. police chiefs and sheriffs by the National Association of Chiefs of Police. The following questions were sent to 15,800 command officers throughout the United States, and some 7 percent responded; a summary of their answers is noted below.

When our non-profit educational organization is asked its view by media or members of Congress, we base our response upon the results of this survey, thereby properly reflecting the opinions of the U.S. law enforcement community as a whole. The National Association of Chiefs of Police remains the only such group to conduct such a survey. For further information, write to the National Association of Chiefs of Police at 3801 Biscayne Blvd., Miami, FL 33137, or phone (305) 573-0202.

#### DEATH PENALTY

1. Do you feel that the death penalty serves as a deterrent to certain types of crimes? 94% said Yes.

2. Would you agree that once the death penalty has been imposed that a time limited of three years be set on carrying out all appeals? 96% said Yes.

3. Would you agree that where the state legislature has voted to invoke the death penalty that the Governor of that state should not veto that law and thus impose his/her own personal views on the majority of elected representatives. 93.6% said Yes.

4. Law enforcement officers are empowered to use deadly force to protect themselves or citizens when their lives are in danger and therefore are, by state law, carrying out lawful executions. Would you agree that if a law enforcement officer is asked not only to risk his life but to, in a moment of crisis, take a life, that the very least every state should do is provide the death penalty for persons who may kill a law enforcement officer or citizen during a felonious act? 97.5% said Yes.

#### DRUGS & NARCOTICS

5. Would you favor the legalization of any drugs presently prohibited by law for personal or recreational use? 94.6% said No.

6. Would you favor for all persons convicted of illegal drug dealing forfeit all personal property and assets and to serve prison terms of life, so as to make the risk of conducting illegal drug enterprises more severe in consequence? 81.9% said Yes.

7. Would you state that it is your current experience that the majority of all violent crimes how being committed in your area are tied into drug abuse/including alcohol, drug use, or drug dealing? 89.9% said Yes.

8. Do you feel that the "Drug Czar" or the federal agency set in place almost three years ago has made any significant reduction in your community to drug abuse and use? 84.8% said No.

9. Would you say that your own police agency, by its work in enforcement, has been a major reason for any drug reduction education and reduced use? 74.5% said Yes.

#### FIREARMS

10. Do you favor the training and issuance of semi-automatic firearms (sidearms) that carry 16-17 rounds over the present police revolver? 88.2% said Yes.

11. Do you believe that banning of firearms (handguns, shotguns or rifles) will reduce the

ability of criminals from obtaining such weapons? 92.8% said No.

12. Do you believe that a waiting period to purchase a handgun or any type of firearm will have any effect on criminals getting firearms? 79.5% said No.

13. Do you believe that in the national 7 day waiting period proposed before the Congress (Brady Bill) that you can fully determine that the applicant has no criminal record; is not mentally unsound; or is an abuser of drugs or alcohol? 86.4% said No.

14. Many Gun-Rights organizations suggest that we need to build jails, prosecute cases under present gun laws, and target criminals instead of the law abiding gun owners. Would you agree with that statement? 89% said Yes.

15. Historically, the militia is "all men between the ages of 16 to 45". Under the present armed forces defense of the United States the National Guard now must be able to mobilize in three days to back up our regular armed forces world-wide. Therefore, the only defense would be the "state militia" in time of war. Would you agree that for the sake of the defense of the United States that citizens should be allowed to have their own rifles, shotguns and handguns for emergencies natural or man made? 85.4% said Yes.

16. Would you agree that all bonafide law enforcement officers should be permitted to carry weapons on or off duty from state to state? 92.9% said Yes.

17. Would you agree that any person convicted of alcohol abuse or narcotics abuse more than three times should be placed in a national computer to reject their application for the purchase of a firearm of any kind? 94.8% said Yes.

18. Do you believe that law abiding citizens should have the right to purchase any type of firearm for sport or self-defense under state laws that now exist? 66.7% said Yes.

19. A "military type" of long gun (rifle, shotgun, etc.) is now being described as one able to hold more than five rounds or more of ammunition. It must be fired by pulling the trigger each time. The legal description would cover many semi-automatic weapons. Do you believe that banning such types of weapons would reduce criminals from obtaining them? 89.6% said No.

20. Would you agree that most criminals obtain their weapons from illegal sources? 91.4% said Yes.

21. Do you believe that the banning of private ownership of firearms will result in fewer crimes from firearms? 90.3% said No.

22. Do you feel that because of limited police man-power that citizens should retain the right to own firearms for self-defense at home or business? 90.2% said Yes.

23. With the increasing rate of violence would you agree that citizens should take training in self-defense with firearms to protect their homes and property based on a 40% increase in crime in the last 10 years and almost no increase in police manpower? 85.9% said Yes.

#### CRIME AND CRIMINAL JUSTICE

24. Do you feel that the system of criminal justice has broken down to the point where it is the inability to deal with criminals caught by the police (prosecution and imprisonment) that is the major cause of crime in America? 85.3% said Yes.

25. Do you agree that we must enlarge our prison capacity so that we can keep career criminals in prison and off the streets longer? 95.1% said Yes.

26. Do you think the courts are too soft on criminals in general? 94.7% said Yes.

27. Do you believe your police department is undermanned? 87.3% said Yes.

GOVERNMENTAL ETHICS

28. The top executives (elected) of the International Association of Chiefs of Police were invited with wives, to an all paid trip to Japan last year to "dedicate a religious temple". In addition to the trip (that is estimated to cost about \$10,000 per person) the officers were given cash gifts of \$3,000 to \$12,000. All monies were eventually returned. Do you think that free trips like this; not related to police work or the offer of sums of cash is ethical to accept? The sponsor is connected to a major Japanese Mfg. Corp. 93.4% said not ethical.

29. Based on the state of the United States economy in your area, do you feel that 1992 will show an increase in police funding to fight crime or a decrease? 82.4% said Decrease.

30. The new National Law Enforcement Memorial in Washington, D.C. has been completed. Reports indicate that the 3 foot, 6 inch wall and park with the names of slain officers, cost about ten million dollars, on free government land. The Fund raised over 39 million dollars. It is requesting additional donations so that new names may be added. By comparison the American Police Hall of Fame and Museum, now in its 32nd year, has a wall of imported marble 360 feet long; 10 feet high, plus a museum, and chapel and land for parking 100 cars; with a staff on duty at a cost of \$3 million. Do you feel that some explanation is due by the directors as to the vast variances in the budgets? 94.2% said Yes.

31. The idea of the police memorial in Washington, D.C., was introduced in 1984 by former Congressman, Mario Biaggi. Later he was convicted of theft and perjury as well as obstruction of justice. His name appears on the memorial plaque in Washington, D.C. as sponsor of the Bill. Do you think this was proper to list in the memorial park along with the 12,000 names of officers who died in the line of duty? 80.5% said No.

Mr. CRAIG. We heard Senator THURMOND speak last week when we were debating the whole of the crime bill. When the argument was used this morning that all attorneys general support it, well, at that time he entered into the RECORD information that showed that 30 States' attorneys general oppose the crime bill. And they oppose the crime bill with this provision in it. Because I think what they see is a total package and not the piecemealing of a package that does not represent the will of the Congress, and, I think, very truly distorts the concern of the American citizens. Our newest Senator spoke to crimes of passion, and she is absolutely right. In the right incidence, under the right situation, it might occur that a waiting period would stop or hinder a crime of passion.

But she, too, agrees that the common criminal on the street that acquires his or her weapon illegally will never be touched by this law, and, if we are really concerned about crime on the streets and safety in our communities, then we would do a comprehensive crime bill and not the piecemeal approach that is before us this morning.

I retain the remainder of my time.

Mr. BIDEN. Mr. President, I have been authorized on behalf of the Senator from Ohio to yield myself 5 minutes of the time controlled by the Senator from Ohio.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. BIDEN. Mr. President, I was working on another matter when I heard my friend from New Hampshire on the television. He always attracts my interest and attention whenever he speaks. I decided I should come over and respond.

A portion of what I heard—and I apologize if I misrepresent in any way the totality of what my friend from New Hampshire has said. The only thing I heard on the television was him saying that the answer really is that if we just had tougher and stiffer penalties for the use of a gun in the commission of a crime, that that is the way to go. And then he went on to suggest, as I understood it, if we had accepted in the crime bill those provisions that—although I did not hear him mention his name—my friend from Texas, Senator GRAMM, had put forward, this is the way to go.

Mr. President, during debate on the Brady bill amendment, several points were raised about the nature and extent of Federal penalties for firearm crimes. In the interest of clarifying this information, I would like to provide, for the record, the current Federal firearm penalties, as well as detail new penalties proposed in recent crime legislation.

The current Federal law harshly punishes criminals who carry or use guns to commit crimes. For example, for the first offense, current Federal law provides for a 5-year minimum mandatory penalty to be added to the prison sentence of those convicted of carrying a firearm during a Federal violent or drug trafficking crime. Current law adds a 10-year minimum mandatory sentence if the firearm is a short-barreled shotgun. And, current law adds a 30-year minimum mandatory sentence if the firearm is a machinegun, or equipped with a silencer.

For subsequent convictions, Federal law adds even tougher penalties. For example, those convicted of subsequent offenses are subject to a 20-year minimum mandatory prison sentence. And, if the convicted criminal used a machinegun or a gun equipped with a silencer, current Federal law provides for life imprisonment.

Let me also be clear, each of these mandatory penalties are served after the convicted criminal serves his time behind bars for the underlying offense.

In addition to these tough penalties, the conference crime bill recently blocked by a Senate filibuster included a provision that would have doubled the penalty—to a 10-year minimum mandatory—for criminals armed with a military-style assault weapon.

Mr. President, let me point out that the proposals made by Senator GRAMM, which allegedly would stiffen the penalties for the use of a firearm as an alternative to a waiting period, would have made the law weaker, because right now the Federal law requires that the sentences be served consecutively. That is, if I am convicted of burglary and I get sentenced to 7 years for burglary, and then I am convicted on top of that to the second crime, that I committed the burglary with a firearm and I get 5 years on top of that, I have to serve 7 years first for burglary before I serve my 5 years for violating the law relating to a gun. They way my friend from Texas had it, he had it running concurrent, which meant if I got convicted with the use of a handgun, I would serve 5 years for the gun, 7 years for burglary; they would run concurrently, and I am out at the end of 7 years. I would have served 5 years for the gun and 7 years for burglary. Even when my Republican friends have moved to toughen the law, they have, in effect, weakened the law. I do not think it was intentional. Quite frankly, I do not think they focused on concurrent versus consecutive.

Two, I point out that I have worked with every single solitary person from the White House down through to the Attorney General on gosh knows how many occasions whereby I offered to compromise 75 different ways to get a crime bill. The only reason we do not have a crime bill is every time we got down to it, including habeas corpus, it came down to the Brady bill.

As my friend from Idaho said, he has been one of the few people straightforward on this. He has made no bones about this. He said to me that this is about guns. It is about other things, too, but ultimately it is about guns. Now, we had the last effort to try to get a crime bill last week, and the filibuster by my Republican friends prevailed. Guns won again.

Let me say one last thing. We still have a chance to pass the Brady bill, notwithstanding the fact there is going to be no crimes bill. If the President of the United States of America steps forward, the President can save the Brady bill.

What I find absolutely amazing, Mr. President, is that the President of the United States says, "I am for the Brady bill in a crime bill." Obviously, unlike my friend from Idaho, he has no philosophic argument against controlling guns. Obviously, the President has no philosophic or intellectual rationale for being against the Brady bill. He has not said the Brady bill per se is bad, as my friend from Idaho has said, and I respect him for saying it. He said, if Brady is part of an overall crime bill, but then the home team kept the crime bill from being passed. Then I ask, what possible intellectual or moral justification does he have to, in fact, now

not be for the Brady bill? He is either for it or against it. I promise you, if he is for it, we can pass it notwithstanding the brilliant arguments—I mean that sincerely—that my friends will make in the filibuster they can put up.

We can break the filibuster. We have the votes if the President says: I, George Bush, want this bill. And I see no rationale, I have heard none, and I have not even heard one attempt to be articulated by the President where he says, on the one hand: I am for Brady, if it is sitting over here; but I am not for Brady if it is over here, with not a single word changed in either Brady bill.

Mr. President of the United States of America, if you are listening, and I suspect you are not, understandably, please, please, at least be intellectually consistent. If you are for it, you are for it. If you are against it, you are against it. Be like my friends from Idaho and New Hampshire, who are intellectually honest enough to say they are against Brady. Do not come and tell the American people: I am for Brady if it is packaged with this ribbon but not if it does not have a ribbon on it.

We tried it his way, Mr. President. I spent literally tens of hours negotiating with the Attorney General of the United States and the President of the United States—obviously, the Attorney General does not make those decisions on his own. He goes back to the President to check whether or not he can have a bill.

Mr. President, the bottom line is real simple, to use the trite Washington phrase. If the President wants a Brady bill, all he has to do is send up a note in the next 20 minutes: I, President George Bush, want the Brady bill. And the Senator who has been the leader on this, the Senator from Ohio [Mr. METZENBAUM] and, I expect, the majority leader—and we have spoken to the House as well—will jump through hoops to try to get it done, notwithstanding the fact that my friends from New Hampshire and Idaho and Wyoming and other places will exercise their rights under the rule to try to stop us. But that at least is a fight straight up and down, a fight that I relish and welcome. It is a fight that I believe we can win if the President switches from their side to our side. Brady is squarely in the lap of the President of the United States. If it passes, he can get the credit. If it fails, it is his fault.

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

Let me suggest to the chairman of the Judiciary Committee that if he had accepted the agreement that the Attorney General and he had discussed, they might be talking about a crime bill on the floor at this moment with the Brady provision in it. But I am told, at least not firsthand, that that agree-

ment was not acceptable to the chairman.

Let me also tell the chairman of the Judiciary Committee that the President did not call me on this issue.

Mr. BIDEN. I did not think he did.

Mr. CRAIG. He and I differ on this issue. I simply have read all the facts. I am sure he is busy enough that he does not have time to recognize that the language is different in the provision we are talking about today from the provision that he was quizzed about last night on Larry King, more than he probably knows.

It is not the Brady bill that we debated here on the floor in June; it is not the Brady bill that the House debated; it is not even the Brady bill that came to the conference. It is new language. And the chairman knows that and that is the issue that is before us today, the creating of what I believe to be a substantial loophole for certain people within the law enforcement community to arbitrarily walk through.

I am happy to yield such time as the Senator from New Hampshire would need.

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

Mr. SMITH. Mr. President, I ask for 1 minute to respond to the chairman of the Judiciary Committee. This may be an honest mistake, but I understand there was a typo.

On page S. 6131, May 6, 1992, of the CONGRESSIONAL RECORD, I say to my friend from Delaware, it says:

Notwithstanding any other law, a term of imprisonment under this subsection shall not run concurrently with any other term of imprisonment imposed for the underlying crime.

And it is my understanding that there may have been a typographical error in the original. I want to clarify it. I am not challenging the Senator in terms of integrity obviously, but I just point out that it does not run concurrently according to the President's crime package.

Mr. BIDEN. I appreciate the Senator's clarification.

Mr. SMITH. I ask unanimous consent to print that page in the RECORD for clarification.

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

GRAMM (AND OTHERS) AMENDMENT NO. 1795

Mr. GRAMM (for himself, Mr. THURMOND, and Mr. DOLE) proposed an amendment to the bill S. 652, *supra*, as follows:

On page 10, line 19 of the pending substitute, strike "use," and insert in lieu thereof the following:

"Use  
DIVISION B—THE "CRIME CONTROL ACT OF 1992"

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This division may be cited as the "Crime Control Act of 1992".

(b) TABLE OF CONTENTS.—The following is the table of contents for this division:

Sec. 1. Short title and table of contents.

TITLE I—DEATH PENALTY

Sec. 101. Short Title.

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

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Crime Control Act of 1992".

(b) TABLE OF CONTENTS.—The following is the table of contents for this Act:

Sec. 1. Short title and table of contents.

TITLE I—DEATH PENALTY

Sec. 101. Short title.

Sec. 102. Death penalty procedures.

Sec. 103. Conforming amendment relating to destruction of aircraft or aircraft facilities.

Sec. 104. Conforming amendment relating to espionage.

Sec. 105. Conforming amendment relating to transportation explosives.

Sec. 106. Conforming amendment relating to malicious destruction of Federal property by explosives.

Sec. 107. Conforming amendment relating to malicious destruction of interstate property by explosives.

Sec. 108. Conforming amendment relating to murder.

Sec. 109. Conforming amendment relating to killing official guests or internationally protected persons.

Sec. 110. Murder by Federal prisoner.

Sec. 111. Conforming amendment relating to kidnapping.

Sec. 112. Conforming amendment relating to hostage taking.

Sec. 113. Conforming amendment relating to mailability of injurious articles.

Sec. 114. Conforming amendment relating to presidential assassination.

Sec. 115. Conforming amendment relating to murder for hire.

Sec. 116. Conforming amendment relating to violent crimes in aid of racketeering activity.

Sec. 117. Conforming amendment relating to wrecking trains.

Sec. 118. Conforming amendment relating to bank robbery.

Sec. 119. Conforming amendment relating to terrorist acts.

Sec. 120. Conforming amendment relating to aircraft hijacking.

Sec. 121. Conforming amendment to Controlled Substances Act.

Sec. 122. Conforming amendment relating to genocide.

Sec. 123. Protection of court officers and jurors.

Sec. 124. Prohibition of retaliatory killings of witnesses, victims, and informants.

Sec. 125. Death penalty for murder of Federal law enforcement officers.

Sec. 126. Death penalty for murder of State or local law enforcement officers assisting Federal law enforcement officers.

Sec. 127. Implementation of the 1988 Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation.

Sec. 128. Amendment to Federal Aviation Act.

Sec. 129. Offenses of violence against maritime navigation or fixed platforms.

- Sec. 130. Torture.  
 Sec. 131. Weapons of mass destruction.  
 Sec. 132. Homicides and attempted homicides involving firearms in Federal facilities.  
 Sec. 133. Death penalty for civil rights murders.  
 Sec. 134. Death penalty for murder of Federal witnesses.  
 Sec. 135. Drive-by shootings.  
 Sec. 136. Death penalty for gun murders during Federal crimes of violence and drug trafficking crimes.  
 Sec. 137. Death penalty for rape and child molestation murders.  
 Sec. 138. Protection of jurors and witnesses in capital cases.  
 Sec. 139. Inapplicability to Uniform Code of Military Justice.  
 Sec. 140. Death penalty for causing death in the sexual exploitation of children.  
 Sec. 141. Murder by escaped prisoners.  
 Sec. 142. Death penalty for murders in the District of Columbia.

## TITLE II—HABEAS CORPUS REFORM

## Subtitle A—General Habeas Corpus Reform

- Sec. 201. Short title.  
 Sec. 202. Period of limitation.  
 Sec. 203. Appeal.  
 Sec. 204. Amendment of Federal Rules of Appellate Procedure.  
 Sec. 205. Section 2254 amendments.  
 Sec. 206. Section 2255 amendments.

## Subtitle Death Penalty Litigation Procedures

- Sec. 211. Short title for subtitle B.  
 Sec. 212. Death penalty litigation procedures.  
 Subtitle C—Equalization of Capital Habeas Corpus Litigation Funding

- Sec. 221. Funding for death penalty prosecutions.

## TITLE III—EXCLUSIONARY RULE

- Sec. 301. Admissibility of certain evidence.

## TITLE IV—FIREARMS AND RELATED AMENDMENTS

- Sec. 401. Increased mandatory minimum sentences for criminals using firearms.

Section 924(c)(1) of title 18, United States Code, is amended to read as follows:

“(c)(1)(A) Whoever, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States—

“(i) knowingly uses, carries, or otherwise possesses a firearm, shall, in addition to the punishment provided for the underlying crime, be sentenced to imprisonment for 10 years;

“(ii) discharges a firearm with intent to injure another person, shall, in addition to the punishment provided for the underlying crime, be sentenced to imprisonment for 20 years; or

“(iii) knowingly uses, carries, or otherwise possesses a firearm that is a machinegun or destructive device, or that is equipped with a firearm silencer or firearm muffler, shall, in addition to the punishment provided for the underlying crime, be sentenced to imprisonment for 30 years.

“(B)(1) In the case of a second conviction under this subsection, a person shall, in addition to the punishment provided for the underlying crime, be sentenced to imprisonment for 20 years for a violation of subparagraph (A)(i), to imprisonment for 30 years for a violation of subparagraph (A)(ii), and life

imprisonment for a violation of subparagraph (A)(iii).

“(ii) In the case of a third or subsequent conviction under this subsection, or a conviction for a violation of subparagraph (A)(ii) that results in the death of another person, a person shall be sentenced to life imprisonment.

“(C) Notwithstanding any other law, a term of imprisonment under this subsection shall not run concurrently with any other term of imprisonment imposed for the underlying crime.

“(D) For the purposes of paragraph (A), a person shall be considered to be in possession of a firearm if the person has a firearm readily available at the scene of the crime during the commission of the crime.”

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, I yield myself such time as I may need.

There has been a great deal of talk today about controlling firearms, and that a Brady bill would make the world a safer place to live in, would make our communities safer and would make our homes safer. I think most all of us recognize that it would not, but it is awfully good political fodder in the election year. It is a smokescreen. It is a cloud of false protection perpetrated on the American people that simply will not work.

Let me tell you what does work, tragically enough, in this country. Gary Clink, a criminologist at University of Florida, says that when private citizens can, in fact, defend themselves, they can offer some of the greatest form of protection there is. And last year over 1 million citizens protected themselves from attempted criminal activity by the ownership of a firearm.

That is a pretty stark number, but it is saying that a good many more of our citizens protected themselves and their families and loved ones and their profit with the use of a firearm, than were damaged by one. Those kind of statistics never come forward, because when someone wards off a burglar or a potential rapist with a firearm, it never makes the headlines. But when someone is killed with the use of a firearm it makes front page.

So, let us keep our arguments on balance today and let us clearly recognize that it is false government when we pass a law that really offers us nothing, does not control the criminal element, might accidentally control a crime of passion or—incidentally, that is what is at issue here today.

I think the American people have cried out for a good crime bill. The President sent forth a good crime package. This Senate simply could not get together on the differences. Guns are not the issue in bringing forth a good crime bill, but when you put gun control in a crime bill, that is what helps kill it, and the chairman of the Judiciary Committee knows it. We ought to keep a good crime bill clean of this kind of legislation and maybe we could,

in fact, then bring about the kind of criminal control in this country that the American people are crying out to have. I retain the remainder of my time.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, I yield myself such time as I may need.

Mr. President, my friend from Idaho talks about a smoke screen. There is a real smoke screen. The effort to portray their opposition to the Brady bill as somehow being protective of people of this country is quite absurd.

Back in 1976, even the NRA, even the NRA in their publication took a vote and asked the question. The NRA indicated support for a waiting period.

They have changed since then.

My colleague from Idaho talks about one change as if it were a cause celebre. First of all, let me tell him he will vote for the Brady bill we will take the occasion of it and drop that provision. Let us not confuse the issue. There is one minor technical change that expands the immunity provision for the police which was contained in the Dole-Mitchell-Metzenbaum compromise.

That provision protects police officers from damage suits in instances in which they fail to prevent a gun sale to a felon. That was a provision which had unanimous support, and was put in the bill in part because of concerns raised by his friends in the NRA that the police might otherwise be subject to tort liability if the Brady bill became law.

A concern was raised, however, that if the bill specifies that police officers are immune if they fail to prevent a gun sale to a felon, it is necessary to specify that they are also immune if they mistakenly prevent a legal sale from going forward. Otherwise, there might be a negative implication that Congress intended to immunize the police from damage suits for one kind of mistake but leave them open for damage suits for another kind of mistake. And so language was added in conference to address this issue.

My colleague's arguments, in my opinion, are specious, they are confusing. There is only one issue, does the Congress want to pass a 5-day waiting period? And it can only pass it at this point if the President of the United States indicates he wants it.

The argument has been made that waiting periods do not work, made by the Senator from New Hampshire. The evidence suggests that waiting periods do indeed work. California has a 15-day waiting period. Statistics from the California Department of Justice show that in 1991, the California waiting period stopped nearly 6,000 illegal gun sales. In the first quarter of 1992, 1,385 prohibited firearms sales were stopped by the California law. The California waiting period kept guns out of the hands of 760 drug felons and over 3,700 violent offenders.

Maryland has had a 7-day waiting period since 1966. In 1990, the law kept guns out of the hands of 750 convicted felons. New Jersey has required a background check for over 20 years. Since the law took effect, more than 10,000 convicted felons have been caught trying to buy handguns. Last year, the law kept guns out of the hands of over 900 felons. What are we talking about here?

Mr. President, when a person applies for a job, an apartment, a credit card, or a bank loan, a background check is routinely conducted to ensure that the person would be a suitable employee, tenant, cardholder or debtor. But in too many parts of this country, a person can buy a handgun without anyone checking to see whether or not that person has a history of criminal behavior or mental illness. We make a more serious effort to check whether a person should be entrusted with a credit card than we do to check whether he or she should be entrusted with a weapon which can kill people. That makes no sense.

And I say to my colleagues in the Senate, you are not going to change your point of view, but the President of the United States was on TV last night—I did not hear him and I understood he indicated he was for the Brady bill. Actions speak louder than words. You cannot say you are for something, being the President of the United States, without putting the shoulder to the wheel and delivering the necessary votes.

We could still pass the Brady bill in this late hour of the session if the President of the United States made known to his friends and colleagues on the other side of the aisle that he wants it passed. If he wants it passed, it will be passed. Up to this point he has not indicated he wants it passed. He says he is for it.

Then he says last night he is for it. If he is for it let him stand up and be counted. Let him indicate he truly wants it. Let him make the necessary calls that need to be made to Members on the other side of the aisle and we will pass the Brady bill and save lives, and stop the killing on the streets of America.

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

The Senator from Idaho is recognized.

Mr. CRAIG. I ask how much time remains on my side.

The PRESIDING OFFICER. Three minutes.

Mr. CRAIG. Mr. President, then let me close with a few comments in response to my colleague who has just spoken.

I think any good criminal law ought to be directed at the criminal. He indicated that the language that he says I am using as a smoke screen is only for a felon. Subsection (b) says for prevent-

ing such a sale or transfer to a person who may lawfully receive or possess a handgun. That "hain't" a felon. That is a law abiding citizen. That is a constitutional right. We are talking about trampling on civil rights in this country. So when we look at the fine print let us look at all of the fine print.

This is not a partisan issue. The vote on the crime bill last time was very bipartisan. There are just as many, or a good many at least, on that side of the aisle who are opposed to this type of gun control as there are on this side of the aisle.

I think it is very important that the record bear that out. It is not partisan. It never has been a partisan issue.

Los Angeles County, on an average month, sells 8,500 firearms through legal firearms dealers. Now that is just L.A. County alone. And while my colleague who just spoke would indicate that 6,500 firearms were blocked from sale last year in California, that is but a blink of the eye in the normal selling through legal channels of firearms in the State of California.

During the peak of the L.A. riots, that 8,500 a month jumped to over 14,000 a month as concerned, law-abiding citizens feared for their rights and their inability to protect themselves, their property and their family.

You see, Mr. President, that is really what is at issue here. I can understand why my colleague confuses a credit card and a background check. A credit card and a person's credit is not a constitutional right, but the second amendment that our Founding Fathers put in is. And we ought not confuse them between the simplicity of a credit card and the right of an American citizen under his or her Constitution.

That is at issue. That is what we are talking about. That is why this Senate will not bring up a piece of legislation that violates the constitutional rights of the average citizen.

I yield back the remainder of my time.

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.

#### BILL RETURNED TO THE CALENDAR—S. 2899

Mr. MITCHELL. Mr. President, Members of the Senate, on Friday the Senate voted 85 to 12 to proceed to consideration of the bill which reauthorizes the National Institutes of Health. The vote reflected the singular importance of this legislation. It is, first and foremost, the most important bill affecting

the health of American women ever considered by the Congress. It contains a number of important provisions that deal specifically with rising concern over women's health and particularly the alarming rate at which breast cancer is afflicting an increasing number of American women and women at an earlier age than has previously been the case.

It also provides important provisions involving research for those who suffer from Parkinson's disease, Alzheimer's disease, diabetes, prostate cancer, and other illnesses and diseases.

Only in the United States Senate and only in the last few days of a session can 85 Senators vote one way: Yes, for this bill; 12 Senators vote another way: No, against the bill—and the no's prevail.

The American people will not understand it. And especially those millions of Americans who either suffer from some of these dread diseases or have family members suffering from those diseases will not understand it. But that is the reality which confronts us today. Twelve U.S. Senators willfully blocking legislation supported by the overwhelming majority of the American people and voted favorably by 85 other Senators.

But, as a result of the actions of that dozen Senators—not one of them, I note, a woman—millions of American women will be, at least temporarily, denied the hope of the kind of research that will lead to arresting of these dramatic results in breast cancer—women whose parents, or they, suffer from Alzheimer's disease and others of these dread diseases.

It is a deplorable state. It is a terrible circumstance. It is the kind of thing that subjects this institution and this Congress to the contempt of the American people. But that is where we find ourselves.

Therefore, Mr. President, there is no alternative but to discontinue consideration of this bill. But to those dozen Senators who now may be smiling in the flush of victory, let me say to them that this is a short-lived victory. And let me commit to the 85 Senators who have voted for this legislation and those Senators who have worked tirelessly for it, and to the millions of American women and American families who will suffer because this bill is not passed, that I have made the following decision which I announce here today.

One of the powers I have as majority leader is to designate the first five bills in any new Congress, as a way of expressing my priorities and what I believe to be the priorities of the Senate and the American people on what is important and what we ought to get done. Therefore, Mr. President, when this Senate reconvenes on January 21, one day following the inauguration of the President on January 20, I will des-

ignate this bill as S. 1. And I say to the chairman of the committee now seated on the Senate floor, I charge you and your committee with the responsibility to report this bill to the Senate as soon as humanly possible when the Senate reconvenes. And I will, on the first moment that I have an opportunity to do so, move to proceed to that bill and file cloture on that bill and if the 85 Senators, or those who return to the next Senate, will stick with us and stick to their guns on this issue, we will get cloture immediately upon returning next year.

When we get to the bill, I will file cloture on the bill, and the Senate will stay in session so long as it is necessary to pass this bill the first week we are back in January.

The 12 Senators will have the opportunity to filibuster then, as they have done now. They will have the opportunity to obstruct then, as they have done now. They will have the opportunity to delay then as they have now. But they will not have the close of the session as their ally. They will not have the fact that we cannot complete action on this bill before the end of this legislative year to help them enact this legislation.

So, Mr. President, I regret very, very much that we are not going to be able to complete action on this bill this year. It is a combination of circumstances: The timing in which the bill was brought before us, the end of the session, the rules of the Senate, and the action of a dozen Senators, all of which have combined to prevent us from proceeding on this important measure.

It is with the greatest reluctance that I now ask unanimous consent that the bill, S. 2899, the National Institutes of Health reauthorization bill, be returned to the calendar.

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

Mr. MITCHELL. Mr. President, I want to repeat now, so there can be no misunderstanding on the part of any Senator, when the Senate returns to session next January 21, at the earliest possible appropriate opportunity—and that is as soon as the Senate committee of jurisdiction reports the bill and places it on the Senate Calendar—I will move to proceed to that bill, and I will file cloture on the motion to proceed.

And if the 85 Senators—or, under our rules, 60 or more Senators—agree next year, as they did this year, that we should consider it, we will stay in session until we get that cloture. And then we will be on the bill, and we will file cloture on the bill, and we will stay in session until we get that bill done. That will be the first order of business in the next Senate, and it will begin the first day that the Senate reconvenes following the inauguration of the President. That is on Thursday, January 21.

Mr. President, I now ask unanimous consent that there be 1 hour for debate on this matter, with the time to be equally divided and controlled between Senator KENNEDY and Senator HATCH.

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

The PRESIDING OFFICER. Who yields time?

The Senator from Massachusetts [Mr. KENNEDY] is recognized.

#### THE NATIONAL INSTITUTES OF HEALTH REVITALIZATION AMENDMENTS OF 1992

Mr. KENNEDY. Mr. President, I yield such time as I might use.

Mr. President, first of all, I want to express, as the chairman of the Labor and Human Resources Committee, and I believe all the Members of the Senate, our appreciation to the majority leader for repeatedly scheduling this legislation.

All of us who have been strongly in support of the programs at the NIH are enormously grateful to him for giving us an opportunity to make this case in the U.S. Senate. Senator MITCHELL has offered the millions of Americans who are victims of devastating diseases a real sense of hope by his commitment to name this as the first order of business when the next Congress convenes. That is a very powerful message, and it is a hopeful message.

We certainly want to give the reassurance to the millions of American families whose lives have been touched by these diseases—Alzheimer's, Parkinson's disease, diabetes, juvenile arthritis, osteoporosis, ovarian cancer, breast cancer, heart disease, multiple sclerosis, lupus—that this delay is extremely unfortunate. Those who have been a part of the delay bear the responsibility, clearly, for it.

I will assure the victims of these diseases and their families that the Committee on Labor and Human Resources will meet prior to January 21, and we will make every effort to report it out, to conform with the rules of the Senate, and have it ready on the first day that we are back, we will be prepared to move ahead.

So we are again grateful to the leader for his support of this legislation, and for his commitment to seeing that this measure will be addressed and enacted as the first order of business in the next Congress.

Mr. President, on Saturday, I urged President Bush to help us pass this vital health research legislation. I said at that time that it was up to President Bush. If he said yes, he wanted an NIH bill, the road block would be lifted and we would have a bill. We heard nothing back from the White House.

I called Secretary Louis Sullivan, HHS Secretary and spoke to him on Sunday. He said he would get back to

me if there was any chance the White House was ready to compromise. Again, we have heard nothing, and the administration continues to remain silent.

They have turned a deaf ear to the pleas of millions of sufferers from such dread diseases as Alzheimer's, Parkinson's, and diabetes.

Let me review the record. The bill now before us will help assure America's biomedical research leadership well into the next century.

It would have strengthened our research on cancer and heart disease. And it would help make major strides to redress our shameful neglect of women's health issues.

The bill will assure that women are appropriately represented in clinical trials.

It will dramatically increase the resources devoted to research on the diseases of the greatest concern to our country's women—an additional \$325 million for breast cancer, an additional \$75 million for ovarian, cervical, and reproductive cancer, and \$40 million for osteoporosis research.

It will require the NIH to develop and implement a comprehensive plan for the prevention, early detection, and treatment of breast cancer. And it will provide a statutory basis for the Office of Women's Health to assure that all health issues concerning women continue to receive the attention they deserve at the highest levels of the NIH.

American women need this legislation, and they deserve it to become law this year.

A key feature of this bill is that it will at last allow research on fetal tissue transplantation to proceed—research that offers hope to sufferers from Parkinson's disease, Alzheimer's disease, diabetes, and many other diseases.

It is the provisions regarding fetal tissue transplant research that are at issue. As the result of a decision by the Reagan administration in March 1988, support of this research by the NIH was banned on the grounds that it might somehow encourage abortions. The Reagan administration appointed an expert advisory panel, including theologians, physicians, scientists, and lawyers, to consider the issue. This panel recommended that, after safeguards were put in place to assure that no abortion would take place for the purpose of providing tissue transplant purposes, the ban should be lifted. The vote was 18-3. The Bush administration chose to overrule this recommendation of the panel that President Reagan had appointed, and maintained the ban.

The NIH reauthorization bill passed by the Senate on June 4, wrote the safeguards recommended by the advisory panel into law and overturned the ban on the use of fetal tissue in transplant research. The vote in the Senate was an overwhelming 85-12. The sup-

porters of the bill included some of the staunchest opponents of abortion in this body. They would not have supported this legislation if it truly encouraged abortion. Instead, they affirmed what is basically common sense; pregnant women do not choose to have abortions because there is a remote possibility that tissue from the abortion might be used in medical research.

In a desperate attempt to head off this vote, the administration announced that, effective May 19, they would establish tissue banks to make fetal tissue available for transplant research. The fetal tissue in these banks would come exclusively from ectopic pregnancies and spontaneous abortions, rather than induced abortions. Virtually every authority who has examined this issue believes that it will not be possible to supply sufficient usable tissue from these sources to meet research needs. Nonetheless, the President vetoed the NIH reauthorization on the grounds that this tissue bank was an adequate solution to this problem. We were unable to override his veto in the House of Representatives.

Even the authorities cited by the administration as supporting the tissue bank have concluded that it is unlikely to solve the problem. As Drs. Kline, Kinney, Stein, and Susser recently stated in a letter to the prestigious journal *Science*, "We believe the present NIH plan cannot be expected to produce significant numbers of usable specimens."

They go on to say that the six sites at which the bank would be operated could be expected to yield a total of only 14 specimens per site, and even these specimens, and I quote, "may or may not prove acceptable for transplantation research."

Dr. Richard Robbins, of the Yale University Medical Center, will be publishing in November the results of a new study which shows that fetal tissue transplantation can improve the health status of Parkinson patients and that his facility alone could do 50 transplants a year, enough to absorb 60 percent of the total capacity of the administration's tissue bank, even if every one of the specimens collected proves to be usable.

On June 26, I reintroduced the NIH reauthorization bill. The new legislation responded to the concerns the President stated. It provided that the ban on use of fetal tissue from induced abortions in transplant research would continue for 1 year from the date of the establishment of the President's tissue bank. At the end of that time, researchers would be allowed to use tissue from induced abortions—but only if the tissue bank was unable to meet their needs.

We tried to bring this new legislation to the floor of the Senate, but we were confronted with a filibuster on the mo-

tion to proceed to its consideration. On Friday, the Senate overwhelmingly voted to proceed by a vote of 85 to 12. But there are many more opportunities to filibuster in the short space of time remaining in this session.

During the course of the debate, Senator HATCH, the leader of the opposition and the ranking member of our committee, offered a compromise. Lift the ban, but give the administration's tissue bank 27 months to prove that it could supply adequate tissue before allowing the use of material from induced abortions. I offered a further compromise—to split the difference with Senator HATCH and allow 18 months to see if the administration's tissue bank could do the job.

Senators from both sides of the aisle worked hard to try to reach an agreement. We were willing to move even further to compromise. But at the crucial moment a small band of extremists intervened on the Republican side and insisted on no compromise. And word filtered from the Republican side that the President wanted no compromise. He did not want a bill to pass the Senate. He wanted the filibuster to work to thwart the 85 to 12 vote in the Senate. No use of tissue from induced abortions—ever, not in 1 year, not in 18 months, not in 2 years, not in 10 years—even if the administration's tissue bank is a total failure. And they pledged to use every parliamentary device at their disposal to keep the House and Senate from sending any bill to the President this year.

What is tragic is that the President remained silent. Opponents dug in their heels: No compromise; no bill that would reach the President's desk; make the filibuster work; protect President Bush from having to publicly choose between Alzheimer's patients and the extreme right.

We know this issue is not really about abortion. With the safeguards included in this bill, even a commission appointed by President Reagan concluded that no woman would decide to have an abortion because the tissue might be used in medical research or to assist an anonymous transplant recipient. There is no antiabortion basis for opposition to this bill, any more than there is a pro-life basis for opposing organ transplants. We encourage donation of kidneys, hearts, eyes and other organs from persons who have died. There is no gift more precious than the gift of life, and no one has ever suggested that this policy encourages murder or suicide.

If this were an abortion issue, some of the staunchest opponents of abortion in the Senate—STROM THURMOND, MARK HATFIELD, JOHN DANFORTH, DAVID DURENBERGER, and DENNIS DECONCINI—would not have supported this bill. If this were truly an abortion issue, Senator HATCH would never have offered a compromise.

During the course of our negotiations on Saturday, I met with representatives of the victims of diabetes, of Alzheimer's, of Parkinson's, of the great medical research institutions. They have been working for 5 years to lift the ban on Federal funding of fetal tissue transplant research. They include men and women like Ann Udall, who has been fighting for help for Parkinson's disease victims since her father, Congressman Mo Udall was stricken. Joan Samuelson, a lawyer and founder of the Parkinson's Action Network has partially lost the use of her arms and her legs because of Parkinson's disease. Rev. Guy Walden saw his unborn son saved from a fatal genetic disease by a fetal tissue transplant.

Their efforts and the efforts of thousands like them have brought this issue to the forefront of the attention of Congress. They have held fund-raisers; they have written letters; they have called reporters; they have visited Members of Congress to make their case—not once but many times. And they have turned Congress around.

But all their hard work cannot stop the clock from running out on this session of Congress. There is time remaining to consider legislation on taxes, on cable television, on energy. But time is running out on the issue of breast cancer, uterine cancer, osteoporosis, Alzheimer's disease, Parkinson's disease, genetic disease, and the national biomedical research effort on cancer, heart disease, and a host of other illnesses that afflict millions of our fellow citizens.

There is a lot of talk this year from the other end of Pennsylvania Avenue about a gridlocked Congress. The issue is not a do-nothing Congress, but a Congress struggling to do the right thing without Presidential leadership.

It is really a "do a lot Congress" and a "block everything" President. On issues of great importance to American families, in the last several weeks alone, the Congress passed a family leave bill; the President vetoed it. The Congress passed a family planning bill that overturned the gag rule; the President vetoed it. The Congress tried to pass an important education bill; the President blocked it. Earlier, the Congress passed an economic recovery bill; the President vetoed it.

Now the Congress is ready to pass a medical research bill. Support for it by the American people and in the U.S. Senate is overwhelming. But the President will not say in public whether he supports or opposes it.

But today, the hour is late. The 102d Congress has just a few more hours to act. A compromise would still have been possible this morning but still, no word of encouragement from the White House. The filibuster Senators are still on the floor.

As disappointed as we are, I do not want any of those who have worked so

hard, so tirelessly for years to lift this unconscionable ban on research that could save lives, and make the lives of those who suffer, so much better, to lose hope. I have not given up hope, and they should not give up hope either.

We will pass the NIH reauthorization bill, and repeal the moratorium on fetal tissue research at the earliest time next year. I will bring this bill with its women's health initiatives and its strengthening of cancer research and research on heart disease and prostate cancer before the Labor and Human Resources Committee at our first meeting in January 1993. We will report this bill to the floor immediately. Senator MITCHELL has indicated we would take immediate action.

The greatest reason of all for hope is that Governor Clinton has assured me and the American people that as President Clinton he will immediately lift the ban on fetal tissue research. He will authorize the NIH to go forward to support research in this field. With a stroke of the pen, President Clinton will achieve what President Bush has blocked for 4 years. And sufferers of Alzheimer's disease and Parkinson's disease and diabetes, and spinal cord injury and scores of other diseases will have help again.

The issue of fetal tissue research should be decided by research doctors in their laboratories, not by spin doctors in the White House or Congress.

A small group of Republican Senators has succeeded in blocking lifesaving research that is the only real hope for millions of victims of incurable diseases.

Worst of all, the White House is being held hostage by the most extreme anti-abortion zealots in its party. President Bush himself has refused to get involved, even though his support could break the current impasse and allow a compromise to be enacted.

When the chips are down, President Bush refuses to break with his extremist supporters in the anti-abortion movement, even though a clear majority of Senators in his own party believes that the extremists are going too far.

The same tiny minority who dictated the Republican Platform in Houston and embraced the Republican Party are doing it again. The Hordes of Houston are dictating national policy on medical research, because President Bush is permitting them to do so.

The deafening silence from the White House means that this bill will not pass—for now. But we shall be back in January to renew the battle as soon as we can.

So if there is a silver lining to the current impasse, it is this—legislative action next year may not even be necessary. With the stroke of a pen, a new President can revoke the irresponsible Executive order that imposes the cur-

rent irresponsible moratorium on fetal tissue transplantation research.

President Clinton will do so. And I am also confident that if the American people understand what has happened here, they will be even more inclined to choose a new President of the United States on election day next month—a President who is not a captive of the extremist fringe of his party on the issue of abortion—a President who will get this country moving again on the economy, on biomedical research too, and on all the other pressing challenges America faces.

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

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Utah [Mr. HATCH].

Mr. HATCH. It is with a great deal of sadness that I stand on the floor at this time following the remarks of the distinguished Senator from Massachusetts. I feel absolutely terrible that we have not been able to pass the NIH reauthorization bill in this term of Congress, because I have always supported the NIH.

I feel badly that some have tried to make a political football out of the NIH reauthorization bill at the last moment of the 102d Congress. This bill could have been brought up in plenty of time to have invoked cloture on both the motion to proceed, and also the bill itself. And it would have passed. It would have passed the House, too. It would have been vetoed and the House would have sustained the veto once more.

So there has been a lot of politics played with this bill. Frankly, I do not like politics being played with this bill. I am not part of the filibuster. At the end of the debate last week—as a pro-life Senator who believes in the right to life of the unborn, and who thinks we are going way beyond the pale in aborting 1.6 to 2 million infants a year—I offered a compromise. If my colleagues on the other side of the aisle would give the fetal tissue banks, which are now being set up, 2 years from January 1, 1993—to work which is what it would take because the bureaucracy sat on that executive order, dragged its feet, and did not get it started until now—I would do everything in my power to get the President and my colleagues to accept that compromise position also, thus, the bill would pass. But, it would reasonably take 2 years at a minimum to get the fetal tissue banks in full operation.

It was the right time to accept that offer, and it was not accepted. It was that simple. I could not split the difference because I know that 18 months from the date of enactment was an insufficient period of time to get them fully operational. I knew that it would minimally take 2 years from January 1993.

Let us face it. If I am right, based upon what scientists have told me both pro-life and pro-abortion scientists then we would never have to get into the abortion issue again because the fetal tissue banks would prove to meet the tissue needs of researchers.

From the beginning, I have said if you would agree to that, we will find out if they work. If they do not, then I myself will vote to allow any kind of tissue to be used because I believe that human fetal tissue transplantation research is critical to this country. I share the same feelings as many of my colleagues who voted for this bill, regardless of this issue; human fetal tissue transplantation research should go forward, and that it would be delayed in such a way that we would be putting off fetal tissue research longer.

That was no small offer on my part. Everybody who has seen my service through the years knows that I mean what I say. But we were unable to put a middle position together for one reason or other. Some would prefer having the President in the posture of preventing fetal tissue transplantation research because he is committed to not using induced aborted tissue until it has been shown that the fetal tissue banks will not work.

I, too, am responsible to a degree because I did not tell the distinguished Senator from Massachusetts until during the debate that I had an alternative position in my mind. But, frankly, prior to last week I had not fully considered this alternative. It was during the debate that I decided maybe this is what ought to be done here. So I offered it.

My colleague from Massachusetts was unable to take it at that time. In the process, others who are very sincere—dedicated Members of this body who do not have ulterior motives at all—decided to debate this bill extensively. They have a right to do that. They have every bit a right to stop this bill that the majority leader and the distinguished Senator from Massachusetts did not have to bring it up at the last minute. They knew calling up S. 2899 was going to result in a protected debate. But, they control the floor.

They could have brought this up as soon as we returned from our recess in August. But, they also knew even if it went through both Houses of Congress as we did only 3 months ago with H.R. 2507, the same bill it, too, would be vetoed and it would be sustained in the House again. Why did we go through two bills in 1 year? This maneuver is unusual unless it is for political purposes.

If I had been listened to during the first debate, we would have solved this problem then, and we would have the bill alive today. But, no. Some people—I am not saying the distinguished Senator from Massachusetts, I am sure he is not one of them—but some people,

want the abortion issue more than they want the other important health provisions in the NIH reauthorizing bill. Mr. President, I think it is abominable.

Now passage of S. 2899 is not going to occur. So, what is going to happen? I might add just for the RECORD that all of the terrible things that the distinguished Senator from Massachusetts says will not be done now are going to be done anyway. They have been done without the reauthorization bill. They are being done by the Appropriations Committee.

It is important to remember that our failure to reenact or enact this particular bill does not stop research from going on out of NIH. It is going to continue. There will be women's health research programs, all these other programs that the distinguished Senator from Massachusetts covered, important initiatives on cancer, heart disease, aging, diabetes, and many other provisions included in the proposed legislation—all of which will go forward even though this bill dies today.

Thanks to President Bush's executive order, even fetal tissue research will not only go forward, but it will be facilitated according to the President.

Let us lay aside the political rhetoric. I want the American people to be assured that this research is moving forward, bill or no bill. So, Senator KENNEDY's concern is not a good argument for passing S. 2899. It just would have been better to have it go forward with the imprimatur of the whole U.S. Congress on it; that we had by statute authorized a period of time during which the fetal tissue banks could become fully operational.

Mr. President, I feel just terrible right now because I really believe in fetal tissue transplantation research. My family suffers from these dreaded problems. My father was a diabetic. I wanted him to have the best possible health care. I also want all severe diabetics and all Parkinson's victims to have the very best health care that society could give. The very quickest and best way to do that would have been to have taken that offer and gotten this whole process moving forward.

Now, I have to say that I think our side is wrong, too, in not accepting a 2-year period to get the fetal tissue banks fully operational. If they would accept this compromise, I think we probably could still pass this legislation. But let us understand something. What I had in mind was this: I wanted to get fetal tissue transplantation research out of politics. I was willing to take that upon myself to achieve that goal by offering a compromise. It was a decent offer. It was a legitimate offer. It was a sincere offer.

My reasoning was this: if President Bush is reelected he has a statute giving 2 years from January 1, 1993, to make fetal tissue research work.

If it works, then it shows that those scientists who are so pro-abortion that they will not let the fetal tissue banks really work, and argue against them, could be proven wrong. I think that would be a wonderful thing for America, to show they placed the issue of abortion above science itself. That is a fact. Some individuals in the scientific community, not all, but some of them.

But, if Governor Clinton is elected, then there would be a statute requiring a 2-year period to see if the fetal tissue banks work, to see who is right scientifically, but at the same time to push this ahead. I think "President" Clinton, if he is indeed elected, would have a very difficult time immediately calling for an override of that statute, which would already be overwhelmingly passed and on the books. So it was a way of solving this problem.

I also note, as the distinguished Senator from Massachusetts has said, very forthrightly, if Clinton is elected, he will immediately rescind the executive order establishing fetal tissue banks, with a "stroke of his pen." It will be 1 hour after he is sworn in as President of the United States.

To me, the right-to-life community is not very far-seeking on issues like this, because they should realize that. If Clinton is elected, the fetal tissue banks will be dead.

Mr. President, I have to say that it makes me sick that good people on both sides could not get together on this, and politics are being played, on whichever side. I will let the public make that decision. But I suspect it is on both sides.

Having said that, my colleagues have decided to create extended debate here. I have nothing but respect for them. They feel very deeply about this issue. They do not believe that a genuine compromise can be reached at this late hour. I have nothing but respect for them.

Mr. President, I am very concerned. I have been concerned as a member of the Judiciary Committee, someone who has watched the continuing onslaught against every nominee, acting like everyone is either pro-abortion or anti-abortion. The abortion issue has dominated this country to such a degree that it is causing reasonable minds not to be very reasonable. It is causing politicians to be more political. It is causing people to refuse great legislation because one side or the other does not think it is going to have an advantage. It is ruining the lives of a lot of people on both sides. People are using it to try to distort the whole record around here.

Why stay in this mode where one side or the other will bet the upper hand, or neither gets the upper hand and the people lose? That is what is happening. I tried to get us off of that last week, and I failed.

This whole exercise right now is just an exercise in politics.

Why was this not brought up 2 weeks ago when we had plenty of time to invoke cloture and to have found votes on it, and plenty of time to get it to the House, for the House to pass it, and for the President to veto it, and for the House to sustain the veto? Why is it brought up at the last minute if it is not to allow the abortion issue to rear its ugly head again, and I have to say at the expense of everybody who is worried about fetal tissue research.

Mr. President, I would like to have this NIH bill pass; I would like to have the fetal tissue banks given a chance to work. I would have liked the imprimatur of the whole Congress on it. We unfortunately are not going to have that as of right now in this NIH authorizing bill.

I have taken enough of our time. I think those who feel deeply about extended debate should have the rest of our time and, therefore, I yield the floor and turn the remainder of my time over to them.

Mr. SMITH. Mr. President, how much time is remaining?

The PRESIDING OFFICER. Twelve minutes, 33 seconds are controlled by the Senator from Utah.

Mr. SMITH. Mr. President, I was somewhat surprised at the tone of the debate by the majority leader and by the Senator from Massachusetts. We all have strong feelings about issues. I happen to feel very strongly about this one, and the Senator from Massachusetts does as well.

But the real fact of the matter is that Members on this side were not the ones who held this bill hostage. We are not holding this bill hostage.

This bill, Mr. President, is approximately 400 pages long, and there are 12 pages that refer to fetal tissue research in this bill. That is the issue.

We are not opposed to breast cancer research or anything of that kind. It is very misleading to indicate that those of us on this side are trying to hold a bill hostage with a lot of good research material in that NIH legislation.

This bill could have been brought up, and should have been brought up, without the fetal tissue issue. Had it been, long ago by those who control this body, it would have been passed, sent to the President, and signed into law.

I might point out for the purpose of the RECORD that I think the American people know that the President is not opposed to fetal tissue research from ectopic pregnancies and spontaneous abortions. I think my colleagues on the other side of this issue know that, and there is an ample amount of tissue from those sources. The issue is whether or not those tissue banks are to be filled with tissue from abortions.

I might also say, with all due respect to the Senator from Massachusetts, before we get too endeared with the idea that it may be "President" Clinton—and it may very well be President Clin-

ton signing legislation—"President" Dewey also planned to sign a great deal of legislation that for some reason after the voters spoke he did not get a chance to sign. I might point that out. I might just point that out.

I might also say to the Senator from Massachusetts my wife's father is a victim of Alzheimer's disease, and he is institutionalized. He would not want to take an innocent life for the purpose of research on this disease. He would be more than happy, if he could, to say that the research material from ectopic pregnancies and from spontaneous abortions could and should be used.

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

Mr. SMITH. I would be happy to yield if it could be taken from the Senator's time.

Mr. KENNEDY. Mr. President, I have how much time?

The PRESIDING OFFICER. The Senator yield on time charged to the Senator from Massachusetts who has 26 minutes remaining.

Mr. KENNEDY. My question is: Can the Senator point out the provision in this legislation that says or even suggests remotely that supports taking of a life to provide fetal tissue for research?

Mr. SMITH. As the Senator knows, if an individual determines that she wants to have an abortion and uses the rationale that it is somehow going to be helpful in research, then that choice can be made for that reason.

My purpose in debating the issue here is simply to say I do not think that is right.

Mr. KENNEDY. Does the Senator know the issue was reviewed in very considerable depth by President Reagan's own advisory committee? And they rejected that suggestion and they made a series of recommendations to ensure the separation of a woman's decision to have an abortion and the decision to donate tissue for research. This legislation includes all of the safeguards recommended by the task force. Can the Senator cite any study or provide any information that would support his position?

Mr. SMITH. Mr. President, I would like to reclaim my time and complete my statement.

The PRESIDING OFFICER. The Senator has the floor, with the time chargeable to the Senator from Utah.

Mr. SMITH. Mr. President, the Senator is fully aware that the issue is not fetal tissue research. The issue is abortion. That is the issue. The Senator knows that.

I might also say that there is one person that I would like to refer to today who does not have a voice on this matter today in the U.S. Senate, although she does have a voice and I do not know the circumstance of her mother in terms of why she chose to do

what she did. To the best of my knowledge she did not do it because she wanted to donate tissue to the bank for fetal research but she could have.

That young lady is a lady by the name of Gianna Jessen.

Gianna Jessen, a 14-year-old California girl who as an infant survived a saline abortion, came to the Nation's Capital October 4 to speak out about abortion and how it has affected her life. At a press briefing sponsored by the Abortion Is Not Family Planning Coalition, the sunny, dynamic teenager told her remarkable story.

Gianna's natural mother was 17 years old when she underwent a third-trimester, saline abortion. Gianna survived the caustic saline solution that was injected into her mother's womb and was born alive, weighing only 2 pounds. She said, "I feel it's only God that saved my life."

Should this young woman have to endure what she is enduring because it is possible that a mother somewhere may decide to have an abortion to donate tissue to a fetal tissue bank? I say no, Mr. President.

She was taken from the abortion clinic to a hospital, where she stayed for some time. After the trauma of the abortion, she suffered from spina bifida and cerebral palsy, and required multiple operations. Doctors said she would never be able to walk, or even sit up on her own.

But Gianna proved them wrong. She was adopted at the age of 3, and has since proved her quality of life—and then some. Now she is a normal, energetic teen, with a unique story to tell. She has spoken to groups around the country and internationally, talking about her insider's experience with abortion and sharing her gift of song. She says she has no bitterness toward her natural mother for aborting her, and expresses compassion for women in crisis pregnancies.

Gianna's very existence makes advocates of legalized abortion extremely uncomfortable. She says her survival proves that unborn babies aren't just blobs of tissue. But proabortionists would seem to say that Gianna's live birth—the dreaded complication—was a rare mistake. In a Washington Times article, Susan Shermer of the National Abortion Federation said, "The way most procedures are performed today, most physicians make sure there's fetal demise."

Fortunately for Gianna Jessen, her abortionist wasn't so careful. And she's alive today to tell about it.

Try telling Gianna that she was a mistake. Try telling her she ought to be dead. Talk to her about bodily integrity. Talk to her about fetal tissue research, Mr. President.

She has given joy to her family and joy to those who have met her.

Mr. President, I ask unanimous consent to have printed in the RECORD

newspaper articles pertaining to Gianna Jessen.

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

[From the San Antonio Light, Oct. 5, 1991]

ABORTION SURVIVOR, 14, DENOUNCES PROCEDURES DURING 3D TRIMESTER

WASHINGTON.—A 14-year-old California girl whose mother tried to abort her in the third trimester said Friday her survival was proof that fetuses were more than just "blobs of tissue."

Gianna Jessen of San Clemente said she did not blame her natural mother, who was just 17 when she underwent a saline abortion while 24 weeks pregnant. At birth, Gianna weighed just 2 pounds and had spina bifida, a spine defect, and a mild case of cerebral palsy.

Michael Levitt, science information officer at the March of Dimes, said spina bifida develops much earlier in gestation than the 24th week and that a trauma in the mother's uterus at that time could not cause the defect. However, he said such a trauma could result in cerebral palsy.

"A person who has an abortion is a person without hope," said Gianna, an energetic, blonde ninth-grader who has stopped attending local schools to travel internationally with her adoptive mother, telling stories of her survival and nurturing a singing career. "I feel it's only God that saved my life," she said.

Roberta Synal, a spokeswoman for Planned Parenthood in New York City, said only about 160 third-trimester abortions are performed each year—representing just one one-hundredth of a percent of all abortions.

She said the Roe vs. Wade Supreme Court decision made abortion legal everywhere in the first three months; let states regulate second trimester abortions and allowed third-trimester abortions only in cases of severe fetal abnormality or when the mother's life is in danger.

Susan Smith, associate legislative director of the National Right to Life Committee said that while there were no hard figures on third-trimester abortions, she had seen estimates ranging into the thousands.

Gianna was brought to Washington by the Abortion Is Not Family Planning Coalition of anti-abortion groups in advance of nationwide protests Sunday.

WHEN GIANNA TELLS HER STORY

(By Cal Thomas)

Pro-choice activists and their soulmates in Congress and in the press are treating the likelihood of Judge Clarence Thomas' confirmation to the Supreme Court as they might a visit from Freddie Krueger, the main character in the "Nightmare on Elm Street" movies.

Columnists Ellen Goodman, Richard Cohen and Anna Quindlen—part of the "don't mess with my body" brigade—are sounding apocalyptic warnings, raising the specter of coat hangers and bleeding women in back alleys, a scenario to delight Freddie's sick mind.

In a New York Times column last Saturday, Miss Quindlen went ballistic over the possibility that abortion on demand might again be curtailed. She called abortion "the issue of our lives" and a matter of "bodily integrity."

Miss Quindlen fears that Judge Thomas' will be the fifth or sixth vote to overturn Roe vs. Wade. She notes his compassion for accused criminals being transported to his courthouse ("But for the grace of God there

go I", said Judge Thomas) and writes, "I wish I had any confidence that he considered those of us who feel that way when we see a group of desperate women in a clinic waiting room."

Such statements cannot go unanswered. To assert that a woman in a crisis pregnancy has only one option—abortion—is false.

First, she has the right not to get pregnant in the first place, even if she gives up those rights, she has still other options. She has the right to place the child for adoption or keep the child herself. She has the right to seek out assistance at one of several thousand crisis pregnancy centers, whose services are free, unlike those of the abortionist, who demands payment for his grisly services.

Miss Quindlen and the other hysterical commentators who fear repeal of Roe by the justices who work in that building on Washington's First Street should meet 14-year-old Gianna Jessen of San Clemente, Calif. Gianna was aborted by her 17 year-old mother in the third trimester of her pregnancy.

Gianna survived the saline abortion and was diagnosed as having cerebral palsy (due, she says, to loss of oxygen from gulping saline) and spina bifida.

She was placed in a foster home, and after several surgeries (she still walks with a pronounced limp and faces another operation), she was adopted by the daughter of her foster mother. Gianna is pretty, charming, intelligent and thrilled to be alive. She travels with her adoptive mother to tell people, as few others can, about the horror of abortion and of alternatives to the procedure.

Try telling Gianna she was a mistake and that she ought to be dead. Talk to her about bodily integrity. She has given joy to her family and delights all who meet her. When she tells her story, adults weep.

Gianna meets many women who have had abortions. "I always tell them I understand," she says, "because they didn't know what they were doing. I'm not trying to put a guilt trip on them."

Anna Quindlen says it is insulting to tell a woman she can't abort her unborn child. A greater insult is to tell someone like Gianna Jessen she is a mistake, the result of a botched abortion who ought to be dead. The greatest insult is to those who did not survive their abortions.

Why was Gianna Jessen not considered a person while inside her mother, but seconds later as she emerged gasping for breath she inherited the full protection of the law? This is the stuff of which nightmares are made.

#### ABORTION SURVIVOR

(By Callista Gould)

Fourteen years ago Gianna Jessen narrowly escaped from an abortion clinic. Gianna was not a "patient," but a baby, scheduled to die by saline injection. Now a bubbly teenager, Gianna travels around with her adoptive mother, Diane, to different churches and organizations, telling her story as an abortion survivor and delighting audiences with her singing.

Gianna's birth mother was in her late-second or early third trimester when she was injected with the saline solution that was supposed to kill her child. Incredibly, Gianna survived and was rescued by a worker at the clinic. But the injection left her with cerebral palsy, which impairs muscular control and coordination.

After three months in the hospital, Gianna was placed with Penny, (Diane's mother) who has been a foster parent specializing in high risk cases for 24 years. As soon as Gianna arrived, Penny called Diane.

"She said, 'I got this new little girl and she's so cute!'" Diane remembers. "Mom would have her sitting up—she had these long curls, and she would have a pillow in front of her and a pillow behind her and she was kind of folded over."

Although doctors said Gianna would never walk, Penny resolved to prove them wrong. "My mom worked with Gianna and worked with her and she'd bring her to therapy every day," said Diane.

When Gianna was three years old, Diane, with a eight-year-old daughter of her own, adopted her. And on the day of Gianna's adoption, she was able to walk out to Diane with the help of a walker.

Gianna did not learn about the circumstances of her birth until a few years ago.

When Gianna was younger, Diane told her that God had a plan for her and there would come a time when she would learn more about that plan. Then on Christmas Day, in 1989, while Diane was making Christmas dinner, Gianna came to her and said, "What's the true story about me?"

Diane approached the subject with hesitation. But before she told her anything, Gianna suddenly said, "I was aborted, right?"

Looking back, Gianna says, "It's like God just put it in my head \* \* \* I didn't cry or get hysterical."

"I knew there was something more than 'you were born with cerebral palsy,'" she continued. "I didn't know what it was, but I knew."

It was after Diane explained to her that she was an abortion survivor that Gianna began to feel that God had spared her life so she could speak out against abortion. Diane agreed.

"She has a responsibility \* \* \* to tell the story," says Diane. "And to let people know, hey, if you've never believed it before, please believe it—I'm alive, I was aborted, I'm alive—and what you're aborting every day are babies exactly like me."

Gianna first shared her story when she was invited to sing for a Crusade for Life dinner in 1990. Since then she has received invitations to speak before various churches and organizations. At National Right to Life's recent convention in Atlanta, she spoke at a workshop and sang at the final banquet.

Because Diane's mother was initially Gianna's foster mother, reporters often badly confuse the situation. To clarify: Gianna had a biological mother, who aborted her, an adoptive mother—Diane—and a foster mother, Penny, who is Diane's mother. Or, as Gianna puts it, "The woman who was my foster mother is now my grandmother."

Mr. SMITH. Mr. President, America is perched on the brink of a decision over whether to enact a Federal policy legalizing the harvest of fetal tissue from induced abortions for research. The medical community is diligently trying to find whatever cures are available for debilitating diseases. However, there is a moral line we cannot cross—even in medical research.

It is true that President Clinton will sign it, and it can be for any reason. We can have an abortion and donate tissue to a bank for fetal tissue for sex selection. If the young woman decides she does not want a child that is a girl, she can have an abortion, but we can save lives; we can give it to a fetal tissue bank.

Fifty years ago, the world repulsed at revelations of Nazi scientific experiments on living human beings. After that time, the civilized world decided that human tissue could not ethically be used for medical research or transplantation without the consent of the subject. Before we begin carving holes in that doctrine and abandon our code of ethics, we should take a very long look at the potential consequences to our society.

At the outset, let me say that I am aware of the suffering of many Americans whose friends and families struggle with diabetes, Alzheimer's disease, Parkinson's disease, and other crippling illnesses. I have an uncle who has had diabetes for over 40 years. My father-in-law has Alzheimer's disease, so I can sympathize with those who cling to the hope that using tissue from preborn children can provide the miracle cure which can return their relatives to productive and healthy lives.

Were my father-in-law able to stand here and comprehend this issue and speak—and he cannot—I think he would say—in fact, I know he would say—that he would not want to see an unborn child lose its life for him.

Because of my own experiences, I particularly object to the way operatives have manipulated extremely sick people to their own political ends in connection with this controversy.

We know how the President feels on this issue, and the Senate knows how the President feels on this issue. How many times do you have to rub his nose in it, Mr. President? It is political. It is the worst form of politics. It is disgusting, and I am willing to take the hit. I am willing to take the bullets to stand here, and I am willing to stand here and take the criticism from the Senator from Massachusetts and the majority leader for Gianna. I will take it, and I am proud of it.

We have received sanctimonious platitudes from the pro-abortionists about whether this dangerous step would be useful in treating victims of disease, whether it would encourage a substantial increase in abortions, and whether the tissue needed for transplants is just as available from other sources. But their assertions are devoid of empirical backing and contradict the evidence we have. The truth is as follows:

First, unless the method of performing abortion in America is altered in a way which would increase the danger to the mother, the abortion procedure ensures that most aborted infants cannot be used for transplant or research. Most abortions performed in the United States each year are performed with a vacuum suction machine that dismembers and destroys much of the fetal tissue, making it unusable for research or transplantation. Only 10 percent of early aborted babies would be usable for transplants under current

practices, according to Janice Raymond—a feminist women's studies and medical ethics professor at the University of Massachusetts. Dr. Raymond also warned that "the number of elective abortions will never be enough for the amount of fetal tissue that doctors need." So it is all documented.

Second, it is a fallacy to suggest that fetal tissue implantation has been demonstrated to be some panacea to a wide range of neural maladies. Claims to have successfully treated disorders in the body's chemistry or nervous systems through transplants are still the subject of hot debate in the medical community. Although two recent studies argued that modest improvements in a small number of Parkinson's patients had been achieved by fetal tissue transplantation, the fact is that only a very small number of fetal tissue transplants have occurred in the United States over the past 20 years.

In the *Medical Journal Lancet*, Dr. C.G. Clough, a British physician and researcher, concluded:

Although 100 operations with fetal implants have now been completed, there is little evidence of implant survival. \* \* \* The technical difficulties of the procedure suggests that neural implantation is unlikely to benefit many patients with Parkinson's disease.

Third, new therapies could render tissue transplant obsolete. For example, just last month, NIH scientists announced an exciting new breakthrough in the use of GM-1 ganglioside to cure Parkinson's disease—a breakthrough which was achieved in spite of the moratorium and which will be pursued without fetal tissue from induced abortion. In the past few months, the possibility of coaxing nerve cells to regenerate themselves has also been achieved for the first time. We should not allow the focus on tissue transplanted from induced elective abortions to detract from ethically acceptable and innovative new research efforts.

Fourth, allowing the use of tissue from induced abortions could allow a woman in an emotionally wrenching situation to justify and feel good about the abortion, much like the feeling that one gets from giving blood. That is not what we need, Mr. President.

If this research and transplantation were to become prevalent, it could produce an escalating societal demand for aborted children, adding a new factor which could tilt the decisions of individual women in favor of abortion. For example, if a woman with an unwanted pregnancy is struggling to determine whether or not to have her baby or abort it, being told that her preborn infant's tissue may be used in medical research could push her to elect abortion and an innocent human life would be lost.

Although abortion proponents reject the idea that fetal transplantation pro-

cedures could increase the incidence of abortion, Harvard Law Professor Laurence Tribe—testifying in favor of the so-called freedom-of-choice act—disagreed. He stated:

Each currently lawful abortion that State or local rules might delay or prevent represents a potential source of \* \* \* liberty-enhancing and lifesaving medical information. \* \* \*

Fifth, pro-abortionists also argue that the propriety of using the tissue can be divorced from the tissue's source. They maintain that, because abortion is legal, the only question is whether aborted tissue will be wasted or used. This argument simply does not pass ethical muster. If induced abortions are unethical, tissue harvesting from those abortions is also unethical.

Sixth, despite all of the representations to the contrary, the fact is that usable fetal tissue can be produced without resorting to induced abortions. In an April 20, 1989, article in the *New England Journal of Medicine*, the Stanford University Medical Center Committee on Ethics stated:

If tissue from spontaneous abortions could reasonably satisfy medical demands in both quantity and quality, it would be preferable to avoid the ethical problems of using tissue from induced abortions.

All of us support an increase in efforts to develop treatments for victims of debilitating diseases.

And comments to the contrary for those of us who oppose this bill on these grounds are simply wrong, misleading, and inaccurate.

However, this research and transplantation can be done with tissue from spontaneous abortions, ectopic pregnancies, and cell cultures without any of the ethical implications of using tissue from induced abortions. There are at least 100,000 ectopic pregnancies a year—at least 1 to 2 percent of which would produce tissue suitable for transplantation. In three hospitals alone, there were 3,518 miscarriages over a 10-year period; and 5 to 7 percent of these were found to produce tissue suitable for transplantation. Furthermore, the cells of a single donor can be cultured to benefit as many as seven recipients.

Since April 1988, when the moratorium on the use of tissue from induced abortions was implemented, the National Institutes of Health have spent more than \$23.4 million to support 295 research projects involving the use of human fetal tissue using alternative sources. Scientists such as Yale University Medical School Associate Dean Myron Genel concede that federally funded fetal transplant research has continued unabated. The central laboratory for human embryology at the University of Washington has supplied nearly 10,000 fresh human embryonic and fetal specimens to hundreds of clients, even though it says it does not provide fetal remains from elective abortions.

Seventh, notwithstanding the safeguards contained in the fetal tissue bill, there is a serious danger that, if this procedure became popular, women could become incubators for the new demands of medical science. As we are seeing with respect to efforts to alter last year's civil rights compromise and 1990's budget summit agreement, compromises such as the fetal tissue safeguards can be changed. Janice Raymond has stated:

Women become the resources whose bodies are mined for scientific gold handmaidens for medical procedure transplants.

Mr. President, why has such an obscure and untried technology as transplanting human brain cells being treated as a miracle cure? One suspects that, in the case of many pro-abortion groups, this is hardly more than a cynical attempt to enlist another group of hope-starved Americans into efforts to achieve abortion on demand. The radical abortion-on-demand lobby is taking advantage of the highly charged emotions surrounding the issue of medical research in order to further their own agenda of abortion at any time, for any reason.

Using the remains of an aborted child for medical research is just one more way to justify the abortion of unwanted babies—abortions conducted for the convenience of the mother rather than respecting an innocent human life. It is time to end the manipulation.

For the reasons I outlined, I will vote against this conference report and I will vote to sustain the Bush administration's inexorable veto. Federal funding of fetal transplantation experimentation would allow taxpayer's dollars to provide for a system of treatment that depends solely upon a steady and increasing flow of aborted babies. This will create an higher societal demand for aborted infants. Surely, America has higher ethical standards and more important national priorities than harvesting of preborn children for medical spare parts. I commend President Bush for having the courage to stand up and say that he will veto this legislation.

The PRESIDING OFFICER (Mr. WELLSTONE). The Senator's time has expired.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 12 minutes.

Mr. KENNEDY. Mr. President, I have been around here long enough and participate in numerous debates, and one of the techniques which is often used, and is being used at the present time, is to misrepresent what is in the legislation and then disagree with it. That is just what we have just witnessed.

Mr. President, I ask unanimous consent to have printed in the RECORD all of the protections that are included in

the legislation. These protections are the recommendations of President Reagan's own task force to ensure that there will not be any inducement for any woman to have an abortion for the purposes of providing tissue for fetal transplantation research.

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

SAFEGUARDS AND GUIDELINES ON FETAL TISSUE RESEARCH

1. Provisions to assure informed consent of donor, researcher and donee; certification by attending physician; audit by Director of NIH; and compliance with state and local law.

2. Informed Consent (in writing) of Donor. Donor willing to donate such fetal tissue for research.

Donation made without restriction regarding identity of recipient, and donor not informed of identity of recipient.

3. Certification of Consent by Attending Physician.

Decision for abortion made prior to requesting or obtaining consent for donation of tissue.

Full disclosure made of any medical risks and physicians interest in research.

Attending physician or researcher will not alter timing, method or procedure for terminating pregnancy solely for purpose of fetal tissue research.

4. Informed Consent (in writing) of Researcher and Recipient.

Researcher must provide signed statement he or she is aware that tissue to be utilized is human fetal tissue, obtained subsequent to a spontaneous or induced abortion, and tissue donated for research purpose.

5. Secretary of HHS, though Director NIH, shall require audit of each grantee applying for or receiving grant involving fetal tissue transplantation research to assure compliance with above provisions.

6. Such research must be conducted only in accordance with applicable state law.

7. Measure makes it a criminal offense for a person to solicit or receive donation of human fetal tissue for transplantation if: (a) donation is made pursuant to promise to transplant tissue into specified recipient or relative of donor; or (b) such person has paid any part of costs of the abortion.

8. GAO to conduct study on adequacy of safeguards.

Mr. KENNEDY. Mr. President, Senator THURMOND, who has been one of the leaders of the right-to-life position here in the Senate over a number of years, sent to the Members of the Senate a letter supporting the lifting of the ban on fetal tissue transplantation researches.

He points out in his letter:

I have been and continue to be a supporter of efforts to limit abortions in this Country. At the same time, I supported this measure and am writing to urge your support of this legislation and Title II of the bill, which includes a provision that would lift the current moratorium on Federal funding for human fetal tissue transplantation research.

I chose to support this measure because this type of research holds a great deal of promise for curing diabetes, a chronic and often fatal disease that affects approximately 14 million Americans, and several other serious diseases. My daughter, Julie, has suffered from diabetes for three years. I

believe that for the sake of Julie and other individuals, who suffer from diabetes, Parkinson's, Huntington's and Alzheimer's diseases, we cannot afford to lose this opportunity to develop a cure.

After careful analysis, I concluded that this legislation should not be lumped together with the debate about abortion. Title II of the substitute incorporates guidelines and safeguards to keep the decision to terminate a pregnancy independent from the retrieval and use of fetal tissue.

I ask unanimous consent that Senator THURMOND's letter 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, March 3, 1992.

DEAR COLLEAGUE: In March, the Senate may consider H.R. 2507, the "National Institutes of Health Reauthorization Act of 1991, which was recently approved by the Committee on Labor and Human Resources. I have been and continue to be a supporter of efforts to limit abortions in this country. At the same time, I supported this measure and am writing to urge your support of this legislation and Title II of the bill, which includes a provision that would lift the current moratorium on Federal funding for human fetal tissue transplantation research.

I chose to support this measure because this type of research holds a great deal of promise for curing diabetes, a chronic and often fatal disease that affects approximately 14 million Americans, and several other serious diseases. My daughter, Julie, has suffered from diabetes for three years. I believe that for the sake of Julie and other individuals, who suffer from diabetes, Parkinson's Huntington's and Alzheimer's diseases, we cannot afford to lose this opportunity to develop a cure.

After careful analysis, I concluded that this legislation should not be lumped together with the debate about abortion. Title II of the substitute incorporates guidelines and safeguards to keep the decision to terminate a pregnancy independent from the retrieval and use of fetal tissue. For instance, the bill would prohibit payment, or other forms of compensation for fetal tissue. It would prohibit the pregnant woman from designating the recipient of the fetal tissue, and it would require that informed consent to donate the tissue be obtained only after the decision to abort has been made.

I encourage you to carefully examine the safeguards. I believe that you will conclude, as I did, that supporting H.R. 2507 is the proper course. For your information, the Juvenile Diabetes Foundation's position paper on this issue is enclosed.

Sincerely,

STROM THURMOND.

Mr. KENNEDY. So no matter how many times the Senator from New Hampshire mentions that the legislation encourages abortions, it clearly does not. Many pro-life Senators have reviewed the language of this legislation and they have concluded that it will not promote abortions.

Here is what Senator HATFIELD had to say:

Mr. President, I know of few issues I have had to wrestle with more in the light of conscience and belief and conviction than on this question of fetal tissue.

I stand here today as one who is unabashedly pro-life. I voted every time for the Hyde amendment and other amendments that delineate through so-called pro-choice and pro-life, both of which are oversimplified labels.

That is a pretty good line, as well.

I have worked throughout my career to promote pro-life causes because of my deep respect for life. I believe in the sanctity of life. A unifying goal of my political career has been to improve the quality of life for my constituents and all Americans and all humanity everywhere.

I worked to achieve this goal by promoting and supporting world peace, disarmament, improvements in education, access to health care, and increased medical research.

Then he continues:

First, fetal tissue transplants hold the promise of saving life, and second, this research will not promote abortion. Having gone through this process of investigation, study, and deliberation, I strongly urge my colleagues to take the time to study this issue for I believe it is of great importance.

Mr. President, this is an issue about research, about life, not about abortion. The Senate has debated this issue sufficiently.

Finally, Mr. President, I listened to my colleague, the Senator from Utah—I wish he were here—I listened to his comments and statements, in saying: Well, it does not really make much difference if we move ahead with this legislation, because the Appropriations Committee has addressed many of these issues and the NIH is already working on them.

That just is not the case.

The case is that the NIH has made a very modest—very modest—downpayment on the whole range of women's health issues. I commend Bernadine Healy for the leadership she has provided.

The progress at the NIH on addressing research on women's health has been very slow, not nearly of the dimension, scope, purpose, and inclusion that this legislation provides. That is very important, and we should not delude ourselves to the contrary; as well as the fact that many of the provisions that have been included in this legislation are not getting the attention they deserve by the NIH today.

There is no cancer registry; there is no prostate cancer prevention program; the prostate cancer research program is relatively small; there is no multi-purpose juvenile arthritis center program; there is no obstetric and gynecology program. The NCI only spends \$133 million for breast cancer research—one in nine women develop breast cancer. NIH has supported research projects that exclude women and minorities.

We spend \$9 billion for intramural and extramural programs at the NIH. I am strongly for it. I would like to see the NIH expand and intensify their efforts, particularly in the areas of women's health, cancer, heart disease, and in the other areas which were a part of our initial bill that was vetoed by the President.

I am appalled that out of \$9 billion NIH budget that we are spending less than 200 million on breast, ovarian, and other gynecological cancers and less than 10 million for fetal tissue research.

This legislation is important, and is necessary to address the research needs of millions of Americans with diabetes, arthritis, heart disease, cancer, Alzheimer's, Parkinson's, multiple sclerosis, lupus, and other devastating and often incurable diseases.

I will submit for the record a comprehensive summary of the important initiatives in the legislation.

Finally, Mr. President, we should be clear about what is going on and what is not going on. There is limited research using fetal tissue being pursued at the NIH—it is somewhere around \$10 million—but there is no NIH funds being used for fetal tissue transplantation in humans.

The interesting thing is to hear our friend from New Hampshire talk about all of the dangerous things that could happen with this legislation. The fact is, with this legislation, we establish safeguards and criminal penalties, not only on research conducted or supported by the NIH, but for privately on what is being done by the NIH funded research.

These protections are not in place today. They are not in the law. They depend upon local and State restrictions. And most States have not established guidelines for fetal tissue transplantation research.

So, one of the reasons that a number of our colleagues who supported the Hyde amendment and now support lifting the ban on fetal tissue transplantation research is the safeguards and criminal penalties established by this legislation. Without this legislation, there are no safeguards in place. They will not be put in place today as a result of the actions that were taken by those who oppose that position.

Mr. President, again, I express our appreciation to many of our colleagues: Senator ADAMS on our committee who did very important work in developing the provisions on the fetal tissue transplantation; Senator MIKULSKI, who has probably made the greatest contribution in developing the women's health initiatives, and many others who participated on our committee. I would also like to especially thank the staff: Grant Carrow, Van Dunn, Robin Lipner, Nick Littlefield, Phyllis Albritton, Jay Himmerstein, Laura Brown, and David Nixon for all their efforts. I am grateful to all of them and we look forward to addressing this issue as the first order of business in the next session.

Mr. President, I yield the remainder of my time.

Ms. MIKULSKI. Mr. President, a veto of the NIH bill is a veto of the American family. To filibuster the NIH bill

is also a travesty for American families. No one who has ever watched a loved one suffer from a life-threatening disease would ever say no to a measure that so clearly saves lives. No one who cares about families would ever stand in the way of curing diseases that tear families apart.

NIH saves lives and cures diseases. NIH is in the business of saving families from the heartbreak of very serious illnesses. The kind of diseases that destroy families.

The President's veto stalled lifesaving research on often fatal diseases such as breast cancer, cervical cancer, and multiple sclerosis.

The delays caused by those who do not want this bill passed have killed this legislation and will mean that these changes will have to wait until next year.

Our National Institutes of Health do research on diseases like prostate cancer and lung cancer. Prostate cancer is an increasingly large threat to men—our fathers and husbands.

These are diseases that take husbands from their wives and attack the men we love. The President's veto came near Father's day. And many families won't be able to spend time with the fathers and husbands they have lost to cancer, Alzheimer's or other diseases.

But this is not a gender issue. This is a family issue. Men and women stood by the congressional women 2 years ago. On the day when we women marched up the steps of the NIH asking to be included in medical studies and cures for repugnant diseases.

Together we asked that women be included in such fundamental research as heart disease and aging. We knew what the statistics were for men—but no one had ever bothered to look at the fact that women get heart disease too. And in ever increasing numbers.

Together we asked that the aging process of women be studied like it had been for men. Together we asked for a change. A change in the program and a change in attitude.

Funding NIH is the way to make that change. It is a family issue. The cure of Alzheimer's is a family issue. Ovarian cancer is a family issue.

The President's veto killed a measure that included \$300 million for breast cancer research. Breast cancer affects one out of every nine women in this country. That money would have helped set up basic research centers. That money would have helped set up basic research centers. Centers where our doctors and technicians would trace the genes that cause cancer. Develop the drugs to slow the cancer down. And may even find the cure.

When you talk to Maryland families the way I have, you learn that losing a wife, a mother to breast cancer is devastating to families.

What else have the President and the Members of the Senate opposed to the

bill signed away as worthless? They have signed away the office of women's health research, research on gynecological cancers, and possible treatments for osteoporosis cancers, and possible treatments for osteoporosis and infertility.

And he has signed away jobs. There are 13,000 Marylanders working at NIH. That means jobs today.

The President claims that he believes families are important. But not important enough to help cure the diseases that tear them apart.

Finding cures for diseases like Parkinson's and Alzheimer's keeps people out of nursing homes. This not only saves families, it saves lives and it saves money.

I look forward to successful passage of the NIH bill next year at the beginning of the 103d Congress.

Mrs. KASSEBAUM. Mr. President, I just want to say that I very much concur with the plan announced by the majority leader to make reauthorization of the National Institutes of Health the first order of legislative business when the 103d Congress convenes in January. The important initiatives in this legislation, particularly with respect to women's health, will offer a very positive beginning to the new Congress. In addition, we will have the opportunity to move research in the critical area of fetal tissue transplantation research, which holds so much promise for individuals suffering from diabetes, Parkinson's and other disabling conditions. As the probable ranking Republican member of the Senate Labor and Human Resources Committee, I look forward to playing an active role in moving ahead with this important legislation.

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

Mr. DOMENICI. Parliamentary inquiry, Mr. President. What is the issue before the Senate?

The PRESIDING OFFICER. There is no pending business before the Senate.

Mr. DOMENICI. Mr. President, I ask unanimous consent I be permitted to speak for up to 15 minutes as in morning business.

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

#### THE COST OF NEW JOBS

Mr. DOMENICI. Mr. President, as we prepare to leave and go to our States, I would like to leave one thought about the current state of the economy and what is happening right now in terms of why the economy is not adding more jobs. It is the issue, which goes unnoticed, that I choose to call the indirect cost of creating a new job. Even though the news has not been good about new jobs in the American economy as measured by employment, the unemployment rate declined to 7.5 percent in September. That was down from 7.8

percent, the high point over the last 2-year recession/slow-growth period. Nevertheless, employment growth has clearly been unsatisfactory, even slower than can be explained by the growth in economic activity as measured by GDP, our broadest and most widely accepted measure of the economy.

Gross domestic product has grown for the past 5 quarters following quarterly declines in late 1990 and early 1991 that marked the recession. While GDP growth has averaged a modest 1.6 percent over these 5 quarters, employment has hardly increased.

During this period of expansion something very different has to be happening in the economy. Employers clearly must need more workers than they are hiring. I believe we now have proof that another phenomenon is setting in that is very important for us to consider if we truly want the American economy to produce more jobs as it grows. One thing that is happening right now—believe it or not, on the plus side—is that productivity is going up. And when productivity goes up, unless the economy is growing more than enough to accumulate the positive effects of that productivity, you hire fewer people. And we all want more productivity because it yields the kind of growth that increases our wealth dramatically without inflation. It has a big dampening effect on inflation.

But that is not what I am talking about. What I am talking about is a finding by the Federal Reserve about how job gains during this recovery differ from past recoveries. The implications are that 2 billion hours of work that would have gone to new employees in this recovery have gone also to overtime and to non-full-time workers.

Let me talk about that for a minute. If you are an employer and your business is going up, there are four things that can happen with regard to your employees.

One, if your business goes up and you have higher productivity, you do not increase the job force. They are doing more per unit of time.

Or, two as the work goes up you hire more workers.

Or, three, you take your existing work force and you work them longer—called overtime.

Or, four—a phenomenon is occurring that is recent in American economic history. Businesses hire non-full-time workers. For example: A university will not hire a new professor and put that professor on all of the fringe and health coverage benefits—covering the pension plan and all the other things. Instead it will hire a new professor and say if you want to work, here is your salary, but we are not going to cover you with a pension, we are not going to cover you with health care and this is your contract. You agree to it or do not agree to it. And we are not going to cover you with other things that we

are paying our other employees. Take the job or not.

This is a growing part of the American job market. It is happening because the cost of new employees is going through the roof. Not the hourly wage, not what they take home, but what the employer has to pay aside and apart from the salary to the workers.

What we know is that—if we were to take the 2 billion hours of added work that is now being spread out among the work force of America, and if that had gone to new employees, as it has in the past, we would have added 1 million employees. One million new employees would have been hired, instead of the anemic increase we have gotten.

This economy has generated enough growth, even in its anemic state, so that we could be saying 1 million new jobs have been added to the economy. But they were not added because the employers of America, large companies and small companies, have decided that rather than hire new workers, and create new jobs, they choose to work the existing work force overtime because it costs so much to hire one aside from the salary.

We all ought to be wondering what that means for the future. It means a couple of things to this Senator. One, before you pass anymore mandates on the employers of American workers, you better consider seriously whether the new mandates, all made in the name of a good cause, will cause more harm than good because employment will be diminished. The new mandates that the employer has to pay will cause that employer to say I cannot afford new workers.

I will give you a couple of mandates that are clear, patent, unequivocal, and you ought to watch out for them.

The combined employer-employee payroll tax rate, FICA, and other things that we mandate, went up 2 percentage points. We started with 13.4 percent of payroll at the beginning of the last decade. Today that same mandate is 15.3, almost 2 percentage points higher. If we can take 2 percentage points off the payroll costs for American businesses today, they would have hired more than the million that I just spoke of. This means that this mandate has had a big impact.

Now I want to explore the one that I believe is truly wreaking havoc with new jobs in the United States. All of our employers, large and small, face two choices: "One, cover your employees with health care just like you did last year. You did not have to, but you did because you want to put health care in the packet of fringe benefits going to all of your employees. This year you have to put the same health care on, but it has gone up 20 percent. You have two choices. You keep the coverage, increase the cost 20 percent and do not hire any new workers. Or you lower the health cost dramati-

cally, cutting your workers off from some of the benefits and narrowing the package down. The tradeoff is less health care protection, more jobs."

As we think about health care reform, we had better consider seriously how to reduce its spiraling cost, not just how do we cover more people. If you have to change it dramatically, then do so, but get the spiraling cost of health care off the backs of America's employers or they will, for the foreseeable future, pay for health care and hire less people.

Mr. President, this is a big-ticket item, not a little item. Some phrase it as competitiveness and noncompetitiveness. I choose to say that it is literally more jobs or less jobs. More jobs, or a continuation of the type of health care—with its spiraling costs—that is imposed on employers today.

I hope everyone will understand that the American economy is not magic. Employers, large and small, have no chain that they pull that will produce dollars so they can hire more workers and increase their pay. They have to make more money and then they can hire more people, unless the cost of doing business goes up: costs such as mandated benefits of all types, regulations on business—some of which may not be necessary—and health care costs. The latter, although they are not mandated in many instances, are contractually agreed to and in other instances employers say we want our employees to have it. It is going up so fast as a cost of doing business, that it shrinks the available jobs.

I believe this is more than just a competitiveness issue with overseas businesses and countries. It is also whether American business, especially small- and medium-size firms, even as they grow in the amount of business they do, will add a requisite amount of new employees or will use up their new-found growth to just pay for health care and mandated costs.

Mr. President, it is serious enough, in my opinion, to cry out to the next administration at the start of the new year that we all hope there will be on the horizon a new initiative. It will say to the American people, there will be perhaps more sacrifice, more giving, but the future will have good, sound jobs on the horizon for America.

I think this issue of how much employers can bear by way of new costs for employment ought to be looked at from the standpoint of where are the diminishing returns. What are we asking of them that is not necessary and that costs money? Do we want all of those? Do we really want reform of health care so the costs go down. Or do we just assume, as some are doing, that it is going to continue up and it is a matter of who pays for it, the employers or the Government?

If that is the attitude, pay we will, not only in spiraling health care but in lost jobs.

## STRENGTHENING OF AMERICA

Mr. DOMENICI. Mr. President, for the last week or so, a fair amount of attention has been paid to a report called Strengthening of America. Senator NUNN of Georgia and myself were very privileged over the last 2 years to cochair that very, very significant undertaking. I believe the results have acquired a very significant amount of positive attention in the press and, thus, among the American people.

Frankly, I believe the time has come for us to take cognizance of the fact that we are living in a new era; that we are on the verge of a new century, as never before. The domino theory proved correct, only in reverse. One Communist dictatorship after another has been knocked down and replaced with free market democracies. As we look to the beginning of a new century, is so clear that America must start doing things differently or we will not be strong and we will have failed to provide the marvelous freedoms and governance to the people of this country, the great people of this country so we can grow and prosper.

We are on the verge of that era. That requires, in my opinion, that we do things differently. I think the people are tired of business as usual, even if they do not express it as such.

I saw an old Spencer Tracy movie, called *State of the Union* and it reminded me of our challenges today. Believe it or not I am going to quote from that old movie because it is relevant today. We all know how old Spence Tracy and his movies would be. In *State of the Union* Kate Hepburn played a newspaper publisher. She was trying to talk Spencer Tracy into running for President and Tracy gives a rousing speech. It is given to a huge Chamber of Commerce audience. He is talking about our country and what is wrong with politicians. Imagine Spencer Tracy. In his prime. Delivering this message:

Politicians, instead of trying to pull the country together, are helping pull it apart just to get votes. To labor, they promise higher wages and lower prices.

To labor they promise higher wages and lower prices. To business, higher prices and lower wages. To the rich, the agenda is let's cut taxes. To the poor, we'll soak the rich. To the veterans, cheaper housing. To builders, uncontrolled housing prices.

This movie is an oldie, but it was prophetic about where we are in 1992. There is at least one special interest group for every program in the Federal budget, and they are all pulling the country apart.

We have too many of these activist groups that only care about their particular self-interest. What we desperately lack is one activist group that might put aside their personal agendas and do what's best for America. It would be a group which would urge its leaders to do what is right for the

country. This Strengthening of America Commission, of which I am cochairman, is an effort to create this type of activist coalition.

Reports are issued every day in Washington. But we intend this Strengthening of America report to be different. It is a blueprint action plan which we intend to follow up with enacting legislation. It is intended as an integrated package to get our fiscal house in order. The Commissioners are committed to working at the grass roots level to build support for the recommendations and policies advocated in the report. We are repeating the warning that Spencer Tracy gave to the American people in that very good movie that I just described.

This upcoming election may be the electorate's equivalent of the Strengthening of America Commission. This election could be a people's mandate to do what is right, to do what is in the best interest of America and the country as a whole. I hope voters will join in the mission of the Strengthening of America Commission.

In April, Senators NUNN, ROBB, RUDMAN, and I started talking about one of the Strengthening of America Commission's recommendations. This would limit programs which are on automatic pilot and are growing far faster than anyone ever imagined, 8 percent instead of a typical 2½ percent for other programs in Government. These programs currently make up 44 percent of the budget. By the turn of the century, they will be 55 percent of that budget.

Our proposal in the Strengthening of America report would reform these so-called mandatory spending programs. The two biggest and fastest growing mandatory programs are Medicare and Medicaid. Under the Commission's plan all mandatory programs would be allowed to grow for 2 years—during this time it is expected that Congress would enact health care reform legislation. Beginning in 1995, all non-Social Security programs would be capped. All people who are, or who would become eligible would continue to participate fully in these programs. The program specialists call this case load growth.

In addition, the proposal would let the programs all grow at the inflation rate and an extra 2 percent above inflation in 1994. This additional cushion is in recognition of just how difficult cost containment may be. In years after 1994 the cushion would be phased down—5 percent each year.

The proposal generated a great deal of attention. We were bombarded by special interest groups that have programs within this mandatory package that make up 44 percent of the budget today.

Senior citizens, educators, farmers, doctors, veterans, were all calling in to my office. Were they asking that we work together on this? Was that what they were doing? Again, to quote the

Spencer Tracy movie: "in a pig's eye." And just like that movie, "They are all scared together, all fighting each other—and us, each for fighting for the biggest bite out of the apple. Well, there are not that many bites in the apple."

This character in this old movie told professional politicians that when he goes up in an airplane he sees America, the real America. And again I quote from that old film. You can imagine him delivering these lines in that wonderful Spencer Tracy way. He said this is America: "Farms, factories, lumber, mines, railroads, business management, labor. Not one able to exist alone, but together working together with courage and imagination. That makes America. That's a great picture from the air."

We should adopt his perspective. That is what the Strengthening of America Commission is trying to do to get the big picture, get the great picture from the air, get everyone working together to accomplish what's needed and what's right.

Our interim Strengthening America Commission recommends zeroing out the deficit by reducing it \$2 trillion and balance the budget over 10 years, abolish the current income tax and its antisavings, antiinvestment, slow growth bias, and replace it with one geared for economic growth, a progressive based income tax; create a \$160 million endowment for the future which would be added to current expenditures by investing in education, research and development, child care, and begin a life cycle learning program, and break the old mold of the current education system.

Give national laboratories a new mission; make Washington work. It seems to me that a bright future is achievable, but it is not a sure thing. The cycle of tax and spend and spend has to stop. We have to figure out ways to make Government provide better services for less. And at the same time the country faces many challenges. We have to increase savings, remodel our education system, teach values to our young, increase the stock of capital backing up each American worker, faster commercialization of technology, producing better designed and higher quality goods.

We need to make sure our students get a good education so they can be competent workers.

We need better school-to-work transition for the 50 percent of our students who are work-bound not college bound.

We need to encourage U.S. companies to follow total quality management techniques.

As a government we need to reduce the deficit and put into place policies that encourage savings and investment.

But if the challenge is enormous, so too is the opportunity.

We need to create tax policies that gear our economy for growth. The Strengthening of America Commission was very bold. Their recommendation: Abolish our current income tax system. Instead of taxing income, this new system would tax spending; and savings would not be taxed until spent. The system would be similar to a universal IRA.

The Strengthening America Commission issued its report yesterday. To paraphrase from the report: We do not want to be the first generation to violate the trust and tradition that each generation will improve the nation for the benefit of the next. We do not want to be the first generation to tell our children and grandchildren that we sacrificed their standard of living for our own. We do not want to be the first generation to turn our backs on this country's fundamental identity as a land of opportunity.

I saw another rerun movie not too long ago, "The Way We Were" with Robert Redford and Barbra Streisand.

The lead character, Redford, playing an all America, all-around winner is compared to America.

"He was a lot like the country he grew up in, everything came too easy for him."

Looking to the next century, the movie wouldn't make that comparison. Things aren't going to be easy. Outside of Hollywood, they never were. But they can be prosperous if we all work together, with courage and imagination. That has made America great in the past. Such cooperation will make America great in the future.

Mr. President, I thank the Senate for the time, and I yield the floor.

The PRESIDING OFFICER. The Chair, in its capacity as a Senator from Minnesota, suggests the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHAFEE. 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.

#### THE RECENT SHOOTING AND DEATH OF ANDWELE JACKSON

Mr. CHAFEE. Mr. President, 3½ months ago, I introduced legislation, S. 2913, to prohibit the sale, manufacture, or possession of handguns in our country. I have spoken previously in this Chamber on my reasons for authoring that bill.

Everyday, it seems, Mr. President, there is another reason, another new report about a senseless episode of handgun slaughter taking place in our country. Surely, upon reading these stories, we are all appalled. But these reports of handgun shootings across

our country come so steadily and so frequently that sometimes we almost become inured to the horrors described in this stream of articles.

I call my colleagues' attention to an article which appeared in the Sunday, August 30, edition of the Washington Post. It is a poignant and painful reminder of the real-life ramifications and what actually happens out there as a result of the prevalence of these handguns.

I think this article ought to be required reading for anyone who is desensitized by the daily reports of the slaughter and shooting that is occurring in our country.

This article describes the valiant struggle of a young man named Andwele Jackson. Andwele was 16 years old. He was shot in the stomach by an unidentified man with a handgun.

It occurred just after 1 a.m. on a Sunday morning, August 2. Andwele and five friends were cavorting along on Pennsylvania Avenue, having some fun—yes, it was late at night, but so what? They had just been to a nearby Burger King. They are teenagers, five of them were running along as carefree teenagers do.

Then the unthinkable—or what we once thought was unthinkable—occurred. A man with a .357 handgun stepped out from behind a tree. Moments later, Andwele Jackson lay in a pool of blood, barely breathing and unable to move his legs.

Bullet wounds and shootings that occur on TV or in the movies always appear to be neat and tidy. The bullet enters the body and follows a straight path and exits cleanly on the other side. And sometimes there appears to be little harm done. But this is not the way modern bullets work. Modern bullets do not behave like that when they enter a body. As the Post article states:

In real life, being shot is more like having an explosion inside the body—or more precisely, a chain of small explosions.

The bullet, which went in to Andwele Jackson's stomach tore apart his intestine, ripped a hole in his colon, smashed into his lower spine, rendering him paralyzed from the waist down. Pieces of the bullet lodged in one of his kidneys causing serious infection.

Here is a young man, 16, a good athlete, a fine young man, cavorting out with some friends; out from behind a tree steps a man with a handgun. Anybody can get a handgun. We all know that—no problem—and shoots one of these boys. It happens to be Andwele Jackson.

He was a gifted athlete who had had a fine career, and suddenly there he is. To regain the use of his legs he struggled through excruciating sessions of physical therapy. The pain that lingered after his surgery and from his infected wounds was so acute that he

could not sleep. Because he disliked drugs, he did his best to avoid pain killers, talking on the telephone instead—that was his therapy—and leaning on his mother, Joyce, for moral support.

Yet his courage was no match for the devastation the bullet wrought in his body. On Monday, 3 weeks after his shooting, while watching TV he suffered a massive heart attack brought on by a blood clot which started in one of his paralyzed legs and worked its way up to his heart and lungs, and he died.

There he was, Andwele Jackson, a good boy. Energetic, studious, well liked, excellent football player. He had stayed out of trouble. Now he is gone.

That is what happened to a promising young life in this city.

Mr. President, what we need to do is get rid of these handguns, altogether. There is no other way.

People can either care about this subject or not care about it. It seems to me there is no middle path. If we are going to do something about the problem, the only solution is to get rid of them as every other civilized country has—every other industrialized country. Do not permit handguns, do not permit the possession, do not permit the transfer, do not permit the production, do not permit the sale of handguns.

What is said to that is, oh, well, what will happen is the good people will get rid of them. There are 68 million handguns in our society today, and 2 million being added every single year. We have to stop this flow of guns. There is no question that there is a direct correlation between the availability, easy availability of these weapons and the deaths that are resulting from handguns.

The statistics show, for example, that if there is a handgun available in a house, the chances are 75 percent greater that a young person who might be contemplating suicide will, indeed, go through with suicide if the weapon is available.

So, it is my earnest hope that others will take up this cry. You might say here you are all alone. Nobody else is for this legislation. That may be. But I am absolutely convinced that the slaughter from handguns is going to affect, intimately, every single family in America. Perhaps not the mother, perhaps not the father, perhaps not the two children, or three children—but it is going to affect a cousin, or a nephew, or niece, or uncle, or the father, or the children directly. By that I mean somebody is going to be shot, or somebody is going to be held up by a handgun.

So my sympathies go to Andwele Jackson's family and friends for this tremendous loss they have suffered.

I commend Tracy Thompson, of the Washington Post, who wrote this article.

Mr. President, I ask unanimous consent that the text of this article be printed in the RECORD following my statement.

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

Mr. CHAFFEE. Mr. President, I do hope my colleagues and others across the country will read about this and more and more people will become concerned. Oh, they are concerned. I should not say people are not concerned—they are concerned. But what to do?

Some say have a registration of handguns. But that does not take care of the problem. They are still being manufactured, still being sold, still tremendous prevalence of these guns in our society.

Others say, have different penalties. For example, if a child in a house obtains a handgun, a 4-year-old child or a 3-year-old child—this has occurred, frequently. A 3-year-old child discovered a hidden handgun and shot another child in the family, or a friend. One of the answers is make the parents subject to a fine for not keeping the weapon under proper security conditions.

That is retrospective. Meanwhile the child has taken the gun and shot another child. That is not the solution.

I am convinced more and more as my colleagues study this problem they will come to the conclusion the only thing to do is ban them, get rid of them.

We will collect them. We will not get them all the first year. We will not get them all from every criminal right away. But eventually we will, because they will not be able to get any more.

#### EXHIBIT 1

[From the Washington Post, Aug. 30, 1992]

#### STRUGGLING FOR A MIRACLE.—BULLET'S PATH OF DESTRUCTION PUT LONG ODDS ON YOUTH'S RECOVERY

(By Tracy Thompson)

The shocking thing was the stillness of his legs. A moment earlier, Andwele Jackson had been jogging along Pennsylvania Avenue with his friends Jesse Davis and Xerxes Speller and some girls they'd just met at Burger King—running easily, just for fun, like the athlete he was.

Now he lay in a pool of blood on the steps of an office building in Foggy Bottom. All that bystanders could see were Andwele's legs—not moving, still as death—and his panting chest, exposed to the eyes of strangers and the ministrations of the D.C. Emergency Medical Services crew.

As soon as we passed this tree, this guy must have been waiting for us. I saw a guy step out and he had a nickel-plated .357 magnum in his hand," said Xerxes, tears coursing down his cheeks. "So we started running really hard, and when we got up there to the Exxon station, I looked and I just saw Jesse."

"I said, 'Where's Andwele at?'" Jesse said. Jesse ran back down the street, screaming, "Call 911! Call 911!" A couple walking on the other side of the street—nobody learned their names—heard him and called 911. The ambulance was there in minutes.

Both youths—who were 16, like Andwele—were breathing in gulps. The three girls they

had been with crowded around them, reaching out to link arms, huddling together. All five were crying. In the background, the medics loaded Andwele into the ambulance—just a shape on a stretcher now, inert but still breathing, an oxygen mask strapped to his face. It was 1:15 a.m. Sunday, Aug. 2.

It was the 175th shooting this year to which the Emergency Medical Services Bureau has been summoned—a routine event in one of the nation's most violence-plagued cities. For the medical staff assigned to Andwele's case, it would be another fight to salvage life from the physical devastation of bullets—which, contrary to popular myth, ricochet once they enter the body, splintering bones, shattering arteries, ripping through organs, disintegrating as they go, leaving fragments in their wake.

For Andwele and his family, this moment of seismic upheaval would place them on a weeks-long roller-coaster ride through laughter and anguish, through reality and belief in the miraculous—only to end in sudden desolation.

"Andwele is not the story," his father would say later. "The story is what's happening in 1992 to our kids."

Minutes after Andwele was carted away to nearby George Washington University Hospital, bystanders began drifting away. Detectives from the 2nd District combed through the dwindling crowd, talking to anybody who might have seen anything.

At that moment, Andwele's mother, Joyce Collette, was sitting on the side of her bed in Upper Marlboro, rehearsing the speech she was going to give Andwele when he finally got home.

A few weeks earlier, Andwele had celebrated an adolescent rite of passage: getting his driver's license. Then came Saturday night, and he had asked his mother if he could borrow her car. He told Collette that he and his friends Xerxes and Jesse would celebrate Andwele's new vehicular freedom by going to Georgetown, maybe hooking up with Andwele's girlfriend at a movie, or just checking out the girls and getting some hamburgers.

It has seemed harmless, and Collette had agreed. But she also had given him a midnight curfew. Now, he had violated it.

Listening for the slamming door, the footsteps in the hallway, she readied her speech. "Just get on in here, boy," she was going to say. "It'll be a long time before you see a car again, buddy."

The phone rang. It was Jesse, saying something about Andwele being shot.

"Oh, is that so?" Collette recalls saying, with the sarcasm born of having raised eight children, five of them boys, and hearing every conceivable explanation for all kinds of misbehavior. "This is an excuse I've never heard before, and I thought I'd heard them all."

"No, really," Jesse insisted. Then he put a police detective on the line. Hearing the stranger's voice, Collette felt herself go numb.

For a moment, she said, "I couldn't move." All she knew at that point was that someone had shot Andwele, that the bullet had pierced his intestines. That was manageable, she thought; a daughter-in-law had had intestinal problems a few years back that had finally been cured with surgery and diet.

It was not until Andwele's surgeon, Neofytos Theodore Tsangaris, came out of the operating room several hours later that reality began to hit. Tsangaris told her and the other family members who had begun to gather at the hospital about the intestinal

damage. The bullet had blown out part of his transverse and ascending colon, which had to be resected.

"Then he said, 'Now for the spinal injury,' and I said 'WHAT spinal injury?'"

The bullet also had ricocheted off Andwele's first lumbar vertebra, shattering it and—though his doctors did not know it then—scattering bullet fragments throughout one kidney. Everything below his first lumbar vertebra, everything from his waste down, was paralyzed.

"The prognosis is that he'll never walk again," Collette said the day after the shooting. She cupped her face in her hands. Her eyes filled with tears. Her voice faltered. She looked away, toward the window.

#### AN UNUSUALLY SENSELESS SHOOTING

In a city where senseless shootings happen every day, the shooting of Andwele Jackson made less sense than most. To the detectives, there was little to go on.

They had taken down a welter of descriptions of the gunman—everything from a tall, bald man to a short man with a gold tooth—from Andwele's friends, the three high school girls they were with and the few bystanders. Nobody had gotten the names of the couple who had heard Jesse's screams and called 911, and they were apparently the only other people who could have seen the gunman or given a description of the car he drove away in.

Then there was the location. "How did somebody manage to get themselves shot downtown?" one ambulance crew member exclaimed when the call had come in; the EMS crew that prowl the city's streets at night are more familiar with racing to shootings in Southeast Washington, across the Anacostia River, or in some neighborhoods in Northeast Washington.

The detectives questioned Andwele's companions about whether they knew of a possible motive, but they were stumped. To Collette, it was inconceivable that Andwele had done anything to provoke the shooting. He was not a bad kid, he did not have a police record, she said later. Although she and his father, Robert Jackson, had divorced when Andwele was 3 (she had later married Sam Collette), she and her ex-husband remained friendly and he was supportive of his sons. The troubles they had had with Andwele, she said, were the sort that would later become family jokes, not topics for police blotters.

There was, for instance, the time he and a friend had used an older brother's stash of condoms to water bomb the mailman. ("I opened the door," she said, "and there was the mailman, soaking wet, and not a cloud in the sky.")

Since age 6, he had been what his mother called "a football maniac." He had inherited his father's height and physical grace—as well as his dazzling, open smile.

Lately, his preoccupation with football had caused his grades at Largo High School to slip. Collette decided it was a good time for him to get to know his father better, so for the last year he had been living with Robert Jackson in Atlanta, attending Benjamin E. Mays High School.

New to the Atlanta school system, Andwele was ineligible for the football team. Instead, he discovered a new group of friends more studious than his football buddies in Maryland. He started studying—realizing, his father said, that he could get ego strokes for good grades as well as for being a superior athlete. His grades improved. He was starting to grow up.

But now, Collette was less concerned about tracking down the person who shot her son

than about dealing with the immediate medical crisis. Andwele had made it through surgery, but doctors told her that bowel wounds carried a high risk of postoperative infection. The normally closed intestinal tract is full of bacteria which, if spilled into the abdominal cavity, can create rapid, rampant infections. The bullet had fragmented, and not all the fragments had been found; there also was the ever-present risk of blood clots.

A practical woman, a teacher of history and civics at Francis Junior High School in the West End, Collette's mind already was pondering building a wheelchair ramp at home, getting a bigger car, maybe a van, and hassling with insurance companies.

"I'm used to chaos," she said. A small-boned woman, about 110 pounds, she wears jeans and work shirts, delicate gold earrings and a wrist full of jangling bracelets, her graying hair is in a bun. In her 47 years, she has raised eight children, only two of whom—Andwele and his older brother Michael, now 29—were biologically hers.

Her life had taught her to deal with reality, and she gained strength by thinking of Andwele's paralysis in practical terms. "We're going to break the news to him tomorrow," she said.

The doctors told her the bullet missed Andwele's heart by about an inch. "One more inch and we could be putting him in the ground. . . . We can deal with anything from there," she said.

#### "PRINCE OF GOOD FORTUNE"

In the end, Andwele's father told him the doctors said he would never walk again.

That was just part of the message Robert Jackson delivered. A tall man who makes a living as a metal sculptor, his speech was slow and thoughtful, his demeanor serious—until he turned on that open smile. A man of profoundly mystical beliefs, he habitually searched for meaning in every event, and this was no different.

The meaning of this event, he said, began with the name he had given his son at birth: Andwele Nkosane Mawi Ta-Nehesi. The words are an amalgam of African dialects that, loosely translated, mean "Prince of good fortune, brought by God from the land of our fathers."

So when Robert told Andwele what the doctors were saying, he was telling him the Official Version. There was no doubt in his mind that Andwele would defy all medical wisdom.

Andwele took the news stoically. Later, he would say that as soon as he came to a groggy awareness lying on the sidewalk in Foggy Bottom, he knew he couldn't move his legs.

Later he would ask Collette questions she couldn't answer: Will I be able to father children? Will I ever have bowel and bladder control? Intensely self-conscious, like most teenagers, the thought of having an involuntary bowel movement was too horrifying for him to contemplate.

"I want him to cry a little bit," Robert Jackson said. "Maybe he will later. He's strong beyond his years. He's a little boy, but he's also a little man."

#### A BULLET'S PATH OF DESTRUCTION

In the movies and in detective novels, bullets cause either instant death or minimal damage. In real life, being shot is more like having an explosion inside the body—or, more precisely, a chain of small explosions. Lucky shooting victims get a clean exit wound.

Andwele was not one of the lucky ones. On Aug. 12, 10 days after the shooting, he was fighting an intermittent fever, caused per-

haps by bullet fragments that a CAT scan found scattered throughout his right kidney. He also was having trouble keeping down solid food.

Even so, the physical therapy staff thought it was time for his first trip downstairs in a wheelchair. Getting Andwele moving as much as possible, as soon as possible, was of paramount importance. One of the common complications of paralysis is that pools of blood collect in the paralyzed extremities and form clots, which can break off into the bloodstream and—on occasion—hit a vital organ.

The physical therapy room was a large, mirror-lined room that looked like a cross between a gym and a nursery school for tall infants. Most of the therapy took place on large mats that rested on platforms about chair-height.

Three physical therapists, Nancy Koplin, Bruce Banks and Mary Francis Little, maneuvered Andwele out of his wheelchair and onto the side of one of the mats. It was a complex maneuver, made more so by the plethora of tubes and catheters connected to his body.

Andwele wore an intent, inward look, the look of someone who is afraid of falling and also of throwing up—both of which were very much on his mind. Still, he stole a moment to give his grandmother, Irma Jackson, a high-five. She smiled delightedly.

The therapists got him positioned sitting on the side of the mat, legs hanging down, torso upright. The simple act of sitting up, as any baby discovers, requires a complex interaction of muscles in the lower back, buttocks and legs, as well as the upper body. To help him gauge where his body was in space, Little brought a full-length mirror and parked it in front of Andwele. He froze.

"This is the first time I've seen myself," he said softly. It is a moment familiar to anyone who has been seriously injured—the wrenching experience of seeing a disfigured, disabled, helpless body in a mirror that does not at all match the self-image, a shock like seeing 20 extra years, or a body that suddenly is of the opposite sex.

Andwele stared at himself while Banks knelt on the mat behind him to hold him steady. There were the tubes to take in, his own face—swollen, tight with pain—and the helpless legs. Andwele, the former football maniac, the effortless athlete, was at that moment wearing a diaper.

"Let's throw a football," Koplin said, tossing him a bright green-and-pink foam rubber ball. As hard as it was to get out of his wheelchair a few moments earlier and sit upright, Andwele skillfully caught the ball, then threw it back in a perfect arc.

Suddenly, he felt dizzy and nauseated. The therapists helped him lie down. Lying there, eyes closed, fighting the nausea, he spoke.

"I want to be doing this," he said. His goal, Collette said later, was to be walking by his 17th birthday on Dec. 16—exactly four months and four days away. He was, she said, "absolutely determined."

#### NIGHTMARES AND LINES OF SUPPORT

"I don't feel like I'm getting better," Andwele said. It was Friday, Aug. 14. The fever had returned. Alternately chilled and sweating, Andwele sat up in bed with half an eye on the television. He looked exhausted.

In the hallway, Collette was conferring with Andwele's urologist. The theory was still that the bullet fragments in his kidney were causing the infection, and for that reason they were treating him with antibiotics and keeping a close eye on his white blood cell count. An increase would signal that the

infection was galloping out of control. For the moment, the doctor told her, all they could do was watch and wait.

"It's been a wacky day," Collette said a moment later. "We keep telling him he's getting better every day. But I think he's tired of a whole bunch of doctors coming in and out. He keeps saying, 'I can't get any sleep.'"

For one thing, there was the recurring pain from the huge incision in his abdomen that doctors had made when they were repairing the damage to his intestines. It started in the middle of his chest, zig-zagged to the right at his navel and went down almost to his groin. The staples that held the incision together had had to come out or risk creating another infection, so part of the incision still gaped open. Nurses packed it several times a day with sterile gauze, letting it heal from the inside out.

Most people would have asked for drugs, but Andwele disliked them and tried to avoid them. When the pain was bad, he relied on the telephone.

One night, he said, the pain had been so bad that he called his mother at home.

"Then I sort of hung up on her," he said. "So then she got frustrated and called the nurses' station. Then I called my best friend, this as about 10:15, and we talked until about 12. So then I went to sleep about 12:30 and slept until 2, and then I woke up and listened to the radio for a while. Then at 4 they came in to change my dressing, and I was up for a while after that."

Nights were bad for another reason, he added: the nightmares of that moment on Pennsylvania Avenue.

"BANG!" he said. "I see a big light—boom. And I wake up sweating. Or I just start running. I always wake up sweating." When that happened, he said, it helped for someone to be in the room to at least look at, perhaps get him a glass of ice water and talk for a moment.

Collette, who had watched him sleep more than anybody else, knew about the nightmares before Andwele told her.

"He twitches in his sleep," she said. "Always moving. Picking at the covers."

#### A DECLARATION OF INDEPENDENCE

Four days later—Tuesday, Aug. 18—Collette greeted a visitor with ebullience.

"Andwele escaped today!" she announced, laughing.

He had been in his wheelchair, coming back from physical therapy, when he decided to take advantage of his freedom from the intravenous tubes, which had been temporarily removed.

"The nurse said she looked up and he was at the elevator. She said, 'Where are you going?' and he said, 'Goin' roaming. I'll be back.'"

His exploration took him downstairs to the hospital lobby, where he sat and watched the constant foot traffic for about 20 minutes. Then he went back upstairs and headed off to the obstetrical wing, on the same floor as his room, and spent some time looking at the newborn babies. The escapade wore him out, but his mother was delighted. Every impulse toward independence, she thought, was "a positive sign."

There was no shortage of moral support. Friends crowded his room; his girlfriend, Jocelyn, visited almost every day. Like any teenager, Andwele was constantly on the phone. Once, a visitor to his room found him lying flat on his back, covers over his head, looking corpse-like—until he drew back the covers to reveal a telephone receiver at his ear, a finger at his lips warning the visitor to be quiet. He was grinning.

But recovery would take a lot more than moral support.

That reality began to sink in with the arrival on Saturday, Aug. 22, of a graying, beefy man who paused uncertainly at the door, as if he weren't sure he had the right room.

"Hi," he said, extending a hand. "I'm Michael Sullivan from the Spinal Cord Injury Network. Is there someplace we can talk?"

Sullivan gave Collette a handful of literature—stories of spinal cord injury survivors and how they had coped, a textbook on the medical aftereffects of spinal cord injuries. Some of the complications, he said, included wild fluctuations in blood pressure, pressure sores on the skin, recurrent urinary tract infections.

Collette reached for a napkin on the table where the nurses had been eating coffee cake and wiped her eyes.

Sullivan's tone softened.

"These are not insurmountable," he said. "They seem that way now. It's something to look at it in a positive way. You can say to yourself, 'This is the worst it can ever get.' It's not like multiple sclerosis. And in 10 years, we've made great gains. There's a good chance your son will walk again."

Nancy Link, the head nurse on the floor, stuck her head in the door. It seemed that Andwele had had another CAT scan that morning and now needed to drink some kind of mineral oil to get the iodine needed for the test out of his system. The trouble was, she said, Andwele was being a little obstinate.

"I'm on my way," Collette said.

Back in her son's room, she heard his version: Awakened at 6:30 for the CAT scan, he had had to drink a glass of some gross iodine mixture, which he promptly threw up, and which they then make him take intravenously. There were some other procedures too loathsome to describe, and the whole thing had taken about three hours. Now he felt awful. He would drink his medicine, he told his mother, but he wasn't moving out of bed for now.

At that moment, as if on cue, Link popped in to ask cheerily what time Andwele was going to be ready for occupational therapy.

"Let's step outside," Collette said. As she and Link talked in the hallway, they were interrupted at intervals by Andwele's voice bellowing from inside the room. It was the voice of rebellious adolescence.

"I'm not going!" he shouted. "I'm not going! . . . I'm not going!"

Collette looked at the nurse and grinned. "He's not going," she said.

'I DON'T KNOW WHAT TO DO'

On Monday, in the late afternoon, Collette stood outside the hospital's main entrance—the only place she could find to smoke—and pondered practicalities.

In one week, she was supposed to report for work at Francis Junior High; the students would be arriving a week later. She had no idea how long Andwele would be at George Washington, and after that how long he would be at the National Rehabilitation Hospital, where she had arranged to have him transferred for the extensive physical therapy he was going to need.

Fortunately, there was enough medical insurance to keep them from bankruptcy; there was even coverage for a home nurse. The first two weeks of care alone had totaled nearly \$56,000, all covered by insurance. But so far, she had found no help when it came to the job of getting their house ready for Andwele to live in. There was a wheelchair ramp to be built, doors to be widened, an en-

tire bathroom that had to be made accessible to a wheelchair.

"We're facing thousands of dollars in renovations," she said. She made too much money to qualify for Social Security, it would be two more years before Andwele turned 18 and became eligible for Medicaid, and "the maximum loan I can get from the teachers' credit union is \$6,500"—barely enough, she suspected, to do the bathroom renovation.

"I don't know what to do," she said. "I'm at a blank wall."

She stubbed out her cigarette and went back upstairs, where Andwele was sitting up in bed watching "Oprah." Two nurses came in to change some of his linen; she settled down in a corner with a crossword puzzle book.

Suddenly, Andwele began to vomit, and one of the nurses grabbed a basin. Collette looked up, but felt no alarm; Andwele was still having trouble tolerating solid food.

Then there was another sound—one she could not describe. She remembers looking up sharply.

"He was arched with his back in the air and his eyes rolled way back. He was convulsing." For a second, she thought he was playing a practical joke, trying to scare the nurses. She rushed to the bed and grabbed his arm.

"Stop it!" she said. Then she felt the tremors in his arm, throughout his body. She bolted from the room.

"I need a doctor!" she screamed, and three residents at the nurses' station ran toward her. She followed them back down the hall, but they wouldn't let her in the room. Then she heard Andwele's voice.

"No! No!" he was yelling, "You can't do that to me!" She relaxed slightly, realizing from his tone and from what he had seen of medical procedures that they were probably trying to open an airway by pushing a tube into his esophagus.

"We have survived another ordeal," she remembers thinking. Shaking, she turned to walk toward the waiting area. She had taken only a few steps when she heard a frantic voice.

"Code him!" the person was screaming.

"Code him!"

She wheeled. Nurses, residents, doctors came from nowhere. A crash cart—the essential equipment that every hospital ward keeps at hand, including the electric "paddles" that can restart a human heart—emerged from a closet and disappeared into Andwele's room.

Collette fought to get in, but someone shoved her out. Two nurses she didn't know appeared from somewhere and grabbed her.

"We can't tell you anything," they kept saying as she struggled to get inside. "Is there anybody you want to call? Is there anybody you want to call?"

"I'm not stupid!" Collette screamed as she fought them. "I know what that means!" Sobbing, hysterical, she sank to the floor.

Later, they told her that Andwele's death probably was caused by a blood clot or maybe two, something that had broken loose from one of his paralyzed legs and made its way to his heart and lungs. The effect was as if he had suffered a sudden, massive heart attack.

That evening, a different set of police officers arrived, and she realized the shooting of her son had entered a new domain, that of the homicide detectives. It would be recorded as the District's 284th homicide of 1992.

The investigation continues, but police say they have no leads.

"It's been happening so much lately," said one 2nd District detective. "A couple of them, they've just been testing out the guns to see if they worked."

"It's hard to say," a homicide detective added later. "You know, kids will shoot each other over almost anything these days."

They buried Andwele yesterday at Maryland National Memorial Park.

The PRESIDING OFFICER. The Senator from Delaware [Mr. ROTH].

Mr. ROTH. I thank the Chair.

(The remarks of Mr. ROTH pertaining to the introduction of S. 3329 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BREAUX. Mr. President, what is the pending business?

The PRESIDING OFFICER. The Chair advises the distinguished Senator from Louisiana that there is no pending business before the Senate.

Mr. BREAUX. Mr. President, I ask unanimous consent that I be allowed to proceed as in morning business.

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

The Senator from Louisiana has the floor.

Mr. BREAUX. I thank the Chair.

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

#### THIRTIETH ANNIVERSARY OF LIBRARY OF CONGRESS' FIELD OFFICE IN INDIA

Mr. MOYNIHAN. Mr. President, I rise today to pay tribute to the 30th anniversary of the Library of Congress' field office in New Delhi, India.

The Library of Congress has every reason to be proud of this program. This field office has allowed research libraries throughout the United States to acquire foreign works that were previously difficult to obtain; it has preserved ancient materials that are now used by other libraries in both India and in the United States; it has been the leader in the cataloging of approximately 40 vernacular languages of India; and it has conducted elaborate studies of India—its languages, history, and cultures. Because of the resources that the new Delhi field office offers, many Americans come to India to do research and to meet Indian colleagues.

In short, for 30 years the Library of Congress' field office in New Delhi has provided a significant cultural and intellectual exchange between India and the United States. We have every reason to look forward to thirty more years of such continued accomplishments.

Mr. President, I ask unanimous consent that the following four speeches delivered on September 3, 1992, at the 30th anniversary celebration for the New Delhi field office be included in the RECORD. The speeches were deliv-

ered by the Ambassador to India, Thomas Pickering, the Librarian of Congress, James Billington, the Minister for Human Resource Development in India, Shri Arjun Singh, and the Dean of the Graduate School of Library and Information Science at the University of California, Los Angeles, Beverly Lynch.

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

AMBASSADOR THOMAS R. PICKERING EMBASSY OF THE UNITED STATES OF AMERICA ADDRESS ON THE 30TH ANNIVERSARY OF THE LIBRARY OF CONGRESS OFFICE, NEW DELHI, SEPTEMBER 3, 1992

Hon. Minister Shri Arjun Singh, Dr. Billington, Dean Lynch and distinguished guests:

It is really a very special pleasure from this afternoon to inaugurate the Thirtieth Anniversary Celebration of the Library of Congress Office here in New Delhi.

At the outset, I want to tell you that in my family, librarians are very valued—very highly valued. I personally treasure them. They rank equally—and sometimes even above—Ambassadors, and maybe even ministers, Mr. Minister. That is because while I am here as the Ambassador, Mrs. Pickering is the librarian.

So, now with matters put in their proper perspective, you can trust me when I tell you I've had to do my homework regarding the accomplishments of the Library of Congress here in India. Mrs. Pickering and I called on Dr. Billington before we left Washington, and we, of course, have visited the Library's office here in South Extension in New Delhi.

Let me say something about that installation. You may have passed it every day without even noticing it. An ordinary building—or, rather, two buildings joined together—located on the busy Ring Road in New Delhi. From the outside, nothing to distinguish it from its neighbors.

But on the inside, things are very different. Books, books and more books, pamphlets, tapes; almost anything you can think of, being processed for shipment to the Library of Congress—and from there, to more than 30 of the world's great university and other libraries. It is an effort that combines high-quality scholarship in the selection and cataloging process with the administration and shipping capacity of one of the world's busiest book export houses. For 30 years of its operations, this small office has been responsible for acquiring materials from India, Nepal, Bangladesh, Burma, Sri Lanka, and the Maldives and it has shipped over 16 million books and other items.

That's right—16 million. If you like to do this sort of calculation, 16 million books set end to end would stretch about 2,200 miles. Carrying the metaphor another step, you could lay a line of books from Kashmir to just outside the city of Moscow. And in fact, if you had read Dr. Billington's masterful study, "The Icon and the Axe," you could put in historical and cultural perspective what you would observe along that line of books.

In terms of India itself, the accomplishments of the Library of Congress Office here have forged a notable link in the remarkable chain of ties between our two nations. Both the Library of Congress and United States Information Service have made significant contributions to the exchange of information and knowledge between American and Indians.

Under the auspices of the Fulbright program, for example, our two countries have exchanged 8,000 Indian and American scholars, teachers, and university lecturers; and librarians have, I am happy to say, been an integral part of that process. Mid-level librarians from Indian universities have gone to the US to see how we do things, and our own librarians have come here to learn from your Indian experience.

Fruitful linkages have also developed between our two publishing industries. Leading American publishers participate in major book fairs in India, and Indian publishers participate in those held in United States. Through the Indo-American publishing program, over 12 million copies of more than 2,000 American textbooks in low-cost editions have been made available here, and if my calculation is right, that will stretch at least halfway across the United States. In the United States the works of Indian novelists, economists, and philosophers have found an expanding market. The freshness, zest, critical eye and mastery of the language of many of India's young writers have captured the imagination of enthusiastic American audiences.

Within the overall framework of our efforts to deepen mutual understanding, the Library of Congress office here is charged with a particularly inclusive and comprehensive task. For 30 years, it has been providing American scholars with not only books, but magazines, journals, newspapers, pamphlets, posters, phonograph records, film, and video and audio cassettes—whatever has captured life and history in the making of the region.

As a result, we can confidently claim that outside of India, the world's largest collection of materials on post-independence India is housed in the Library of Congress in Washington.

That material is utilized on a regular basis by Members of Congress and their research staffs, seeking to understand better the dynamics and direction of Indian affairs. We know from first-hand reports that the Library's collection—along with the collections held by more than 30 other major libraries receiving materials from New Delhi—also is a source of service, pleasure and inspiration to the tens of thousands of Indian students pursuing higher education in the US, and to the 950,000-strong community of Americans of Indian origin. Moreover, it is no coincidence that the great centers of Indian Studies in the United States are located precisely at those universities which enjoy the fruits of the Library of Congress's endeavors here in New Delhi.

This has not been an effortless process. It has been achieved over the years by a series of dedicated Field Directors and their staff and with the cooperation of the Government of India, the participation of scholars throughout the area, the work of the Library's South Asian regional and country representatives, and the labors of the extensive network of dealers and suppliers.

Therefore, Dr. Billington, we honor you for the original thinking and interpretive genius you have shown in your scholarly works and we congratulate you for the confident steps that you have taken to bring your great library into the 21st century, making its immense resources more widely available through modern technology. As part of this program, we know of your intense personal support for the overseas offices and that support has been vital to their success. In India, you cannot count on all of us as the friends of the Library of Congress and its work here.

And to all the Field Directors of the Library of Congress in New Delhi who have

come and gone, the seven whom Lygia mentioned, to Lygia herself and to Alice Kniskern, both of them are, of course, with us today: You can take pride in your accomplishments and those of your dedicated and exceptional staff on the occasion of this thirtieth year of the Library of Congress operation in India. Scholars and laymen around the world are—and will forever be—in your debt.

Congratulations and all good wishes.

And thank you all very much.

JAMES H. BILLINGTON, LIBRARIAN OF CONGRESS, ADDRESS ON THE 30TH ANNIVERSARY OF THE LIBRARY OF CONGRESS, NEW DELHI, SEPTEMBER 3, 1992

Thank you very much, Mr. Minister, Mr. Ambassador, Dean Lynch, Ms. Ballantyne, distinguished guests. I feel a bit anticlimactic. But it is a great privilege and pleasure for me. I think I may be the first Librarian of Congress whose academic specialty was a study of foreign cultures and so perhaps, even though I deserve no credit, I have a special feeling for these 30 years of accomplishments which are the work of this wonderful staff here, the field directors, my predecessors, and my colleagues, many of whom are here. You do the real work. I just appear at the photo opportunities, but I do feel a very great sense of gratitude and excitement at having the chance to come and see this really model field office and model international exchange program in operation.

For the past thirty years, six of our overseas offices, of which this one is the oldest and the largest, have been carrying out what I think is one of the most successful and far-reaching national library programs ever undertaken. But remarkably, this program has remained largely unknown and unsung in library circles. That's why Dean Lynch's eloquent speech and this lovely plaque are so particularly welcome. And during this week when librarians from across the world are meeting in New Delhi for the conference of the International Federation of Library Associations and Institutions, it is a good time to talk a little bit about our overseas program and to reflect on the future of the Library's overseas activities in the information age.

Conceptually, our overseas program is grounded on two of the most cherished principles of the library profession. First, that knowledge must be universally accessible to generate new knowledge: that is, if the knowledge of the past is not available, we can't really invent anything new in the future; and second, that wisdom and libraries are ideally suited to act as a special kind of catalyst in the creative process.

Libraries are, in a sense, temples of democracy. Just as democracy was inconceivable without the culture of the book, so libraries are temples of the pluralism that exists within a democracy because each book is there next to another book that may contradict the one previous to it and all are open to the public. The library is a kind of temple of democracy. One of my predecessors, Archibald MacLeish, called librarians the sentinels of freedom because what they protect is the common patrimony of humanity and is the basis for the kind of dynamic creative process without which democracy stagnates into some form of authoritarian backwater.

Now, these principles have strong roots in America, I think, guiding the actions of the founding fathers of our country who knew that, in order to establish a new nation, access to the best that had already been thought and written was essential to them

and to the future leaders of their type of republic. Where did they go? To the library. It is quite fascinating that the first meeting of the Continental Congress in 1774 occurred in the Library Company of Philadelphia. The first meeting of our national congress in New York, after we adopted the national constitution, was also in a library in New York. When we built a new capital in Washington some years later in 1800, through legislation signed by our second president John Adams, the library for the U.S. Congress was formally established. And to me it is exciting as I look out at the Capitol dome from my office in the Library of Congress to think that for the first century of our existence, the Library of Congress was in the nation's Capitol building itself. In other words, our laws were generated for the first century in a building which was itself also a library. Because it was only in 1897 that the Jefferson Building, the first separate building of the Library of Congress, was dedicated.

And Congress' purchase of Thomas Jefferson's excellent library of 6,487 volumes in 1814 made the Library of Congress the best in the new nation. The purchase also established the universal nature of the Library's collection as well as the idea, clearly enunciated by Jefferson himself, that an informed Congress and an informed citizenry were the best guarantors of a free society. His collection included classics from the ancient world, works by European philosophers and scientists, as well as one of the last translations of Kalidasa's *Sakuntala* by a pioneering European Indologist, Sir William Jones.

A further step towards the internationalization of the Library's collection was taken in 1840 when Congress passed a law establishing a systematic and regular exchange of official documents and set the precedent for a program that today enables the Library to receive over 500,000 items annually from 15,000 foreign exchange partners. Judy McDermott, our new head of these overseas offices, is supervising that remarkable exchange program that we have with so many foreign partners.

Yet another widening of the Library's scope and mission was brought about by an agreement with the Smithsonian Institution in 1865, which enabled us to acquire on a regular basis the scientific books, journals, and transactions of foreign and domestic learned societies. At the same time, we were able to serve not only the Congress and federal agencies but, increasingly, the general public, taking on a new mission as the national library of the United States, particularly with the passing of the Copyright Act and the locating of copyright deposits in the Library of Congress. Now, the period that brought into being this field office in New Delhi really began a new stage in the Library of Congress's relationship and in America's relationships to the world.

The mid-1950's, in particular, saw the beginning of what has been the largest expansion of higher education in the history of the United States. It was accompanied by a similar expansion in library services and by a concerted effort to build up both foreign scholarly resources in American libraries and the materials necessary to develop language and area expertise in order to create communication between the United States and other countries. Previous speakers have been kind enough to mention me and my predecessor, Daniel Boorstin, so let me go back to Daniel Boorstin's predecessor, L. Quincy Mumford, who redefined the Library's mandate at that time as the need to, and I quote, "acquire all library materials of

value to scholarship that are currently published throughout the world."

The overseas offices of the Library of Congress came into being during that golden age of the library's acquisitions. They were made possible by legislation sponsored by Representative John Dingell of Michigan. His bill authorized the Library of Congress to use foreign currencies generated by the overseas sale of American agricultural commodities for the acquisition and cataloging of books, periodicals and other materials for the Library of Congress and for other American research libraries, as you have already heard. It was a visionary piece of legislation whose full impact no one could have possibly predicted at the time.

As Representative Dingell hoped, the program made possible an unparalleled "commerce of ideas" between the United States an unparalleled "commerce of ideas" between the United States and the nations of the world. As you may know, we now have field offices in New Delhi, Karachi, Jakarta, Cairo, Nairobi and Rio de Janeiro, as well as a smaller office in Moscow, whose distinguished representative Michael Levner is with us here today. To scholars and academics of the United States as well as to general readers, the New Delhi program has meant exposure to the richness of India's and South Asia's linguistic diversity and cultural heritage.

Incidentally, I think it is very appropriate that an institution so central to democracy, our largest, oldest, and, in many ways—certainly in terms of this remarkable staff—especially dedicated office should be located in the world's largest democracy. In any event, it has made possible American exposure to the linguistic diversity and the cultural heritage of South Asia, which I must say, as a cultural historian myself, I find a particularly rich and deep and rewarding mine of the world's memory. And this has fostered an enormous expansion of South Asian studies in North America during the last thirty years, an impressive body of American scholarship on this region, and a growing band of scholars conversant in the languages of the subcontinent. Similar benefits have accrued from operations of the Library's other overseas offices. So, it is a unique success story. As a useful by-product of our overseas acquisitions and cataloging activities, each office, as has been pointed out, prepares acquisitions lists which are distributed to libraries worldwide. Here in India, our dealers tell us that many libraries outside America use these lists, as Dean Lynch has already indicated, to place orders for the books selected by the New Delhi office. They know that the office has cast its net wide and tried to acquire the best of the formidable intellectual production of the area. At the same time, by providing a constant market for literary and scholarly works in all languages, the Library of Congress acquisitions program has encouraged publishing in Indian in certain areas and in regional languages.

Like the Library of Congress itself, the Delhi office is deeply involved not just in acquisitions but in preservation. Through microfilm and microfiche projects undertaken by the New Delhi office, large numbers of important books, documents, and other printed materials have been given permanence and made more widely accessible. We are especially pleased at our recent new collaboration with major Indian libraries to microfilm and create automated records for the 60,000 early 20th century books listed in the *National Bibliography of Indian Literature*. This project will preserve for current and fu-

ture scholars the literary production of the most important period in the recent history of the subcontinent. To our knowledge, this is the largest single preservation project ever attempted. As a collaboration between American and Indian libraries, between public institutions and the private sector, and funded under the United States—India Fund, this project may set the pace for other collaborative projects between the Library of Congress and the area's institutions, something that we have been exploring in a number of conversations here this week.

Already we are talking of undertaking a joint project to collect scientific "gray" literature published by India's premier research institutes and to make it available more broadly to the world's scientific community. This project would team Indian and American experts to establish the methodology for a combined acquisition, preservation, and dissemination project which might be applied elsewhere to control an elusive segment of the scientific bibliography. I mention this project since it complements a recent initiative that the Library of Congress is attempting to launch in this field. Our special project on science and technology is aimed at creating an automated referral service that will be usable by scholars on a worldwide basis, not duplicating other efforts but rather providing a kind of central information switchboard to many databases and sources that already exist, a kind of union catalog, if you like, of scientific and technical information.

Now in the more traditional field of historical bibliography, the Library of Congress and the Sahtiya Akademi have been discussing a pilot project to create an automated short-title catalog for the books published in the 19th century in South Asia and listed in the provincial gazettes. This reference tool would fill in a gap in the control of the area's bibliographic production and would greatly benefit Indological studies wherever they may take place.

After many years of looking for ways to make our bibliographic products and library tools more accessible to libraries everywhere, we are able this year, for the first time, to offer them through our overseas offices to interested libraries in exchange for local currencies. We hope this measure will be of service to other libraries who wish to use our automated database in the retrospective conversion of their library catalogs. As our catalogs become automated and as our offices themselves automate their own acquisition and cataloging operations, we hope to be able to share information at will.

Important Indian institutions such as the Indra Gandhi National Centre for the Arts, which I had the pleasure of visiting just yesterday, and Indian research and academic libraries have expressed an interest in two recent initiatives of the Library of Congress: first, the American Memory Pilot Project, which uses CD-ROM and video disks to make available to schools and libraries across America the rich variety of primary source materials from the Library's American collections, currently being tested at 44 locations around the country; and second, our National Demonstration Laboratory for Interactive Information Technology whose machines represent some of the most powerful current technology in information storage, transmission, and presentation. This is located in the atrium of the Madison Building at the Library.

These two projects, I think, demonstrate the productive partnerships that will be possible between government and private indus-

try, particularly if we are able to secure passage of the current fee-for-service legislation now before the Congress which is absolutely crucial if we are going to extend the services of the Library of Congress and create new opportunities. Already, representatives from the companies that provide operational support for the National Demonstration Laboratory, discuss with us issues of significance in information technology, among them intellectual property rights, the development of hardware and software standards, international information flow, and technology equity. Their advice will help the Library as we develop a practical long-term strategy to provide leadership in supplying the information needs of the American people and our international neighbors for the 21st century.

It isn't enough simply to accumulate all this material—we are nearing our 100 millionth item at the Library of Congress—if it is not dramatically brought forward and made able to provide more services to more people which is the main challenge that the Library of Congress faces, and I think, perhaps libraries in general face.

The Library has long operated on the assumption that the ready availability of books from all over the world is the mark of a civilized society. And increasingly, in an interrelated age, the library is going to be a fresh source of creativity across cultural and intellectual specialties bringing new kinds of synthetic thinking, new kinds of connections that need to be made between often confusing specialized sources. Librarians are increasingly becoming knowledge navigators as well as the preservers of this vast heritage. Our overseas offices, by bringing to American libraries the best of the intellectual production of the 60 countries that they cover, representing 2.5 billion people, are, we think, a civilizing force in our increasingly interdependent world.

The New Delhi office, whose dedicated Indian staff really has inspired us all, especially those of us from the Library of Congress who have been privileged to visit it this year, has witnessed thirty years in the life of this great Indian democracy and has enabled many of us in America to have the opportunity to read and study this remarkable record and the long history and culture that lies behind it. During this 30-year period, as we carried out our Congressional mandate to facilitate a commerce of ideas between our two countries, we have worked together with Indian institutions on many worthwhile projects. These have included library policy planning conferences, technical workshops, research on paper preservation, development of transliteration schemes for Indic languages, library-to-library exchanges of publications, training of personnel both in India and in the United States, and the financing of visitor exchanges between the two countries.

Our new projects under consideration convince me that the next thirty years will present increased opportunities for extending our collaboration. On this auspicious occasion of the centenary of the great Ranganathan, I invite you to join us in the search for ways to assure that the riches accumulated in our countries' libraries and archives are made ever more available to the community of learners around the world and are preserved for future generations.

We must thank once again (we cannot do it too many times) the skilled and professional staff, the dedication, the long years of service of our Overseas Offices. Here in India, we also thank the dynamic Indian publishers collectively responsible for one of the largest

and most diverse publishing industries in the world and the knowledgeable book dealers who have supplied us. We are indebted to our colleagues from the Embassy and the USIS here in Delhi who have assisted the only overseas program of the Legislative Branch of the United States Government most dramatically exemplified in the hospitality we are enjoying today.

And, above all, we thank, as we always do in the library business, the writers, the poets, the artists, the scholars, the scientists whose works provide the very substance of what we are privileged to preserve and pass on to the next generations which will produce their own writers, poets, artists, scholars, and scientists, whose vision will be enlarged by the broadened international perspective that this program has made possible. All of us have benefitted from this cooperative effort and look forward to seeing even greater accomplishments in the years to come.

And we had a very interesting discussion with you, Mr. Minister, this morning about the interest that is being taken in so many countries, certainly in our own, in the older cultures, the oral cultures, many which previously seemed to be peripheral in many respects. They are being brought into the broader national patrimony in both our countries and, when I think of libraries and when I think of what they represent in the world, I am reminded of a very fascinating remark that I picked up when I went into the interior of our own country, out in the Great Plains, to give a talk about libraries and I had used the term "gatekeepers to knowledge." A man rose at the back of the auditorium and said, "you know, librarians are not gatekeepers." This was a native American from one of the Indian reservations. He said "in the Indian community before we had books and written records, we referred to the special people in the community who gathered in the oral memory of the community and then related it and passed it on from one generation to another as the "dreamkeepers." And that is what I think the librarians of today must be, not merely the gatekeepers but the dreamkeepers. So I thank all of you here in India who have helped us make this dream of closer international cooperation possible. May we not only keep open the gates in the next 30 years but keep the dreams as well.

Thank you all.

Our official speaker this afternoon is the Honorable Minister for Human Resource Development, Shri Arjun Singh.

For over 30 years Minister Singh has served at the Cabinet level in state and national governments, as Governor, as the Chief Minister, and as Vice President of the Congress Party. His titles include Minister of Agriculture and Minister for Education of the state of Madhya Pradesh, Governor of the Punjab, Minister of Communication under Prime Minister Rajiv Gandhi, Chief Minister of Madhya Pradesh, and since 1991 again as a Cabinet Minister in his present capacity. It is a great honor for the Library of Congress to present to you the Honorable Minister Arjun Singh.

SHRI ARJUN SINGH, MINISTER FOR HUMAN RESOURCE DEVELOPMENT, ADDRESS ON THE 30TH ANNIVERSARY OF THE LIBRARY OF CONGRESS OFFICE, NEW DELHI, SEPTEMBER 3, 1992

His Excellency Ambassador Pickering, Mrs. Pickering, Dr. Billington, Madam Lynch, Madam Ballantyne, respected ladies and gentlemen. I thank you very much for inviting me to this function this afternoon

on the occasion of the completion of 30 years of the Library of Congress Office in New Delhi, and giving me this opportunity to say a few words.

The good work being done by this office, especially in the acquisition of books from all SAARC countries and also from Afghanistan, is universally acknowledged. I note with pleasure that its book exchange activities with the National Library, Calcutta and the Central Secretariat Library, New Delhi as also with other institutions in India, are going on for quite some time and on a very high level.

The Library of Congress is not only a great institution of the United States. It is a great institution of the world. It goes without saying that many countries in the world look to this library as a model. I am particularly happy to know that recently the Library has opened reading rooms for all the major cultures of the world creating, in the words of Mr. James H. Billington, "a living, universal museum of the written word—the closet thing anywhere to the world's memory." This indeed is a monumental task and I wish this endeavor every success. In a country like ours with a vast multicultural past the problem of storing the great Indian memory, as it were, is truly of epic dimension and I do hope that we can learn a lot from the experience of the Library of Congress.

Information and knowledge are in many ways central to the democratic ethos. No democratic polity can survive without the right to information and knowledge being guaranteed to all its citizens. But the contemporary explosion of information and knowledge tends to create elitist tyrannies within the system itself. It becomes crucial therefore "to transform information into knowledge and knowledge into wisdom." Libraries, and certainly a great library like the Library of Congress, democratize knowledge and wisdom making them accessible to all. We should look at the libraries not only as repositories but also as democratizing institutions.

The United States of America and India are two large democracies and we share a lot, many concerns, including those of the freedom, liberty and dignity of man. Whereas we have an historical experience of thousands of years, of many religions, climes, languages and traditions, the new America offers great innovative genius and dynamism. India and the USA have had a long and enduring friendship and collaboration in many fields including those related to knowledge and information. Leaders of all shades of opinion and in all walks of life in this country have been deeply impressed with the openness of the American Society which has over two centuries welcomed ideas, styles, persons from any part of the world. I feel the great success story of the USA is substantially due to its enriching multiculturalism which has always found a vibrant and responsive space in the American society.

Sometimes, one hears the prophecies of doom claiming that books are on their way out, and that both information and knowledge would soon replace them as their vehicles by some other media. Optimistic as I am about still greater leaps forward in technological advance and innovation, I hope that books shall remain with us as trustworthy friends and guides to whom we can always turn for enjoyment as well as enlightenment, and, of course, knowledge. The book, I would like to believe, is a lasting invention of man which shall not fade into history nor grow obsolescent but will remain with us till eter-

nity. Somehow our humanity can never be full or deeply rich without books.

Americans and Indians have always been interested in each other, not only at the level of great leaders, writers, scientists, intellectuals, etc. but also at the level of ordinary citizens. Books have been an important instrument of this familiarity which has matured into mutual respect and regard. The Library of Congress itself has one of the largest collection of books on and about India. It is often said that if a book is not available in India, at least a copy is to be found in the Library of Congress. This is not an ordinary achievement and I would like to express my great admiration as well as gratitude for the fine work the Library has been doing in respect to India.

I would like to mention that although India and the USA do not have any formal Cultural Exchange Program, we do have an Indo-US Sub-Commission on Education and Culture which provides sufficient coverage for mutually needed programs on different areas of culture. Cooperation of Indian and American institutions in bringing together all museum materials on India available in the USA, mutual development of science museums, mutual cooperation in the field of archives, holding of workshops on natural history, conservation, exchange of teachers, students, books, audio-visual material, museum personnel, directors, playwrights, etc., are some of the aspects of the growing cooperation between our two countries. The major focus in the next two years is on an exciting new program called Information 2000+. We have a great sense of satisfaction at the warmth and understanding that the Indo-US Sub-Commission programmes have generated in both the countries. Knowledge and information are boundless and more so in our times. Sharing of them is both a human necessity and an historical duty. I have no doubt that in this area, as indeed in many other areas, the USA and India are coming closer to each other and will do so in the coming years. The Library of Congress has been a significant factor in bringing about this closeness and I am sure it will continue to play that historical role with greater enthusiasm and dynamism.

Thank you.

REMARKS ON THE OCCASION OF THE 30TH ANNIVERSARY OF THE LIBRARY OF CONGRESS NEW DELHI FIELD OFFICE BY BEVERLY P. LYNCH, UCLA, SEPTEMBER 3, 1992

Honorable Minister, Shri Arjun Singh, Ambassador Pickering, Dr. Billington, Ladies and Gentlemen, it is a very great pleasure for me to be here this afternoon, representing the Committee on South Asia Libraries and Documentation (CONSALD) and my own university, The University of California, to mark the occasion of the 30th anniversary of the Library of Congress' Field Office in New Delhi. This anniversary is an important milestone in the history of the Library of Congress' Cooperative Acquisitions Program. The Committee acknowledges, with gratitude, the contributions of this office and the very able staff who have implemented the program consistently and so well for these thirty years.

The Committee is a part of the Association of Asian Studies and, as such, serves as one of the important bridges between university libraries committed to supporting instruction and research on this country and all of its elements and the students and faculty members who study, teach and do research about South Asia.

The program in India, carried out so ably by the field office in New Delhi, serves as a

model for the other offices supported by the Library of Congress. All of the members of CONSALD acknowledge the essential contributions made by the office and its staff to the scholarship of Indian studies.

The collections assembled through this program are extraordinarily rich. There is great depth for South Asia as a whole, and particularly for India. Scholars tell us that the collections relating to India now held in research libraries in the U.S. are better than what they can find anywhere else in the world. That is a remarkable achievement and is due directly to the program. We particularly note with that the strong support of the Librarian of Congress and his predecessors. We also acknowledge the support of the U.S. Congress; without the agreement of the Congress to spend the monies here the program could not be sustained. The vision that created this program and the leadership that has sustained it have ensured the systematic and careful selection, acquisition, cataloging and use of materials on all aspects of India.

The material acquired by libraries in the U.S., as a result of this program, has enhanced teaching and research in academic disciplines as diverse as history, political science, economics, anthropology, language and literature, religion and philosophy, music.

A few years ago an Indian scholar was arriving in the U.S. to spend a year as a visiting professor of history at Yale. He sent ahead to the library a list of materials he wanted to have available for his students. To my delight—it was my responsibility at Yale at the time—and to his delight, ALL of the items he identified were in the library's collections, fully cataloged, and available. There was nothing on his list that Yale did not already have. That was due directly to this program.

A Professor of Modern Indian Literature at the University of Pennsylvania wrote: "... one of the reasons which made me accept an offer to teach at an American University was the rich collection of South Asian books in the Van Pelt Library. I had not seen something comparable in European libraries nor so well arranged and easily accessible as the PL 480 material in Van Pelt."

The stream of materials sent from the New Delhi office to U.S. libraries have made the U.S. collections the most important repositories in the world for the study of India. The presence of a highly trained staff, on-site in this office in New Delhi, means that the latest current materials are being acquired as they are produced. Bibliographers in the U.S., confident that the current publishing output of the country and the region is being collected and will be coming to their libraries, are able to spend the time developing their collections, seeking out older materials, fugitive materials, materials that are the stuff of scholarship but require careful attention and time to find and then acquire.

Equally important to our libraries and our users is the bibliographic data prepared in the field office. The fine cataloging work done here enables our libraries to get the books on the shelf and into the hands of readers quickly.

The staff in the New Delhi office have been very responsive to the comments from curators and scholars in the U.S. Many tell of "... the enthusiastic encouragement given by successive field directors and their staffs for visiting scholars to contribute suggestions for new materials and media and to share insights into the shape of scholarship."

The interactions between the people in Delhi, the staff in Washington, and the li-

braries which are the repositories for the materials are cordial; the high level of professionalism has made this field office a model.

There are other important benefits which have emerged from this program, but are not so obvious. For example, the distribution of publications from the subcontinent both in English and in the regional languages has benefited greatly from the field office's monthly Accessions List. The list is distributed to over 1000 libraries worldwide. Many of these libraries rely upon this list, using it as an acquisitions tool from which they order copies of the titles from book dealers in India and abroad.

On behalf of the Committee on South Asian Libraries and Documentation and the institutions it represents, I am pleased to present to the library this plaque which lists the Institutions that are members of the committee and reads:

SEPTEMBER 1992

With appreciation for 30 years of outstanding service and program support by the staff of the New Delhi Field Office.

Congratulations on thirty fine years. May there be many more. And thank you.

#### SENATOR ALAN CRANSTON

Mr. EXON. Mr. President, I want to take this opportunity to bid a fond farewell to my long-time friend, Senator ALAN CRANSTON.

It has been my pleasure to serve for 14 years with ALAN CRANSTON, the entire stretch of time during which I have had the privilege of being a U.S. Senator.

For much of that time, ALAN CRANSTON was the senate whip, and, therefore, in one of the highest positions of leadership in the United States Senate. The whip's job is one of the most thankless, and yet one of the most important, jobs in the Senate. It entails long hours and extensive work. During the many years ALAN CRANSTON served in this position, he not only carried out the whip's job in an extraordinary fashion, he also fully and admirably carried out his duties as one of the U.S. Senators from this Nation's largest State. To accomplish this double duty requires an extraordinary individual and ALAN CRANSTON certainly measures up to that description.

ALAN CRANSTON has always been a rugged individualist, yet has strived hard for many years to do what he believes is best for the United States of America. Not too long ago, ALAN carried out an exemplary race for President of the United States. While many senators may ponder such a step, carrying it out and enduring the rigors of a presidential campaign is no small task.

ALAN CRANSTON will go down in history as one of the most able and influential U.S. Senators of all time. This institution will miss his legislative ability, leadership and drive when we reconvene next January and I will miss a close friend and associate.

## HONORING PINK VAN GORDEN

Mr. KASTEN. Mr. President, I rise today to honor truly distinguished public servant. The Honorable Pink Van Gorden has been an outstanding member of the Wisconsin State Assembly for the last decade—and he is now retiring to private life.

Pink Van Gorden has provided a great deal of excellent service to his constituents in the Neillsville area. He entered politics because he cared about his friends in the community—and they are unanimous in believing, along with me, that he has made a big difference for the better in the life of central Wisconsin.

I ask my Senate colleagues to join me in thanking Pink Van Gorden for his long career of service—and in wishing him a happy retirement.

## PERU'S NEW FUTURE

Mr. PRESSLER. Mr. President, recently I had the privilege of hosting a lunch for Carlos Bolona, Minister of Finance and Economy of Peru. Mr. Bolona, who was educated in this country and at Oxford, in addition to Peru, became Minister of Economy and Finance in President Alberto Fujimori's government in February 1991.

I was pleased that several of our colleagues also were able to attend or stop by the lunch, including Senators DURENBERGER, COATS, BENTSEN, RUDMAN, BURNS, LOTT, and SIMPSON. All of us were curious to learn more about the future of Peru in light of the recent capture of Shining Path leader Abimael Guzman on September 12. The Marxist Communist guerrilla group was founded by Guzman, a former philosophy professor. Shining Path has conducted a 12-year war in Peru during which time some 23,000 people have been killed. Indeed, Minister Bolona's own home and his ministry building have each come under attack twice during his tenure in office.

Minister Bolona explained that the people of Peru understand the war is not yet over. Shining Path retaliation for the arrest of Guzman and other leaders of the group has caused even more deaths and injury. However, the capture is viewed as a government victory in a significant battle in the war to restore peace to Peru. Minister Bolona admitted concern over the ability of Peru to keep Guzman imprisoned before and during his trial, which likely will be held next month. In addition, Peru likely will be faced with the extremely difficult task of keeping Guzman in prison for the rest of his life. Peru's constitution does not allow for the death penalty.

During the lunch, we also had the opportunity to discuss the current state of Peru's economy. President Fujimori, a long-shot candidate, entered the 1990 presidential race late and, in fact, placed more hope on his concurrent run

for the Senate. However, once elected, President Fujimori moved quickly to develop a formula for combating the drug trade, improve results in the war against insurgents, root out corruption by government officials and improve the economy.

With the help of Minister Bolona, the government has reined in inflation from estimates in the thousands of percentage points per year to less than 150 percent in 1991. Significant progress also has been made to begin repaying Peru's arrearages on intergovernmental debt. In addition, relative to prior administrations, the Fujimori government has shown a willingness to cooperate that has encouraged United States policymakers and has expanded the range of issues on which the two countries are working together.

Mr. President, the United States must now take the opportunity to further assist Peru and develop closer ties. Both countries could benefit greatly from mutual cooperation. Peru purchases a significant amount of United States agricultural products and there are tremendous opportunities to increase our exports to Peru. The United States exported 160 million dollars' worth of agricultural products to Peru in 1990. Major exports included unmilled wheat, rice, coarse grains, vegetables, and vegetable oils. Meat and poultry products are making significant inroads into the Peruvian market. Furthering United States agricultural exports helps feed the people of Peru and supports jobs here in the United States.

On a large scale, the United States should continue to promote agricultural diversification in Peru itself. This needs to be an international effort and one that could lead to progress in our fight to combat illegal drugs. Mr. Bolona pointed out that nearly 200,000 farmers grow coca that is used to make cocaine. Unfortunately, simple economics dictate that the most profitable crop for these farmers is the coca plant. Peru is the world's largest coca leaf producer with about 300,000 acres under cultivation for this purpose. This is the source for most of the world's coca paste and cocaine base. Approximately 85 percent of Peru's cultivation is for illicit production. Most of this production winds up in the hands of Colombian drug dealers for processing into cocaine for the international drug market.

Investments need to be made in programs and delivery systems to enable Peruvian farmers to produce traditional crops and make a fair profit. Without such assistance, the source of great tragedy not only in the United States, but the world as well, will continue to grow unchecked. Mr. Bolona estimated that Peru would need \$200 million annually for 3 to 4 years to help farmers make the switch to traditional crops.

On the trade front, Mr. Bolona indicated Peru's desire to consider a free-trade agreement with the United States. We talked about the current NAFTA discussions and future discussions on a free-trade agreement between the United States and Chile. I look forward to further talks with Mr. Bolona on the possibility of the United States entering into a free-trade agreement with Peru. Expanded trade between Peru and the United States would greatly benefit both countries.

Mr. President, as the Fujimori administration continues its work on the economic and agricultural fronts, it also is striving to reshape the Government itself. In November, elections will be held for an entirely new congress. That assembly will be charged with the responsibility of drafting a new constitution for Peru. Unfortunately, elections always have been a target of the Shining Path, and with their leader imprisoned that pattern is likely to continue. It is my hope that the elections will go ahead as scheduled, a new constitution will be written, the reforms begun by President Fujimori, with the help of effective young leaders such as Minister of Economy and Finance Carlos Bolona, will succeed and Peru can continue on the road to a new and better future.

## SENATOR JAKE GARN

Mr. EXON. Mr. President, I rise to salute my departing colleague from Utah, Senator JAKE GARN.

From Navy pilot to U.S. Senator to Astronaut, JAKE GARN is truly an extraordinary individual. On top of that, he has been a devoted U.S. Senator who has always been a straight-shooter. JAKE GARN has always been tough, yet fair. Even though we happen to sit on different sides of the aisle here in the U.S. Senate, over the years I have developed a deep and lasting respect for JAKE GARN. It takes Senators who are willing to work hard and accept their individual responsibilities as committee members to make this place work. JAKE GARN has always been, and remains, a man of action who has helped to make the U.S. Senate work.

JAKE GARN is a man of the West, who has brought a unique and much-needed perspective to the United States Senate.

For many years, JAKE GARN has been a dedicated public servant, both in the defense of his country and here in the U.S. Senate, as we try to move our country forward into the 21st century.

I salute JAKE GARN and Pat and I want to wish him and Kathleen the best of everything in all of their future endeavors.

## SENATE OBSERVER GROUP FOR THE GATT NEGOTIATIONS

Mr. PRESSLER. Mr. President, once again we are approaching year's end,

and the current Uruguay round negotiations on a new General Agreement on Tariffs and Trade [GATT] are reaching a critical stage. At this point in 1991 and 1990, there were great expectations for a breakthrough on agriculture that would lead to a successful conclusion of the Uruguay round. Yet no agreement was reached and the talks continue.

Mr. President, a new GATT agreement that ensures freer and fairer trade could bring tremendous benefits to American agriculture by opening more world markets to U.S. farmers and ranchers. Achieving a sound agricultural sector agreement would open the door to concluding negotiations in other key sectors like telecommunications, banking, insurance, intellectual property rights, and Government procurement markets.

Should an agreement on agriculture be reached, then negotiations among all 108 GATT signatory countries would commence to conclude the Uruguay round. Estimates of the worldwide economic benefits from a Uruguay round trade agreement have ranged from \$200 billion to \$1 trillion.

Selecting a bipartisan Senate observer group to attend the GATT negotiations would send a meaningful message to the other GATT countries that the United States is intent on achieving fair revision of the GATT. A Senate observer group could be a valuable asset to our U.S. negotiators, as we have seen from the past in sending observer groups to negotiations involving arms control.

Mr. President, I recently asked Majority Leader MITCHELL and Minority Leader DOLE to establish a United States Senate observer group to the Uruguay Round GATT negotiations. I hope that such a group can be formed and I ask unanimous consent that my letters to the Senate leadership be printed in the RECORD at this point.

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

U.S. SENATE,  
Washington, DC, September 30, 1992.

Hon. ROBERT DOLE,  
Minority Leader, U.S. Senate,  
Washington, DC.

DEAR BOB: I am writing to you and Majority Leader George Mitchell asking that an Observer Group of U.S. Senators be appointed for the ongoing negotiations to reach a new General Agreement on Tariffs and Trade (GATT). Observer Groups, such as the one for arms control, have been appointed in the past and have proven to be very useful.

The appointment of an official group of U.S. Senate observers would demonstrate the determination of the United States to successfully conclude the negotiations. Since the Uruguay Round began in 1986, several members of the Senate have observed the negotiations, though not in any formal position. First hand observation by the U.S. Senate would prove helpful when this body considers implementing legislation for a revised GATT.

Current negotiations are at a critical juncture. A meeting between Ambassador Hills and chief negotiators of the European Community is scheduled for October. The key to successfully concluding the Uruguay round is an agricultural sector agreement and that will be the main topic of the upcoming meeting. Once an agreement is reached on agriculture, then a period of negotiations among all 108 GATT members would commence. Though it is impossible to accurately predict and length of time required for these negotiations, it should take several months at the least.

A bipartisan Senate observer group would send a meaningful message to the other GATT countries that the United States is intent on achieving fair revisions of the GATT. A Senate Observer Group could prove to be a valuable asset to our U.S. negotiators.

I look forward to your response.

Sincerely,

LARRY PRESSLER,  
U.S. Senator.

U.S. SENATE,  
Washington, DC, September 30, 1992.

Hon. GEORGE MITCHELL,  
Majority Leader, U.S. Senate,  
Washington, DC.

DEAR GEORGE: I am writing to you and Minority Leader Robert Dole asking that an Observer Group of U.S. Senators be appointed for the ongoing negotiations to reach a new General Agreement on Tariffs and Trade (GATT). Observer Groups, such as the one for arms control, have been appointed in the past and have proven to be very useful.

The appointment of an official group of U.S. Senate observers would demonstrate the determination of the United States to successfully conclude the negotiations. Since the Uruguay Round began in 1986, several members of the Senate have observed the negotiations, though not in any formal position. First hand observation by the U.S. Senate would prove helpful when this body considers implementing legislation for a revised GATT.

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I look forward to your response.

Sincerely,

LARRY PRESSLER,  
U.S. Senator.

#### SENATOR ALAN DIXON

Mr. EXON. Mr. President, when we reconvene next January, a bright and shining face will unfortunately be missing from our ranks. Lest there be any doubt about the individual to whom I am referring, I want to pay my tribute to Senator ALAN DIXON.

ALAN DIXON came to the U.S. Senate 2 years after I did and we have served together on committees in addition to being neighbors in the Senate Office Building. ALAN DIXON is perhaps Illinois' most successful political figure. His election to the U.S. Senate was a natural. If I was ever in a legislative fight, I certainly wanted ALAN DIXON on my side. And, if during those rare occasions when we might have differed on a legislative matter, knowing that ALAN DIXON was on the other side would make me redouble my efforts because of his enthusiasm and ability.

Most of all, ALAN DIXON has been a friend to all and especially to me. There is no way yet to measure how much we all will miss that bright, shining face and pleasant demeanor. Needless to say, the Senate will not be as much fun without ALAN DIXON.

I only hope ALAN DIXON knows how much joy he has brought into our lives and that he knows how much I will always value his friendship. Pat and I want to wish him and Jody all the best for a wonderful life ahead.

#### CAN THE UNITED NATIONS BE FIXED?

Mr. PRESSLER. Mr. President, the United Nations is a broken institution. Ethical standards are not applied, evaluations are self-serving or nonexistent, and a bureaucracy run by diplomats exists mainly to perpetuate itself. As a result, the United Nations consumes ever greater proportions of U.S. taxpayer funds with little hope that quality, cost-effective services will result.

These and other disturbing messages were contained in a series of articles in the Washington Post from September 20-23, 1992. The principal author, William Branigan, is to be commended for excellent investigative reporting that uncovered an unmistakable trail of waste, fraud, privilege, favoritism, and abuse. According to U.N. insiders, the most damning criticism of Mr. Branigan's series is that some problems he cited have been known about for a long time. These experts claim that contemporary examples of a United Nations gone awry reach or exceed many cited in the Post series.

Mr. President, before going any further, I want to state my support for the concept and necessity of the United Nations. This year I am serving for a second time as a U.S. congressional delegate to the General Assembly. I am a long-time member of the Minnehaha County United Nations Association. I am absolutely convinced the world needs effective multilateral bodies to help resolve disputes.

But support for the United Nations as a noble ideal does not mean I support inefficiency, favoritism, greed, and corruption in U.N. agencies or by some U.N. employees. As a Senator, I am grappling with what—if anything—

Congress or the administration can do to hold down U.N. costs, fire or discipline the crooks, create and maintain a meaningful evaluation system, and end the cozy, preferential personnel system that feathers the nests of career diplomats who built it.

There are no easy answers. Raising questions sparks criticism that any United Nations, at any cost and regardless of how it is run, is better than no United Nations. Many U.N. cheerleaders and employees believe there should be a moratorium on criticism. They are wrong. I simply am not convinced—in a time of huge Federal deficits—that the United States can support funding any organization that spends money recklessly. If Congress has not gotten that message on the United Nations yet, it soon will.

It is not helpful to drag the red herding of U.S. funding delays across the trail of excess, inefficiency, and corruption. These problems do not exist because the organization lacks funds. In keeping with vital U.S. priorities, Congress has authorized full payment of funds withheld from the United Nations during the 1980's for nonperformance and anti-Americanism. Congress has been extremely generous in appropriating new funds for the United Nations and for peacekeeping outside the normal budget cycle. It is self-defeating for U.N. employees and some of its friends to tar the United States as an international deadbeat. If nothing else, such abusive language poisons the well in Congress for those of us who recently have fought for full funding.

Sadly, Congress, and perhaps even the administration, seem to have little idea what the U.N. problems are or how to address them. That's a good point at which to begin. American policymakers need a common base of information that can be used to assess the state of the United Nations. This is the jumping off point for negotiations about the United Nation's future.

One meritorious idea has been proposed since the Carter administration, and has been summarized by Assistant Secretary of State John Bolton as a unitary United Nations. It calls for the United Nations, or other international bodies, to decide how a task can best be performed efficiently and assign that responsibility to one agency. The Washington Post articles highlighted areas of overlap and duplication in programs, causing costs for the most heavily assessed country—the United States—to go through the roof.

Although Secretary General Boutros Boutros Ghali has worked hard for top to bottom personnel and budget reform, the U.N. system probably cannot reform itself. The Secretary General's energetic desire to change things rapidly, building on the groundwork of Finland's Martti Ahtisaari, has not yet shown much promise.

Since the United Nations is principally a legislative body, it makes

sense to begin with a complete shakeup of the Advisory Committee on Administrative and Budget Questions [ACABQ], adding observers from national legislative bodies. The new ACABQ also should insist that its chairman be held to minimal standards of U.N. employees since he is obviously an employee of that institution.

A tough, independent inspector general is needed, following the model of the State Department's Sherman Funk or USIA's George Murphy. Auditors and inspectors need resources, autonomy, and direction to give them clout and to prevent their reports from being permanently consigned to the proverbial round file.

Congress has dropped the ball on international organizations. Unlike outstanding monitoring work done by the congressional members of the Commission on Security and Cooperation in Europe [CSCS], no arm of Congress has conducted more than a cursory examination of the United Nations and other regional or specialized international agencies. As a result, a handful of pro-U.N. groups and a tiny group of U.S. experts on international organizations dominate what passes for congressional oversight.

More Members of Congress need to be involved in oversight. While I certainly am not advocating an expansion of congressional committee staff, if international organizations are important—and they are—they should be treated that way by the Congress. There is considerable bipartisan need for supplemental information about international organizations that is not generated by enthusiastic, uncritical groups or international agency lobbying.

Finally, the United Nations needs a scale of member assessments that compares with real world realities. CSCE peacekeeping assessments are only 9 percent for the United States, as opposed to more than 30 percent for our share of U.N. peacekeeping. Democratic development activities undertaken by regional organizations like the Organization of American States [OAS] may be better investments and easier to oversee than parallel efforts of the United Nations. Worthy but grandiose efforts, such as United Nations peacekeeping in Cambodia, can become recipes for disaster, as William Branigan's series portrayed. Non-governmental organizations, like Medicines sans Frontiers and AMERICARES, may help more people in Somalia than any United Nations bureaucracy.

In the meantime, current U.S. policy of zero real growth for the U.N. budget and staff must be defended. A majority of Congress clearly supports the United Nations in principle and calls on the United Nations or other international bodies to intervene where they can be effective. But that support could be on

shifting sand if revelations such as those in the Post series continue to crop up and are not answered to the satisfaction of the Congress. It is simply not enough for the United Nations and its supporters to say, "trust us."

#### SENATOR WARREN RUDMAN

Mr. EXON. Mr. President, I rise to salute and pay tribute to my colleague, Senator WARREN RUDMAN.

When the Senate reconvenes in January, a very important person will be missing. While I understand the reasons why WARREN RUDMAN chose not to run for reelection, I will miss his voice of reason and understanding.

As we all know, the most important domestic problem facing the United States of America is the outrageous Federal deficit and the mushrooming national debt. No person in the U.S. Senate has worked harder than WARREN RUDMAN to correct this problem. WARREN RUDMAN has not simply talked about the need for deficit reduction and the consequences of failing to achieve it. Instead, he has done something about it and we here in the Senate and Americans all across the country are indebted to him.

I have always enjoyed my association with WARREN RUDMAN. He is dedicated, tough and fair. He has personified the tough New Englander image which Americans all across this great land recognize.

Despite the fact that WARREN RUDMAN will not be a Member of the 103d Congress, I am gratified to know that he will continue his fight for fiscal sanity and for the good of our country.

Pat and I want to wish him and Shirley all the best in the future. I want him to know that I will continue to stand ready to work with him for a better America.

#### VISIT OF PRESIDENT TER-PETROSSIAN OF ARMENIA

Mr. PRESSLER. Mr. President, recently I had the great privilege of introducing President Levon Ter-Petrossian to a large gathering of ethnic Armenians in New York City. During the event I had the pleasure of meeting Ambassador Alexander Arzumanyan of Armenia's Mission in New York, Dr. Vartan Gregorian, president of Brown University and many others who have given a great deal of themselves to the cause of establishing independence, freedom, and democracy to the former Soviet Republic of Armenia.

The history of the Armenian people contains a number of important milestones. Three events in particular mark the development of the Armenian nation and must always be remembered. First, St. Vartan led the successful campaign against the Persians in 451 A.D. The result of this effort was

the establishment of the second Christian country in the Caucasus.

The world is well aware of a second, horrible event, the effort by the Ottoman Turks to wipe Armenians from the face of the earth early in the 20th century. "Genocide" is a term that should be used with great care, but the genocide against Armenians was among the most horrible episodes in all of human history.

I became interested in this issue as a student at Oxford University in the 1960's. Since that time I have believed it is important for public officials to publicly discuss the Armenian genocide often. This cruel experience must not be forgotten. It is important not only because of a moral imperative that we honor the memory of the victims of such atrocities. It also is important because, when the world forgets such events, it allows future despots a freer hand in conducting genocide against other races—as occurred in both Germany and Cambodia. We must do everything possible to ensure that such tragedies of history are not repeated.

The third event was the reason for the celebration in New York. After decades of suffering under the cruel yoke of communism, the world rejoices that Armenia—along with 11 other former Soviet Republics—has emerged as a free and democratic country. President Levon Ter-Petrosian played a major role in this process.

A scholar of ancient Armenian history, President Ter-Petrosian became the first democratically elected president of the Republic of Armenia on October 16, 1991. This marked the culmination of several years of activities as a leading political activist in Armenia—activities that, for a time, cost him his freedom. Under his leadership, the Armenian Legislature adopted a declaration of independence on August 24, 1990 by a vote of 194-0.

President Ter-Petrosian has demonstrated a strong commitment to the ideals of democracy and free markets. He has demonstrated great courage and leadership in seeking normalized relations with all of Armenia's neighbors, without sacrificing the principle of self-determination for the people of Karabakh.

There is no doubt that the world is a safer place now that the Soviet Union has disappeared. There should be no doubt about the debt of gratitude the world owes to democratic nationalists throughout that former empire who helped make freedom possible. The collapse of the Soviet Union has produced a variety of experiments in government—all claim to be democratic. During July, I visited 10 former Soviet Republics as part of a congressional fact-finding mission. In a number of these countries, although the government calls itself a democracy, the same old Communists are in control.

For example, Uzbekistan's Government continues to beat and imprison

its political opponents and resented the fact that I met with several opposition leaders who had been brutally beaten by the regime. Yet Uzbekistan says it accepts the Helsinki human rights principles and wants United States foreign aid, despite our huge budget deficit and its behavior toward its own people.

I regret my schedule did not permit me to visit Armenia during my July trip, but I believe true democracy is being built there. I look forward to seeing Armenia for myself in the near future.

Unfortunately, Armenia's new independence is under severe challenge from the same imperialistic forces that were responsible for the 1915 genocide. Some in the press have tried to paint the problems of the former Soviet Union as ethnic in nature. But I think Ambassador Jeanne Kirkpatrick had a more accurate description of what is happening. In a recent article, she said:

Building collective security measures 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 and lawless governments.

The government of Azerbaijan is just such a violent and lawless government, and its powerful backers in neighboring Turkey would like nothing better than to assert their influence throughout the Caucasus.

As a supporter of Armenia for many years, and as a member of the Foreign Relations Committee, I support stiff conditions on United States foreign aid to the former Soviet Union. It is essential we send a clear message to Azerbaijan that United States taxpayers will not subsidize dreams of conquest.

I also have supported international observers and peacekeeping efforts in the disputed areas of the Caucasus and elsewhere in the former Soviet Union. It simply makes no sense to expect the Russian Army to be neutral and fair in territories the Soviets controlled for seven decades.

Armenia has many friends in the United States Congress—in both parties. We will not abandon that country in its time of need. I am committed both to stiff sanctions on Azerbaijan and international observer teams in the Caucasus. I also will do all I can to ensure Congress provides humanitarian relief needed to rebuild Armenia in the aftermath of the terrible earthquakes that country has suffered.

Finally, until Azerbaijan ends its blockades and use of force against Armenia and Nagorno-Karabakh; respects the human rights of Armenians, Russians, Jews, and other minorities; and commits to peaceful resolution of the Nagorno-Karabakh conflict, I will continue to support trade and economic sanctions against Azerbaijan. To this end, I am cosponsoring S. 2167, the Restrictions on Azerbaijan Act. This bill

is designed to ensure that until the issues I just mentioned are resolved, Azerbaijan will be denied most-favored-nation trading status; loans, guarantees or insurance with respect to U.S. exports to that country; and most foreign assistance; as well as other trade and economic benefits.

In the past few minutes I have said quite a bit about Armenia. But history depends on key women and men during crucial periods. At this moment, Armenia's democratically elected President stands at the crossroads of history. The good he can do at the United Nations, visiting with other world leaders, and especially leaders of the former Soviet Union, and with American foreign policymakers is enormous. Let me also just briefly note the good work done in this country by the Armenian Assembly of America. I commend Ross Vartian, the executive director, Sonia Crow, director of government and legal affairs, and other members of the staff. I also want to make a special note of the efforts of Hirair Hovnanian, chairman of the board of trustees of the Armenian Assembly, who is playing an instrumental role in the reconstruction efforts in Armenia following the earthquakes.

Armenian history—like the history of many countries—has been shaped by scholars, poets, and academics. President Levon Ter-Petrosian, is just such a scholar. On the occasion of its first anniversary of independence, Armenia today is a democratic, pluralistic, market-oriented sovereign state. President Ter-Petrosian has led the successful struggle to create a remarkable island of freedom where a multiparty Parliament is governing the country under his administration. He has earned our appreciation and support. I felt extremely fortunate to be able to introduce him to those gathered in New York for the rally. I remain committed to the effort to ensure that democracy succeeds in Armenia.

#### SENATOR TIM WIRTH

Mr. EXON. Mr. President, I want to take a moment to honor my departing colleague from the neighboring State of Colorado, Senator TIM WIRTH.

TIM is my daughter, Pam's, Senator since she resides with her family in Greeley, CO. She has worked hard on behalf of TIM WIRTH in his 1986 campaign and admires him greatly. I, too, admire him greatly.

TIM is a fighter who has made a tremendous contribution to the U.S. Senate and the United States of America during his short, 6 years in this body. Some Senators stand out among their peers here and TIM WIRTH has been one of those.

TIM WIRTH's dedication to the betterment of our environmental and to the future of our children and grandchildren is unparalleled in the Senate.

It was with a great deal of sadness that I learned of his decision to retire. Yet, I understand his decision even while, at the same time, mourning the loss of his presence here. TIM WIRTH has been one of the young, rising stars in the Democratic Party and I believe that star will continue to shine brightly for many years to come.

I want to personally thank TIM WIRTH for his dedication and, especially, for his friendship. Pat and I also want to wish him and Wren all the best in the future and want him to know that he will miss very sorely come next January.

#### TRIBUTE TO SENATOR RUDMAN

Mr. PRYOR. Mr. President, we lose another bright light in the Senate with the retirement of Senator WARREN RUDMAN at the close of this term. This most popular politician in New Hampshire today is not leaving us because he is in trouble with the voters back home. He is leaving this body in part in frustration and in part to move on to other endeavors.

Many may ask how a Republican Senator from New Hampshire and a Democratic Senator from Arkansas could forge such a strong bond. And WARREN RUDMAN and I have done so, Mr. President.

Though we are not in agreement on many issues of public policy and debate, we share a deep faith in our system of government and a deep sorrow when we see it is not operating up to its potential.

WARREN RUDMAN and I sat together for many hours in the Senate Ethics Committee over some very trying issues and dilemmas. You might say we were sentenced to the Ethics Committee, because at times we felt like that.

But in all those long and arduous hours of deliberations on matters dealing with our fellow colleagues, I took strength in the fact that WARREN RUDMAN was a member of the committee. Yes, he could be contentious, but he was also conscientious. And I have never known WARREN RUDMAN to take a position that he could not intellectually defend.

If there has been a reward from our service on the Ethics Committee, then for me it has been to get to know and respect the Senator from New Hampshire.

He shook this institution at its very roots in challenging the way we put together a Federal budget. He masterfully guided the nomination of his friend and successor as attorney general in New Hampshire, David Souter, through the Senate. And he has never forgotten the people who sent him here either. He has championed a contingency fund for the Low-Income Home Energy Assistance Program and a bill to preserve almost 50,000 acres of land in New Hampshire threatened by overzealous development.

So I am saddened, Mr. President, to have to bid farewell to my friend, WARREN RUDMAN. He will truly be missed in the U.S. Senate. His successor in the Senate will indeed have big shoes to fill.

#### SENATOR STEVE SYMMS

Mr. EXON. Mr. President, I want to salute one of our departing colleagues, Senator STEVE SYMMS of Idaho.

I have served with STEVE SYMMS as long as he has been a Member of the U.S. Senate and will miss him as he departs.

There has been no greater defender of the national security of the United States of America than STEVE SYMMS. His dedication to this goal, and willingness to pursue it, have been an example to us all.

His rugged individualism, dedication, and ability have made a keen contribution to the U.S. Senate. STEVE SYMMS is also a friend who has served his Presidents very well. Even though we are of opposite political parties, I have always known STEVE SYMMS to be one with whom I could work and always get a straight answer. STEVE SYMMS is an example of what a U.S. Senator ought to be. He represents his constituency with vigor, yet always keeps in mind what is best for the United States of America.

I value his friendship and want to wish him all the best in his future endeavors.

#### RETIREMENTS IN THE ARKANSAS DELEGATION

Mr. PRYOR. Mr. President, Arkansas will bid farewell to three-fourths of its delegation in the House of Representatives when the 102d Congress comes to a close.

CONGRESSMAN JOHN PAUL HAMMERSCHMIDT

JOHN PAUL HAMMERSCHMIDT has served the people of the Third Congressional District for 26 years. JOHN PAUL and I came to the Congress together back in 1967 as freshman in the House of Representatives.

The constituent services that JOHN PAUL and his staff have provided to his people are legend and are a standard which the rest of us in the Arkansas delegation emulate.

As ranking member of the House Public Works and Transportation Committee, JOHN PAUL has been recognized as an expert on transportation matters in the Congress. As the representative of one of the fastest growing regions in the country, JOHN PAUL has worked tirelessly to expand and improve U.S. Highway 71, a main thoroughfare in northwest Arkansas. Our State legislature recognized his contributions to transportation in our State by deservedly naming that highway for him.

Arkansas veterans have come to rely on JOHN PAUL as their key man in

Washington. By actual seniority, he is ranking member of the Veterans' Affairs Committee as well.

Mr. President, JOHN PAUL will be missed in the Congress. He is one of the many Members of the Congress who has performed his job, without fanfare or headline, day in and day out, to make life for his constituents a little better.

I wish he and Ginny a long and fulfilling retirement. They have earned it.

CONGRESSMAN BILL ALEXANDER

Congressman BILL ALEXANDER leaves us after 24 years of service to the people of the First District. A member of the powerful House Appropriations Committee, BILL has worked to insure that our State gets its fair share of dollars for programs and projects for our people.

The people in northeast and eastern Arkansas know full well that they have BILL ALEXANDER to thank for most of their water and sewer systems, their parks, housing, and rural development programs.

In recent years, BILL has sounded the alarm on the need to more fully utilize alternative fuels, particularly alcohol fuels, as a means of reducing our dependence on oil from foreign sources. Frankly, we should have been listening more closely to BILL ALEXANDER on this issue. I am hopeful that the Congress will move more swiftly to follow up on BILL "trailblazing" in this area.

BILL ALEXANDER has proved to be an able defender of the Economic Development Administration, often the lifeline in poor areas, like a number of those he represents. Likewise, he has been a champion of the REA, another link to progress for rural America. The farmer has never had a better friend in Congress than BILL ALEXANDER.

The voters of the First District always knew where BILL ALEXANDER stood. And while they may not have always agreed, they have respected him for his honesty and forthrightness in office.

BILL, too, will be missed, and I wish he and Debi and their new son Alex all the best as they move on to other endeavors.

CONGRESSMAN BERYL ANTHONY, JR.

In 1978, Barbara and I moved to Washington to take our place in the Senate as BERYL and Sheila ANTHONY came to be in the House of Representatives. We shared the same trials and tribulations of the move, the expectations, fears, the anticipation.

Over the years, we have become very close personal friends, as have our wives. BERYL came to the Nation's Capital with the same kind of enthusiasm and hope that I remembered feeling as a young Congressman back in 1967, coming to Washington to represent the same Fourth District that BERYL has so ably represented these past 14 years.

He gained a coveted seat on the House Ways and Means Committee and

quickly became an avid student of the wide range of public policies dealt with by that committee.

He also took the chairmanship of the Democratic Congressional Campaign Committee, setting new records for money raised in support of his colleagues' electoral fortunes. That is a time consuming job that pays few dividends back home. BERYL gave that job, however, his all and a number of fine individuals are serving in the House today due, in large part, to his stewardship at the DCCC.

Barbara joins me in wishing BERYL and Sheila the best as they take on the next task that they pursue.

You can be assured that BERYL ANTHONY will give that endeavor every ounce of strength he possesses.

#### SENATOR BROCK ADAMS

Mr. EXON. Mr. President, I want to take this opportunity to salute my friend and departing colleague, Senator BROCK ADAMS.

I have known BROCK ADAMS for many years, dating back to his service as the Secretary of Transportation during the administration of President Jimmy Carter. BROCK ADAMS and I have served on committees together here in the U.S. Senate and I truly regard him as my friend.

BROCK ADAMS has been a dedicated public servant for quite some time who brings a unique and important perspective to the U.S. Senate. When you get down to tough work in the trenches, you need a friend and colleague like BROCK ADAMS in there pitching with you in working to get the job done.

Mr. President, BROCK ADAMS is a man of deep conviction who pursues what he believes is right with great enthusiasm and capability. He represents the essence of what a U.S. Senator ought to be—a fighter who has the wisdom and courage to back up his zeal.

Surely the U.S. Senate will be a poorer place without BROCK ADAMS. Pat and I want to take this opportunity to wish him and Betty all the best in the future.

Mr. GRASSLEY. Mr. President, if I may, I would like to have permission to speak as if in morning business.

The PRESIDING OFFICER. Hearing no objection, that will be the order.

#### U.S. PRISONERS OF WAR

Mr. GRASSLEY. Mr. President, in light of the recent hearings that the Select Committee on POW/MIA Affairs has been having—and we have had several very good hearings over the period of the last 9 months—I want to provide an update as to where I believe the issue now stands, and then where, in my opinion—just speaking for myself as an individual Senator, but also a member of this committee—I think we should be headed.

The committee heard compelling testimony recently from Nixon administration officials who said they believed we left men behind in Southeast Asia. We unearthed countless documents that point to the very same conclusion.

I personally disclosed in hearings recently a series of documents which showed the U.S. Government believed there were 81 prisoners 2 days after President Nixon said that all prisoners of war were home.

This series of documents, Mr. President, constitute the proverbial smoking gun. Perhaps it is more like a smoldering gun.

Was the Government telling it straight when it said all our prisoners were coming home? I believe the definitive answer to that question is "No". According to our own Government's intelligence, 81 men were still being held prisoner. When President Nixon said all were returning home.

Let me explain the documents and provide their context. This blowup of one of the documents shows a weekly status report on the prisoners that our Government believed were being held by the Vietnamese. The document reflects the official position of the Government. Responsibility for maintaining these lists resided with the Comptroller's Office in the Office of the Secretary of Defense. It was a thoroughly coordinated and therefore official assessment that went all the way up the chain of command—to then-Secretary of Defense Elliott Richardson, that is according to Mr. Richardson's own testimony 10 days ago. The bottom line, here, in the document—in the category called "current captured"—it says "81." In other words, there are 81 men upon whom the U.S. Government had intelligence, on March 31, 1973, and were believed to be alive and in captivity. This is just 2 days after homecoming, and 2 days after the President said all our men were on their way home.

Two days before this chart was prepared, the Vietnamese made their final release of our men. That was March 29. The week before that, this weekly status sheet showed 222 "current captured." The number shrunk to 81 one week later because of the final release.

Subsequent weeks show the number falling slightly, so that by June 1973, the number was down to 67. This is because new information had come in from returnees who accounted for the death of some of the list of 81. Meanwhile, some 50 to 75 cases requested by the service secretaries to be added to the list were denied by then-Deputy Secretary of Defense William Clements, according to Clements' own deposition taken by the committee.

Of the 67 men remaining on the current list as of June 1973, a document discovered by the committee, and signed by Clements, reveals how the administration then defined the cur-

rent captured category. In Clements' own words, in a July 17, 1973 memo to the President—which highlighted in this chart, Mr. President—he said the following:

Presently, there are 1,278 military personnel who are unaccounted for as a result of hostilities in Southeast Asia. Of this number, 67 are officially listed as prisoner of war based on information that they reached the ground safely and were captured.

This sentence, Mr. President, sums it all up, better than I could. It is as obvious as the smell of manure in the springtime in Iowa. It is just so obvious you cannot turn it off.

The Paris peace accords hearings before our committee left the Nation astonished. Headlines told the story of our country leaving prisoners behind. As one prominent newspaper stated, what was once the unthinkable has become the accepted viewpoint. I quote from the September 22 issue of the Washington Post: it is "an idea that once seemed almost unthinkable but is rapidly becoming the accepted view."  
\* \* \*

There are three basic reasons why prisoners could have been withheld. First is the case of Laos. How could the United States demand the return of men captured in Laos whose presence we had never been willing to acknowledge in the first place? Laos certainly would not be obliged to return prisoners at homecoming when we were engaged in a secret war with them.

Second, in the case of Vietnam, is the issue of reparations. Our testimony and depositions show that reparations were the highest priority on the list of the Vietnamese. Dr. Kissinger denied this. He said reparations were a top priority only in the public talks, not in the secret talks. But Gen. Vernon Walters contradicted that assertion. He said reparations were at the top of the Vietnamese' list in the secret talks as well. He said he knew that because he was the translator during the secret talks. And the testimony of Col. Lawrence Robson, the Deputy Chief of the U.S. delegation, four-party joint military team, supported the testimony of General Walters. Colonel Robson was present during negotiations for the prisoner lists. His testimony was that reparations were right at the top of the Vietnamese' wish list. His testimony, like that of Walters, contradicted that of Kissinger. When that contradiction was pointed out to him, and when asked to explain the contradiction, Colonel Robson said that sometimes there is a difference between what is said in Washington and what is said in that sweaty little room where the negotiations were being held.

If it is true that reparations were primary on the minds of the Vietnamese, it is logical to assume they withheld some prisoners after homecoming in hopes they would obtain reparations. To deny that possibility is to deny the

obvious. And, of course, we never provided those reparations. So the next obvious question is: What happened to the prisoners?

The third reason why prisoners could have been withheld, again in the case of the Vietnamese, is that we had little leverage to enforce the terms of the treaty. It seems we were caught in a catch-22 situation. On the one hand, Congress rejected the aid package the Vietnamese assuredly viewed as a quid pro quo for United States prisoners. The fact that Congress rejected the aid package may well have sealed the fate of any prisoners still being withheld by the Vietnamese after homecoming. Either in Vietnam or in Laos.

On the other hand, Congress had been misled by Kissinger and Nixon, who maintained there were no secret deals with Vietnam involving an aid package. In fact there was a secret deal, involving more than \$4 billion. But it was scuttled by Congress, not knowing of the arrangement. And also scuttled, therefore, was any leverage the United States had to account for those we left behind.

This catch-22 predicament is insightfully explained in an October 5 article in *Time* magazine by Walter Isaacson. I would like to place this article in the RECORD, Mr. President, to appear at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. GRASSLEY. So this catch-22 left us with a very difficult policy decision. We knew the accounting of prisoners and MIA's was inadequate, in both Vietnam and Laos. But without leverage, what could be done to enforce a full accounting?

The choice was unfortunate yet, perhaps inevitable, given the circumstances.

As former Kissinger senior adviser Winston Lord said:

The President decided not to scuttle the agreement over the MIA issue. It was a very tough decision.

There were other complicating factors that contributed to our failure to gain a full accounting. The most obvious of these is the advent of Watergate. But there may have been other geopolitical issues that took priority. Discussing the question of how hard we pressed for an accounting from the Vietnamese, former Secretary of Defense James Schlesinger put it this way in his deposition:

The Pentagon would have been very exercised and said that these people (i.e. the Vietnamese) are not living up to their word and we want our men back. Whether the White House would, under those circumstances, think that the investment of capital, as desired by the Pentagon, was a wise investment of White House capital is another question.

Dr. Schlesinger goes on, in the context of the contradiction between the

evidence and Nixon's statement, and says the following:

Then after that it becomes not only an inconvenience in that the pursuit of this objective might interfere with the pursuit of other objectives—that is, an investment of political capital other than that which was desired—but it becomes a positive embarrassment for an administration that has declared that there is nobody left, that all of a sudden some show up.

Where was the political capital actually spent? Schlesinger touched on this in his deposition. He said that Kissinger "was not dealing only with the POW situation. He would have other things that he was concerned about."

He was concerned about not drawing down on his credit with the Russians too frequently, because he had a SALT negotiation underway. He would be concerned that if he demanded too much of the North Vietnamese on this particular point, that he might be obliged to make concessions, or at least be subjected to demand for concessions on some other point, which he might regard as more important than this issue.

In other words, there may have been more important issues than the full accounting of our MIA's, according to Dr. Schlesinger.

Schlesinger goes on to say there was documentation he saw that spelled this out. He says:

I recall seeing one of those (documents) that indicated that Dr. Kissinger had expressed concern about the possibility of the North Vietnamese demanding concessions as a consequence of pressing certain issues too hard.

Schlesinger was then asked by a committee attorney:

Was one of the issues—that we were thinking of pressing—POW's? Was that one of the issues that Dr. Kissinger was concerned, if we pressed it.

Schlesinger's reply: "Yes. I think that that was the context."

Mr. President, I trust our committee will follow up and obtain this documentation alluded to by Dr. Schlesinger. And indeed I have requested that the committee do so. I believe this would shed light on a critical question about why men were left behind.

The bottom line is, there is now abundant, documented evidence that says we left men behind. And now the next obvious question is: Did they survive and, if so, for how long? And what evidence is there to address that question?

These questions have been on the minds of the American people ever since they came to realize that the unthinkable actually occurred. If it is true we left men behind, what happened to them?

There has been as much skepticism about survival of some prisoners as there had been about our country leaving them behind. But given that men were left behind, skepticism of survival is unfair; it is baseless; it is glib; and, it is irresponsible—unless, that is, it is backed up by evidence. Thus far, none has come forth.

It is often conjectured by some that the men we left behind are dead. Such conjecture should not be allowed to stand without attendant evidence. One can think or believe that our men left behind are all dead. But it is a pretty sad state of affairs when the burden of proof is for showing they are alive, rather than showing they are dead.

The same standard should also apply for statements that "there is no credible evidence that men are alive." That proposition might certainly be the case without the context of knowing we left men behind. But with this new context, any evidence at all must be given greater weight than before. The burden of proof must now shift.

This is not to say, Mr. President, that I believe there are men alive even today. I neither believe nor disbelieve that proposition. The point is, let us get the evidence on the table without all the debunking, and let us examine it within the new context that we left men behind.

Within such a context, the burden of proof should be weighted in favor of survival. It would seem logical, since we now know men were left behind, that evidence of survival should be viewed as valid until proven otherwise.

This presumption is in sharp contrast to the presumptions of the Government's previous efforts to pursue POW/MIA evidence, in my view.

Previously, the Defense Intelligence Agency, assuming men were not left behind, would have an extremely high threshold of proof.

DIA, as we all know, is the organization responsible for the POW/MIA issue since 1973. And as America now knows, DIA has been criticized innumerable times, from both inside and outside DOD, as having a "mindset to debunk." In other words, DIA would not be satisfied that evidence was evidence unless it came up and bit them in the leg. That means that anything short of producing a live POW was not considered credible evidence.

Just what is a "mindset to debunk"? For the best answer to that, I refer you to the hearings of our select committee, August 4 and 5. These were the so-called live-sighting hearings.

DIA was asked to defend its analysis that literally thousands of live sighting reports of Americans in captivity were all either fabrications or in some other way false.

Thousands. Every one of those reports was deemed false by DIA. In fact, DIA has no category for possible live POW's in their data base to categorize live sighting reports. Is this amazing, or what?

And, of course, no motive was offered by DIA as to why each of the thousands of reports was false. Perhaps it was a freak of nature. Or, maybe these sources—predominantly refugees—were fibbing, figuring we would be grateful and let them settle in America. Maybe

they just wanted to sell false information for money.

In point of fact, Mr. President, most of the credible firsthand sources were already settled in the United States, or did not want to come to the United States. Many were already settled in other countries and were prominent members of society there. And they asked for no money. So what was the motive to lie? DIA has no explanation for this.

Nonetheless, August 4 and 5 witnessed the most adamant and dogmatic display of intelligence analysis by a Government organization that I have seen since entering public office.

Intelligence analysts are traditionally cautious with their assessments. They hedge their analysis by measuring possibilities and probabilities. They are not black and white, as a rule. They are well aware that their readings of intelligence may be flawed or incomplete. It is the only intellectually honest way to present intelligence assessments.

But not the Defense Intelligence Agency. Their analysis cannot be wrong. Ever. Even though they admit they are human and can make mistakes, such a possibility is never reflected in their analysis. If evidence contradicts their position, the evidence must be flawed, not their position. Evidence contrary to their position becomes someone's personal musings, or illusions, rather than a reflection of reality. If my colleagues doubt this, I invite my colleagues to read the transcripts of the August 4 and 5 hearings. During those hearings, when DIA could not explain away evidence that challenged their position, they would maintain their position and cite information not documented or contained in their own files. And today, 2 months after the fact, DIA is still not able to document these citations for our committee.

So the bottom line, Mr. President, is that men were left behind, a new context for evaluating evidence has been established, and the burning question is: Can we trust DIA to competently evaluate evidence of possible survival?

This is the crucial question, Mr. President, because the fact of the matter is that our committee does have evidence that suggests survival. The evidence is in the form of radio intercepts and perhaps live sighting reports, depending on how DIA responds to outstanding questions and discrepancies. Perhaps most compelling, though, this evidence is in the form of distress signals and authenticator numbers captured in overhead photography.

One pertinent question, for instance, surrounding the symbols issue is the following: Does a 4-digit number seen dug into a rice paddy in the mid-1980's, and which matches a classified authenticator number of a known MIA, constitute evidence of a possible living POW?

The committee must examine the possibility that a number of symbols and markings may be attempts by possible U.S. POW's to communicate their locations to intelligence collectors. These symbols and markings have been identified through the use of overhead reconnaissance photography. These possible distress symbols, several of which match pilot distress symbols used during the war, span a period from 1973 to 1988. The committee must also examine followup actions taken by the Government to investigate these symbols.

It should be noted that our Government launched a reconnaissance operation to a possible detention site on the basis of just one such symbol, in the early 1980's.

One of the hurdles we will face in examining this evidence, in my view, is the ubiquitous mindset to debunk. DIA has yet to come to grips with the new context for understanding evidence on this issue. And so the debunking continues, although without credibility, in my view.

The great challenge of our committee will be to examine the new evidence we have on symbols without the bias of DIA's mindset to debunk.

Let me touch a bit on this issue of symbols, Mr. President, because it will be critical for answering questions about possible survival.

And then I would like to address recent circumstances and concerns I have as our committee proceeds to evaluate these symbols.

First, an explanation of the symbols: During the war years, the military services gave many pilots who flew in Southeast Asia individual authenticator numbers. These numbers allowed pilots to identify themselves and their whereabouts to U.S. intelligence experts in the event of their shootdown or capture. Many pilots were rescued during the war thanks to such signals.

Often, fliers had primary and backup distress signals. These were classified, as were authenticator numbers, and they changed periodically.

After the war years, the intelligence community all but stopped looking for distress signals. This was consistent with official policy that all our men were home. The Government's institutional memory on the subject was lost. Monitoring intelligence for symbols became a low priority.

Over the years, some photography surfaced that seemed to show legitimate symbols. Despite the low priority, a significant number of symbols were collected and have been identified by the committee. But both DIA and CIA did little to follow up.

For example, one symbol was spotted in January 1988 but was not followed up by DIA until December 1988, 12 months later.

Perhaps the clearest illustration that the Government ignored the monitor-

ing of distress signals is that the Government agency responsible for training our men to create the symbols was never brought in the loop. That agency is called JSSA, which stands for joint services SERE agency. SERE stands for Search, Escape, Rescue, and Evacuation.

It is almost unconscionable that this agency was not brought into the loop, Mr. President. And upon seeing these photographs, JSSA has said most of them are potentially valid, and must be treated as such until proven otherwise. In other words, JSSA views these symbols as possible evidence of survivors.

JSSA's credibility and standing are not based solely on their role as the lead agency for symbols and survival. JSSA has recently been given responsibility for the POW/MIA issue and has been chartered to review the performance of the Defense Intelligence Agency on this issue. Because of this new charter, judgments rendered by DIA, which is the subject of the JSSA review, must be viewed with a filter. Is DIA's opposition to JSSA's belief in the validity of these symbols merely because of bureaucratic jealousy over jurisdiction? In my view, it is high time this issue was taken away from DIA to remove once and for all the stigma of the mindset to debunk.

Now, I raise this issue, Mr. President, because I have gotten wind that DIA is trying to prevent the committee's long-scheduled public hearing on this symbols issue. That, despite the fact that DIA has not even analyzed the data it has been sitting on for years. The rumor is, if a hearing must be scheduled, DIA wants it to be secret. I hope our committee will not succumb to DIA's desire. I, for one, do not want to be accused of a coverup. And I do not think the rest of my colleagues on the committee relish the charge, either.

The importance of raising this issue before the American public is seen by virtue of the controversy within the Defense Department itself on interpreting these symbols. No less than the organization responsible for teaching pilots how to create these symbols says the evidence is valid. Mr. President, we need to examine this issue in a public setting, and let the public decide if this is evidence of surviving MIAs.

This afternoon I have presented my views of the current status of our committee's work, and what more needs to be done. Today, I will provide the committee with a list of issues to be resolved before our business can be called thorough and complete.

The committee has done a tremendous and commendable job of uncovering the events both during and after the Paris peace accords. We now have a good understanding of the fact that we failed to gain an accounting. And we have a good sense as to why.

Our unfinished business involves the question of possible survival. That is the next logical question to deal with. And it must be dealt with in the open.

With just 3 months to go in our committee's charter, there are still numerous documents we have requested and have yet to receive. We cannot make judgments on the remaining crucial question until we see those documents. The Central Intelligence Agency has given us access to only a fraction of their files. We have reviewed only 20 out of 90 boxes of materials we have identified at the National Security Agency. DOD has not provided access to all of its documents. The military services, most notably the Navy, have been uncooperative in varying degrees. In some cases, documents have been provided from headquarters, but not from the various commands.

Mr. President, I do expect my colleagues will not want to foreclose on the question of possible survival. That is, unless and until all the evidence has been examined. As I said earlier, I personally neither believe nor disbelieve men are still alive. But I want a chance to examine the data. I want it all on the table, in full view of the public. And I am confident my colleagues desire this as well. It is the only way we can answer this crucial question with any credibility.

I would only say one additional thing. All that I have spoken about here is just in pursuit of Congress' responsibility, constitutional responsibility, of congressional oversight; to make sure that the administration of laws under several administrations has done everything that the law has required.

But most importantly, for a long period of time, our Government has said that this issue of getting to the bottom of the POW-MIA thing is our Nation's highest priority.

I do not think that our performance has been commensurate with that rhetoric. I think we ought to either perform commensurate with that rhetoric or that we ought to not be telling the people any more that this is our Nation's highest priority.

And these statements that I make and my concern about this issue are not in any way just related to the POW-MIA matter for the Vietnam war or even for the Korean or World War II wars. It is because we tell our enlistees and we tell our draftees, "Ye shall not be forsaken nor forgotten." In other words, if taken prisoner, our Government will do all humanly possible to see that you are rescued and not forgotten.

I would like to believe that the day has come in America that we never will fight any more wars, and I hope that is true. But we are still going to keep a military to see that we do not have to fight any more wars. And in case that maybe we do, we must reaffirm to the

people who are in uniform today, and our children and grandchildren that will be in uniform in decades into the future, that when we say, "Ye shall not be forsaken nor forgotten," we will not forsake and we will not forget.

And, as I indicated here, Mr. President, from the beginning, I said there is a memo from the Secretary of Defense to the President of the United States, dated 17 July 1973—3 months after our President said that all were home—that our Government officially recognized, at least that they believe were still alive, 67. And this number 67 is going to stand out in the minds of people now in the military; whether or not we are keeping our commitment to the young people defending freedom, not only America's freedom but freedom around the world so that we can continue to be a shining light for people that hope for freedom and want to maintain their freedom elsewhere.

Mr. President, I yield the floor.

#### EXHIBIT 1

[From Time Magazine, Oct. 5, 1992]

#### IMPERFECT HINDSIGHT

(By Walter Isaacson)

It is a reliable rule of statecraft that it is hard to win at the bargaining table what you are unable or unwilling to win on the battlefield. Henry Kissinger, a cold-eyed realist and practitioner of power politics, knew this well. During the four years that he negotiated America's exit from Vietnam, he regularly resisted those people—ranging from Defense Secretary Melvin Laird to the doves in the Senate—who wanted to speed up troop withdrawals and, in Kissinger's view, undercut U.S. leverage at the Paris peace talks. And after the peace accord was signed in January 1973, he repeatedly advocated military pressure to force the communists to comply with the bargain.

Although Laird and two of his successors, Elliot Richardson and James Schlesinger, testified last week before a Senate committee that some American POWs may have been left behind in Indochina, there is no evidence that Kissinger was callous toward their fate. His critics may be justified in attacking his bureaucratic methods, but they have no reason to impugn his motives. As he pointed out in his Senate testimony last week, there were no reliable reports of live Americans being held in violation of the accord. And he was also persuasive in charging that neither the public nor the Congress was willing any longer to support the bargaining levers—economic aid, renewed military involvement—that he considered necessary to force the communists to account for the American servicemen who were still missing.

What Kissinger failed to confront in his testimony was the disjunction between his explanation that he knew of no POWs still being held and his plaint that he had no bargaining powers to force the issue. Policy involves making trade-offs, and in 1973 a difficult one was made: the Nixon Administration decided that it was best not to scuttle the peace agreement or re-engage in the war despite the fact that some missing Americans had not yet been accounted for. Winston Lord, Kissinger's onetime aide, was the only witness last week willing to discuss this uncomfortable truth, calling the trade-off tough and agonizing. This choice may not have been the right one, but it was an under-

standable one given the public mood at the time.

But it was partly Kissinger's back-channel methods that made it more difficult to enforce the 1973 treaty and that created the distrust that has surrounded the MIA issue ever since. Kissinger negotiated the Vietnam Peace Accord secretly, cutting Congress and even the State Department out of the process. And on two crucial issues in the final agreement, this furtiveness bordered on deceit.

The first involved the "war reparations" that Hanoi demanded from the U.S. Kissinger offered instead a package of "reconstruction" aid. This was duly noted in the Paris agreement. But Kissinger kept secret a deal he made with the North Vietnamese to send them a presidential letter—three days after the accord was signed—spelling out the detail of this aid. Even trickier was the deal he cooked up to get around Hanoi's insistence that the letter not say this aid was contingent on congressional approval. To solve that, Kissinger drafted a separate presidential letter saying the aid package would "be implemented by each member in accordance with its own constitutional provisions."

Kissinger and Nixon did not tell Congress of these letters. Instead, in between the signing of the treaty and the sending of the letters, they misleadingly informed Congress that there were "no secret deals" involving economic aid. Congress balked at the aid package and thus removed one of Kissinger's bargaining chips for dealing with the MIA issue.

The same was true on the issue of whether the U.S. would be willing to enforce the Paris agreement by retaliating militarily against violations on the MIA issue and others. Kissinger drafted letters, which Nixon signed, making such pledges to South Vietnam's President Nguyen Van Thieu. "We will respond with full force should the settlement be violated by North Vietnam," read one sent in January 1973, and that helped persuade Thieu to sign the peace accord. But Kissinger and Nixon kept these letters secret from Congress—and even from the Joint Chiefs of Staff. As it turned out, Congress was unwilling to authorize force either to press the MIA issue or to save the Thieu government. When the secret letters became public two years later, an uproar ensued that further undermined Kissinger's credibility.

Kissinger was right: deprived of both the carrot of economic aid and the stick of military retaliation, it was next to impossible to make the Vietnamese communists comply with the agreement. And he did work mightily—and honorably—with the few tools left at his disposal to pressure the communists to account for the missing servicemen. But in the end, he was undermined both by the nation's unwillingness to remain engaged in Indochina and by the furtive way he handled the negotiations that led to America's eagerly sought withdrawal from the region.

Mr. KERRY addressed Chair.

The PRESIDING OFFICER (Mr. SIMON). The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, I would ask my colleague from Iowa if he could remain just for 1 minute because I wanted to try to ask from him, if I can, a clarification.

But before I do so, I want to thank the Senator from New Jersey for letting me just take a moment ahead of him.

First of all, I would like to congratulate the Senator from Iowa, because I

think he has laid out accurately a number of major questions that remain before the committee. And I want to thank the Senator for his personal efforts to try to seek the full accounting and to try to seek a declassification.

The Senator from Iowa has been one of the principal proponents of the declassification process and helped the committee to lay out an approach to that. But what I wanted to try to clarify with the Senator, because I was in my office listening and I heard him say something to the effect that the bottom line is, we left people behind. And, to the best of my knowledge, as chairman of the committee who attended most of the hearings, we have been seeking to be very, very careful about the language on this issue.

If the Senator means, when he says the bottom line is, we left people behind, if he means by that that there was this group who were unaccounted for whom we have reason to believe that the last we knew of them is they were captured and they were alive and we did not get the accounting, it seems to me the testimony is very clear that is true.

What we have to be very careful of is making the automatic leap that all, the vast majority of, or some of those, that we can assume that they were actually alive on a specific day and time.

Now I do not, as a member of the committee, have evidence that says to me—and this is where we got into a great tangle with Secretary Kissinger and a great tangle with other people who have been part of this, Roger Shields, for instance, could somebody say that they knew on a certain day in 1973 when Operation Homecoming took place, did they know that Colonel Somebody or Lieutenant Somebody was, in fact, alive?

Now, I do not think the Senator from Iowa is saying that he knows that on the given day they were alive. If he does know something different which allows him to say that we left people behind, I would like to know it. I believe the Senator from Iowa is saying that we had a right to expect that that group of people listed as POW's, about whom the last thing we knew was that they had been alive and captured, that there was a presumption that they were alive and that they were not accounted for. But there is a distinction between the two.

And I just want to be very careful that before the committee itself sits and deliberates on this and before we come up as a group with our conclusions as to how we are phrasing it, I just want to make sure that the Senator from Iowa and I are on the same wavelength here as to what that evidence really is.

So I really ask him whether that clarification is an accurate one and whether it meets with his approval as to what we understand.

Mr. GRASSLEY. Very definitely.

I would only add to that, though, that I carried on from that point in my remarks to make crystal clear that the approach that DIA has used, that somehow if there was a lead on somebody possibly being in captivity that there was an overwhelming burden to prove your case.

It seems to me, with this sort of admittance on the part of our Government, that it ought to be DIA's approach and they ought to have the responsibility of proving that that information is not accurate. And I listed in the thousands of cases that that is not the case, that they just accept the evidence as not overwhelming enough to show that somebody is there so it has no basis. And to me, that is wrong.

Mr. KERRY. May I say to the distinguished Senator, I agree with a lot of that evidence. I think he is absolutely correct, that we have countless people who have laid out to the committee some of the problems that existed in the evaluative process. And I think his statement today is a good summary, a good summary of some of the difficulties that the committee confronted and a very good statement about some of the things that remain to be done.

There are a lot of documents yet to be declassified. There is a lot of evidence yet to be put in front of the committee. As I say, the Senator is one of the leaders in trying to make that happen. But I just wanted to clarify as to that one point. Because I did not want it to be a premature conclusion of the committee.

I thank the distinguished Senator.

Mr. GRASSLEY. I thank my colleague for the clarification, probably needed clarification, very legitimate clarification. And more important, I thank my colleague for his leadership on the committee, creating an environment where getting all this stuff out on the table is possible.

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

#### THE ECONOMY

Mr. LAUTENBERG. Mr. President, I want to take some time to talk about the state of our economy, where we have been and where we might go.

On October 2, the Department of Labor announced that the unemployment rate stands at 7.5 percent, a rate far higher than the 5.4-percent rate when President Bush took office in 1989. In fact, since George Bush took office, our economy has stalled. We are in the longest recession since the Great Depression, with no end in sight.

According to the latest statistics, the number of Americans holding payroll jobs fell in September by 57,000. And the number of Americans holding manufacturing jobs dropped by 26,000. More than 9.5 million Americans are out of work and more than 1.1 million Ameri-

cans have dropped out of the labor force because they cannot find a job and they are totally discouraged.

The only reason the unemployment rate dipped slightly from last month's 7.6 percent is because 164,000 Americans dropped out of the labor force altogether in September—a jarring sign of the despair darkening the homes of our people.

These numbers are part of an overall drumbeat of negative news on the economy. Consumer confidence fell for the third consecutive month in September, bringing it to a lower point than it has been on the eve of the past five Presidential elections. Durable goods orders, one of the most reliable barometers of sustained recovery, fell in August for the third time in 4 months.

Sales of existing family homes fell 3.2 percent in August, despite the steep plunge in mortgage rates that began in July and total personal income fell sharply in August. Consumer confidence fell in September for the third consecutive month. The Commerce Department's index of leading economic indicators, a composite statistic designed to predict economic activity during the next 6 months, fell 0.2 percent in August, the second decline in 3 months; 7 of its 11 components worsened significantly.

Experts agree that, taken together, these statistics mean that the economy is going nowhere fast and that means that things are not likely to improve for at least 6 months, if then. But you do not need an expert to confirm what every American but George Bush knows—that our economy is in deep trouble and it needs help now.

And our economic woes have exaggerated our social problems. Today's Washington Post reports the findings of a Fordham University study that tracks the nation's Index of Social Health. That index, which tracks indicators such as poverty, infant mortality, crime and drug abuse, is now at its lowest point in 21 years. Most if not all of these problems have their roots in our economic problems.

And, incredibly, George Bush said in June that he thought the economy was better than Americans realized. In July he said we were in a recovery. And in August he said we were poised for an outstanding recovery. Even last week George Bush said that the job market was improving, when fewer Americans held jobs, and when wages had fallen and when thousands of people had dropped out of the job market altogether.

We have to wake up and read the statistics, or better yet, just talk to the average person across the country. We are facing tough times in my State of New Jersey and across the Nation. Jobs are disappearing—218,000 in New Jersey alone, since George Bush took office. In September, U.S. News & World Report published a "Pocketbook Index" which

measures our current economic misery. It developed rankings for each State based on income growth, growth in employment, and growth in unemployment, the rise or fall in home prices and business bankruptcies. In this survey, my State of New Jersey was ranked 50th—the State which took the greatest beating. We have lost income and we have lost jobs. Our unemployment rate is above the national average, real home prices have declined by 8.3 percent—the steepest in the Nation. Bankruptcies have reached record rates. People are suffering. And increasing numbers of middle-class Americans are struggling to pay their mortgage or rent payments, send their kids to college and keep their heads above water.

Nothing that George Bush has done or is prepared to do has made any discernible difference in these facts. Under his stewardship things have gone from bad to worse, and worse yet. The dismal situation in which we find ourselves is the product of an economic record of broken promises and failed economic policies. Although George Bush promised that he would create 30 million new jobs in 8 years, the number of private sector jobs on his watch is actually down—not up. Under George Bush 1.3 million manufacturing jobs have been lost, and over 100,000 farms have been wiped out. The typical family is \$1,600 poorer in real income annually than it was 2 years ago.

Ten years ago, the United States had the highest wages in the world. And now we are down to 13th. We have the highest rate of poverty of any advanced nation, and 10 percent of our country is on food stamps. Welfare and Medicaid rolls are growing at record rates. We are 21st among advanced nations in infant mortality. Our cities have turned into armed camps, and virtually no American feels safe in his or her home. And we find out lately that we are not even safe in our own cars.

Last year, Germany and Japan had productivity growth rates that were 3 and 4 times ours and we are raising the first generation of Americans who may actually be worse off than their parents.

George Bush's solution is another short-term capital gains tax cut for the wealthy, a balanced budget amendment with no serious proposals to balance the budget, and across-the-board tax cut in the face of a \$400 billion deficit.

The President's solution? He is handling out election year promises with no rhyme or reason as a substitute for a failed economic policy. His election strategy is to break the budget further. As one of my colleagues has said, we should consider moving up election day as our best means of reducing the deficit. He believes if you give tax breaks to the wealthiest Americans, that the benefits will trickle down to everyone else. We have seen that tried. It has not worked.

George Bush's trickle down economics have failed and it is time to try some new ideas. It is time for a new strategy on the economy—one that can restore growth and health to our economy, create genuine economic opportunity with high wage, high skilled jobs for Americans and restore the American dream for those who are willing to work hard—hard enough to succeed.

In the short term we must take bold steps to get the economy moving again and put people back to work. In the long term, we need to change course to put our Nation back on the track of long-term increases in productivity and competitiveness.

As a former businessman, I believe in our free market system. I also believe that Government has an important role to play. It is not enough to just sit back and wait for the economy to take care of itself, because it has not and it likely will not.

We have entered into a period in our history when the economy is global. Our people cannot compete on an unequal playing field with our competitors. They cannot compete with their hands tied behind their backs. Our Nation needs to invest more in our public infrastructure to upgrade our crumbling roads, bridges, airports, and transit systems. Infrastructure investment can create jobs immediately, especially in those areas and industries hardest hit by the recession, equally important, it can lay the foundation for long-term economic growth and greater productivity.

Mr. President, to appreciate the extent to which the United States has underinvested, we just have to take a look at Japan. Between 1973 and 1985, Japan invested 5.1 percent of its GNP in public, physical infrastructure; 5.1 percent. The figure in the United States was 0.3 percent.

Mr. President, weak investment in physical infrastructure leads directly to poor productivity. According to testimony before the Appropriations Committee, for example, deteriorating highways alone are estimated to cost the economy \$35 billion annually because of delayed interstate commerce. That is simply unacceptable.

To ease the pain of the recession, we also have to help the long-term unemployed get back to work. There are roughly 300,000 jobless New Jerseyans, many of whom have not been employed for a long period. I proposed legislation to provide businesses with a tax incentive to hire the long-term unemployed through a well-established, existing program, the targeted jobs tax credit. The TJTC now gives benefits to employers who hire ex-convicts and welfare recipients. Surely the long-term unemployed deserve at least the same helping hand.

As the bills mount and the savings run dry, the pressure on long-term un-

employed Americans is enormous. Unemployment is often associated with lower self-esteem, medical problems, family problems, and even criminal activity. It is a matter of compassion and good economic sense to put these people back to work. I have also introduced a bill to allow the unemployed to make penalty-free emergency withdrawals from their IRA's, 401(k)'s, and other retirement plans.

These steps will help our economy in the short term, but if we are to create an America that can compete and win in the world economy, that can provide real opportunity to Americans who work hard, then we have to fundamentally reorder our priorities.

Over the past decade, our Nation has indulged itself in consumption at the expense of the future. It is true in business, it is true in Government, and it is true in private households. Of course, there are exceptions, but the trend can be seen throughout the economy. The most dramatic example is the huge budget deficit, which really represents borrowing from our children and grandchildren, a loan that they have not consented to. It would be less troubling if these loans were being used principally to invest in ways that would yield long-term dividends that our children and grandchildren will enjoy. But, unfortunately, we have been borrowing not so much to invest in a productive future, but rather to spend for today's wants and needs.

We have to refocus our attention and our resources on investments for the long range. Investments in the future are our best hope for dealing with our immediate economic problems, as well as our long-term structural economic weaknesses. Investing in the future will require reordering of our priorities from excessive spending on defense to more spending on our domestic needs. Our Nation cannot continue to subsidize the security of our allies, nor can we afford the outdated weapons systems and the waste that bloat the Pentagon budget.

The cold war is over. It is long past time to shift our priorities to needs at home. We have created many of today's economic problem by an underinvesting in the future, while our competitors have invested substantial sums in their infrastructure and in their education, the training of their people, in research and commercializing inventions, and in export assistance. We have not. And we will be paying the price of that neglect for decades to come. We must reverse those policies and expand opportunities for education, training, and retraining for American workers throughout their careers.

Retraining is particularly important as we reduce defense spending, causing millions of defense workers to seek new jobs. Such reductions in the defense in the defense budget, which I

support, must be accompanied by programs to help move workers from defense industries to civilian jobs. A sound economic strategy should provide incentives for worker training and education because, while American industry searches for skilled workers in Japan or Germany, we have regions of displaced, unemployed, dispirited workers right here at home desperately seeking jobs.

In the years ahead, American workers will need more than just a strong back and a will to work to succeed. In our increasingly technological world, they will need training and retraining to remain competitive. That is why we have to find new ways to train and educate displaced workers and those who are the most disadvantaged, who threaten to become a burden instead of a productive force.

We must experiment with new programs like comprehensive education and employment centers that merge traditional education with on-the-job training. At the same time, we have to make sure that our tax dollars for schools and colleges are properly spent. Any plan to get our economy back on track must include helping Americans get the education they need to compete in the world of tomorrow.

Vocational education or a college education should be available to every American who wants it. Every American should be able to find the funds needed to go to college. I want to college on the G.I. bill, a benefit available to our World War II veterans that helped to fuel America's postwar expansion and made us the economic envy of the world. If that assistance has not been available to me, I would have never had the opportunity to succeed in business or to be here—to step from behind the counter in my father's store, to start a business that became an industry and become the CEO of a major American company. We should make that same opportunity available to our young people today, and they will be able to pay it back as a percentage of their income when they go to work, or perhaps they will be able to pay it back through community service. By throwing open the doors of our technical schools and universities to the sons and daughters of every American, we will be on our way to creating an America of true opportunity once again.

We also have to take bold action to gain control of health care costs and make decent health care available to all Americans. Rising health care costs are a significant threat to our economic well-being.

Health care costs have skyrocketed, leaving 34 million Americans without health care coverage entirely or underinsured. In 1980, we were spending \$250 billion a year for our health needs. This year, we are spending \$809 billion. Without restraint, health care costs

will exceed 17 percent of our GNP at the end of the decade. Health care costs are inflating our deficit, eating away at workers' pay checks and impairing the competitiveness of small business. It also puts a lock on peoples' job mobility, because they are so afraid of losing their health care insurance in the process of seeking a new job or trying a new venture. Unless we find a way to provide decent health care for all Americans at a reasonable cost, we will never be able to restore the vitality of our economy, remove the biggest burden on small business, or to get our deficit under control.

We also must work for a trading system that allows American business and workers as much access to foreign markets as other countries have to our markets. Otherwise, we will continue to do what we've been doing—exporting our best jobs instead of our best products.

We must assure we provide strong and vigorous protection against theft or exploitation of American ideas. In the past, America has been the world's idea factory. Our ideas and inventions have been our competitive edge. But too often American ideas are exploited or stolen by others.

I wrote existing laws to toughen up the protection of our inventions or intellectual property and make it harder for foreigners to steal America's genius, and we have to follow up with rigorous enforcement. If we hope to compete successfully in today's world, we must set policies that not only protect but that also stoke the fires of invention.

We can do that by making permanent the tax credit for research and development to spur industry to more and better discoveries. We can do it with continued support of our national laboratories and health science institutes. We can also do it through support of the Export-Import Bank, the principal source of Government financing for U.S. exports, which helps our exports remain competitive in the cutthroat international marketplace. And we can do it by putting the vast power of high-speed computer networks at the fingertips of entrepreneurs and other business people striving to bring new products to market or products to new markets. By providing businesses or universities with network access to supercomputers, months, maybe years can be saved off the time required to take new products or manufacturing processes off the drawing boards and into the marketplace.

The world is changing and we are not keeping pace. America is not continuing to take the leadership that it had locked up so many years ago, decades ago, and moving forward with it. We are seeing our ideas, our concepts, our needs, developed by others who borrowed from us, sometimes literally stole from us, but they have made products that suit the marketplace.

There seems to be a lack of understanding in our country that you cannot create these ideas or these products or these programs without having trained minds and the personnel skills with which to do it.

I come from a State that is known as a high-technology State. And what we find, Mr. President, is recruiters, employment directors, search executives have to turn to those who were foreign born, who are welcomed to our shores, to take the jobs of scientists and leaders because, in addition to lack of training, we have lack of experience among the people we need to fill those jobs. So we need to get back on investing in the future, long-range planning, education providing incentives to invent and create. Mr. President, this would not only be helpful to the large companies; it would be very helpful to small- and medium-size businesses.

By encouraging Federal agencies with large R&D budgets to put a little more of those budgets to work on moving invention and new product ideas or processes to the marketplace, we can put technology developed by the Government with tax dollars to work for the American economy and the private sector, the kind of investment that creates long-term high-paying jobs.

Mr. President, the White House has caused gridlock in Washington. Without any plans of its own, it has ruled by veto and by the threat of veto. In the Senate, it rules by filibuster, which takes a supermajority of 60 votes to bring debate to a close and enact legislation.

I am as frustrated by this inaction as are my constituents. It is outrageous what has happened in New Jersey under the Bush Presidency. We need new leadership and bold action to shift national priorities to educate, train, and employ Americans to invest in our future and increase our economic competitiveness.

Mr. President, it is time for our country to stop arguing. It is now time to get on with planning what we do as we approach the 21st century. Frankly, it has been a disappointment as far as this Senator is concerned when I see the empty promises for job creation. Where are the 30 million jobs the President spoke of? Do we wonder, Mr. President, why it is that the American people are so disillusioned with those who hold the power of decisionmaking for our country. We can see that the leadership has failed the country.

Mr. President, I hope that, as we can conclude our business in the U.S. Senate for this year, we can look forward to a new year with a real promise of getting on to solving our problems and a time when we can create real optimism that is, unfortunately, not felt around this country at this time.

#### WAIVING CERTAIN ENROLLMENT REQUIREMENTS

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House Joint Resolution 560, a joint resolution, waiving certain enrollment requirements with respect to any appropriation bill for the remainder of the 102d Congress.

The PRESIDING OFFICER. Is there objection?

Mr. JEFFORDS. Mr. President, reserving the right to object, I have been placed in the position of representing the leader on this side, but I have no instructions for this particular piece of legislation. I am awaiting instructions at this time and will be happy to proceed at that time.

Mr. LAUTENBERG. 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. LAUTENBERG. 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. LAUTENBERG. Mr. President, we are going to establish a new order of business. I ask unanimous consent that we vitiate the first request.

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

#### PROVIDING FOR THE PREPARATION OF OFFICIAL DUPLICATES OF CERTAIN LEGISLATIVE PAPERS

Mr. LAUTENBERG. Mr. President, I now ask unanimous consent that the Senate proceed to the immediate consideration of House Concurrent Resolution 376, just received from the House, that the concurrent resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. The resolution is privileged. And unless there is objection, the concurrent resolution (H. Con. Res. 376) is agreed to.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### WAIVING CERTAIN ENROLLMENT REQUIREMENTS

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House Joint Resolution 560, a joint resolution waiving certain enrollment requirements with respect to any appropriations bill for the remainder of the 102d Congress.

The PRESIDING OFFICER. Is there objection?

Mr. JEFFORDS. No objection, Mr. President.

The PRESIDING OFFICER. Without objection, the joint resolution (H.J. Res. 560) is passed.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. JEFFORDS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### THE REHABILITATION ACT AMENDMENTS OF 1992

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House Concurrent Resolution 371, a concurrent resolution correcting the enrollment of the conference report on H.R. 5482, a bill to extend the programs of the Rehabilitation Act for 1973, that the concurrent resolution be agreed to, and the motion to reconsider be laid upon the table.

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

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the additional names of HATCH, DOLE, JEFFORDS, and SYMMS be added as sponsors of that legislation.

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

#### REHABILITATION ACT AMENDMENTS OF 1992—CONFERENCE REPORT

Mr. LAUTENBERG. Mr. President, I submit a report of the committee of conference on H.R. 5482 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows: The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5482) to revise and extend the programs of the Rehabilitation Act of 1973, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

(The conference report is printed in the House proceedings of the RECORD of October 1, 1992.)

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the conference report be agreed to, 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.

Mr. JEFFORDS. Mr. President, I rise in support of the conference agreement reauthorizing the Rehabilitation Act. I

want to commend Senators HARKIN and DURENBERGER and their staffs for their tireless efforts to forge compromise and craft a thoughtful, solid bill.

The Rehabilitation Act provides a wide array of services to individuals with disabilities. The bill funds essential services to assure that persons with disabilities receive training to become employed and live independently. This training is essential and often makes the difference between a life of productivity or a life of frustration and dependence. Training and employment are key areas of the Rehabilitation Act and are strengthened and enhanced in the reauthorization.

During Senate consideration of S. 3065, the Senate Reauthorization of the Rehabilitation Act, I expressed my concern with the changes made to the rehabilitation engineering centers [REC] included in title II of the bill. I believed the changes diminished the REC's key emphasis on research. I am pleased to report that the conference agreement reestablishes the historical commitment of the REC's to research and strengthens the consumer input and information dissemination.

I had also expressed my concern with changes made to the independent living centers. The conference report maintains the changes made in both the House and Senate bills to the independent living centers [ILC]. These provisions redefine ILC's to serve cross-disabilities, a fundamental change to the current definition which allows services to individuals with single disabilities. I believe the expansion of services to a broader population may be good. However, I do not wish to see populations currently served by ILC's be ignored. I hope the safeguards placed in the bill will continue to assure that, to the extent possible, all individuals with disabilities needing assistance will be served.

Let me now take the opportunity to express my concern about another issue not directly related to this reauthorization. As the primary author of the 1978 amendments to the Rehabilitation Act, I believe recent court decisions denying a private right of action to victims of discrimination by the Federal Government under section 504 of the Rehabilitation Act are in direct conflict with the congressional intent. See, *Cousins v. Secretary of the United States, Department of Transportation*, 880 F.2d 603 (1st Cir. 1989); and *Clark v. Skinner*, 937 F.2d 123 (4th Cir. 1991). See also, *Carpenter v. Department of Transportation*, Civ. No. 91-3935-TEH (N.D. Cal. April 8, 1991); *J.L. v. Social Security Administration*, Civ. No. 90-0529-AHS (C.D. Cal. January 22, 1991), *aff'd on different grounds*, *J.L. v. Social Security Administration*, 92 C.D.O.S. 6222 (9th Cir. July 15, 1992).

This is in direct contrast to rulings in the ninth circuit in *Doe v. Attorney General of the United States*, 941 F.2d 780

(9th Cir. 1991) and *J.L. v. Social Security Administration*, 92 C.D.O.S. 6222 (9th Cir. July 15, 1992), and the intent of Congress in 1978 to cover the Federal Government with the same antidiscrimination mandate which is applied to private recipients of Federal financial assistance. In the House debates before initial passage of the 1978 amendments, I stated that the purpose of the amendment extending section 504 to the Federal Government was "simply [to extend] the coverage of section 504 to include any function or activity of any department or agency of the Federal Government." 124 Cong. Rec. 13,901 (1978).

As I stated at that time, the original legislation in 1973 was developed to apply to every phase of American life, but the Justice Department on September 23, 1977, issued an opinion which declared that the Federal Government was exempt from the statute. In light of this, I explained in 1978 that the provision which explicitly adds the Federal Government to the coverage of section 504 was intended to bring "fairness and equity to the entire picture in eliminating discrimination against the handicapped wherever it exists. \* \* \* Somehow it did not seem right to me that the Federal Government should require States and localities to eliminate discrimination against the handicapped wherever it exists and remain exempt themselves. So I developed a provision which is in this conference report that extends coverage of section 504 to include any function or activity in every department or agency of the Federal Government."

Id. at 38,551.

In addition to clarifying the Federal Government's inclusion in section 504, the 1978 amendments added an explicit attorney's fees provision to facilitate private party enforcement of title V of the Rehabilitation Act, including section 504, through private rights of action. Section 505(b) explicitly refers to suits against the Federal Government. There can be no doubt that the 1978 amendments to section 504 provided a private right of action for victims of discrimination by the Federal Government.

There is no need to amend the Rehabilitation Act to provide a private right of action against the Federal Government as some have suggested. The language of the 1978 amendments is sufficient on its face to confer such a private right of action. Moreover, the legislative history created at the time of the 1978 amendments explicitly states the intention to create a "uniform and equitable national policy for eliminating discrimination." 124 Cong. Rec. 13,901 (1978). It would be a disgrace to allow a private right of action against private entities receiving Federal financial assistance, but to deny the same remedy against the Federal Government when it discriminates.

Yet, this is exactly the result of the decisions in the First and Fourth Circuits in the Cousins and Clark cases. In erroneously interpreting the statute, the Cousins Court noted that section 505 "does not \* \* \* specifically refer to actions against the government", and found no "indication that is meant to imply that a plaintiff can sue federal agencies directly under Section 504 \* \* \*." 880 F.2d at 607. This analysis works a gross inequity on persons with disabilities who have been subject to discrimination by Federal agencies, leaving them without a remedy for precisely the types of discrimination that the 1978 amendments to section 504 were intended to address. Such a result renders the inclusion of the Federal Government in the 1978 amendments meaningless.

This inequity has a real and ongoing impact on the millions of persons with disabilities who are subject to Federal agency regulations that are promulgated or applied in violation of the nondiscrimination mandate of section 504. This impact is currently being felt in a case in California, *Carpenter v. Department of Transportation*, Civ. No. 91-3935-TEH (N.D. Cal. 1991), in which an individual with monocular vision, who had safely driven in interstate commerce for 31 years, had his interstate certification revoked due to his vision impairment. Pursuant to DOT regulations, loss of his certificate per se disqualified him from driving in interstate commerce. This impairment, which he had revealed every two years to the DOT, was belatedly discovered by the agency and used as a basis for stripping him of the certification necessary to maintain his livelihood, with a devastating impact on his income that began over a year ago and continues to this day. Ruling similarly to the Cousins case, the California court held that section 504 did not provide Mr. Carpenter with a private right of action in the district court even though this kind of per se disqualification based on disability is precisely the kind of discrimination that would give rise to a private right of action against a private recipient of federal funds.

As the ninth circuit stated in the *Doa* case:

The Rehabilitation Act's legislative history . . . demonstrates Congress's intent not to limit victims of government discrimination to enforcement through injunctive relief under the APA but to permit enforcement through the same means available against private parties: enforcement in the courts with damages and equitable remedies. 941 F.2d 793-94. The ninth circuit has recently reaffirmed *Doa* in the *J.L.* case, correctly holding that "Congress, in enacting section 504, waived sovereign immunity and created a private cause of action against the Government." 92 C.D.O.S. at 6225.

Mr. President, My position on this issue is not new and, as stated previously, dates back at least to the 1978

amendments. In 1983, this issue was called into play in connection with the Supreme Court case in Consolidated Rail Corporation versus Lee Ann LeStrange Darrone, No. 82-862. At that time a joined with a number of my colleagues in submitting a "friend of the court" brief supporting the existence of just such a private right of action under the Rehabilitation Act.

To construe the statute otherwise would be the height of hypocrisy, expecting private entities to bear a burden that the Federal Government itself is unwilling to carry. As is clear from the language of the 1978 amendments, the associated legislative history, and the subsequent pronouncements of the Members of Congress principally involved with those amendments, it was the intention of Congress to create a private right of action and the courts should so interpret the statute.

Again, my appreciation and gratitude to the chairman and ranking minority member of the subcommittee and their staffs for their assistance. Their dedication to the needs of individuals with disabilities should be commended.

Mr. DOLE. Mr. President, I support passage of H.R. 5428, the conference report to the Rehabilitation Act Amendments of 1992. This conference report represents many long hours of bipartisan work in both the House and Senate as well as crucial support from the administration and the disability community in crafting a consensus bill that enhances disability policy aimed at consumer choice and support.

While many people with disabilities need only the opportunity to become full citizens, others need supportive services and access to be a part of the mainstream of life. The Rehabilitation Act amendments correctly place the focus of the law on streaming access to vocational rehabilitation services for people with severe disabilities on achieving appropriate job placements as well as the provision of rehabilitation technology the individual with a disability may need in order to succeed at work, and in strengthening the role independent living centers play in assisting consumers to lead self-directed lives.

Having a stable and rewarding job is a basic component of the American dream. Every individual would like to be employed in a job that is enjoyable and stimulating while providing one with sufficient income to meet his/her needs. This conference report represents a variety of occupational choices to empower people with disabilities to pursue productive lives and the American dream. Supported employment, the enhancement of assistive technology application in the workplace, and accessing the appropriate rehabilitation technology to ensure worksite productivity are just a few examples of the strengthening changes made in this year's reauthorization bill.

The difficulty faced by many people with disabilities, however, is that they often are not given the opportunity to demonstrate their talents and abilities to perform certain jobs. Instead, myths and stereotypes regarding the person's inability to perform the job, or fears about hiring a person with a disability for a particular job, preclude the individual from receiving offers of employment or promotion.

We are at an opportune time to begin looking at all our laws which affect citizens with disabilities and refining our statutes to complement the goals and mandates of the Americans With Disabilities Act. Never has there been a stronger demand to integrate disability policy into the philosophy and goals set forth in the Americans With Disabilities Act. I support this conference report and compliment Senators HARKIN and DURENBERGER and their staffs for crafting a reauthorization bill that weaves employment policy for people with disabilities with policies that promote personal choice and self-determination.

Mr. HATCH. Mr. President, when this bill passed the Senate this summer, I mentioned how pleased I was with the bipartisan manner with which the bill was crafted. I am especially grateful that this spirit of cooperation continued into conference. Cooperation does not always mean agreement, and there have been disagreements in this process. However, as a result of open and extensive discussion, consensus has been reached.

I understand that some individuals and groups would have liked to see different provisions than what were included in the bill. I am very cognizant that individuals with disabilities are not all the same. I am very much aware that individuals with disabilities, their families, and others have made their frustrations known with respect to certain aspects of the current system.

I also recognize the concerns of those who administer the program. They, too, have some frustrations resulting from the desire to fulfill the goals and directives of the Rehabilitation Act within real budgetary constraints. But, although the bill is not perfect, I believe all interested parties can say something positive about this legislation.

This bill has been drafted with an eye toward the empowerment of individuals with disabilities, increasing choices, independence, and responsibility of those who want and need rehabilitation services. This legislation continues employment training to increase the self-reliance of individuals with disabilities.

I would like to thank Senator HARKIN and Senator DURENBERGER for their leadership on this issue and for their commitment to the process of building consensus. I would also like to recog-

nize Bob Silverstein, Linda Hinton, and Annie Silberman, and particularly Corine Larson of my own staff, who have worked diligently to bring the bill to this successful conclusion.

I would again like to thank the members of the Utah task force on disabilities and other individuals in Utah with an interest in this legislation. Their participation and feedback have been very valuable to me during this process.

I hope that all those with an interest in this legislation will now work cooperatively to reach the goal of this legislation: To provide and assist individuals with disabilities the tools to become independent members of society through employment.

Mr. HARKIN. Mr. President, I rise today in strong support of the conference report to accompany H.R. 5482, the Rehabilitation Act Amendments of 1992. This is a companion bill to S. 3065, which I am proud to have sponsored along with all of the members of the Committee on Labor and Human Resources and Senator DOLE. H.R. 5482 reauthorizes the Rehabilitation Act of 1973, as amended, and the Helen Keller National Center Act.

I especially want to thank my distinguished colleague from Minnesota, Senator DURENBERGER for his excellent leadership during the reauthorization process. Senator DURENBERGER has worked long and hard on this bill and deserves credit for his commitment to the consensus building process that made this bill possible.

I also want to thank the chairman of the Labor and Human Resources Committee, Senator KENNEDY, and the ranking minority member, Senator HATCH, for their leadership and guidance in crafting this legislation. In addition, I want to thank a number of other members of the subcommittee for their contributions to the legislation. Senator SIMON's experience with this legislation has been an invaluable resource throughout the development of S. 3065 and the conference negotiations. Senator JEFFORDS provided valuable advice on changes in the rehabilitation research engineering centers and the civil rights provisions. Senator ADAMS provided assistance to assure that the needs of individuals with disabilities who are aging are adequately addressed.

I want to thank our colleagues from the other body, particularly Representatives OWENS and BALLENGER, for their dedication and hard work in crafting H.R. 5482 and in reaching the agreements contained in this conference report. Just as was the case with the Senate Subcommittee on Disability Policy, the members of the House Subcommittee on Select Education were involved in a 2-year process of reaching consensus on this legislation. Because of this effort, the House bill and the Senate amendment were very similar

and the majority of the differences were based on the same policy considerations.

Finally, I want to pay tribute to the staff members who contributed to this legislation, including Bob Silverstein, Linda Hinton, and Melanie Gabel from my staff, Anne Silberman with Senator DURENBERGER, Judy Wagner with Senator SIMON, Corine Larson with Senator HATCH, Pam Kruse with Senator JEFFORDS, Sean Tunis with Senator KENNEDY, Bill Bensen with Senator ADAMS, Gail Laster with Senator METZENBAUM, and Liz Aldridge, our legislative counsel. On the House side, I want to thank Sally Lovejoy with Representative BALLENGER, Maria Cuprill with Representative OWENS, and Alan Lovesee with Representative FORD.

The conferees received constructive advice from the administration and from many organizations, groups, and individuals. In particular, I want to express my gratitude to the staff of the Department of Education, the members of the employment and training task force of the Consortium for Citizens with Disabilities, the Council of State Administrators of Vocational Rehabilitation, and the various national, regional, and local independent living organizations. Advice from these and other groups served as the basis necessary for reconciling the House bill and the Senate amendment in the short time that was available.

Mr. President, I want to make a personal comment about the process used to develop this bill. Those of us working on this legislation over the past 2 years have been guided by one principle—unity. We learned a lesson with the passage of the Americans With Disabilities Act—that when we all work together and stay together we maximize the effect of our efforts to increase the inclusion and integration of individuals with disabilities into our society.

Remembering this lesson throughout the reauthorization process was crucial in keeping everyone involved together and working toward the goal of developing a consensus bill. I am now confident that the implementation of these amendments will proceed with the same degree of trust and respect as has been shown by the various parties during the development of this legislation.

As is always the case in conference, the Senate version of the Rehabilitation Act Amendments of 1992 was not adopted in its entirety. However, I am pleased that the conference report contains all of the Senate provisions necessary to achieve the goals set out by the subcommittee for the reauthorization of the Rehabilitation Act. These goals are:

To ensure that the values embedded in the Americans With Disabilities Act are reflected in the Rehabilitation Act

including increased choice and involvement of individuals with disabilities both individually and systematically;

To refine the vocational rehabilitation program including increasing the accountability and quality of the services provided;

To promote the independent living philosophy in order to maximize the leadership, empowerment, independence, and productivity of individuals with disabilities; and

To ensure that the discretionary programs of research, demonstrations, and training respond to the need of the basic formula grant programs to remain state of the art.

Briefly, I would like to summarize some of the important provisions from S. 3065 that are contained in the conference report.

#### COORDINATION WITH THE AMERICANS WITH DISABILITIES ACT

The Senate provisions incorporating the principles of the Americans With Disabilities Act are included in the conference report. The principles of respect for individual dignity, personal responsibility, self-determination, pursuit of meaningful careers, and full participation of individuals with disabilities are specifically set out in the purpose section for the entire act and the purpose sections of various sections of the act. In addition, language that reflects the philosophy of inclusion and respect for the dignity of the individual is contained throughout the conference report.

Both the House bill and the Senate amendment address the need for increased choice and involvement for individuals with disabilities who are served by the programs of this act.

The conference report includes the Senate provisions incorporating the standards applied under the employment provisions of the Americans With Disabilities Act into the employment sections of title V of the Rehabilitation Act.

For example, the ADA's definition of reasonable accommodation specifies that reasonable accommodation includes job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

The ADA also includes a definition of the term "discriminate" that includes, for example, limiting, segregating, or classifying a job applicant or employee because of a disability; utilizing standards, criteria, or methods that have the effect of discrimination; excluding qualified individuals because of their association with an individual with a known disability; and using qualification standards, employment tests, or

other selection criteria that screen out individuals with disabilities, unless it is shown that the standards, tests, or criteria are job-related for the position in question and are consistent with business necessity. The ADA also includes policies governing preemployment inquiries and examinations, and inquiries of current employees.

Now those who are covered by title V of the Rehabilitation Act will know that these are the definitions of reasonable accommodation and discrimination that apply. They will also know that the standards governing preemployment inquiries and examinations, and inquiries of current employees apply. Incorporating the ADA standards into the Rehabilitation Act will assure that there will be consistent, equitable treatment for both individuals with disabilities and businesses under the two laws.

I want to make it clear that the conference report in no way limits the remedies available under title V of the Rehabilitation Act. As recently affirmed by the Supreme Court, section 504 provides for a full panoply of remedies, including monetary damages and nothing in the conference report changes this in any way.

On a related matter, in response to the position taken by the Justice Department to the contrary, I want to state unequivocally that there is a private right of action against Federal agencies under section 504 of the Rehabilitation Act. As I stated before the Senate on October 30, 1991, Congress "made it clear that the same procedures that apply to actions by recipients of Federal aid—including a private right of action—also apply to actions by the Federal agencies themselves." (CONGRESSIONAL RECORD, S15456, October 30, 1991.)

Senator JEFFORDS and I have been colleagues for a long time. We were both Members of the House of Representatives when the Rehabilitation Act was amended in 1978. I vividly recall the work that then Representative JEFFORDS did on those amendments. Mr. JEFFORDS authored the 1978 amendments to rectify the Justice Department's interpretation that the Federal Government was not covered by section 504. I remember Senator JEFFORDS articulate statement explaining the changes made to section 504:

Somehow it did not seem right to me that the Federal Government should require states and localities to eliminate discrimination against the handicapped wherever it exists and remain exempt themselves. So I developed a provision which is in this conference report that extends coverage of Section 504 to include any function or activity in every department or agency of the federal government.

Senator JEFFORDS statement makes the intent of Congress crystal clear. In developing the Rehabilitation Act Amendments of 1992, we saw no need to amend section 504 to once again rectify

the Justice Department's attempt to narrow the applicability of section 504. The intent of Congress was obvious in 1978 and it remains obvious today—Congress intends that there is a private right of action against the Federal Government under section 504 of the Rehabilitation Act.

#### THE VOCATIONAL REHABILITATION PROGRAM

Most of the provisions in the House bill and the Senate amendment regarding the basic State grant program and the independent living programs were very similar. The Senate provisions streamlining access to vocational rehabilitation services, ensuring appropriate access for those individuals with the most severe disabilities, improving interagency working relationships and cooperation, improving relationships with business, industry, and labor, and providing for a comprehensive system of personnel development are included in the conference report.

The conference report includes the provisions from the Senate bill requiring each State to develop a strategic plan for the expansion and improvement of vocational rehabilitation services for individuals with disabilities. The provisions require that the plan be developed with input from the public through public forums, from the State Rehabilitation Advisory Council, and from the Statewide Independent Living Council.

#### THE INDEPENDENT LIVING PROGRAMS

Although there were only minor differences between the House bill and the Senate amendment, the conference report includes the Senate version of the purpose for title VII, which reads as follows:

The purpose of this title is to promote a philosophy of independent living, including a philosophy of consumer control, peer support, self-help, self-determination, equal access, and individuals and system advocacy, in order to maximize the leadership, empowerment, independence, and productivity of individuals with disabilities, and the integration and full inclusion of individuals with disabilities into the mainstream of American society.

The conference report includes the Senate provision converting the funding for centers for independent living from a competitive grant program to a formula grant program. This will ensure that there is progress in developing statewide networks of centers for independent living. Both the House bill and the Senate amendment specify standards for centers for independent living including that the centers must be consumer-controlled, private, non-profit agencies.

The conference report includes the Senate provision increasing the minimum allotment to State agencies for independent living services from \$200,000 to \$275,000. The conference report also includes a minimum for independent living centers of \$400,000 when

the appropriation is \$4 million or greater than the 1992 appropriation for centers and \$450,000 when the appropriation is \$8 million or greater than the fiscal year 1992 appropriation.

Both the House bill and the Senate amendment provide that the State plan required under title VII must be jointly signed by the director of the State agency and the Statewide Independent Living Council made up of a majority of individuals with disabilities or their family members.

RESEARCH, DEMONSTRATION PROJECTS AND TRAINING PROGRAMS

Both the House bill and the Senate amendment emphasize that research funded under title II should focus on improving the effectiveness of services provided under the act and that research information should be widely disseminated in practical, usable formats.

The conference report emphasizes that rehabilitation technology can eliminate many of the environmental barriers that prevent individuals with disabilities from fully participating in our society. Changes are made throughout the bill to assure the availability of technology for individuals with disabilities. In addition, the bill updates the authorizing language for the rehabilitation engineering research centers to address the need for systems change in the area of technology transfer. The authorizing language for the centers promotes a practical, realworld orientation that is responsive to the needs of individuals with disabilities.

It is important that rehabilitation researchers focus their efforts on practical applications of rehabilitation technology that remove environmental barriers confronted by individuals with disabilities in all aspects of their lives. The application of technology is integral to the goal of making the promise of the Americans With Disabilities Act become a reality for individuals with disabilities.

In the area of training rehabilitation professionals, the conference report includes the Senate provision of a set-aside of funds appropriated for training under title III for inservice training of State agency personnel. It is critical to the implementation of the Rehabilitation Act amendments that rehabilitation professionals receive training regarding the changes. In addition, these professionals must receive ongoing training in order to keep current regarding state-of-the-art vocational rehabilitation services in areas such as rehabilitation technology and integrated work placement opportunities for individuals with the most severe disabilities.

I urge my colleagues to join me in support of the conference report accompanying H.R. 3065. I believe that this conference report moves us closer to ensuring that the dream of the Americans With Disabilities Act be-

comes a reality—if we are to see an America where people with disabilities, including those with severe disabilities, are competitively employed in integrated work settings and are making meaningful contributions to their families and communities.

Mr. DURENBERGER. Mr. President, I once again have the honor of standing together on the floor with my friend and colleague from Iowa in support of the major piece of legislation addressing the needs of individuals with disabilities of this Congress, the Rehabilitation Act Amendments of 1992.

Reauthorizing this bill has been a long and challenging process, and there are many people to thank and recognize for the conference report that we proudly put forth to our colleagues today, but first on the list is the chairman of the subcommittee and champion of the disability community, TOM HARKIN. Senator HARKIN's fine leadership and unyielding version of an America that is free of discrimination and provides opportunity for all, has made the Subcommittee on Disability Policy a place in the Senate truly to be proud of. At a time when partisan politics and legislative gridlock are the norms in Congress, this subcommittee has been able to see through a series of momentous pieces of legislation including the Americans with Disabilities Act, all passed by unanimous consent.

One cannot talk about the strides that we have made in this body over the past 10 years for individuals with disabilities in this country without recognizing the important role that numerous other Members of the Senate have made, including my predecessor, Lowell Weicker, the distinguished chairman of the Committee on Labor and Human Resources, Senator KENNEDY, the ranking minority member Senator HATCH, and the minority leader, Senator DOLE.

Mr. KENNEDY. Mr. President, I welcome Senate passage of the conference report on S. 3065, legislation that reauthorizes the Rehabilitation Act of 1973. S. 3065 carries forward and improves programs of vital importance to our fellow citizens with disabilities.

I am pleased to be an original cosponsor of this bill, which has been authored by Senator HARKIN, the chairman of the Disability Subcommittee of the Labor and Human Resources Committee. Senator HARKIN and Senator DURENBERGER, the subcommittee's ranking member, have done a superb job of crafting a bipartisan, consensus reauthorization bill on this complex subject. They engaged in extensive consultation with the disability community, with State officials, and with the Federal Department of Education.

The Rehabilitation Act authorizes training and related services to enable individuals with disabilities to become employable and to live independently.

In addition to vocational training, the act funds programs that assist persons with disabilities to live in the community, and funds research on technological devices that can assist the disabled in such areas as mobility and communication.

The Rehabilitation Act is a vital complement to the Americans With Disabilities Act of 1990 [ADA]. Services under the Rehabilitation Act enable many of the severely disabled to take advantage of the legal opportunities afforded to them by the ADA.

Many of the improvements in the current reauthorization are technical and administrative in nature, but the underlying policy goals of the reauthorization are clear: to incorporate the philosophy of integration and inclusion of the ADA into the Rehabilitation Act; to streamline access into vocational rehabilitation for the severely disabled; to develop statewide networks of independent living centers for the disabled; to increase consumer choice and involvement in all aspects of the Act; and to increase the accountability and quality of services provided.

In certain respects, the bill has been improved significantly as a result of the conference committee meeting with our colleagues on the House Education and Labor Committee. In particular, I would highlight the importance of the language now included in the legislation which assures confidentiality for participants in the client Assistance Programs authorized by this Act. It is clear that Congress does not now, nor has it ever, intended for the Secretary of Education to have access to personally identifiable information concerning individual served by the Client Assistance Programs.

Considerable time this year has been spent discussing the benefits of different approaches to the National Commission on Rehabilitation Services. I am particularly anxious that the Commission's report and findings address the role of specialized services in meeting the needs of individuals with low-incidence disabilities, including those who are blind or visually impaired. I would expect that the National Commission will include individuals with low-incidence disabilities and individuals with disabilities who are minorities.

This is important, carefully considered legislation, and I am pleased to see it enacted.

Mr. SIMON. Mr. President, I am once again grateful to the chairman of the Subcommittee on Disability Policy and to his staff, particularly Bob Silverstein and Linda Hinton. There is broad and bipartisan support for the conference report on the reauthorization of the Rehabilitation Act. This support might give the impression that it is a simple matter to extend this popular legislation. But it is never easy to

bring together as many interests and parties as are affected by a law as comprehensive as the Rehabilitation Act. Many, many hours of hard work, listening, and getting people to listen to each other are involved. Most important in this case, there was a determination to understand the program and how it is actually implemented in the States. The result is a piece of legislation that can provide growth to the field of rehabilitation and new opportunities for individuals with disabilities. I also want to thank the Coalition of Citizens with Disabilities for their efforts to bring about consensus and move this legislation forward.

This bill preserves the long-term partnership between the States and the Federal Government in the effort to give individuals with disabilities the opportunity to become employed and participate fully in the mainstream of American society. The Rehabilitation Act Amendments of 1992, with broad bipartisan and disability community support, extends and improves the programs that are necessary to make the goals of the Americans with Disabilities Act a reality.

The Rehabilitation Act, in completing the Americans with Disabilities Act, offers the best opportunity for our citizens with disabilities to build productive lives as full participants in society. Key to this is the focus on an outcome of meaningful employment, with independent living and range of other vital services supporting that goal. Vocational rehabilitation is a dynamic field, dependent on new research and on developments in areas such as assistive technology. The success of these programs depends on the availability of highly skilled, well-trained personnel. This conference report recognizes and addresses the importance of each of these elements.

Importantly, the conference report recognizes that individuals with disabilities themselves must be more involved in the decisions that shape their lives. It clarifies that the rehabilitation client has the right, the opportunity, and the responsibility to be actively involved in making the decisions about the services he or she will receive. Rehabilitation counselors and consumers are partners in making the rehabilitation process work.

The Rehabilitation Act is important for what it does for our Nation as well as for what it does for the individuals it serves. It is good to know that these programs will continue and grow into the future. Again, I congratulate our colleague Senator HARKIN and his staff for a bill that moves us forward on the road to equal opportunity for all Americans.

Mr. KENNEDY. I congratulate the Senator from Iowa on this important and thoughtful piece of legislation. I would like to make certain that my understanding of some specific point

regarding the Client Assistance Programs authorized in the statute is correct. Would the Senator agree with me that it is the intent of Congress to protect the confidentiality of clients served by these programs?

Mr. HARKIN. I agree with the chairman of the Labor Committee.

Mr. KENNEDY. And does the chairman of the Disability Subcommittee also agree the Congress does not now, nor has it ever, intended for the Secretary of Education to have access to personally identifiable information concerning individuals served by the Client Assistance Programs?

Mr. HARKIN. Again, I agree with the Senator.

Mr. KENNEDY. I thank the Senator from Iowa.

Mr. DODD. Mr. President, I rise today in support of the conference report on the Rehabilitation Act Amendments of 1992. I am proud to say that I am an original cosponsor of the Senate bill, and I urge my colleagues to support the conference report that is now being considered.

Mr. President, this legislation is a vital instrument enabling thousands of people with disabilities to receive the training and develop the skills that will enable them to lead richer and fuller lives. It is the first major piece of disability-related legislation to come through this body since the Americans With Disabilities Act became law.

The conference report is the culmination of cooperative negotiations between the House, the Senate, the administration, all with strong bipartisan support. Input from individuals with disabilities, disability advocates and service providers was utilized at every step of the process. There truly was a consensus of support for this legislation. The process was exemplary and has resulted in legislation that will make much-needed improvements in the law. I commend the chairman of the Disability Policy Subcommittee, Senator HARKIN, for his leadership.

Mr. President, the majority of funding in the Rehabilitation Act goes toward vocational rehabilitation services. These services prepare people with physical and mental disabilities to obtain employment that will enable them to be independent.

Prior to the introduction of this legislation, there were many diverse concerns about vocational rehabilitation services and what improvements could be made. Some complaints were consistent, however. One was that those with the most severe disabilities were shut out of the system, probably because they were more expensive to serve. Another was that the eligibility process was extremely burdensome. We also heard many times that there was not enough consumer choice in the system as it currently functions. Finally, in addition to these policy concerns, we

were told that funding was totally inadequate for the number of people who needed services and for the kinds of services that are necessary to help people gain employment and independence.

The conference report which the Senate is considering today fully addresses the policy concerns regarding vocational rehabilitation. The language of the report stresses that all individuals with disabilities, including those with the most severe disabilities, are generally presumed capable of engaging in gainful employment. Eligibility will be streamlined so that existing information from other agencies must be used to the extent possible. Finally, the client will be an active participant in their own rehabilitation plan. At the policy level, individuals with disabilities will play a significant role on the State council.

Improvements have been made to other titles of the Rehabilitation Act. Independent living services are strengthened. Participation by individuals with disabilities is promoted in all aspects of the rehabilitation system. Proposed language clarifies that research and demonstration projects authorized under the Act are targeted to services authorized under the Rehabilitation Act. A new focus is placed on transition services. All of these changes will bring the Rehabilitation Act much closer to the philosophy of empowerment and independence that is espoused in the Americans With Disabilities Act.

Mr. President, the need for services authorized under the Rehabilitation Act is overwhelming. In fact, a 1991 study performed by the General Accounting Office showed that only 7 percent of eligible individuals receive vocational rehabilitation funding. In my own State of Connecticut, these statistics are borne out. It is unfortunate that funding is not available that would enable more individuals who could benefit from these services to become independent, productive workers in our society. Nonetheless, I firmly believe that the improvements that have been offered in this conference report will make more efficient use of scarce resources.

Mr. President, I urge my colleagues to support this important measure.

#### PATENT AND TRADEMARK OFFICE AUTHORIZATION ACT

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 3325, a bill to reauthorize the Patent and Trademark Office in the Department of Commerce, and for other purposes, that was introduced earlier today by Senator DeCONCINI, that the bill be deemed to have been read three times, passed, and the motion to reconsider be laid upon the

table, and that a statement by Senator DECONCINI be inserted at the appropriate place in the RECORD.

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

PATENT AND TRADEMARK OFFICE  
AUTHORIZATION ACT

Mr. DECONCINI. I rise today to introduce the Patent and Trademark Office Authorization Act [PTO]. This bill addresses a number of important issues. First of all, it reauthorizes the PTO for 1 year. The Senate Judiciary Subcommittee on Patents, Copyrights and Trademarks, of which I am chairman, remains concerned about the Automated Patent System [APS] and therefore feels it is necessary to maintain strict oversight of the agency.

This bill does not change the fee structure of PTO. Last year's authorization bill gave PTO the authority to annually increase PTO's fees by the Consumer Price Index. Therefore, PTO intends to increase fees by 3 percent at the beginning of the new fiscal year.

APPROPRIATIONS PROCESS

The cost of filing and maintaining a patent has been a contentious issue since the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508) forced PTO to become almost totally user fee funded. Despite this fact, PTO is still subject to the appropriations process.

According to the 1990 Budget Act, \$99 million of PTO's fees must be deposited in the Patent and Trademark Office Fee Surcharge Fund and then, must be appropriated by Congress. The Senate Appropriations Committee's Commerce, Justice, State Subcommittee only appropriated \$86,672,000 of this amount. Thus, \$12,328,000 in user fee funds raised from patent applicants and other customers of the PTO are being used to reduce the deficit and cannot be spent by the Office. This is unfair and amounts to a tax on innovation. I intend to continue to object to this practice and work to resolve this problem.

In addition, I strongly believe federally appropriated taxpayer funds should be used to support the PTO. Certain functions of the Office, like their role in international negotiations and Government affairs, should be paid for through public financing and not merely be funded by PTO's users. What better agency than one that protects our inventors and increases America's competitiveness should be supported by our Government?

BOARD OF PATENT APPEALS AND  
INTERFERENCES

During the Patents Subcommittee oversight hearing on PTO a significant issue was raised concerning the independence of the Board of Patent Appeals and Interferences [Board]. It was brought to the attention of the subcommittee that a duly appointed three person panel, which had reached and signed a decision favorable to the pat-

ent applicant, was redesignated by the Commissioner of the PTO when he did not agree with the outcome of the Board's decision. The new panel, consisting of the Commissioner, Deputy Commissioner, the Assistant Commissioner of Trademarks, the Chairman and Vice Chairman of the Board, reached an opposite result. I understand this was an unusual but not isolated case.

Prior to 1927, appeals could be made directly to the Commissioner. In 1927, these appeals were eliminated and the Commissioner was made a member of the Board and given the power to designate Board panels to decide cases. The Commissioner's membership on the Board and his power to appoint panels obviously gives the Commissioner a significant role in the actions of the Board. Nonetheless, the actions by some previous Commissioners of redesignating panels or expanding panels which have reached decisions contrary to their views is inappropriate.

Concerns have also been raised that the current pay and evaluation system for the Board allows management officials the opportunity to affect the Board's independent judgment. The current performance appraisal plan was implemented in 1986 and includes a quota on written appeals. Although I recognize the PTO needs some means of rewarding employees on the basis of output, these issues deserve further evaluation.

Meetings have been held with members of the Board, the patent community and PTO to discuss possible solutions to the concerns raised about the Board's independence. Unfortunately, no one answer has emerged. Therefore, today's bill does not address the issue. However, it is my intention as chairman of the relevant subcommittee to take this issue up early next session. In the meantime, there are a number of different groups studying the issue and PTO has published a notice for public comment and will conduct a hearing on December 1 of this year. A committee of the American Intellectual Property Law Association has made a number of suggested changes, which have yet to be agreed to by their board of directors and the George Washington University National Law Center, Center for International Patent Studies will study the issue and come up with a final report in April, 1993. I look forward to the results of these studies and believe we can resolve this problem next year.

CD-ROM DEMONSTRATION PROGRAM

The bill I am introducing today extends for 1 year, the CD-ROM demonstration program sponsored by Senator GRASSLEY that was created in last year's authorization bill. PTO has made some progress on this project, although they appear nowhere near prepared to meet their October report deadline. In order to give the Office sufficient time to complete their eval-

uation, this bill extends the project for 1 year. The bill also includes a further requirement on PTO to evaluate alternative formats and methods for organizing patent information. This language was suggested by the General Accounting Office [GAO] which is conducting a thorough evaluation of the APS. GAO has expressed concern that PTO is not adequately reviewing the needs of the potential clients of patent information on CD-ROM.

REPORT ON PCT FEES

The bill also requires PTO to prepare a report on Patent Cooperation Treaty [PCT] fees. The PCT was ratified nearly 20 years ago and has proven to be beneficial in many ways. Concerns have been raised that PCT fees have been set so as to discourage and, in fact, penalize their use. I also understand that the U.S. PCT fee policy is not followed in other countries. While the PTO refuses to reciprocate for searching done by the EPO, the European Patent Office [EPO] allows for lower fees for applications which have been searched at the PTO.

Therefore, the report required by this bill asks PTO to both review the European and Japanese PCT fee structure and provide an explanation of how PTO calculates its fee levels for similar services.

LATE PAYMENT OF MAINTENANCE FEES

Section 107 of the bill provides for the late payment of maintenance fees if the delay in payment is unintentional and it occurs within 24 months after the expiration of the 6-month grace period for the payment of maintenance fees.

Current law requires patent owners to pay maintenance fees three times during the life of a patent, at 3½ years, 7½ years, and 11½ years. The maintenance fee must be paid within a 6-month grace period from the date the fee is due. Thereafter, the Commissioner may accept payment only if the delay is shown to the satisfaction of the Commissioner to have been unavoidable. This standard has been found to be extremely hard to meet. Some patent owners have lost their patent rights due to this inflexible standard. Today's bill will solve this problem.

TITLES II AND III

Title II and Title III of the bill I am introducing today includes legislation which has already passed the Senate. Title I is the Patent and Plant Variety Protection Remedy Clarification Act, introduced on March 21, 1991 as S. 758. Title III is the Trademark Remedy Clarification Act, S. 759 (see Senate Report 102-280), introduced on the same day. Both bills passed the Senate on June 12, 1992. In order to facilitate their passage during this Congress, I am reintroducing them as part of this bill.

So the bill (S. 3325) was deemed read three times and passed; as follows:

[The bill, S. 3326, will appear in a subsequent issue of the RECORD.]

#### FEDERAL DEPOSIT INSURANCE AMENDMENTS

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 3326, a bill to amend the Federal Deposit Insurance Act introduced earlier by Senators HARKIN and GRASSLEY, that the bill be deemed to have been read three times, passed, and the motion to reconsider be laid upon the table, and that any statements with respect to this bill be inserted at an appropriate place in the RECORD.

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

#### CREDIT CARD PORTFOLIOS

Mr. HARKIN. Mr. President, many insured depository institutions are under intense regulatory pressure to strengthen their capital positions in order to achieve compliance with minimum applicable capital standards. Two principal means are available for such purposes: First, raising additional capital funds through the sale of securities; or second, reducing the institution's size through the sale or disposition of assets. In many instances, a troubled institution's access to the capital markets is essentially precluded leaving only the second alternative as practical. The sale of marketable assets, including discreet business operations, effectively reduces the asset size of the seller and enables it to achieve added and needed liquidity. Indeed, industry downsizing was an important policy objective of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 [FIRREA] and one of the underlying themes of the Federal Deposit Insurance Corporation Improvement Act of 1991.

FIRREA also gave the FDIC certain powers and rights of a receiver in equity, including the authority to repudiate contracts that it determines are burdensome and the repudiation of which will promote the orderly administration of the affairs of the institution in conservatorship or receivership; 12 U.S.C. 1821(e). The purpose of Congress in providing the FDIC with that authority was to allow the agency to avoid long-term, burdensome leases and similar executory obligations.

Competing bank regulatory policy goals have created a dilemma both for the Government and the financial institutions industry. On the one hand, the primary supervisory agencies actively encourage insured institutions with unsatisfactory capital levels to sell assets in order to comply with the new capital standards. By comparison, the FDIC as receiver and insurer has a legitimate need to want to preserve as much of an institution's assets—particularly the valuable, marketable assets—in order to facilitate such sale

and minimize loss to the insurance fund. The challenge, then, is to find a solution that will reconcile these competing policies and still provide protection to the taxpayer.

Credit card portfolios are unique assets because they are one of the most readily marketable assets of many banks. Their exceptional marketability is primarily owing to the discrete nature of such operations and the recent development of highly efficient nationwide markets in that business. The proposed amendment would address the dilemma created by the competing policies by establishing a regulatory scheme that would enable institutions to price such portfolios, and thereby restore market confidence in the integrity of asset sales without increasing any risk or onerous burden on the Government.

Current law does not authorize the FDIC in its capacity as an insurer to review a proposed asset sale prior to its appointment as a conservator or receiver of an institution. By authorizing the FDIC to waive its right to repudiate, the proposed amendment would enable it to review the proposed asset sale by an institution and essentially give notice to all potential acquirors of the risks of acquiring the portfolio should it decline to waive its right to repudiate. The provision contemplates that where the FDIC declines to waive its right to repudiate, the potential parties to the transaction would have two options: First, walk away from the deal and avoid the time and costs associated with a repudiation; or second, to continue with the transaction but to price it differently to account for the likelihood that the FDIC would repudiate at some time if the institution is placed in a conservatorship or receivership. The procedure established gives the FDIC the authority to take preventative actions rather than restrict the agency from acting. The new, proactive authority that would be given to the FDIC has been acknowledged by the agency to likely benefit it.

The amendment provides that where card customer lists are sold or their use is otherwise encumbered, those restrictions will remain in force and be passed through to the successor of a failed institution by a conservator or receiver. The amendment is structured specifically to address the FDIC's need to sell undercapitalized or insolvent institutions to healthier institutions and therefore imposes no greater restrictions on a successor institution than would affect an institution if it were to come into the market without such acquisition.

The proposed amendment only affects sales of credit card operations by insured banks and thrifts. Assuring the ability of institutions to realize the maximum value of such highly marketable assets provides the Government

with clear benefits. As an initial matter, it enables institutions to restructure their operations in order to get out of businesses that are either not essential to their core operations or that they may not have the means of carrying on profitably. There is an important public policy goal that is advanced by enabling institutions to sell marketable assets or business operations to prevent them from slipping into insolvency. The provision would effect this goal while at the same time ensuring that the FDIC as insurer and potential conservator gets an opportunity to assess the likely consequences of the proposed sale of an undercapitalized institution's assets. By enabling the FDIC to waive its right to repudiate a proposed sale, the proposal will allow prospective sellers and buyers to price a deal with greater certainty and can aid in the Government's efforts to help undercapitalized institutions attract private sources of capital.

I ask that certain material pertaining to this bill be printed in the RECORD.

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

#### BENEFICIAL ASPECTS OF AMENDMENT

##### BENEFITS TO THE FDIC

This amendment does not limit or curb the FDIC's flexibility, it expands it. Nothing in current law permits the FDIC as insurer under normal circumstances to prevent (or in effect prevent) an undercapitalized (but not insolvent) institution from selling an asset to raise capital or liquidity. The provision would establish a mechanism for the FDIC to review the proposed sale of a valuable asset by an undercapitalized institution. It can only waive its right to repudiate (thus in effect approving such sale) if it determines that the transaction is in the best interest of the insurance fund.

The amendment will restore the availability of private capital to support weakened financial institutions. This will give the regulators greater private resources to work with. Moreover, it will not prevent, hinder, or delay the closing of any insured depository institution and may work to the FDIC's benefit in avoiding burdensome litigation associated with resolving these claims after the fact.

This is a narrow provision; it explicitly limits its application to credit cards.

##### BENEFITS OF TAXPAYERS

This amendment will give undercapitalized institutions (consistent with reasonable government oversight) the ability to restructure operations to raise capital. The current market uncertainty impedes the ability of undercapitalized institutions to reorganize and downsize in order to raise capital. By restoring the ability of weakened institutions to attract private capital (without exposing the sources of capital to unquantifiable losses) the proposal will strengthen institutions and help avoid losses to the taxpayers.

##### BENEFITS OF SELLERS

This amendment will re-open the market to undercapitalized sellers and increase their return on sale. By eliminating the market uncertainty the proposal will entice potential portfolio bidders to return to the mar-

ket. More important, the elimination of the market uncertainty associated with the risk of repudiation will enable sellers accurately to price these portfolios. This, in turn, will enable sellers to realize maximum value in the sale of credit card portfolios. The amendment protects sellers and the FDIC by ensuring that any agreement be negotiated at arm's length. Thus, the FDIC will not be precluded from later repudiating an agreement where the sale was made under duress, such as by an institution in desperate need of cash.

#### BENEFITS TO ACQUIRORS

This amendment will restore certainty to (and stability to) the market for sale of credit card portfolios. This amendment will help potential acquirors assess with a reasonable degree to certainty whether to purchase a credit card portfolio from an undercapitalized institution. Under current law, if one institution acquires a credit card portfolio from a second institution and that sale is later repudiated, the first institution must recognize a loss on that transaction. The procedure established by this amendment would work to give potential acquirors a reasonable degree of certainty in purchasing such assets.

[From the CONGRESSIONAL RECORD, July 1, 1992]

#### SEC. 908. CREDIT CARD SALES.

(a) IN GENERAL.—Section 11(e) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)) is amended by adding at the end the following new paragraphs:

"(14) SELLING CREDIT CARD ACCOUNTS RECEIVABLE.—

"(A) NOTIFICATION REQUIRED.—An undercapitalized insured depository institution (as defined in section 38) shall notify the Corporation in writing before entering into an agreement to sell credit card accounts receivable.

"(B) WAIVER BY CORPORATION.—The Corporation may at any time, in its sole discretion and upon such terms as it may prescribe, waive its right to repudiate an agreement to sell credit card accounts receivable if the Corporation—

"(i) determines that the waiver is in the best interests of the deposit insurance fund; and

"(ii) provides a written waiver to the selling institution.

"(C) EFFECT OF WAIVER ON SUCCESSORS.—

"(i) IN GENERAL.—If, under subparagraph (B), the Corporation has waived its right to repudiate an agreement to sell credit card accounts receivable—

"(I) any provision of the agreement that restricts solicitation of a credit card customer of the selling institution, or the use of a credit card customer list of the institution, shall bind any receiver or conservator of the institution; and

"(II) the Corporation shall require any acquirer of the selling institution, or of substantially all of the selling institution's assets or liabilities, to agree to be bound by a provision described in subclause (I) as if the acquirer were the selling institution.

"(ii) EXCEPTION.—Clause (i)(II) does not—

"(I) restrict the acquirer's authority to offer any product or service to any person identified without using a list of the selling institution's customers in violation of the agreement;

"(II) require the acquirer to restrict any preexisting relationship between the acquirer and a customer; or

"(III) apply to any transaction in which the acquirer acquires only insured deposits.

"(D) WAIVER NOT ACTIONABLE.—The Corporation shall not, in any capacity, be liable to any person for damages resulting from waiving or failing to waive the Corporation's right under this section to repudiate any contract or lease, including an agreement to sell credit card accounts receivable. No court shall issue any order affecting any such waiver or failure to waive.

"(E) OTHER AUTHORITY NOT AFFECTED.—This paragraph does not limit any other authority of the Corporation to waive the Corporation's right to repudiate an agreement or lease under this section.

"(15) CERTAIN CREDIT CARD CUSTOMER LISTS PROTECTED.—

"(A) IN GENERAL.—If any insured depository institution sells credit card accounts receivable under an agreement negotiated at arm's length that provides for the sale of the institution's credit card customer list, the Corporation shall prohibit any party to a transaction with respect to the institution under this section or section 13 from using the list except as permitted under the agreement.

"(B) FRAUDULENT TRANSACTIONS EXCLUDED.—Subparagraph (A) does not limit the Corporation's authority to repudiate any agreement entered into with the intent to hinder, delay, or defraud the institution, the institution's creditors, or the Corporation."

(b) INTERIM DEFINITION OF UNDERCAPITALIZATION.—During the period beginning on the date of enactment of this Act and ending on the effective date of section 38 of the Federal Deposit Insurance Act (12 U.S.C. 1831o), an insured depository institution is undercapitalized for purposes of section 11(e)(14) of the Federal Deposit Insurance Act (as added by subsection (a) of this section), if it does not comply with any currently applicable minimum capital standard prescribed by the appropriate Federal banking agency, as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)).

FEDERAL DEPOSIT  
INSURANCE CORPORATION,  
Washington, DC, April 9, 1992.

Hon. CHARLES GRASSLEY,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR GRASSLEY: Thank you for your letter regarding an amendment which would allow the Federal Deposit Insurance Corporation to waive its authority to repudiate contracts for the sale of credit card operations.

This amendment, as provided for in Section 1163 of S. 543, creates a mechanism for parties to credit card sale transactions to obtain a waiver from the FDIC to repudiate these transactions where the selling bank does not meet specified capital requirements. The FDIC may benefit from the credit card notification feature contained in your amendment since it requires troubled banks to notify the FDIC if they intend to sell their credit card portfolio.

As originally drafted, the FDIC had substantial reservations about certain provisions of the amendment concerning restrictions on the FDIC's right to repudiate and its impact on the attractiveness of acquiring failed banks. As you know, we worked with your staff to craft an amendment that does not limit the power of the FDIC to repudiate contracts, considers the FDIC's need to sell insolvent institutions and codifies certain existing FDIC practices. Under the revised amendment, the FDIC also continues to be protected from any transactions undertaken with the intent to hinder, delay or defraud the institution, its creditors or the FDIC.

Upon considering these important revisions to the amendment, the FDIC withdraws its objections.

Sincerely,

WILLIAM TAYLOR,  
Chairman.

So the bill (S. 3326) was read three times and passed; as follows:

[The bill, S. 3326, will appear in a subsequent issue of the RECORD.]

#### THE CALENDAR

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Senate proceed en bloc to the immediate consideration of Calendar Nos. 686, 687, 688, 689, that the committee amendments where appropriate be agreed to, the bills as amended be deemed read three times, passed, and the motion to reconsider the passage of these measures be laid upon the table, en bloc, that the title amendment where appropriate be agreed to, 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.

#### OSCAR GARCIA RIVERA POST OFFICE BUILDING

A bill (H.R. 686) to designate the U.S. Post Office Building located at 153 East 110th Street, New York, NY, as the "Oscar Garcia Rivera Post Office Building," was considered, ordered to a third reading, read the third time, and passed.

Mr. STEVENS. Mr. President, in its August 5 legislative meeting, the Senate Governmental Affairs Committee added the text of S. 947 to H.R. 2014, a bill to name a post office after Oscar Garcia Rivera. The committee unanimously reported this bill out for passage by the Senate. Senator PRYOR joined with me in introducing S. 947 on April 25, 1991.

S. 947 will produce a much-needed improvement in postal rate and classification administration. Today, even though the Postal Rate Commission [PRC] is recognized by the courts as the predominant authority on postal ratemaking (*Time, Inc. versus U.S. Postal Service*, 685 F. 2d 760 (2d Cir. 1982)), it cannot appear when postal rate cases go to the courts of appeals. This is so because the Postal Governors make the final decision, and it is their order that is appealed.

It stands to reason that—especially when dealing with highly technical rate and costing matters, embodied in a 40,000-page record—the court should be able to avail itself to as much explanation as possible. The agency that held the hearings, assembled and analyzed the record, and drew the technical and legal conclusions from it, can best provide that help; in this case,

that agency is the PRC. S. 947 would allow the PRC to intervene in a court review initiated by others but it could not bring such a case on its own.

Apart from the PRC's understanding of the details of the case, the Governors—even if they adopt the recommended rates—may misunderstand the PRC's reasons or their basis in the evidence, or may act for reasons incompatible with those actually supporting the decision. Again, the PRC can clarify these matters for the court.

Although some may say there is no reason for the PRC to go to court, there is plenty of room in judicial review for further discussion of matter within the scope of a decision. Moreover, no intervenor may raise in court an issue that was not raised before the agency. This is a bedrock principle of administrative law, and S. 947 does not change it.

S. 947 will make the court's job easier and improve the results of their review of postal rate and classification decisions.

#### LARKIN I. SMITH GENERAL MAIL FACILITY AND LARKIN I. SMITH POST OFFICE BUILDING

A bill (H.R. 4539) to designate the general mail facility of the U.S. Postal Service in Gulfport, MS, as the "Larkin I. Smith General Mail Facility," and the building of the U.S. Postal Service in Poplarville, MS, as the "Larkin I. Smith Post Office Building," was considered, ordered to a third reading, read the third time, and passed.

Mr. LOTT. Mr. President, Larkin Smith was born in 1944 in Poplarville, and his parents ran a small grocery store. He graduated from Poplarville High School and received his degree from Pearl River Junior College in 1964.

At age 22, he joined the Pearl River County Sheriff's Department and won rapid promotion to chief deputy sheriff. He remained with the sheriff's department until he was named chief investigator for the Harrison County Sheriff's Department in 1972.

Just 5 years later, Larkin was appointed chief of police of Gulfport. In 1979, he received his bachelor of arts degree from William Carey College, and was elected president of the State Association of Chiefs of Police later that year.

In 1983, he defeated the incumbent to become sheriff of Harrison County and his strong reform-oriented administration drew widespread praise with innovative antidrug strategies. His prisoner work program became a model used across the Nation.

In 1987 he was elected to a second term with 75 percent of the vote and was selected by President Reagan for appointment to the White House Conference for a Drug-Free America. In

1988 he was invited by the Justice Department to address the National Conference of U.S. Attorneys.

In addition to these accomplishments, Larkin helped establish the Customs Service Blue Lightning Strike Force based in Gulfport. He served as its first chairman and coordinated cooperative antidrug efforts of Federal, State, and local agencies across five States. The center, which now bears his name, directs a regional defense against drug runners attempting to penetrate the southern United States from bases along the Gulf of Mexico, and in Central and South America.

Larkin was elected to the U.S. House of Representatives on November 8, 1988.

Mr. President, I had the honor and privilege of working with Larkin Smith during his law enforcement career and, later, while he was a Member of Congress. He was an outstanding human being, and I am delighted that the effort to name a postal facility in his memory is finally on the verge of passage. It has been a long road since Senator COCHRAN and I here in the Senate, and the members of our State's House delegation, first introduced legislation during the previous Congress to name a post office after our dear friend and colleague. I feel that no one deserves this honor more than the late Congressman Larkin Smith, and I strongly urge my colleagues in the Senate to immediately enact this worthy measure.

#### POSTAL SERVICE MEMORIALS TO LARKIN I. SMITH

Mr. COCHRAN. Mr. President, I rise today in support of H.R. 4539, an act to designate the U.S. Postal Service general mail facility in Gulfport, MS, as the "Larkin I. Smith General Mail Facility" and the U.S. Postal Service building in Poplarville, MS, as the "Larkin I. Smith Post Office Building."

Both Poplarville and Gulfport were homes to Larkin Smith. He was born in Poplarville and began his career in law enforcement there. He later served as chief of police in Gulfport and as sheriff of Harrison County. Because of his distinguished work in law enforcement, President Reagan in 1987 appointed him to the Task Force on a Drug Free America.

Elected to the U.S. House of Representatives on November 8, 1988, Congressman Smith died in a tragic air crash on August 13, 1989. Although his time in Congress was short, he earned the respect and friendship of those with whom he served.

Mr. President, the naming of these facilities in memory of Congressman Smith would be a fitting tribute to his service to Mississippi and the Nation, and I urge prompt passage of H.R. 4539.

#### ABE MURDOCK U.S. POST OFFICE BUILDING

A bill (H.R. 4786) to designate the facility of the U.S. Postal Service located at 20 South Main Street in Beaver, UT, as the "Abe Murdock United States Post Office Building," was considered, ordered to a third reading, read the third time, and passed.

Mr. STEVENS. Mr. President. In its August 5 legislative business meeting, the Senate Governmental Affairs Committee added the text of S.1600 to H.R. 4786, a bill to name to a postal facility in Beaver, UT, after former U.S. Senate and House Member, Abe Murdock. The committee unanimously reported out this bill for passage by the Senate.

I, along with the Senators PRYOR, MURKOWSKI, GRASSLEY, and D'AMATO, introduced S. 1600 on July 31 of last year. The purpose of adding S. 1600 to the House bill was to facilitate its passage in these waning days of this Congress.

S. 1600, the Small Post Office Retention Act, would provide individuals served by contract post offices with an opportunity to appeal a Postal Service decision to close that postal operation. A contract post office is a facility by a nonpostal person or organization contracted by the U.S. Postal Service to operate under postal regulations. Contract post offices can be found in grocery stores, on college campuses, and even in private homes. By contracting for these services, the Postal Service is able to save significant funds while still providing much needed service.

Under present law, if the Postal Service determines that a U.S. Postal Service operated post office should be closed, it can do so only if it provides equal or better service to that community. In addition, individuals in that community have the right to appeal the decision through the Postal Rate Commission.

However, citizens being served by contract post offices do not have those same rights. This bill simply provides that citizens being served by a contract post office will have the same prerogative to appeal should that be necessary. This bill is very narrow in scope. It is not meant to halt or inhibit the Postal Service from closing post offices where they necessarily should be closed. We all recognize that people move and when communities cease to exist so does the need for a post office. If there is no need for a post office, by all means the Postal Service should close it.

The U.S. Postal Service has an obligation to serve every American and we, in Congress, have an obligation to ensure that responsibility is carried out. I want to stress again that this legislation is aimed at small post offices in communities in which that facility is the only post office in town.

The intent of the bill is not to foreclose the Postal Service the oppor-

tunity to close down or to shift locations of a post office within a community or to close branch facilities of a larger post office. It is clearly meant to protect individuals living in small communities who have no other recourse, and no other opportunity for mail service other than through a contract post office.

Passage of the bill will not, nor is it meant to, obstruct future congressional action to increase the rights of individuals being served by small post offices, be they contract or regular post offices.

I urge my colleagues to support this legislation.

#### CLIFTON MERRIMAN POST OFFICE BUILDING

A bill (H.R. 5453) to designate the Central Square facility of the U.S. Postal Service in Cambridge, MA, as the "Clifton Merriman Post Office Building," was considered, ordered to a third reading, read the third time, and passed.

#### RURAL ELECTRIFICATION ADMINISTRATION IMPROVEMENT ACT OF 1992

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Agriculture Committee be discharged from further consideration of H.R. 5237, the Rural Electrification Administration Improvement Act of 1992, and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 5237) to amend the Rural Electrification Act of 1935 to improve the provision of electric and telephone service in rural areas, 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.

#### AMENDMENT NO. 3400

Mr. LAUTENBERG. In behalf of Senators LEAHY and LUGAR, there is a substitute amendment already at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG] for Mr. LEAHY, for himself and Mr. LUGAR, proposes amendment numbered 3400.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

Strike all after the enacting clause and insert the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Rural Electrification Administration Improvement Act of 1992".

#### SEC. 2. DISCOUNTED LOAN PREPAYMENT.

(a) IN GENERAL.—Subsection (a) of section 306B of the Rural Electrification Act of 1936 (7 U.S.C. 936b(a)) is amended to read as follows:

"(a) DISCOUNTED PREPAYMENT BY BORROWERS OF ELECTRIC LOANS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a direct or insured loan made under this Act shall not be sold or prepaid at a value that is less than the outstanding principal balance on the loan.

"(2) EXCEPTION.—On request of the borrower, an electric loan made under this Act, or a portion of such a loan, that was advanced before May 1, 1992, or has been advanced for not less than 2 years, shall be sold to or prepaid by the borrower at the lesser of—

"(A) the outstanding principal balance on the loan; or

"(B) the present value of the loan discounted from the face value at maturity at the rate established by the Administrator.

"(3) DISCOUNT RATE.—The discount rate applicable to the prepayment under this subsection of a loan or loan advance shall be the then current cost of funds to the Department of the Treasury for obligations of comparable maturity to the remaining term of the loan.

"(4) TAX EXEMPT FINANCING.—If a borrower prepaies a loan under this subsection using tax exempt financing, the discount shall be adjusted to ensure that the borrower receives a benefit that is equal to the benefit the borrower would receive if the borrower used fully taxable financing. The borrower shall certify in writing whether the financing will be tax exempt and shall comply with such other terms and conditions as the Administrator may establish that are reasonable and necessary to carry out this subsection.

"(5) ELIGIBILITY.—

"(A) IN GENERAL.—A borrower that has prepaid an insured or direct loan shall remain eligible for assistance under this Act in the same manner as other borrowers, except that—

"(i) a borrower that has prepaid a loan, either before or after the date of enactment of this subsection, at a discount rate as provided by paragraph (3), shall not be eligible, except at the discretion of the Administrator, to apply for or receive direct or insured loans under this Act during the 120-month period beginning on the date of the prepayment; and

"(ii) a borrower that prepaid a loan before the date of enactment of this subsection at a discount rate greater than that provided by paragraph (3), shall not be eligible—

"(I) except at the discretion of the Administrator, to apply for or receive direct or insured loans described in clause (i) during the 180-month period beginning on the date of the prepayment; or

"(II) to apply for or receive direct or insured loans described in clause (i) until the borrower has repaid to the Federal Government the sum of—

"(aa) the amount (if any) by which the discount the borrower received by reason of the prepayment exceeds the discount the borrower would have received had the discount been based on the cost of funds to the Department of the Treasury at the time of the prepayment; and

"(bb) interest on the amount described in item (aa), for the period beginning on the

date of the prepayment and ending on the date of the repayment, at a rate equal to the average annual cost of borrowing by the Department of the Treasury.

"(B) EFFECT ON EXISTING AGREEMENTS.—If a borrower and the Administrator have entered into an agreement with respect to a prepayment occurring before the date of enactment of this subsection, this paragraph shall supersede any provision in the agreement relating to the restoration of eligibility for loans under this Act.

"(C) DISTRIBUTION BORROWERS.—A distribution borrower not in default on the prepayment of loans made or insured under this Act shall be eligible for discounted prepayment as provided in this subsection. For the purpose of determining eligibility for discounted prepayment under this subsection or eligibility for assistance under this Act, a default by a borrower from which a distribution borrower purchases wholesale power shall not be considered a default by the distribution borrower.

"(6) DEFINITIONS.—As used in this subsection:

"(A) DIRECT LOAN.—The term 'direct loan' means a loan made under section 4.

"(B) INSURED LOAN.—The term 'insured loan' means a loan made under section 305."

"(b) CONFORMING AMENDMENT.—Section 306B(b) of such Act (7 U.S.C. 936b(b)) is amended by striking "(b) Notwithstanding" and inserting the following:

"(b) MERGERS OF ELECTRIC BORROWERS.—Notwithstanding".

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Vermont.

The amendment (No. 3400) was agreed to.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JEFFORDS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the committee amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall the bill pass?

So the bill (H.R. 5237), as amended, was passed.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote.

Mr. JEFFORDS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### WIC INFANT FORMULA PROCUREMENT ACT OF 1992

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Agriculture Committee be discharged from further consideration of S. 2875, the WIC Infant Formula Procurement Act of 1992, and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2875) to amend the Child Nutrition Act of 1966 to enhance competition.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. LEAHY. Mr. President, on June 11, the Federal Trade Commission ended a 2-year investigation by bringing charges in Federal court against the largest manufacturer of infant formula for anticompetitive practices under the WIC—Women, Infants and Children Program. The two remaining infant formula manufacturers agreed to settlements with the FTC on similar charges.

I introduced legislation in 1989 which required States to buy infant formula for WIC through competitive bidding and other cost containment procedures. That legislation was incorporated in the Child Nutrition and WIC Reauthorization Act of 1989.

However, according to the FTC, Abbott Laboratories, Mead Johnson & Co. and American Home Products Corp. tried to undermine WIC competitive bidding—a procedure that currently saves enough money to put an additional 1 million mothers and their children on the WIC Program at no additional cost.

We cannot tolerate price fixing that puts corporate profits ahead of hungry infants, children, and pregnant women.

Today the Senate has passed the WIC Infant Formula Procurement Act. This bill mandates civil penalties of up to \$100 million for infant formula manufacturers who cheat the WIC program and bars those manufacturers found guilty from the WIC infant formula market for up to 2 years.

The bill would also heighten competition in the WIC infant formula market by providing incentives and technical assistance to States which increase their buying power by forming blocs to purchase formula.

The Special Supplemental Food Program for Women, Infants and Children [WIC], is universally acclaimed as one of our Nation's most successful nutritional programs.

WIC provides food, nutritional instruction, health assessments, and medically prescribed supplements—and saves taxpayers' money.

A 1991 USDA study showed that for every WIC dollar spent on a pregnant woman, between \$2.98 and \$4.75 was saved in Medicaid costs for the newborn during the first 60 days after birth.

Under the bill, WIC agencies could elect to have USDA set up multistate buying groups for them. This will promote high volume discounts and prevent pharmaceutical companies from

taking advantage of smaller States or Native American WIC agencies.

In addition the bill also generates savings because the Secretary of Agriculture will be required, except in unusual circumstances, to purchase formula by soliciting bids for soy-based and for milk-based formula separately. The separate bidding approach has been very effectively used to reduce the cost of formula in those States that have tried that approach.

Let our message today be loud and clear: Hungry children and their mothers are more important than corporate profits.

I want to be clear that nothing in this act should be construed to create any immunity to any civil or criminal action under any Federal antitrust law, or to alter or restrict in any manner the applicability of any federal or state antitrust law.

As compared to current law the major provisions of this act:

First, allow USDA to impose civil penalties of up to \$100 million per year—but limited by the potential harm to the WIC Program—on companies that price-fix or engage in related anticompetitive activities injuring the WIC Program.

Second, allow USDA to disqualify companies—found to price-fix regarding WIC contracts—from participating in the WIC Program for up to 2 years.

Third, allow WIC agencies to require USDA to handle the bid solicitations on their behalf, thereby creating multistate cost containment contracts. This takes advantage of evidence showing the major additional cost savings that can be achieved by increasing the number of infants covered in an infant formula cost containment contract. The bill will also increase competition by having USDA—at WIC agency request—solicit bids from companies that only produce one type of formula.

Fourth, allow the Secretary to provide States with financial incentives to defray costs associated with innovations in cost containment or associated with establishing procedures that enhance competition.

Fifth, mandate that WIC agencies include in their plan of operation for 1994 a description of procedures to be used by the agency to reduce the purchase of unprescribed low-iron formula by WIC participants. Sources indicate that low-iron sales nationwide amount to ten percent of infant formula. Yet children with medical problems that require low-iron formula represent a small fraction of the population.

I wish to clarify one additional point. To avoid controversy at a later date it should be noted that this bill is to be applied prospectively. No other interpretation could be valid. Also note that the statute of limitations for claims owned the Federal Government would apply to these claims. USDA's regulations should incorporate this point to avoid confusion later.

Also, Federal statutory procedures protecting individuals and companies against arbitrary and capricious Government actions—the Administrative Procedure Act—also clearly apply to these new claims. It is expected that the Department will develop fair and appropriate protections to guard against arbitrary and capricious decisions.

Mr. President, I would like to provide some additional details. The act will serve as a deterrent to any future price-fixing regarding the WIC Program.

The Center for Budget and Policy Priorities analyzed the harm to States from the infant formula manufacturers anticompetitive behavior; that is advance price signaling, in 1990. It concluded that after Mead-Johnson publicly announced its future bids, that States were harmed by increased infant formula costs including: Indiana, \$3.7 million cost increase; Minnesota, \$1,811,000 increase; Mississippi, \$1.7 million increase; Oklahoma, \$1.4 million increase; Kentucky, \$868,000 increase; Oregon, \$867,000 increase; Colorado, \$820,000 increase; West Virginia, \$650,000 increase; Iowa, \$539,000 increase and Montana, with a \$324,000 cost increase.

Recent evidence clearly demonstrates that soliciting bids for soy-based and milk-based formula separately can greatly increase WIC savings. Yet, the great majority of WIC agencies require either combined bids, or separate and combined bids.

These new savings are achieved since separate bid solicitations encourage additional bidders. For example, Carnation and Loma Linda only make one type of formula and thus would have great difficulty in winning bids requiring some combination of both soy- and milk-based formula. A major concern of the FTC has been that only three large companies supplied almost all of the infant formula consumed in the United States. Indeed, USDA points out in a 1989 report that "currently the inability of new or smaller manufacturers to establish market shares in both the WIC and non-WIC market constitutes a major barrier to entry into the infant formula market."

In addition, the bill provides an incentive for WIC agencies to join together to jointly buy infant formula for WIC. In a 1991 study, USDA demonstrated the importance of higher volume buying power. For purposes of analysis USDA divided States into three categories based on WIC caseload size: small, less than 50,000; mid-sized, 50,000 to 150,000 and large, over 150,000.

The average rebate for the large States was 44 percent higher than for the small States, \$1.58 versus \$1.10.

Not surprisingly, USDA concluded that "a key factor in achieving high per can rebates appears to be the size of the WIC caseload."

Thus the bill provides incentives for WIC agencies—60 of them do not jointly buy formula—to increase their purchasing power by jointly buying infant formula for WIC. Many Native American WIC agencies, and smaller State agencies, may wish to take advantage of the bill provisions that require USDA to do the bid solicitations for them. USDA would establish buying groups to purchase formula. This could greatly reduce program costs for Native American programs, and smaller States, which pay relatively high prices for formula.

The impact of these savings to the WIC program cannot be minimized. The Congressional Budget Office supplied to my staff an estimate of the savings which could be generated by this bill. CBO concluded that these changes could save the WIC Program a conservative estimate of \$5 million in the first year alone. This means that WIC can enroll an additional 10,000 pregnant women and infants at no additional cost to the taxpayer. Furthermore, the evidence suggests that even greater savings will be achieved in future years after more WIC agencies choose to participate.

Many of us in this Chamber have advocated full funding of WIC. This bill moves us closer to that goal, without negatively impacting the Federal budget.

I wish to thank Senator METZENBAUM for his early leadership in raising questions about the possible anticompetitive actions of the three largest manufacturers of infant formula. The FTC investigation has borne out Senator METZENBAUM's concerns.

Also, I greatly appreciate the leadership role that Congressman WYDEN took in the other body regarding the WIC Program. He introduced in the House legislation to prevent further price-fixing and to promote additional competition. He also testified regarding the possible price fixing, right from the start and has been extremely helpful in getting the job done. This bill reflects his concerns.

Also I wish to thank Congressmen FORD and KILDEE for their supportive efforts and leadership on these matters.

I ask unanimous consent that a letter to me from the Director of the Congressional Budget Office be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD.

CONGRESSIONAL BUDGET OFFICE,  
Washington, DC, October 5, 1992.

Hon. PATRICK J. LEAHY,  
Chairman, Committee on Agriculture, Nutrition  
and Forestry,  
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As requested, the Congressional Budget Office has reviewed the Homeless Children's Assistance Act of 1992. Our analysis was based on draft language sent to us on October 2, 1992.

This bill would modify the way that the Secretary of Agriculture allocates grants to organizations participating in homeless children's feeding projects. The allocation would be changed from not less than \$4 million in 1993 and 1994 under current law, to not less than \$1 million and not more than \$4 million in 1993 and 1994 under the bill. A second change is that the Secretary would be required to allocate funds at the beginning of the fiscal year.

The bill affects entitlement spending in the child nutrition programs and thus has potential pay-as-you-go effects under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985. CBO estimates that there would be no pay-go cost because the bill would have no effect on budget authority and no significant effect on outlays. The allocations for homeless projects are made from funds returned to the Secretary by states that do not fully expend their allocations for state administrative expenses (SAE) for child nutrition programs. Returned funds that are not allocated to homeless programs are reallocated to state agencies that demonstrate a need for additional administrative funds. This bill could reduce the amount of funds allocated to homeless children's feeding projects and could also speed up the provision of grants for such projects.

Overall budget authority is unchanged by the allocation between homeless projects and state agencies. Outlays could be affected by two factors. The potential decrease in the allocation for homeless projects could increase or decrease outlays slightly, depending on whether grants are spent more quickly when used for homeless feeding projects or for state administrative expenses. Allocating funds at the beginning of the year is likely to speed up outlays slightly, resulting in small outlay increases in 1993. The net outlay effect is not expected to be significant.

If you wish further details on this estimate, we will be pleased to provide them. The staff contact is Julia Isaacs, who can be reached at 226-2820.

Sincerely,

ROBERT D. REISCHAUER.

Mr. LEAHY. Mr. President, I wish to clarify one aspect of the Children's Nutrition Assistance Act of 1992 regarding funding for homeless preschooler food projects. One provision of that bill makes available at least \$1 million for allocation to homeless projects for each of fiscal years 1993 and 1994. I wish to point out that if there is insufficient demand or insufficient numbers of suitable projects that there is no requirement to allocate the minimum amount listed in the bill.

I do wish to emphasize, however, that current law already requires USDA to alert States as to the availability of Federal funding for these homeless preschool projects. I intend to carefully monitor USDA efforts in this regard.

Mr. HARKIN. Mr. President, I want to express special recognition and gratitude to the talented staff of the subcommittee. I have said this before and I will say it again, without the staff director of the subcommittee, Bob Silverstein, we would not have a bill. Anybody that knows "Bobby" knows the special powers of consensus building he possesses. His approach is simple; nobody leaves the room until there

is an agreement—but it is his extensive knowledge of the subject matter and ability to inspire trust which really makes it work. I also want to mention the extraordinary efforts of my own staffperson, Anne Silberman. She has labored intensively on this legislation and I want to thank her on behalf of myself and my constituents. Beyond that, special thanks should go to Linda Hinton and Melanie Gabel, the majority legislative assistant, and staff assistant of the subcommittee.

The final version of the bill that the Senate will pass today represents real progress, and it is one we are all proud of. When we began this reauthorization, we were presented with a breadth of widely divergent views by the disability community about the direction this reauthorization should take. It was the task of our staffs, who worked long and diligently, to forge a consensus between those who wanted no changes at all and those who wanted to discard the entire bill and start over again. The conference report we will ratify today is the product of their labor; it is a compromise.

By their nature, compromises never mean that everyone is happy. Some will think that these changes are not enough. They have argued for, and will continue to advocate for, even more substantive amendments. I hear them.

But the truth is that this legislation does represent some significant accomplishments and changes to this program.

Over the years, the face of vocational rehabilitation in America has changed. With the technological advances of the last 20 years, almost anyone can be employed. The Vocational Rehabilitation Program has had to make adjustments as well. With the addition of the Independent Living Program, the Supported Employment Program, and the research and services in assistive technology, more people than ever are eligible and able to benefit from this program.

In this reauthorization, we have done all that was possible to continue to widen the door and expand opportunities for consumers. Some of the major accomplishments include:

A revision of the act that ensure that the concepts of empowerment for individuals with disabilities will be followed, including respect for individual dignity, self-determination, inclusion, integration, and full participation of individuals with disabilities.

A presumption that individuals with disabilities, including individuals with the most severe disabilities, are capable of benefiting from vocational rehabilitation services unless the State agency can demonstrate by clear and convincing evidence that the individual cannot benefit.

An improved relationship between the State agencies and public schools through a directive to establish poli-

cies and methods, including inter-agency agreements, to facilitate both the longterm rehabilitation goals for students and the transition of students from schools to State rehabilitation agencies.

Increased consumer involvement and choice by requiring a joint signoff between the consumer and counselor in the Individualized Written Rehabilitation Program.

The inclusion of a definition of personal assistance services.

The establishment of a State Rehabilitation Advisory Council for the basic grant program, a majority of whose members shall be persons with disabilities.

A choice demonstration project which gives States broad authority to implement consumer choice programs.

A counselor incentive demonstration to allow the Commissioner to fund projects to identify appropriate incentives to vocational rehabilitation counselors, such as weighted case closures, to achieve high-quality placements for individuals with severe disabilities.

The establishment of the Rehabilitation Research Advisory Council within the Department of Education to advise the Director of the National Institute on Disability and Rehabilitation Research with respect to research priorities.

Increased accountability and quality through the consumer councils and State plans.

In addition to these provisions, I am particularly pleased that the conference report includes language regarding two additional issues important to Minnesota: Social Security reimbursements, and a formula for the Older Blind Program.

Many State vocational rehabilitation programs, including my own, see their independent living centers as a vital part of the entire vocational rehabilitation picture. Therefore, State directors should have the option of giving some of their Social Security reimbursement funds to their independent living centers. To me, there is no better sign that the relationship between the State vocational rehabilitation and the independent living center is strong and healthy.

Likewise, the numbers of older blind are growing and the need for greater availability of these services has been well demonstrated. Certainly, the older blind population in this country will benefit from the change of this program to a formula.

Mr. President, this reauthorization has blessed me with the opportunity to further get to know the disability community in my State. Starting in the spring, when I had the privilege to meet and talk with 40 members of the disability community in Minneapolis, up until the last hours before this legislation went to be printed, the input from Minnesotans on this bill has been crucial.

Some of the Minnesotans who have provided valuable assistance and advice to me and my staff that I wish to thank are: Colleen Wieck, the director of the Governor's Council on Developmental Disabilities; Mary Shorthall, the director of the State Vocational Rehabilitation Program; Paula Goldberg, and the other parent advocates in the group called PACER; Jerry Krueger, Jay Johnson, and the other independent living directors in Minnesota; Charlie Lakin; Dan Klint, who testified before the subcommittee; Mike Ehrlichmann, chair of the Regional Transit Board; Margo Imdieke, director of the Minnesota State Council on Disability; Bruce Johnson, Office of Ombudsman for Mental Health and Mental Retardation; Mary O'Hara-Anderson; Elin Ohlsson; David Schwartzkopf; Kurt Strom with the Minnesota State Council on Disability; Leah Welch, director of Independence Crossroads; Kathy Wingen, Advocacy Plus Action; Rachel Wobschall, Governor's Initiative on Technology for People With Disabilities, and the many, many other Minnesotans who have consulted with either me or my staff about this legislation.

I urge my colleagues to support this conference report, and I look forward to the President signing this bill into law.

#### AMENDMENT NO. 3401

Mr. LAUTENBERG. Mr. President, I send an amendment to the desk on behalf of Mr. LEAHY and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG], for Mr. LEAHY, proposes an amendment numbered 3401.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

Strike all after the enacting clause and insert the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Children's Nutrition Assistance Act of 1992".

#### TITLE I—HOMELESS CHILDREN'S ASSISTANCE

##### SEC. 101. SHORT TITLE.

This title may be cited as the "Homeless Children's Assistance Act of 1992".

##### SEC. 102. EXPENDITURE OF FUNDS FOR ADMINISTRATIVE EXPENSES.

Section 18(c)(2)(B)(i) of the National School Lunch Act (42 U.S.C. 1769(c)(2)(B)(i)) is amended by striking "Each such organization" and inserting "Each private nonprofit organization".

##### SEC. 103. ALLOCATION OF RETURNED FUNDS.

Section 7(a)(5)(B)(i) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(a)(5)(B)(i)) is amended—

(1) by striking "the Secretary shall—" and inserting a colon;

(2) by striking subclause (I) and inserting the following new clause:

"(I) The Secretary shall allocate, for the purpose of providing grants on an annual basis to public entities and private nonprofit organizations participating in projects under section 18(c) of the National School Lunch Act (42 U.S.C. 1769(c)), not more than \$4,000,000 in each of fiscal years 1993 and 1994. Subject to the maximum allocation for the projects for each fiscal year, at the beginning of each of fiscal years 1993 and 1994, the Secretary shall allocate, from funds available under this section that have not been otherwise allocated to the States, an amount equal to the estimates by the Secretary of funds to be returned under this clause, but not less than \$1,000,000 in each fiscal year. To the extent that amounts returned to the Secretary are less than estimated or are insufficient to meet the needs of the projects, the Secretary may, subject to the maximum allocations established in this subclause, allocate amounts to meet the needs of the projects from funds available under this section that have not been otherwise allocated to States."; and

(3) in subclause (II), by striking "then allocate," and inserting "After making the allocations under subclause (I), the Secretary shall allocate,".

#### SEC. 104. EFFECTIVE DATE.

This title and the amendments made by this title shall become effective on September 30, 1992.

#### TITLE II—WIC INFANT FORMULA PROCUREMENT

##### SEC. 201. SHORT TITLE.

This title may be cited as the "WIC Infant Formula Procurement Act of 1992".

##### SEC. 202. WIC INFANT FORMULA PROTECTION.

(a) FINDINGS.—

(1) the domestic infant formula industry is one of the most concentrated manufacturing industries in the United States;

(2) only three pharmaceutical firms are responsible for almost all domestic infant formula production;

(3) coordination of pricing and marketing strategies is a potential danger where only a very few companies compete regarding a given product;

(4) improved competition among suppliers of infant formula to the special supplemental food program for women, infants, and children (WIC) can save substantial additional sums to be used to put thousands of additional eligible women, infants, and children on the WIC program; and

(5) barriers exist in the infant formula industry that inhibit the entry of new firms and thus limit competition.

(b) PURPOSES.—It is the purpose of this title to enhance competition among infant formula manufacturers and to reduce the per unit costs of infant formula for the special supplemental food program for women, infants, and children (WIC).

##### SEC. 203. DEFINITIONS.

Section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)) is amended by striking paragraph (17) and inserting the following new paragraphs:

"(17) 'Competitive bidding' means a procurement process under which the Secretary or a State agency selects a single source (a single infant formula manufacturer) offering the lowest price, as determined by the submission of sealed bids, for a product for which bids are sought for use in the program authorized by this section.

"(18) 'Rebate' means the amount of money refunded under cost containment procedures

to any State agency from the manufacturer or other supplier of the particular food product as the result of the purchase of the supplemental food with a voucher or other purchase instrument by a participant in each such agency's program established under this section.

"(19) 'Discount' means, with respect to a State agency that provides program foods to participants without the use of retail grocery stores (such as a State that provides for the home delivery or direct distribution of supplemental food), the amount of the price reduction or other price concession provided to any State agency by the manufacturer or other supplier of the particular food product as the result of the purchase of program food by each such State agency, or its representative, from the supplier.

"(20) 'Net price' means the difference between the manufacturer's wholesale price for infant formula and the rebate level or the discount offered or provided by the manufacturer under a cost containment contract entered into with the pertinent State agency."

#### SEC. 204. PROCEDURE OF INFANT FORMULA FOR WIC.

Section 17(h)(8) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(8)) is amended by striking subparagraph (G) and inserting the following new subparagraphs:

"(G)(i) The Secretary shall offer to solicit bids on behalf of State agencies regarding cost-containment contracts to be entered into by infant formula manufacturers and State agencies. The Secretary shall make the offer to State agencies once every 12 months. Each such bid solicitation shall only take place if two or more State agencies request the Secretary to perform the solicitation. For such State agencies, the Secretary shall solicit bids and select the winning bidder for a cost containment contract to be entered into by State agencies and infant formula manufacturers or suppliers.

"(ii) If the Secretary determines that the number of State agencies making the election in clause (i) so warrants, the Secretary may, in consultation with such State agencies, divide such State agencies into more than one group of such agencies and solicit bids for a contract for each such group. In determining the size of the groups of agencies, the Secretary shall, to the extent practicable, take into account the need to maximize the number of potential bidders so as to increase competition among infant formula manufacturers.

"(iii) State agencies that elect to authorize the Secretary to perform the bid solicitation and selection process on their behalf and enter into the resulting containment contract shall obtain the rebates or discounts from the manufacturers or suppliers participating in the contract.

"(iv) In soliciting bids and determining the winning bidder under clause (i), the Secretary shall comply with the requirements of subparagraphs (B) and (F).

"(v)(I) Except as provided in subclause (II), the term of the contract for which bids are to be solicited under this paragraph shall be announced by the Secretary in consultation with the affected State agencies and shall be not less than 2 years.

"(II) If the law of a State regarding the duration of contracts is inconsistent with subclause (I), the Secretary shall permit a 1-year contract, with the option provided to the State to extend the contract for additional years.

"(vi) In prescribing specifications for the bids, the Secretary shall ensure that the contracts to be entered into by the State agen-

cies and the infant formula manufacturers or suppliers provide for a constant net price for infant formula products for the full term of the contracts and provide for rebates or discounts for all units of infant formula sold through the program that are produced by the manufacturer awarded the contract and that are for a type of formula product covered under the contract. The contracts shall cover all types of infant formula products normally covered under cost containment contracts entered into by State agencies.

"(vii) The Secretary shall also develop procedures for—

"(I) rejecting all bids for any joint contract and announcing a resolicitation of infant formula bids where necessary;

"(II) permitting a State agency that has authorized the Secretary to undertake bid solicitation on its behalf under this subparagraph to decline to enter into the joint contract to be negotiated and awarded pursuant to the solicitation if the agency promptly determines after the bids are opened that participation would not be in the best interest of its program; and

"(III) assuring infant formula manufacturers submitting a bid under this subparagraph that a contract awarded pursuant to the bid will cover State agencies serving no fewer than a number of infants to be specified in the bid solicitation.

"(viii) The bid solicitation and selection process on behalf of the State agencies shall be conducted in accordance with any procedures the Secretary deems necessary for the effective and efficient administration of the bid solicitation and selection process and consistent with the requirements of this subparagraph. The procedures established by the Secretary shall ensure that—

"(I) the bid solicitation and selection process is conducted in a manner providing full and open competition; and

"(II) the bid solicitation and selection process is free of any real or apparent conflict of interest."

"(H) In soliciting bids for contracts for infant formula for the program authorized by this section, the Secretary shall solicit bids from infant formula manufacturers under procedures in which bids for rebates or discounts are solicited for milk-based and soy-based infant formula, separately, except where the Secretary determines that such solicitation procedures are not in the best interest of the program.

"(I) To reduce the costs of any supplemental foods, the Secretary—

"(i) shall promote, but not require, the joint purchase of infant formula among State agencies electing not to participate under the procedures set forth in subparagraph (G);

"(ii) shall encourage and promote (but not require) the purchase of supplemental foods other than infant formula under cost containment procedures;

"(iii) shall inform State agencies of the benefits of cost containment and provide assistance and technical advice at State agency request regarding the State agency's use of cost containment procedures;

"(iv) shall encourage (but not require) the joint purchase of supplemental foods other than infant formula under procedures specified in subparagraph (B), if the Secretary determines that—

"(I) the anticipated savings are expected to be significant;

"(II) the administrative expenses involved in purchasing the food item through competitive bidding procedures, whether under a rebate or discount system, will not exceed

the savings anticipated to be generated by the procedures; and

"(III) the procedures would be consistent with the purposes of the program; and

"(v) may make available additional funds to State agencies out of the funds otherwise available under paragraph (1)(A) for nutrition services and administration in an amount not exceeding one half of 1 percent of the amounts to help defray reasonable anticipated expenses associated with innovations in cost containment or associated with procedures that tend to enhance competition.

"(J)(i) Any person, company, corporation, or other legal entity that submits a bid to supply infant formula to carry out the program authorized by this section and announces or otherwise discloses the amount of the bid, or the rebate or discount practices of such entities, in advance of the time the bids are opened by the Secretary or the State agency, or any person, company, corporation, or other legal entity that makes a statement (prior to the opening of bids) relating to levels of rebates or discounts, for the purpose of influencing a bid submitted by any other person, shall be ineligible to submit bids to supply infant formula to the program for the bidding in progress for up to 2 years from the date the bids are opened and shall be subject to a civil penalty of up to \$100,000,000, as determined by the Secretary to provide restitution to the program for harm done to the program. The Secretary shall issue regulations providing such person, company, corporation, or other legal entity appropriate notice, and an opportunity to be heard and to respond to charges.

"(ii) The Secretary shall determine the length of the disqualification, and the amount of the civil penalty referred to in clause (i) based on such factors as the Secretary by regulation determines appropriate.

"(iii) Any person, company, corporation, or other legal entity disqualified under clause (i) shall remain obligated to perform any requirements under any contract to supply infant formula existing at the time of the disqualification and until each such contract expires by its terms.

"(K) Not later than the expiration of the 180-day period beginning on the date of enactment of this subparagraph, the Secretary shall prescribe regulations to carry out this paragraph."

#### SEC. 205. PROCEDURES TO REDUCE PURCHASES OF LOW-IRON INFANT FORMULA.

Section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)) is amended by adding at the end the following new paragraph:

"(22) In the State plan submitted to the Secretary for fiscal year 1994, each State agency shall advise the Secretary regarding the procedures to be used by the State agency to reduce the purchase of low-iron infant formula for infants on the program for whom such formula has not been prescribed by a physician or other appropriate health professional, as determined by regulations issued by the Secretary."

#### SEC. 206. ASSISTANCE TO ENCOURAGE ADDITIONAL COST CONTAINMENT EFFORTS.

The second sentence of section 17(h)(2)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(2)(A)) is amended—

(1) by striking "formula shall—" and inserting "formula—";

(2) by inserting "shall" after the clause designations of each of clauses (i), (ii), and (iii);

(3) by striking "and" at the end of clause (ii);

(4) by striking the period at the end of clause (iii) and inserting "; and"; and

(5) by adding at the end the following new clause:

"(iv) may provide funds, to the extent funds are not already provided under subparagraph (I)(v) for the same purpose, to help defray reasonable anticipated expenses associated with innovations in cost containment or associated with procedures that tend to enhance competition."

**SEC. 207. TECHNICAL ASSISTANCE.**

Section 17(h)(8)(E)(ii) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(8)(E)(ii)) is amended by striking "that do not have large caseloads and".

**SEC. 208. STUDY.**

Not later than April 1, 1994, the Secretary of Agriculture shall report to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on—

(1) State agencies that request the Secretary of Agriculture to conduct bid solicitations for infant formula under section 17(h)(8)(G)(i) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(8)(G)(i)) (as amended by section 204 of this Act);

(2) cost reductions achieved by the solicitations; and

(3) other matters the Secretary determines to be appropriate regarding this title and the amendments made by this title.

**SEC. 209. TERMINATION.**

The authority provided by this title and the amendments made by this title shall terminate on September 30, 1994, except with regard to section 17(h)(8)(J) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(8)(J)) (as amended by section 204 of this Act).

Mr. LEAHY. Mr. President, this year Congress passed my legislation, the Child Nutrition Amendments of 1992 (S. 2759), to help feed homeless children under age 6 living in emergency and homeless shelters. These children are the innocent victims of the recession, of high unemployment rates, of parental neglect, of ill-fated programs, or just plain bad luck.

As I said upon Senate passage of S. 2759, these children will never have a fair chance if Americans turn their backs on them. While other children play and learn, these children go hungry.

Making matters worse, the demand for emergency food assistance keeps growing. In New York City alone the number of soup kitchens, food pantries, and other emergency food providers has increased from 30 in 1981 to more than 700 today. This is an astonishing increase.

It is shameful that homeless American children must stand in long lines at soup kitchens. Their older brothers and sisters are fed wholesome meals in school through the school breakfast and lunch programs.

The younger children, too young to go to school, all too often must wait for scraps of food brought home from school.

Pilot programs to feed homeless children under age 6 have worked very well. A USDA-issued report, the "Study of the Child Nutrition Homeless Demonstration," noted:

The shelters were unanimous in reporting that the preschool children living in the shelters were now receiving meals that were more balanced, more nutritious, and more frequently included fresh fruit, milk, vegetables and full-strength juices. \* \* \* Furthermore, [certain] children under age 6 \* \* \* now received a warm and nutritious lunch whereas prior to the demonstration they did not receive any meal at all.

It was also reported that "mothers were very grateful, and were especially pleased that their children now got the milk they needed."

GAO reports that 68,000 children are homeless, living in homeless shelters, abandoned buildings, churches, or living on the streets. In addition, 186,000 children live in shared housing.

Equally distressing are the numbers of children under age 6 that are homeless. CBO estimates that close to 25,000 children under age 6 live in emergency shelters—this leaves out the thousands more living in abandoned buildings or in alleys. According to CBO, it would cost \$20 million per year to fully fund this program for all 25,000 children. The annual cost is low, per child.

As I pointed out previously, this bill will help local governments and cities provide food assistance to these homeless children. For example, New York City has an immediate need for this assistance for its city administered facilities sheltering young children. Yet USDA is sitting on several million dollars which is available to fund this program.

Note that many other cities—Los Angeles, CA; Flint, MI; Detroit, MI; New Orleans, LA—have also expressed an interest in this program. It is critical that the Secretary provide each State with the procedures for applying to participate in the program as required in section 18(c)(7). I have been advised that USDA has yet to advise States about this program. The Child Nutrition Amendments of 1992 require that the Secretary advise each State of the availability of this program and of the procedures for applying to participate in the project.

Even though public sponsors are now eligible, the Department would be expected to continue to support existing programs in Philadelphia and at the other locations operated by nonprofit private sponsors. Also the Department is expected to consider applications from new private nonprofit sponsors.

These new amendments are designed to assure a source of more continuous funding for the homeless children food program. The idea is to take unused State administrative expense [SAE] funds and make them available on a more regular and on a more predictable basis. This legislation will require USDA to fund this homeless program with SAE funds—instead of delaying funding each year.

Under current law, USDA may not know until well into each fiscal year the level of SAE funds State agencies

will return to USDA as unused. Under current law amounts returned but not reallocated go to the homeless programs to the degree that those programs can use those funds.

But each year the funds are not available until well into the fiscal year which USDA argues makes it difficult to properly run the program. The purpose of this legislation is to address these concerns while not materially changing the ultimate amount of funds made available to the homeless program.

This amendment would do this by having the Secretary take a modest amount of SAE funds at the beginning of the fiscal year and allocate it to the homeless programs. The Secretary's allocation to the homeless program would reflect his or her estimate of the amount of funds that would otherwise have become available later in the fiscal year.

When some months later the amount of funds returned and not reallocated becomes known the Secretary would supplement the funds going to the homeless programs if more money is returned and not reallocated than he or she had originally anticipated and if the homeless program could use the additional funds.

The underlying purpose here is not to materially change the division of funds between the State agencies and the homeless programs but simply to modify the process for providing the funds to the homeless program so that it can operate effectively.

The concept behind these changes is to anticipate in advance levels of SAE funds that would have been made available to the Secretary after the reallocation process. These surplus unused funds would be dedicated to the homeless program in addition to the exact dollar amounts made available under the National School Lunch Act for each fiscal year.

I am disappointed that this legislation became necessary so that USDA would administer the program properly. As I have already noted that unused SAE funds have been available to USDA for this homeless program for at least 5 months, and probably much longer, but USDA has yet to use any of them for this program. This legislation removes any possible excuse for not feeding these homeless children.

One aspect of this bill concerns a very technical matter. USDA has indicated that it might limit the number of homeless centers in each city that could participate in the program. I want to again mention the point I raised when S. 2759 was under consideration by the Senate, and the point I raised before the House acted on that bill and before the President signed the bill into law.

The law as amended by this bill provides that no "organization" can operate more than 5 sites. While it is clear

from the text of the law, I want to emphasize that the reference to "Each such organization" in section 18(c)(2)(B) only refers to "private nonprofit organizations" and does not refer to the "State, city, local, or county governments, or other public entities" which are newly permitted to participate under this Act.

That five-site limit imposed on organizations is relevant only to "private nonprofit organizations" and not to governments or other public entities. Imposing that limit on counties or cities is unnecessary and counterproductive in terms of the intent of this legislation.

For example, it would make no sense to encourage homeless families to crowd into just five of New York's 11 or so shelters so that their youngest children could obtain nutritious meals.

I have often said that childhood hunger is a moral issue and not a political one. Childhood hunger is like the proverbial thief in the night, it robs and cripples this Nation of its greatest resource—our children. This bill helps to alleviate some of that hunger.

Mr. President, I ask unanimous consent that a letter from CBO on this matter be placed into the RECORD following the conclusion of my remarks.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3401) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill, as amended.

The bill, as amended, was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote.

Mr. JEFFORDS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### AMENDING THE AGRICULTURAL ACT OF 1938

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 3327, a bill addressing the issue of acre-for-acre transfer of certain acreage allotments, introduced earlier this day by Senators FORD and MCCONNELL; that the bill be deemed read the third time, passed, and the motion to reconsider be laid upon the table, and that any statements appear in the RECORD at the appropriate place.

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

So the bill (S. 3327) was deemed read the third time, and passed, as follows:

The text of the bill (S. 3327) to amend the Agricultural Adjustment Act of 1938 to permit the acre-for-acre transfer of an acreage allotment or quota for

certain commodities, and for other purposes, as passed by the Senate on October 5, 1992, is as follows:

S. 3327

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

#### SECTION 1. ACRE-FOR-ACRE TRANSFER OF CERTAIN ACREAGE ALLOTMENTS.

Section 318 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d) is amended by striking subsection (e) and inserting the following new subsection:

"(e) The transfer of an allotment or quota under this section shall be approved acre for acre."

#### REGARDING MARKETING OF IMPORTED PAPAYAS

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Agriculture Committee be discharged from further consideration of S. 568, a bill regarding marketing order requirements on imported papayas, and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 568) to require that imports of fresh papaya meet all the requirements imposed on domestic fresh papaya.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. LEAHY. Mr. President, it is the intent of the committee that the extension of the authority under section 8e of the Agricultural Marketing Act of 1937 to include the addition of the commodity papayas, shall apply only to imported papayas of such similar varieties and other characteristics as are grown in the production area covered by the Federal marketing order.

There are papayas imported into the United States which are distinctly different than the papayas covered by the Federal marketing order. Such papayas are typically of different varieties, different shape, and larger in size than those regulated under the Federal marketing order. The committee does not intend such papayas to be covered under section 8e regulation.

AMENDMENT NO. 3402

Mr. LAUTENBERG. 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 New Jersey [Mr. LAUTENBERG] for Mr. INOUE, proposes an amendment numbered 3402.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

Strike all after the enacting clause and insert the following:

#### SECTION 1. PAPAYAS.

The first sentence of section 8e(a) of the Agricultural Adjustment Act (7 U.S.C. 608e-1(a)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by striking "or apples" and inserting "apples, or papayas".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3402) was agreed to.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote.

Mr. JEFFORDS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill, as amended.

The bill, as amended, was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

The text of the bill (S. 568) to require that imports of fresh papaya meet all the requirements imposed on domestic fresh papaya, as passed by the Senate on October 5, 1992, is as follows:

S. 568

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

#### SECTION 1. PAPAYAS.

The first sentence of section 8e(a) of the Agricultural Adjustment Act (7 U.S.C. 608e-1(a)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by striking "or apples" and inserting "apples, or Solo-type papayas".

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote.

Mr. JEFFORDS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### COMMUNITIES MAKING TRANSITION TO HUNGER-FREE STATUS

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Agriculture Committee be discharged from further consideration of House Concurrent Resolution 302, a concurrent resolution expressing the sense of Congress regarding communities making the transition to hunger-free status, and that the Senate then proceed to its immediate consideration, that the concurrent resolution be agreed to, and the motion to reconsider laid upon the table; and that the preamble be agreed to.

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

So the concurrent resolution (H. Con. Res. 302) was agreed to.

The preamble was agreed to.

**EQUITABLE TREATMENT OF SUGARCANE PRODUCERS—H.R. 5763**

**RECREATIONAL HUNTING SAFETY AND PRESERVATION ACT OF 1991—S. 1294**

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Agriculture Committee be discharged, en bloc, from consideration of the following bills:

H.R. 5763, to provide equitable treatment to producers of sugarcane subject to proportionate shares; and

S. 1294, the Recreational Hunting Safety and Preservation Act of 1991.

And that the Senate then proceed, en bloc, to their immediate consideration; that the bills be deemed read three times, passed and the motion to reconsider laid upon the table, en bloc.

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

So the bill (H.R. 5763) was deemed read a third time and passed.

So the bill (S. 1294) was deemed read a third time and passed, as follows:

The text of the bill (S. 1294) to protect individuals engaged in a lawful hunt within a national forest, to establish an administrative civil penalty for persons who intentionally obstruct, impede, or interfere with the conduct of the lawful hunt, and for other purposes, as passed by the Senate on October 5, 1992, is as follows:

S. 1294

*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 "Recreational Hunting Safety and Preservation Act of 1991".

**SEC. 2. FINDINGS.**

Congress finds that—

(1) recreational hunting, when carried out pursuant to law (as implemented by the regulations of Federal and State wildlife management agencies) is a necessary and beneficial element in the proper conservation and management of healthy, abundant, and biologically diverse wildlife resources;

(2) recreational hunters (because of a generally demonstrated concern with the conservation of wildlife resources and preservation of habitat necessary for the breeding and maintenance of healthy wildlife populations, and through a familiarity with the resources gained from experience in the field) are a valuable asset in ensuring enlightened public input into decisions regarding management and maintenance programs for wildlife resources and habitat;

(3)(A) recreational hunting supports industries highly significant to the national economy through sales in interstate commerce of sporting goods; and

(B) the Federal excise taxes imposed on the sales provide a major source of funding for vital programs of wildlife conservation and management;

(4) various persons are engaging in (and have announced an intent to continue to engage in) a variety of disruptive activities with the premeditated purpose of preventing and interfering with the conduct of lawful recreational hunting within the boundaries

of national forests and other Federal lands, which activities—

(A) place both recreational hunters and the disruptive persons in imminent jeopardy of grave physical injury or death;

(B) disrupt the peaceful, lawful, and prudent conduct of wildlife population and habitat management programs by Federal and State wildlife management agencies; and

(C) ultimately may alter the planned program objectives, resulting in—

(i) undesirable patterns of activity within populations of wildlife;

(ii) the endangerment of the future viability of wildlife species; and

(iii) damage to habitat values;

(5) national forests comprise one important wildlife habitat resource that—

(A) supports many large, diverse, and vital populations of wildlife; and

(B) offers significant opportunities for legal recreational hunting as an important management tool to ensure the future viability of the wildlife populations;

(6) it is the right of citizens of the United States freely to enjoy lawful recreational hunting in national forests in accordance with regulations promulgated by Federal and State wildlife management agencies; and

(7) in many instances under current law, vagueness and ambiguity exist regarding the application of State laws and enforcement activities relating to the—

(A) safety of hunters; and

(B) legal rights of recreational hunters to participate peacefully in lawful hunts within national forests and on other Federal lands.

**SEC. 3. DEFINITIONS.**

As used in this Act:

(1) **LAWFUL HUNT.**—The term "lawful hunt" means an occasion when an individual is engaged in the taking or harvesting (or attempted taking or harvesting) through a legal means and during a specified legal season of a wildlife or fish, within a national forest, which activity—

(A)(i) is authorized by or licensed under the law of the State in which it takes place; or

(ii) is regulated by game or fishing seasons established by the State in which it takes place;

(B) is not prohibited by a law of the United States; and

(C) does not infringe upon a right of an owner of private property.

(2) **NATIONAL FOREST.**—The term "national forest" means land included in the National Forest System (as defined in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a))).

(3) **PERSON.**—The term "person" includes corporations, companies, associations, firms, partnerships, societies, and joint stock companies, as well as individuals.

(4) **SECRETARY.**—The term "Secretary" means the Secretary of Agriculture.

**SEC. 4. OBSTRUCTION OF A LAWFUL HUNT.**

(a) **VIOLATION.**—It is unlawful for a person knowingly and with the intent of obstructing, impeding, or interfering with a lawful hunt by an individual to—

(1) obstruct, impede, or otherwise interfere with a lawful hunt by an individual;

(2) scare, herd, harass, decoy, or otherwise engage in activities designed to affect wildlife in a national forest;

(3) engage in activities that prevent or impede the reasonable and usual means of access by those who intend to participate in a lawful hunt, whether the activities occur within a national forest or upon a public or

private road, highway, path, trail, or other normal route of access to a national forest;

(4) take or abuse property, equipment, or hunting dogs being used in conjunction with a lawful hunt; or

(5) enter into a national forest, travel in interstate commerce, use the United States mails or an instrumentality of interstate telephonic or electronic communications, or transport or cause to be transported in interstate commerce a material or item, to further—

(A) a scheme or effort to obstruct, impede, or otherwise interfere with a lawful hunt; or

(B) the efforts of another person to obstruct, impede, or interfere with a lawful hunt.

(b) **MULTIPLE VIOLATIONS.**—The Secretary may consider participation by a person in more than one of the activities described in this section to constitute multiple violations.

**SEC. 5. CIVIL PENALTIES.**

(a) **IN GENERAL.**—A person who engages in an activity described in section 4 shall be assessed a civil penalty of not less than \$500, and not more than \$5,000, for each violation.

(b) **VIOLATION INVOLVING FORCE OR VIOLENCE.**—Upon a determination by a court that the activity involved the use of force or violence, or the threatened use of force or violence, against the person or property of another person, a person who engages in an activity described in section 4 shall be assessed a civil penalty of not less than \$1,000, and not more than \$10,000, for each violation.

(c) **RELATIONSHIP TO OTHER PENALTIES.**—The penalties established by this section shall be in addition to other criminal or civil penalties that may be levied against the person as a result of an activity in violation of section 4.

(d) **PROCEDURE.**—

(1) **COMPLAINTS FROM GOVERNMENT AGENTS.**—Upon receipt of a written complaint from an officer, employee, or agent of the Forest Service or other Federal agency that a person violated section 4, the Secretary shall—

(A) forward the complaint to the United States Attorney for the Federal judicial district in which the violation is alleged to have occurred; and

(B) request the Attorney General of the United States to institute a civil action for the imposition and collection of the civil penalty specified in subsection (a) or (b).

(2) **COMPLAINTS FROM INDIVIDUALS.**—Upon receipt of a sworn affidavit from an individual and a determination by the Secretary that the statement contains sufficient factual data to create a reasonable belief that a violation of section 4 has occurred, the Secretary shall—

(A) forward a complaint to the United States Attorney for the Federal judicial district in which the violation is alleged to have occurred; and

(B) request the Attorney General of the United States to institute a civil action for the imposition and collection of the civil penalty specified in subsection (a) or (b).

(e) **USE OF PENALTY MONEY COLLECTED.**—After deduction of costs attributable to collection, money collected from penalties shall be—

(1) deposited into the trust fund established pursuant to the Act entitled "An Act to provide that the United States shall aid the States in wildlife-restoration projects, and for other purposes", approved September 2, 1937 (16 U.S.C. 669) (commonly known as the "Pitman-Robertson Wildlife Restoration Act"), to support the activities authorized

by that Act and undertaken by State wildlife management agencies; or

(2) used in such other manner as the Secretary determines will enhance the funding and implementation of—

(A) the North American Waterfowl Management Plan signed by the Secretary of the Interior and the Minister of Environment for Canada in May 1986; or

(B) a similar program that the Secretary determines will enhance wildlife management—

(i) within national forests; or

(ii) on private or State-owned lands when the efforts will also provide a benefit to wildlife management objectives within national forests.

#### SEC. 6. OTHER RELIEF.

(a) INJUNCTIVE RELIEF.—Injunctive relief against a violation of section 4 may be sought by—

(1) the head of a State agency with jurisdiction over fish or wildlife management;

(2) the Attorney General of the United States; or

(3) any person who is or would be adversely affected by the violation, or a hunting or sportsman's organization to which the person belongs.

(b) DAMAGES AND ATTORNEY'S FEES.—Any person who is or would be adversely affected by a violation of section 4, or a hunting or sportsman's organization to which the person belongs, may bring a civil action to recover—

(1) actual and punitive damages; and

(2) reasonable attorney's fees.

#### SEC. 7. RELATIONSHIP TO STATE AND LOCAL LAW AND CIVIL ACTIONS.

(a) LAW OR ORDINANCE.—This Act is not intended to preempt a State law or local ordinance that provides for civil or criminal penalties for a person who obstructs or otherwise interferes with a lawful hunt.

(b) CIVIL ACTION.—The bringing of an action pursuant to this Act shall not prevent an independent action against a person under a State law or local ordinance.

#### SEC. 8. REGULATIONS.

The Secretary may issue such regulations as are necessary to carry out this Act.

#### RECREATIONAL HUNTING SAFETY AND PRESERVATION ACT—S. 1294

Mr. SANFORD. Mr. President, I rise to offer my strong and sincere support for the passage of the Recreational Hunting Safety and Preservation Act (S. 1294), which is now before the Senate. Such action is long overdue, and hunter protection is an issue for which I have fought and one which I think deserves legislative affirmation. In June of last year, I introduced, with the help of Senators BREAUX, SYMMS, COCHRAN, and HATCH, a bill which is similar in nature to the language now before the Senate.

I wish to especially thank Senator FOWLER, the author of S. 1294, who has worked diligently to bring the Nation's attention to this cause, and Senator BURNS and other colleagues who have championed hunters' rights.

It is unfortunate that the tradition of responsible hunting in this country is being challenged by those who have little understanding of the sport, and those who wish to see all hunting of

wildlife eliminated. The harassment of hunters and the obstruction of lawful hunts has become increasingly frequent in recent months. In 41 States it is now illegal to harass hunters; I am glad Congress is taking action to establish similar guidelines for our national forests. This legislation will protect citizens attempting to carry out a lawful hunt within a national forest.

Those persons found to have intentionally disturbed wildlife resources or abused property in order to disrupt the lawful taking of these resources may be assessed a civil penalty of not less than \$1,000. If this violation involves the use of force or violence, penalties may not exceed \$10,000. Funds collected from civil penalties imposed under the act will aid State wildlife restoration projects, the North American waterfowl management plan, or other wildlife enhancement programs beneficial to our national forests.

Each year many Americans enjoy the natural beauty of our national forests and help maintain controlled populations of wildlife by hunting in these unspoiled areas. What began as a trend in the New England States has recently begun to spread. From Maine to Florida to California, pheasant hunters and deer hunters alike are being trailed into the fields and woods by noisy, protesting antihunting advocates. Air horns, loud music, and shouting arguments are increasingly taking the place of otherwise uninterrupted hunts. Vandalism and the threat of physical violence are also likely to become more widespread as groups opposing hunting become larger and more active.

Each year, American hunters spend several hundred million dollars for licenses, duck stamps, and excise taxes on equipment and ammunition. Much of that money is used to finance game research and management programs and to purchase important wildlife habitats that will benefit all species. The American hunter is a responsible conservationist who knows, and adds value to game species, and thereby ensures their preservation. These men and women have been instrumental in efforts which have led to dramatic increases in populations of white-tailed deer, elk, wild turkeys, wood ducks, and other species.

Mr. President, our national forests are treasures to be maintained for continuing supplies of natural resources and also for the recreational needs of our citizens. This bill will help ensure stable and healthy populations of game animals for hunters and nonhunters alike. I hope my colleagues will join Senator FOWLER and me in supporting this measure that will protect the property and safety of hunters who abide by all Federal and State game laws in the taking of animals within a national forest.

Mr. FOWLER. Mr. President, I am proud the Senate has taken action on

this legislation and want to recognize all the Senators who cosponsored this important bill—Senators BURNS, HEFLIN, MCCONNELL, PRYOR, SASSER, STEVENS, HATCH, SHELBY, BREAUX, HOLLINGS, DASCHLE, REID, and Senator SANFORD who has worked very closely with me on this issue. These Members should all be commended for their strong support for the sportsmen of America.

Mr. President, now that the Senate has passed this legislation, I urge all of my fellow Members of Congress in the other Chamber to move this legislation forward without delay and send the bill to the President.

#### RURAL ELECTRIFICATION ACT AMENDMENT

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Agriculture Committee be discharged from further consideration of H.R. 5954, a bill to clarify the status of the Rural Telephone Bank and its accounting policies, and that the Senate then proceed to its immediate consideration.

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

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5954) to amend the Rural Electrification Act of 1936 to clarify the status of the Rural Telephone Bank and its accounting policies, 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.

AMENDMENT NO. 3403

Mr. LAUTENBERG. Mr. President, on behalf of Senators LEAHY and LUGAR a substitute amendment is already at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG] for Mr. LEAHY (for himself and Mr. LUGAR) proposes amendment 3403.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

Strike all after the enacting clause and insert the following:

#### SECTION 1. IMPROVEMENT OF HEALTH CARE SERVICES AND EDUCATIONAL SERVICES THROUGH TELECOMMUNICATIONS.

(a) PROGRAMS FOR CONSORTIA IN QUALIFIED LOCAL EXCHANGE SERVICE AREAS.—Chapter 1 of subtitle D of title XXIII of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 950aaa et seq.) is amended by adding at the end the following new section:

#### "SEC. 2335A. SPECIAL HEALTH CARE AND DISTANCE LEARNING PROGRAM FOR QUALIFIED SERVICE AREAS.

"(a) DEVELOPMENT OF CONSORTIA.—The Administrator shall encourage the development

of consortia to provide health care services or educational services through telecommunications in rural areas of a qualified local exchange carrier service area. Each consortium shall be composed of—

"(1) a tertiary care facility, rural referral center, medical teaching institution, or educational institution accredited by the State;

"(2) any number of institutions that provide health care services or educational services; and

"(3) not less than three rural hospitals, clinics, community health centers, migrant health centers, local health departments, or similar facilities, or not less than three educational institutions accredited by the State.

"(b) SPECIAL PROGRAM FOR QUALIFIED LOCAL EXCHANGE CARRIER SERVICE AREAS.—

"(1) REGULATIONS AND SPECIAL PROGRAM.—Through regulations issued not later than 190 days after the date of enactment of this section, the Administrator shall establish a program under which qualified consortia described in subsection (a) located within qualified local exchange carrier service areas may apply to the Administrator for grants to support the costs of activities involved in the sending and receiving of information that will improve the delivery of health care services or educational services through telecommunications in rural areas.

"(2) SELECTION OF GRANTEEES.—The Administrator shall—

"(A) establish application procedures;

"(B) review the applications submitted under this subsection in a timely manner; and

"(C) make grants in accordance with this subsection and with regulations issued by the Administrator.

"(3) PRIORITIES.—

"(A) IN GENERAL.—Priority for grants under this subsection shall be accorded applicants whose applications and plans demonstrate—

"(i) the greatest likelihood of successfully and efficiently carrying out the activities described in the application and the plan of the applicant;

"(ii) the greatest likelihood of improving health care services or educational services in the rural areas;

"(iii) coordination between local exchange carriers to carry out activities as described in the application; and

"(iv) unconditional financial support from each affected local community.

"(B) GEOGRAPHIC DIVERSITY.—In awarding grants, the Administrator shall seek to achieve geographic diversity among the grantees.

"(4) MAXIMUM AMOUNT OF GRANT.—The amount of each grant awarded under this subsection shall not exceed \$1,500,000.

"(5) DISTRIBUTION OF GRANTS.—Grants to a qualified consortium under this subsection shall be disbursed over a period of not more than 3 years.

"(6) USE OF FUNDS.—

"(A) IN GENERAL.—Grants under this subsection may be used to support the costs of activities involving the sending and receiving of information to improve health care services or educational services in rural areas, including—

"(i) in the case of grants to improve health care services—

"(I) consultations between health care providers;

"(II) transmitting and analyzing x-rays, lab slides, and other images;

"(III) developing and evaluating automated claims processing, and transmitting automated patient records; and

"(IV) developing innovative health professions education programs;

"(ii) in the case of grants to improve educational services—

"(I) developing innovative education programs and expanding curriculum offerings;

"(II) providing continuing education to all members of the community;

"(III) providing means for libraries of educational institutions or public libraries to share resources;

"(IV) providing the public with access to State and national data bases;

"(V) conducting town meetings; and

"(VI) covering meetings of agencies of State government; and

"(iii) in all cases—

"(I) transmitting financial information; and

"(II) such other related activities as the Administrator considers to be consistent with the purposes of this section.

"(7) LIMITATION ON ACQUISITION OF INTERACTIVE TELECOMMUNICATIONS EQUIPMENT.—Not more than 40 percent of the amount of any grant made under this subsection may be used to acquire interactive telecommunications end user equipment.

"(8) LIMITATION ON USE OF CONSULTANTS.—Not more than 5 percent of the amount of any grant made under this subsection may be used to employ or contract with any consultant or similar person.

"(9) PROHIBITIONS.—Grants made under this subsection may not be used, in whole or in part, to establish or operate a telecommunications network or to provide any telecommunications services for hire.

"(c) EXPEDITED TELEPHONE LOANS.—Local exchange carriers located in a qualified local exchange carrier service area shall be eligible to apply for expedited loans under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.). The Administrator shall respond to a completed application for such a loan no later than 45 days after receipt. The Administrator shall notify the applicant in writing of its decision regarding each such application.

"(d) DEFINITION.—As used in this section, the term 'qualified local exchange carrier service area' means the service area of a local telephone exchange carrier in which the local exchange carrier has a plan approved by the Administrator for upgrading and modernizing the rural telecommunications infrastructure of the service area. The plan shall—

"(1) provide for eliminating party line service within the local exchange carrier service area and for other improvements and modernization in rural telephone service;

"(2) provide for the enhancement of the availability of educational opportunities or the availability of improved medical care through telecommunications;

"(3) encourage and improve the use of telecommunications, computer networks, and related advanced technologies to provide educational and medical benefits to people in rural areas; and

"(4) provide for the achievement of the goals described in subparagraphs (A) through (C) not later than 10 years after the approval of the plan."

(b) EXTENSION OF CHAPTER 1.—Notwithstanding any other provision of law, chapter 1 of subtitle D of title XXIII of the Food, Agriculture, Conservation and Trade Act of 1990 (7 U.S.C. 950aaa et seq.), including the amendments made by this section, shall be effective until September 30, 1997.

(c) ALLOCATION OF FUNDS.—Section 2335(b) of the Food, Agriculture, Conservation, and

Trade Act of 1990 (7 U.S.C. 950aaa-4) is amended by adding at the end the following new paragraph:

"(8) USE OF APPROPRIATED FUNDS.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Administrator shall make available—

"(i) 50 percent of the funds made available pursuant to paragraph (3) for grants for end users that are consortia participating in the special program established under section 2335A; and

"(ii) 50 percent of the funds made available pursuant to paragraph (3) to provide funds for the programs, and end users participating in the programs, authorized by sections 2331 through 2335.

"(B) RELEASE OF FUNDS.—Not earlier than April 1 and not later than May 1 of each year, the Administrator shall make such funds described in subparagraph (A) as remain unobligated, available for any purpose described in subparagraph (A)."

(d) EFFECT OF AMENDMENTS.—The amendments made by this section shall not apply to funds appropriated for fiscal year 1993 to carry out subtitle D of title XXIII of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 950aaa et seq.) or require the revision of any regulation proposed to carry out such subtitle during fiscal year 1993.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

So the amendment (No. 3403) was agreed to.

The PRESIDING OFFICER. Without objection the bill is considered read a third time and passed and the amendment to the title is agreed to.

So the bill (H.R. 5934) as amended, was deemed read a third time and passed.

The title was amended to read as follows: "An Act to amend the Food, Agriculture, Conservation, and Trade Act of 1990 to improve health care services and educational services through telecommunications, and for other purposes."

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote.

Mr. JEFFORDS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### FOREIGN SERVICE ACT AMENDMENTS OF 1992

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 764, S. 3275, a bill to amend the Foreign Service Act of 1980; that the bill be read a third time, passed, and the motion to reconsider be laid upon the table.

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

So the bill (S. 3275) was deemed read a third time and passed, as follows:

S. 3275

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

(a) Section 805(a) of the Foreign Service Act of 1980 (22 U.S.C. 4045) is amended—

(1) by inserting "(1)" immediately after "(a)";

(2) by adding at the end thereof the following new paragraph:

"(2) Notwithstanding the percentage limitation contained in paragraph (1) of this subsection—

"(A) The Department shall deduct and withhold from the basic pay of a Foreign Service criminal investigator/inspector of the Office of the Inspector General, Agency for International Development, who is qualified to have his annuity computed in the same manner as that of a law enforcement officer pursuant to section 8339(d) of title 5, an amount equal to that to be withheld from a law enforcement officer pursuant to section 8334(a)(1) of title 5. The amounts so deducted shall be contributed to the Fund for the payment of annuities, cash benefits, refunds, and allowances. An equal amount shall be contributed by the Department from the appropriations or fund used for payment of the salary of the participant. The Department shall deposit in the Fund the amounts deducted and withheld from basic salary and amounts contributed by the Department.

"(B) The Department shall deduct and withhold from the basic pay of a Foreign Service criminal investigator/inspector of the Office of the Inspector General, Agency for International Development, who is qualified to have his annuity computed pursuant to section 8415(d) of title 5, an amount equal to that to be withheld from a law enforcement officer pursuant to section 8422(a)(2)(B) of title 5. The amounts so deducted shall be contributed to the Fund for the payment of annuities, cash benefits, refunds, and allowances. An equal amount shall be contributed by the Department from the appropriations or fund used for payment of the salary of the participant. The Department shall deposit in the Fund the amounts deducted and withheld from basic salary and amounts contributed by the Department."

(b) Section 805(d) of the Foreign Service Act of 1980 (22 U.S.C. 4045) is amended by adding at the end thereof the following new paragraph:

"(5) Notwithstanding paragraph (1), a special contribution for past service as a Foreign Service criminal investigator/inspector of the Office of the Inspector General, Agency for International Development which would have been creditable toward retirement under either section 8336(c) or 8412(d) of title 5, and for which a special contribution has not been made shall be equal to the difference between the amount actually contributed pursuant to either section 4045 or 4071e of title 22 and the amount that should have been contributed pursuant to either section 8334 or 8422 of title 5."

(c) Section 812(a) of the Foreign Service Act of 1980 is amended by striking out the number "55" from paragraph (2) and inserting the number "57" in lieu thereof.

(d) Section 806(a)(6) of the Foreign Service Act of 1980 is amended by striking out "5545(a)(2)" and inserting "5545(c)(2)" in lieu thereof.

#### YAVAPAI-PRESCOTT INDIAN TRIBE WATER RIGHTS SETTLEMENT ACT

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 744, S. 2975, Yavapai-PreScott Indian Tribe water rights bill; that the committee substitute be agreed to; the bill be read a third time and passed;

and the motion to reconsider be laid upon the table.

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

So the bill (S. 2975), as amended, was deemed read a third time and passed, as follows:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Yavapai-PreScott Indian Tribe Water Rights Settlement Act of 1992".

#### SEC. 2. CONGRESSIONAL FINDINGS AND DECLARATIONS.

(a) FINDINGS.—The Congress finds that—

(1) it is the policy of the United States, in fulfillment of its trust responsibility to the Indian tribes, to promote Indian self-determination and economic self-sufficiency, and to settle, wherever possible, the water rights claims of Indian tribes without lengthy and costly litigation;

(2) meaningful Indian self-determination and economic self-sufficiency depend on the development of viable Indian reservation economies;

(3) quantification of rights to water and development of facilities needed to utilize tribal water supplies effectively is essential to the development of viable Indian reservation economies, particularly in arid western States;

(4) on June 7, 1935, and by actions subsequent thereto, the United States established a reservation for the Yavapai-PreScott Indian Tribe in Arizona adjacent to the city of Prescott;

(5) proceedings to determine the full extent of Yavapai-PreScott Tribe's water rights are currently pending before the Superior Court of the State of Arizona in and for Maricopa County, as part of the general adjudication of the Gila River system and source;

(6) recognizing that final resolution of the general adjudication will take many years and entail great expense to all parties, prolong uncertainty as to the full extent of the Yavapai-PreScott Tribe's entitlement to water and the availability of water supplies to fulfill that entitlement, and impair orderly planning and development by the Tribe and the city of Prescott; the Tribe, the city of Prescott, the Chino Valley Irrigation District, the State of Arizona and the United States have sought to settle all claims to water between and among them;

(7) representatives of the Yavapai-PreScott Tribe, the city of Prescott, the Chino Valley Irrigation District, the State of Arizona and the United States have negotiated a Settlement Agreement to resolve all water rights claims between and among them, and to provide the Tribe with long term, reliable water supplies for the orderly development and maintenance of the Tribe's reservation;

(8) pursuant to the Settlement Agreement, the quantity of water made available to the Yavapai-PreScott Tribe under the existing water service agreement between the Tribe and the city of Prescott will be secured, such water service agreement will be continued in perpetuity, and the Tribe's continued on-reservation use of surface and ground water for municipal and industrial, recreational and agricultural purposes will be provided for;

(9) to advance the goals of Federal Indian policy and to fulfill the trust responsibility of the United States to the Tribe, it is appropriate that the United States participate in the implementation of the Settlement Agreement and contribute funds to firm up the city of Prescott and the Yavapai-PreScott Tribe's long-term water supplies so as to enable the Tribe to utilize fully its water entitlements in developing a diverse, efficient reservation economy; and

(10) providing funds for the acquisition and development of replacement water in exchange for the CAP contract of the Yavapai-PreScott Tribe and the CAP subcontract of the city of

Prescott is a cost-effective means for the United States to ensure reliable, long-term water supplies for the Yavapai-PreScott Tribe and to promote efficient, environmentally sound use of available water supplies in the Verde River basin.

(b) DECLARATION OF PURPOSES.—The Congress declares that the purposes of this Act are:

(1) to approve, ratify and confirm the Settlement Agreement among the Yavapai-PreScott Tribe, the city of Prescott, the Chino Valley Irrigation District, the State of Arizona and the United States;

(2) to authorize and direct the Secretary of the Interior to execute and perform the Settlement Agreement;

(3) to authorize the actions and appropriations necessary for the United States to fulfill its legal and trust obligations to the Yavapai-PreScott Tribe as provided in the Settlement Agreement and this Act;

(4) to authorize appropriation of such sums as may be agreed upon by the Secretary, city of Prescott, and the Yavapai-PreScott Tribe as necessary for the Secretary to acquire the contract of the Yavapai-PreScott Tribe for 500 acre-feet of CAP water and the subcontract of the city of Prescott for 7,167 acre-feet of CAP water for use in settlement of Indian water rights claims in Arizona;

(5) to require that expenditures of such appropriations by the Yavapai-PreScott Tribe and Prescott for the acquisition or development of replacement water supplies in the Verde River basin shall not be inconsistent with the goals of the Prescott Active Management Area, preservation of riparian habitat, flows and biota of the Verde River and its tributaries;

(6) to authorize the Secretary to substitute all or part of CAP Indian and non-Indian municipal and industrial priority water acquired pursuant to this Act for CAP water of agricultural or municipal and industrial priority acquired by the Secretary pursuant to Public Law 101-628, the Fort McDowell Indian Community Water Rights Settlement Act, and assigned to that Community; and

(7) to repeal section 406(k) of Public Law 101-628 which authorizes \$30,000,000 in appropriations for the acquisition of land and water resources in the Verde River basin and for the development thereof as an alternative source of water for the Fort McDowell Indian Community.

#### SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) The term "CAP" means the Central Arizona Project, a reclamation project authorized under title III of the Colorado River Basin Project Act of 1968 (43 U.S.C. 1521 et seq.).

(2) The term "CAWCD" means the Central Arizona Water Conservation District, organized under the laws of the State of Arizona, which is the contractor under a contract with the United States, dated December 1, 1988, for the delivery of water and repayment of costs of the Central Arizona Project.

(3) The term "CVID" means the Chino Valley Irrigation District, an irrigation district organized under the laws of the State of Arizona.

(4) The term "Community" means the Fort McDowell Indian Community, a community of Yavapai Indians organized under section 16 of the Indian Reorganization Act of June 18, 1934 (25 U.S.C. 476), and duly recognized by the Secretary.

(5) The term "Payson" means the town of Payson, an Arizona municipal corporation.

(6) The term "Prescott" means the city of Prescott, an Arizona municipal corporation.

(7) The term "Reservation" means the reservation established by the Act of June 7, 1935 (49 Stat. 332) and the Act of May 18, 1956 (70 Stat. 157) for the Yavapai-PreScott Tribe of Indians.

(8) The term "Secretary" means the Secretary of the United States Department of the Interior.

(9) The term "Settlement Agreement" means that agreement entered into by the city of Prescott, the Chino Valley Irrigation District, the Yavapai-Prescott Indian Tribe, the State of Arizona, and the United States, providing for the settlement of all water claims between and among them.

(10) The term "Tribe" means the Yavapai-Prescott Indian Tribe, a tribe of Yavapai Indians duly recognized by the Secretary.

(11) The term "Water Service Agreement" means that agreement between the Yavapai-Prescott Indian Tribe and the city of Prescott providing for water, sewer, and effluent service from the city of Prescott to the Yavapai-Prescott Tribe.

#### SEC. 4. RATIFICATION OF SETTLEMENT AGREEMENT.

(a) APPROVAL OF SETTLEMENT AGREEMENT.—To the extent the Settlement Agreement does not conflict with the provisions of this Act, such Agreement is approved, ratified and confirmed. The Secretary shall execute and perform such Agreement, and shall execute any amendments to the Agreement and perform any action required by any amendments to the Agreement which may be mutually agreed upon by the parties.

(b) PERPETUITY.—The Settlement Agreement and Water Service Agreement shall include provisions which will ensure that the benefits to the Tribe thereunder shall be secure in perpetuity. Notwithstanding the provisions of section 2103 of the Revised Statutes of the United States (25 U.S.C. 81) relating to the term of the Agreement, the Secretary is authorized and directed to approve the Water Service Agreement with a perpetual term.

#### SEC. 5. ACQUISITION AND ALLOCATION OF CAP WATER.

(a) ACQUISITION OF CONTRACTS.—The Secretary is authorized and directed to acquire the CAP contract of the Tribe, and the CAP subcontract of the city of Prescott in exchange for an appropriate share of funds appropriated to the Verde River Basin Water Fund established pursuant to section 6.

(b) ALLOCATION OF WATER.—The Secretary may allocate to the Fort McDowell Indian Community all or part of the water acquired pursuant to section 5(a) directly or in lieu of water which the Secretary may acquire from the Harquahala Valley Irrigation District (hereinafter "HVID") pursuant to section 406(b) of the Act of November 28, 1990 (Public Law 101-628; 104 Stat. 4483), and allocated to the Community in fulfillment of the United States' obligations. In the event the Secretary allocates water acquired pursuant to section 5(a) in lieu of water acquired from the HVID, the Secretary may reallocate HVID water to one or more other Arizona Indian tribes, bands or communities. The Secretary may reallocate HVID water either with its original CAP agricultural priority or as converted to a CAP Indian priority.

(c) PRIORITY.—The priority of water acquired under this section, if allocated by the Secretary to the Community, or to any other Arizona Indian tribe, band or community, shall be the same as established in the Notice of Final Water Allocations to Indian and non-Indian Water Users and Related Decisions, dated March 24, 1983 (48 FR 2446 et seq.). The Community or any other Arizona tribe, band or community to whom such water may be allocated shall pay the United States or, if directed by the Secretary, the CAWCD, all operation, maintenance and replacement costs associated with such CAP water. Water service capital charges, or any other charges or payments for such CAP water other than operation, maintenance and replacement costs shall be nonreimbursable.

(d) EXCLUSION OF CERTAIN COSTS.—The Secretary shall, for the purpose of determining the allocation and repayment of costs of the CAP as provided in Article 9.3 of Contract No. 14-06-W-245, Amendment No. 1, between the United States and the CAWCD dated December 1, 1988, and any amendment or revision thereof, exclude the costs associated with water acquired under this section from the CAWCD's repayment obligation and such costs shall be nonreimbursable.

#### SEC. 6. REPLACEMENT WATER FUND; CONTRACTS.

(a) FUND.—The Secretary shall establish a fund to be known as the "Verde River Basin Water Fund" (hereinafter called the "Fund") to provide replacement water for the CAP water relinquished by the Tribe and by Prescott. Moneys in the Fund shall be available without fiscal year limitations.

(b) CONTENT OF FUND.—The Fund shall consist of moneys appropriated to it pursuant to the authorization in section 9(a), and any moneys returned to the Fund pursuant to subsection (d).

(c) PAYMENTS FROM FUND.—The Secretary shall, subsequent to the publication of a statement of findings as provided in section 12(a), cause to be paid from the Fund to the Tribe and to Prescott an amount equal to the number of acre-feet of CAP water relinquished by the Tribe and by Prescott times a value to be negotiated by the Secretary with the Tribe and Prescott, respectively, together with interest as provided in section 9(b).

(d) CONTRACTS.—The Secretary shall require, as a condition precedent to the payment of any moneys pursuant to subsection (c), that the Tribe and Prescott agree, by contract with the Secretary, to establish trust accounts into which the payments would be deposited and administered, to use such moneys consistent with the purpose and intent of section 7, to provide for audits of such accounts, and for the repayment to the Fund, with interest, any amount determined by the Secretary not to have been used within the purpose and intent of section 7.

#### SEC. 7. EXPENDITURES OF FUNDS.

(a) BY THE CITY.—All moneys paid to Prescott for relinquishing its CAP subcontract to the Secretary and deposited into a trust account pursuant to section 6(d), shall be used for the purposes of defraying expenses associated with the investigation, acquisition or development of alternative sources of water to replace the CAP water relinquished under this Act. Alternative sources shall be understood to include, but not be limited to, retirement of agricultural land and acquisition of associated water rights, development of ground water resources outside the Prescott Active Management Area established pursuant to the laws of the State of Arizona, and artificial recharge.

(b) BY THE TRIBE.—All funds paid to the Tribe for relinquishing its CAP contract to the Secretary, and deposited into a trust account pursuant to section 6(d), shall be used to defray its water service costs under the Water Service Agreement or to develop and maintain facilities for on-reservation water or effluent use.

(c) NO PER CAPITA PAYMENTS.—No amount of the Tribe's portion of the Fund may be used to make per capita payments to any member of the Tribe, nor may any amount of any payment made pursuant to section 6(c) be distributed as a dividend or per capita payment to any constituent, member, shareholder, director or employee of Prescott.

(d) DISCLAIMER.—Effective with the payment of funds pursuant to section 6(c), the United States shall not be liable for any claim or cause of action arising from the use of such funds by the Tribe or by Prescott.

#### SEC. 8. ENVIRONMENTAL COMPLIANCE.

The Secretary, the Tribe and Prescott shall comply with all applicable Federal environ-

mental and State environmental and water laws in developing alternative water sources pursuant to section 7(a). Development of such alternative water sources shall not be inconsistent with the goals of the Prescott Active Management Area, preservation of the riparian habitat, flows and biota of the Verde River and its tributaries.

#### SEC. 9. APPROPRIATIONS AUTHORIZATION AND REPEAL.

(a) AUTHORIZATION.—There are authorized to be appropriated to the Fund established pursuant to section 6(a):

(1) Such sums as may be required to meet the amount agreed upon by the Secretary, city of Prescott, and the Yavapai-Prescott Tribe as necessary for the acquisition of the CAP contract of the Tribe and the CAP subcontract of the city of Prescott, plus an amount necessary for any accrued interest in accordance with subsection (b).

(2) Such sums as may be necessary, but not to exceed \$200,000, to the Secretary for the Tribe's costs associated with judicial confirmation of the settlement.

(3) Such sums as may be necessary to provide for the study required under section 11(d).

(4) Such sums as may be necessary to establish, maintain and operate the gauging station required under section 11(e).

(b) INTEREST.—Interest shall accrue and be paid by the United States on the amount authorized in subsection (a)(1) beginning October 1, 1993, or the date the agreement referred to in subsection (a) is entered into, whichever last occurs, and shall continue to accrue until appropriated, at rates determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding Federal obligations of comparable maturity.

(c) STATE CONTRIBUTION.—The State of Arizona shall contribute \$200,000 to the trust account established by the Tribe pursuant to the Settlement Agreement and section 6(d) for uses consistent with section 7(b).

(d) REPEAL.—Subsection 406(k) of the Act of November 28, 1990 (Public Law 101-628; 104 Stat. 4487) is repealed.

#### SEC. 10. SATISFACTION OF CLAIMS.

(a) WAIVER.—The benefits realized by the Tribe and its members under the Settlement Agreement and this Act shall constitute full and complete satisfaction of all members' claims for water rights or injuries to water rights under Federal and State laws (including claims for water rights in ground water, surface water and effluent) from time immemorial to the effective date of this Act, and for any and all future claims of water rights (including claims for water rights in ground water, surface water, and effluent) from and after the effective date of this Act. Nothing in this Act shall be deemed to recognize or establish any right of a member of the Tribe to water on the Tribe's reservation.

(b) WAIVER AND RELEASE.—The Tribe, on behalf of itself and its members, and the Secretary on behalf of the United States, are authorized and required, as a condition to the implementation of this Act, to execute a waiver and release, except as provided in subsection (d) and the Settlement Agreement, of all claims of water rights or injuries to water rights (including water rights in ground water, surface water and effluent), from and after the effective date of this Act, which the Tribe and its members may have, against the United States, the State of Arizona or any agency or political subdivision thereof, or any other person, corporation, or municipal corporation, arising under the laws of the United States or the State of Arizona.

(c) WAIVER BY UNITED STATES.—Except as provided in subsection (d) and the Settlement Agreement, the United States, in its own right or on behalf of the Tribe, shall not assert any claim against the State of Arizona or any politi-

cal subdivision thereof, or against any other person, corporation, or municipal corporation, arising under the laws of the United States or the State of Arizona based upon water rights or injuries to water rights of the Tribe and its members or based upon water rights or injuries to water rights held by the United States on behalf of the Tribe and its members.

(d) **RIGHTS RETAINED.**—In the event the waivers of claims authorized in subsection (b) of this section do not become effective pursuant to section 12(a), the Tribe, and the United States on behalf of the Tribe, shall retain the right to assert past and future water rights claims as to all reservation lands.

(e) **JURISDICTION.**—The United States District Court for the District of Arizona shall have original jurisdiction of all actions arising under this Act, the Settlement Agreement and the Water Service Agreement, including review pursuant to title 9, United States Code, of any arbitration and award under the Water Service Agreement.

(f) **CLAIMS.**—Nothing in this Act shall be deemed to prohibit the Tribe, or the United States on behalf of the Tribe, from asserting or maintaining any claims for the breach or enforcement of the Settlement Agreement or the Water Service Agreement.

(g) **DISCLAIMER.**—Nothing in this Act shall affect the water rights or claims related to any trust allotment located outside the exterior boundaries of the reservation of any member of the Tribe.

(h) **FULL SATISFACTION OF CLAIMS.**—Payments made to Prescott under this Act shall be in full satisfaction for any claim that Prescott might have against the Secretary or the United States related to the allocation, reallocation, relinquishment or delivery of CAP water.

#### SEC. 11. MISCELLANEOUS PROVISIONS.

(a) **JOINING OF PARTIES.**—In the event any party to the Settlement Agreement should file a lawsuit in any United States district court relating only and directly to the interpretation or enforcement of the Settlement Agreement or this Act, naming the United States of America or the Tribe as parties, authorization is hereby granted to join the United States of America or the Tribe, or both, in any such litigation, and any claim by the United States of America or the Tribe to sovereign immunity from such suit is hereby waived. In the event Prescott submits a dispute under the Water Service Agreement to arbitration or seeks review by the United States District Court for the District of Arizona of an arbitration award under the Water Service Agreement, any claim by the Tribe to sovereign immunity from such arbitration or review is hereby waived.

(b) **NO REIMBURSEMENT.**—The United States of America shall make no claims for reimbursement of costs arising out of the implementation of the Settlement Agreement or this Act against any lands within the Yavapai-Prescott Indian Reservation, and no assessment shall be made with regard to such costs against such lands.

(c) **GROUND WATER MANAGEMENT PLAN.**—The Secretary, in consultation with the Tribe, is authorized to establish a ground water management plan for the reservation which, except as is necessary to be consistent with the Water Service Agreement, the Settlement Agreement and this Act, will have the same effect as a ground water management plan developed under the laws of the State of Arizona.

(d) **WATER STUDY.**—The Secretary is authorized and directed to study the sources and costs of water supplies which may be available to fulfill the trust responsibility of the United States to the Tonto Apache Tribe of Arizona with respect to water. Sources to be studied shall include water service from the town of Payson, Arizona. The study shall be commenced within

180 days after the enactment of this Act and shall be completed within 1 year after it is commenced. Copies of this study shall be provided to the Committee on Interior and Insular Affairs of the House of Representatives and the Select Committee on Indian Affairs of the Senate.

(e) **GAUGING STATION.**—The Secretary, acting through the Geological Survey, shall establish, maintain and operate a gauging station at the State Highway 89 bridge across Granite Creek adjacent to the reservation to assist the Tribe and the CVID in allocating the surface flows from Granite Creek as provided in the Settlement Agreement.

#### SEC. 12. EFFECTIVE DATE.

(a) **WAIVERS AND RELEASES.**—The waivers and releases required by section 10(b) of this Act shall become effective as of the date the Secretary causes to be published in the Federal Register a statement of findings that—

(1) the Secretary has executed contracts for the acquisition of the Tribe's CAP contract and the city of Prescott's CAP subcontract as provided in section 6(d);

(2) the stipulation which is attached to the Settlement Agreement as exhibit 9.5, has been approved in substantially the form of such exhibit no later than December 31, 1993, such approval conditioned upon subsequent appropriation of funds authorized in section 9(a)(1) and deposit of such funds into the Tribe's and Prescott's respective trust accounts;

(3) the Settlement Agreement has been modified to the extent it is in conflict with this Act and has been executed by the Secretary; and

(4) the State of Arizona has appropriated and deposited into the Tribe's trust account \$200,000 as required by the Settlement Agreement.

(b) **DEADLINE.**—If the actions described in paragraphs (1), (2), (3), and (4) of subsection (a) have not occurred by December 31, 1995, any contract between Prescott and the United States entered into pursuant to section 6(d) shall not thereafter be effective, any funds appropriated pursuant to section 9(a)(1) shall be returned to the Treasury of the United States, and any funds appropriated by the State of Arizona pursuant to the Settlement Agreement shall be returned by the Tribe to the State of Arizona.

#### SEC. 13. OTHER CLAIMS.

(a) **OTHER TRIBES.**—Nothing in the Settlement Agreement or this Act shall be construed in any way to quantify or otherwise adversely affect the land and water rights, claims or entitlements to water of any Arizona Indian tribe, band or community, other than the Tribe.

(b) **FEDERAL AGENCIES.**—Nothing in this Act shall be construed to affect the water rights or the water rights claims of any Federal agency, other than the Bureau of Indian Affairs on behalf of the Tribe.

### PIPELINE SAFETY ACT

Mr. LAUTENBERG. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1583.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1583) entitled "An Act to amend the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979 to authorize appropriations and to improve pipeline safety, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the "Pipeline Safety Act of 1992".

#### (b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

**TITLE I—NATURAL GAS PIPELINE SAFETY**

Sec. 101. Environmental protection.

Sec. 102. High-density population areas.

Sec. 103. Increased inspection requirements.

Sec. 104. Excess flow valves.

Sec. 105. Technical pipeline safety standards committee.

Sec. 106. Operator testing.

Sec. 107. Replacement of cast iron pipelines.

Sec. 108. Pipeline facility inspection amendments.

Sec. 109. Gathering lines.

Sec. 110. Revised reporting requirements.

Sec. 111. Authority of Secretary.

Sec. 112. Enforcement.

Sec. 113. Participation in agreement proceedings.

Sec. 114. Authorization of appropriations.

Sec. 115. Customer-owned service lines.

Sec. 116. Additional State standards.

Sec. 117. Underwater abandoned pipeline facilities.

Sec. 118. Natural Gas Pipeline Safety Act of 1968 table of contents.

**TITLE II—HAZARDOUS LIQUID PIPELINE SAFETY**

Sec. 201. Environmental protection.

Sec. 202. Environmentally sensitive and high-density population areas.

Sec. 203. Increased inspection requirements.

Sec. 204. Technical Pipeline Safety Standards Committee.

Sec. 205. Operator testing.

Sec. 206. Low internal stress hazardous liquid pipeline facilities.

Sec. 207. Pipeline facility inspection amendments.

Sec. 208. Gathering lines.

Sec. 209. Revised reporting requirements.

Sec. 210. Authority of Secretary.

Sec. 211. Enforcement.

Sec. 212. Emergency flow restricting devices.

Sec. 213. Participation in agreement proceedings.

Sec. 214. Authorization of appropriations.

Sec. 215. Additional State standards.

Sec. 216. Underwater abandoned pipeline facilities.

**TITLE III—GENERALLY APPLICABLE PIPELINE SAFETY PROVISIONS**

Sec. 301. Grants-in-aid authorization.

Sec. 302. Underground storage tanks.

Sec. 303. Pipeline accident investigations.

Sec. 304. One-call enforcement.

Sec. 305. Additional inspectors.

Sec. 306. Development of underground utility location technologies.

Sec. 307. Study of underwater abandoned pipeline facilities.

**TITLE IV—RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION**

Sec. 401. Research and Special Programs Administration.

**TITLE V—HAZARDOUS MATERIALS TRANSPORTATION ACT TECHNICAL AMENDMENTS**

Sec. 501. Correction to reference to Indian Self-Determination and Education Assistance Act.

Sec. 502. Definitions of HAZMAT employee and employer.

Sec. 503. Technical corrections to section 106.

Sec. 504. Technical correction to section 115.

Sec. 505. Technical corrections to section 116.

Sec. 506. Technical correction to section 118.

Sec. 507. Uniformity of State motor carrier permitting forms and procedures.

Sec. 508. Exemption for certain rail-motor carrier mergers.

**TITLE I—NATURAL GAS PIPELINE SAFETY**

**SEC. 101. ENVIRONMENTAL PROTECTION.**

(a) **FEDERAL SAFETY STANDARDS AND REPORTS.**—Section 3(a) of the Natural Gas Pipeline

Safety Act of 1968 (49 U.S.C. App. 1672(a)) is amended—

(1) in paragraph (1) by inserting "and the protection of the environment" after "need for pipeline safety";

(2) in paragraph (1)(D) by inserting "and the protection of the environment" after "contribute to public safety"; and

(3) in paragraph (3)(A) by striking "or property" and inserting "property, or the environment".

(b) CORRECTIVE ACTION.—Section 12(b) of such Act (49 U.S.C. App. 1679b(b)) is amended—

(1) in paragraph (1) by striking "or property," and inserting "property, or the environment,";

(2) in paragraph (2)(A) by striking "or property," and inserting "property, or the environment,";

(3) in paragraph (2)(B)—

(A) by striking "or property," and inserting "property, or the environment,"; and

(B) by striking "or property," and inserting "property, or the environment,"; and

(4) in paragraph (5) by striking "or property," and inserting "property, or the environment,".

#### SEC. 102. HIGH-DENSITY POPULATION AREAS.

(a) PIPELINE INVENTORY.—Section 3 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1672) is amended—

(1) in subsection (f)—

(A) by inserting "(and, to the extent the Secretary considers necessary, operators of gathering lines that are not regulated gathering lines as such term is defined pursuant to section 21(b))" after "subject to this Act"; and

(B) by inserting after the first sentence the following new sentence: "Such inventory shall also include an identification of each of the pipeline facilities of such operator which pass through an area described in regulations issued under subsection (i)(1)."; and

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

"(i) HIGH-DENSITY POPULATION AREAS.—

"(1) IDENTIFICATION OF FACILITIES.—Not later than 2 years after the date of the enactment of this subsection, the Secretary shall issue regulations establishing criteria for the identification, by operators of pipeline facilities, of all pipeline facilities that are located in high-density population areas. Such regulations shall provide for such identification to be carried out through the inventory required under subsection (f).

"(2) EXCLUSION OF NATURAL GAS DISTRIBUTION LINES.—Natural gas distribution lines shall not be included among pipeline facilities required to be identified pursuant to paragraph (1)."

(b) MAPS.—Section 3(e)(2) of such Act is amended by inserting "including an identification of areas described in regulations issued under subsection (i)(1)," after "supplementary geographic description,".

(c) INSPECTION AND MAINTENANCE PLANS.—Section 13(a)(4) of such Act (49 U.S.C. App. 1680(a)(4)) is amended by inserting "and the protection of the environment" after "public safety".

#### SEC. 103. INCREASED INSPECTION REQUIREMENTS.

Section 3(g) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1672(g)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by inserting "(1) FEDERAL SAFETY STANDARDS.—" after "INSPECTION DEVICES.—";

(3) by indenting paragraph (1), as designated by paragraph (2) of this subsection, and moving such paragraph (1) (including subparagraphs (A) and (B), as designated by paragraph (1) of this subsection) 2 ems to the right;

(4) by adding at the end of paragraph (1), as designated by paragraph (2) of this subsection, the following new sentence: "The Secretary may

extend such regulation to require existing transmission facilities, whose basic construction would accommodate an instrumented internal inspection device, to be modified to permit the inspection of such facilities with instrumented internal inspection devices."; and

(5) by adding at the end the following new paragraph:

"(2) PERIODIC INSPECTIONS.—Not later than 3 years after the date of the enactment of this paragraph, the Secretary shall issue regulations requiring the periodic inspection of each pipeline identified pursuant to subsection (i) by the operator of the pipeline. In issuing the regulations, the Secretary shall prescribe the circumstances, if any, under which such inspections shall be conducted with an instrumented internal inspection device. In those circumstances under which an instrumented internal inspection device is not required, the Secretary shall require the use of an inspection method that is at least as effective as the use of such a device in providing for the safety of the pipeline."

#### SEC. 104. EXCESS FLOW VALVES.

Section 3 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1672) is further amended by adding at the end the following new subsection:

"(j) EXCESS FLOW VALVES.—

"(1) REGULATIONS PRESCRIBING INSTALLATION CIRCUMSTANCES.—Not later than 18 months after the date of the enactment of this subsection, the Secretary shall issue regulations prescribing the circumstances, if any, under which operators of natural gas distribution systems must install excess flow valves in such systems. In prescribing such circumstances, the Secretary shall consider—

"(A) the system design pressure and the system operating pressure;

"(B) the types of customers to which the distribution system supplies natural gas, including hospitals, schools, and commercial enterprises;

"(C) the technical feasibility and cost of the installation of such valves;

"(D) the public safety benefits of the installation of such valves;

"(E) the location of customer meters; and

"(F) such other factors as the Secretary determines to be relevant.

"(2) REGULATIONS PRESCRIBING NOTIFICATION TO CUSTOMERS OF AVAILABILITY.—Not later than 2 years after the date of the enactment of this subsection, the Secretary shall issue regulations requiring operators of natural gas distribution systems to notify, in writing, their customers with lines in which excess flow valves are not required by law, but can be installed in accordance with the performance standards developed under paragraph (4)—

"(A) of the availability of excess flow valves for installation in such systems,

"(B) of any safety benefits to be derived from the installation, and

"(C) of any costs associated with the installation.

Such regulations shall provide that, except in circumstances under which the installation is required under paragraph (1), excess flow valves shall be installed at the request of a customer if the customer will pay all costs associated with the installation.

"(3) REPORT.—If the Secretary determines under paragraph (1) that there are no circumstances under which operators must install excess flow valves, the Secretary shall transmit to Congress, not later than 30 days after the date of such determination, a report on the reasons for such determination.

"(4) PERFORMANCE STANDARDS.—Not later than 18 months after the date of the enactment of this paragraph, the Secretary shall develop standards for the performance of excess flow

valves used to protect lines in natural gas distribution systems. Such standards shall be incorporated into any regulations issued by the Secretary under this subsection. All installations of excess flow valves shall be made in accordance with such standards.

"(5) APPLICABILITY OF REGULATIONS AND STANDARDS.—Regulations and standards issued under paragraphs (1), (2), and (4) shall only apply to—

"(A) natural gas distribution systems installed after the effective date of such regulations; and

"(B) other natural gas distribution systems where repairs to such system require the replacement of parts in a manner to accommodate the installation of excess flow valves."

#### SEC. 105. TECHNICAL PIPELINE SAFETY STANDARDS COMMITTEE.

Section 4 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1673) is amended—

(1) in subsection (a)(3) by striking the period and inserting "including 2 members who have education, background, or experience in environmental protection or public safety. At least 1 of the members selected under this paragraph shall have no financial interests in the pipeline, petroleum, or natural gas industries."; and

(2) in subsection (b) by inserting after the sixth sentence the following new sentence: "The Committee, if requested by the Secretary, shall make recommendations to the Secretary concerning policy development."

#### SEC. 106. OPERATOR TESTING.

Section 3(a)(1) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1672(a)(1)) is further amended—

(1) in the third sentence by striking "may" and inserting "shall"; and

(2) by inserting after the third sentence the following new sentence: "Such certification may, as the Secretary considers appropriate, be performed by the operator. Such testing and certification shall address the ability to recognize and appropriately react to abnormal operating conditions which may indicate a dangerous situation or a condition exceeding design limits."

#### SEC. 107. REPLACEMENT OF CAST IRON PIPELINES.

Section 13 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1680) is amended by adding at the end the following new subsection:

"(c) REPLACEMENT OF CAST IRON PIPELINES.—The Secretary shall publish a notice as to the availability of the industry guidelines, developed by the Gas Piping Technology Committee, for the replacement of cast iron pipelines. Within 2 years after the industry guidelines become available, the Secretary shall conduct a survey of operators with cast iron pipe in their systems to determine the extent to which each operator has adopted a plan for the safe management and replacement of cast iron, the elements of the plan, including anticipated rate of replacement, and the progress that has been made. Chapter 35 of title 44, United States Code (relating to coordination of Federal information policy), shall not apply to the conduct of such survey. Nothing in this section shall preclude the Secretary from developing such Federal guidelines or regulations with respect to cast iron pipelines as the Secretary deems appropriate."

#### SEC. 108. PIPELINE FACILITY INSPECTION AMENDMENTS.

Section 3(h) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1672(h)) is amended—

(1) in paragraph (2)(A) by striking "pipeline facility operators described in paragraph (1)(A)" and inserting "operators of pipeline facilities described in paragraph (3)";

(2) in paragraph (2)(B) by striking "paragraph (1)(A)" and inserting "paragraph (3)";

(3) in paragraph (3) by striking "periodic inspection program" and all that follows through "and its inlets" and inserting the following:

"periodic inspection program of—

"(A) all offshore pipeline facilities; and  
 "(B) any other pipeline facilities which cross under, over, or through navigable waters, as such term is defined by the Secretary, if the location of such pipeline facilities in such navigable waters could pose a hazard to navigation or public safety, as determined by the Secretary";

(4) in paragraph (4) by striking "offshore pipeline facility" and inserting "pipeline facility described in paragraph (3)"; and

(5) by adding at the end the following new paragraph:

"(5) SUPPLEMENTARY INITIAL INSPECTION.—

"(A) REQUIREMENT.—Not later than—  
 "(i) 3 years after the date of the enactment of this paragraph; or

"(ii) 6 months after the establishment of standards under subparagraph (D),

whichever occurs first, the operator of each offshore pipeline facility not described in paragraph (1)(A) shall inspect such pipeline facility and report to the Secretary on any portion of the pipeline facility which is exposed or is a hazard to navigation. This subparagraph shall apply only to pipeline facilities between the high water mark and the point where the subsurface is under 15 feet of water, as measured from mean low water.

"(B) EXTENSION.—The Secretary may extend the time period for compliance under subparagraph (A) with respect to a pipeline facility for an additional period of up to 6 months if the operator of the pipeline facility demonstrates to the satisfaction of the Secretary that a good faith effort, with due diligence and care, has failed to enable compliance with the deadline under subparagraph (A).

"(C) PRIOR INSPECTION RECOGNITION.—Any inspection of a pipeline facility which has occurred after October 3, 1989, may be used for compliance with subparagraph (A) if the inspection conforms to the requirements of that subparagraph.

"(D) ESTABLISHMENT OF STANDARDS.—The Secretary shall, within 2 years after the date of the enactment of this paragraph, establish, for the purposes of this paragraph, standards—

"(i) for what constitutes an exposed pipeline facility; and

"(ii) for what constitutes a hazard to navigation."

#### SEC. 109. GATHERING LINES.

(a) DEFINITION OF TRANSPORTATION OF GAS.—

(1) AMENDMENTS.—Section 2(3) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1671(3)) is amended—

(A) by inserting ", other than gathering through regulated gathering lines," after "include the gathering of gas"; and

(B) by inserting ", but such term shall include the movement of gas through regulated gathering lines" after "a nonrural area".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on the effective date of the regulations required under section 21 of the Natural Gas Pipeline Safety Act of 1968, as added by subsection (b) of this section.

(b) REGULATIONS DEFINING GATHERING LINES.—Such Act is further amended by adding at the end the following new section:

#### "SEC. 21. GATHERING LINES.

"(a) GATHERING LINES DEFINED.—The Secretary shall, within 2 years after the date of the enactment of this section, define by regulation the term "gathering line". In defining such term, the Secretary shall consider functional and operational characteristics of the lines to be included in the definition and shall not be bound by any classifications established by the Federal Energy Regulatory Commission under the Natural Gas Act.

"(b) REGULATED GATHERING LINES DEFINED.—The Secretary shall, within 3 years after the

date of the enactment of this section, define by regulation the term "regulated gathering line". In defining such term, the Secretary shall consider such factors as location, length of line from the well site, operating pressure, throughput, and the composition of the transported gas in determining the types of lines which are functionally gathering but which, due to specific physical characteristics, warrant regulation under this Act."

#### SEC. 110. REVISED REPORTING REQUIREMENTS.

(a) PROPERTY DAMAGE THRESHOLD.—Section 5(a)(ii) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1674(a)(ii)) is amended by striking "\$5,000" and inserting "an amount established by the Secretary".

(b) DATE OF ANNUAL REPORT TO CONGRESS.—Section 16(a) of such Act (49 U.S.C. App. 1683(a)) is amended by striking "April 15" and inserting "August 15".

#### SEC. 111. AUTHORITY OF SECRETARY.

The first sentence of section 5(a) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1674(a)) is amended by striking "when" and inserting "to the extent that".

#### SEC. 112. ENFORCEMENT.

(a) MAXIMUM CIVIL PENALTY.—Section 11(a)(1) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1679a(a)(1)) is amended by striking "\$10,000" and inserting "\$25,000".

(b) ENFORCEMENT ORDERS.—Section 14 of such Act (49 U.S.C. App. 1681) is amended by adding at the end the following new subsection:

"(f) ENFORCEMENT ORDERS.—In case of contumacy or refusal to obey a subpoena, or refusal to allow officers, employees, or agents authorized by the Secretary to enter, conduct inspections, or examine records and properties for purposes of determining compliance with this Act, by any person who resides, is found, or transacts business within the jurisdiction of any district court of the United States, such district court shall, upon the request of the Attorney General, acting at the request of the Secretary, have jurisdiction to issue to such person an order requiring such person to comply forthwith. Failure to obey such an order is punishable by that court as a contempt of court."

#### SEC. 113. PARTICIPATION IN AGREEMENT PROCEEDINGS.

(a) IN GENERAL.—Section 12(b) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1679(b)) is amended by adding at the end the following new paragraph:

"(6) OPPORTUNITY FOR STATE COMMENT.—The Secretary shall provide, to appropriate State officials responsible for pipeline safety in any State in which a pipeline facility is located, notice and an opportunity to comment on any agreement proposed to be entered into by the Secretary to resolve a proceeding initiated under this section with respect to such pipeline facility. Comment submitted under this paragraph shall incorporate comments of affected local officials."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 180th day following the date of the enactment of this Act.

#### SEC. 114. AUTHORIZATION OF APPROPRIATIONS.

Section 17(a) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1684(a)) is amended—

(1) by striking "and" at the end of paragraph (8);

(2) by striking the period at the end of paragraph (9) and inserting a semicolon; and

(3) by inserting after paragraph (9) the following new paragraphs:

"(10) \$6,405,000 for the fiscal year ending September 30, 1992;

"(11) \$6,857,000 for the fiscal year ending September 30, 1993;

"(12) \$7,000,000 for the fiscal year ending September 30, 1994; and

"(13) \$7,500,000 for the fiscal year ending September 30, 1995."

#### SEC. 115. CUSTOMER-OWNED SERVICE LINES.

(a) SERVICE LINE MAINTENANCE INFORMATION.—Section 18 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1685) is amended—

(1) by inserting "(a) PUBLIC EDUCATION PROGRAM.—" before "Each person"; and

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

"(b) SERVICE LINE MAINTENANCE INFORMATION.—Not later than 1 year after the date of the enactment of this subsection, the Secretary shall issue regulations requiring operators of natural gas distribution pipelines which do not maintain customer-owned service lines up to building walls to advise their customers of the requirements for maintenance of those lines, any resources known to the operator that could aid customers in doing such maintenance, any information that the operator has concerning the operation and maintenance of its lines that could aid customers, and the potential hazards of not maintaining service lines."

(b) MAINTENANCE OF CUSTOMER-OWNED SERVICE LINES.—

(1) DOT SAFETY REVIEW.—Within 18 months after the date of the enactment of this Act, the Secretary of Transportation shall conduct a review of Department of Transportation and State rules, policies, procedures, and other measures with respect to the safety of customer-owned natural gas service lines, including the effectiveness of such rules, policies, procedures, and other measures. The Secretary of Transportation shall include in the review an evaluation of the extent to which lack of maintenance of customer-owned natural gas service lines raises safety concerns and shall make recommendations regarding maintenance of such lines, including the need for any legislative changes or regulatory action. In conducting the review and developing the recommendations, the Secretary of Transportation shall consider the following factors: State and local law, including law governing private property and rights, and including State pipeline safety regulation of distribution operators; the views of State and local regulatory authorities; the extent of operator compliance with the program for advising customers regarding maintenance of such lines required under section 18(b) of the Natural Gas Pipeline Safety Act of 1968; available accident information; the recommendations of the National Transportation Safety Board; costs; the civil liability implications of distribution operators taking responsibility for customer-owned service lines; and whether the service line maintenance information program required under such section 18(b) sufficiently addresses safety risks and concerns involving customer-owned service lines.

(2) OPERATION AND MAINTENANCE RESPONSIBILITY.—Within 18 months after the date of the enactment of this Act, the Secretary of Transportation shall conduct, with the participation of the operators of natural gas distribution facilities, a survey of owners of customer-owned service lines to determine the views of such owners regarding whether distribution companies should assume responsibility for the operation and maintenance of customer-owned service lines. In conducting the survey, the Secretary of Transportation shall ensure that such customers are aware of any potential safety benefits, any potential implementation issues (including any property rights or cost issues), the recommendations of the National Transportation Safety Board, and accidents that have occurred, related to customer-owned service lines.

(3) **APPLICABILITY.**—Chapter 35 of title 44, United States Code (relating to coordination of Federal information policy) shall not apply to the conduct of the review or survey under this subsection.

(4) **REPORT.**—Not later than 2 years after the date of the enactment of this Act, the Secretary of Transportation shall transmit to Congress a report on the results of the review and survey conducted under this subsection, together with any recommendations (including legislative recommendations) regarding maintenance of customer-owned natural gas service lines.

(c) **SAFETY MEASURES.**—Section 3 of the Natural Gas Pipeline Safety Act of 1968 (14 U.S.C. App. 1672) is further amended by adding at the end the following new subsection:

“(k) **SAFETY MEASURES.**—The Secretary shall, within 1 year after transmitting the report required by section 115(b) of the Pipeline Safety Act of 1992, taking into consideration such report, and in cooperation and coordination with appropriate State and local authorities, take action, as appropriate, to promote the adoption of measures that would improve the safety of customer-owned service lines.”.

#### SEC. 116. ADDITIONAL STATE STANDARDS.

Section 3(a)(1) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1672(a)(1)) is further amended by inserting “that has submitted a current certification under section 5(a)” after “Any State agency”.

#### SEC. 117. UNDERWATER ABANDONED PIPELINE FACILITIES.

Section 3(h) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1672(h)) is further amended by adding at the end the following new paragraph:

“(6) **ABANDONED PIPELINE FACILITIES.**—  
“(A) **TREATMENT.**—For the purposes of this subsection, except with respect to the initial inspection required under paragraph (1), the term ‘pipeline facilities’ includes underwater abandoned pipeline facilities. For the purposes of this subsection, in a case where such a pipeline facility has no current operator, the most recent operator of such pipeline facility shall be deemed to be the operator of such pipeline facility.  
“(B) **REGULATIONS.**—  
“(i) **IDENTIFICATION OF HAZARDS.**—In issuing regulations under paragraph (3), the Secretary shall identify what constitutes a hazard to navigation with respect to underwater abandoned pipeline facilities.  
“(ii) **OTHER REQUIREMENTS.**—In issuing regulations under paragraphs (3) and (4) regarding underwater pipeline facilities abandoned after the date of the enactment of this paragraph, the Secretary shall—  
“(I) include such requirements as will lessen the potential that such pipeline facilities will pose a hazard to navigation; and  
“(II) take into consideration the relationship between water depth and navigational safety and factors relevant to the local marine environment.  
“(C) **REPORTING REQUIREMENTS.**—  
“(i) **FORM.**—The operator of a pipeline facility abandoned after the date of the enactment of this paragraph shall report such abandonment to the Secretary in a manner specifying whether the facility has been properly abandoned according to applicable Federal and State requirements.  
“(ii) **PRE-ENACTMENT ABANDONED PIPELINES.**—Within 3 years after the date of the enactment of this paragraph, the operator of a pipeline facility abandoned before the date of the enactment of this paragraph shall report to the Secretary reasonably available information, including information in the possession of third parties, relating to the abandoned pipeline facility. Such information shall include the location,

size, date, and method of abandonment, whether the pipeline had been properly abandoned pursuant to applicable law, and such other relevant information as the Secretary may require. The Secretary shall, within 18 months after the date of the enactment of this subsection, specify the manner in which such information shall be reported.

“(iii) **MAINTENANCE OF RECORDS BY UNITED STATES.**—The Secretary shall ensure that the information reported under clause (ii) is maintained by the Federal Government in a manner accessible to the appropriate Federal and State agencies.

“(iv) **COLLISIONS.**—The Secretary shall request that State agencies which have information on collisions between vessels and underwater pipeline facilities report such information to the Secretary in a timely manner and make a reasonable effort to specify the location, date, and severity of such collisions. Chapter 35 of title 44, United States Code, relating to coordination of Federal information policies, shall not apply to the collection of information under this clause.

“(D) **ABANDONED DEFINED.**—For purposes of this paragraph, the term ‘abandoned’ means permanently removed from service.”.

#### SEC. 118. NATURAL GAS PIPELINE SAFETY ACT OF 1968 TABLE OF CONTENTS.

The first section of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1671 note) is amended to read as follows:

##### “SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

“(a) **SHORT TITLE.**—This Act may be cited as the ‘Natural Gas Pipeline Safety Act of 1968’.

“(b) **TABLE OF CONTENTS.**—

“Sec. 1. Short title; table of contents.

“Sec. 2. Definitions.

“Sec. 3. Standards established.

“Sec. 4. Technical Pipeline Safety Standards Committee.

“Sec. 5. State certifications and agreements.

“Sec. 6. Standards for LNG facilities.

“Sec. 7. Financial responsibility for certain LNG activities; studies.

“Sec. 8. Judicial review.

“Sec. 9. Cooperation with Federal Energy Regulatory Commission and State commissions.

“Sec. 10. Compliance.

“Sec. 11. Penalties.

“Sec. 12. Specific relief.

“Sec. 13. Inspection and maintenance plans.

“Sec. 14. Powers and duties of the Secretary.

“Sec. 15. Natural gas safety cooperation and coordination.

“Sec. 16. Annual report.

“Sec. 17. Appropriations authorized.

“Sec. 18. Consumer education.

“Sec. 19. Citizen’s civil action.

“Sec. 20. Minimum requirements for one-call notification systems.

“Sec. 21. Gathering lines.”.

#### TITLE II—HAZARDOUS LIQUID PIPELINE SAFETY

##### SEC. 201. ENVIRONMENTAL PROTECTION.

(a) **FEDERAL SAFETY STANDARDS AND REPORTS.**—Section 203 of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2002) is amended—

(1) in subsection (a)(1) by inserting “and the protection of the environment” after “safe transportation of hazardous liquids”;

(2) in subsection (a)(2)(A) by striking “or property” and inserting “, property, or the environment”;

(3) in subsection (b)(4) by inserting “and the protection of the environment” after “contribute to public safety”.

(b) **CORRECTIVE ACTION.**—Section 209(b) of such Act (49 U.S.C. App. 2008(b)) is amended—

(1) in paragraph (1) by striking “or property,” and inserting “, property, or the environment,”;

(2) in paragraph (2)(A) by striking “or property,” and inserting “, property, or the environment.”;

(3) in paragraph (2)(B)—

(A) by striking “or property,” and inserting “, property, or the environment.”; and

(B) by striking “or property,” and inserting “, property, or the environment.”;

(4) in paragraph (3)(C) by inserting “proximity of such areas to environmentally sensitive areas,” after “associated with such areas.”; and

(5) in paragraph (5) by striking “or property,” and inserting “, property, or the environment.”.

##### SEC. 202. ENVIRONMENTALLY SENSITIVE AND HIGH-DENSITY POPULATION AREAS.

(a) **PIPELINE INVENTORY.**—Section 203 of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2002) is amended—

(1) in subsection (j)—

(A) by inserting “(and, to the extent the Secretary considers necessary, operators of gathering lines that are not regulated gathering lines as such term is defined pursuant to section 220(b))” after “subject to this title”; and

(B) by inserting after the first sentence the following new sentence: “Such inventory shall also include an identification of each of the pipeline facilities and gathering lines of such operator which pass through an area described in regulations issued under subsection (m), whether or not such pipeline facility or gathering line is otherwise subject to regulation under this Act.”; and

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

“(m) **ENVIRONMENTALLY SENSITIVE AND HIGH-DENSITY POPULATION AREAS.**—Not later than 2 years after the date of the enactment of this subsection, the Secretary shall issue regulations establishing criteria for the identification, by operators of pipeline facilities and operators of gathering lines, of—

“(1) all pipeline facilities and gathering lines, whether otherwise subject to regulation under this Act or not, that are located in areas that are described, by the Secretary in consultation with the Administrator of the Environmental Protection Agency, as unusually sensitive to environmental damage in the event of a pipeline accident; and

“(2) all pipeline facilities, whether otherwise subject to regulation under this Act or not, that—

“(A) cross a navigable waterway, as such term is defined by the Secretary by regulation; or

“(B) are located in areas that are described in such criteria as high-density population areas.

Such regulations shall provide for such identification to be carried out through the inventory required under subsection (j). In describing areas that are unusually sensitive to environmental damage, the Secretary shall consider including earthquake zones and areas subject to substantial ground movements such as landslides; areas where ground water contamination would be likely in the event of the rupture of a pipeline facility; freshwater lakes, rivers, and waterways; and river deltas and other areas subject to soil erosion or subsidence from flooding or other water action, where pipeline facilities are likely to become exposed or undermined.”.

(b) **MAPS.**—Section 203(i)(2) of such Act (49 U.S.C. App. 2002(i)(2)) is amended by inserting “including an identification of areas described in regulations issued under subsection (m),” after “supplementary geographic description.”.

(c) **INSPECTION AND MAINTENANCE PLANS.**—Section 210 of such Act (49 U.S.C. App. 2009) is amended—

(1) in subsection (b)(4) by inserting “and the protection of the environment” after “public safety”; and

(2) in each of subsections (c)(2)(D) and (d)(2)(D) by inserting "the proximity of such areas to areas that are unusually sensitive to environmental damage," after "pipeline facilities are located,".

#### SEC. 203. INCREASED INSPECTION REQUIREMENTS.

Section 203(k) of the Hazardous Liquids Pipeline Safety Act of 1979 (49 U.S.C. App. 2002(k)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by inserting "(1) FEDERAL SAFETY STANDARDS.—" after "INSPECTION DEVICES.—";

(3) by indenting paragraph (1), as designated by paragraph (2) of this subsection, and moving such paragraph (1) (including subparagraphs (A) and (B), as designated by paragraph (1) of this subsection) 2 ems to the right;

(4) by adding at the end of paragraph (1), as designated by paragraph (2) of this subsection, the following new sentence: "The Secretary may extend such regulation to require existing transmission facilities whose basic construction would accommodate an instrumented internal inspection device to be modified to permit the inspection of such facilities with instrumented internal inspection devices."; and

(5) by adding at the end the following new paragraph:

"(2) PERIODIC INSPECTIONS.—Not later than 3 years after the date of the enactment of this paragraph, the Secretary shall issue regulations requiring the periodic inspection of each pipeline identified pursuant to subsection (m) by the operator of the pipeline. In issuing the regulations, the Secretary shall prescribe the circumstances, if any, under which such inspections shall be conducted with an instrumented internal inspection device. In those circumstances under which an instrumented internal inspection device is not required, the Secretary shall require the use of an inspection method that is at least as effective as the use of such a device in providing for the safety of the pipeline."

#### SEC. 204. TECHNICAL PIPELINE SAFETY STANDARDS COMMITTEE.

Section 204 of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2003) is amended—

(1) in subsection (a)(3) by striking the period and inserting ", including 2 members who have education, background, or experience in environmental protection or public safety. At least 1 of the members selected under this paragraph shall have no financial interests in the pipeline, petroleum, or natural gas industries."; and

(2) in subsection (b) by inserting after the sixth sentence the following new sentence: "The Committee, if requested by the Secretary, shall make recommendations to the Secretary concerning policy development."

#### SEC. 205. OPERATOR TESTING.

Section 203(c) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2002(c)) is amended—

(1) in the second sentence by striking "may" and inserting "shall"; and

(2) by inserting after the second sentence the following new sentence: "Such certification may, as the Secretary considers appropriate, be performed by the operator. Such testing and certification shall address the ability to recognize and appropriately react to abnormal operating conditions which may indicate a dangerous situation or a condition exceeding design limits."

#### SEC. 206. LOW INTERNAL STRESS HAZARDOUS LIQUID PIPELINE FACILITIES.

Section 203(b) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2002(b)) is further amended by inserting after paragraph (4) the following new sentence:

"In exercising any discretion under this Act, the Secretary shall not provide an exception to reg-

ulation under this Act for any pipeline facility solely on the basis of the fact that such pipeline facility operates at low internal stress."

#### SEC. 207. PIPELINE FACILITY INSPECTION AMENDMENTS.

Section 203(l) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2002(l)) is amended—

(1) in paragraph (2)(A) by striking "pipeline facility operators described in paragraph (1)(A)" and inserting "operators of pipeline facilities described in paragraph (3)";

(2) in paragraph (2)(B) by striking "paragraph (1)(A)" and inserting "paragraph (3)";

(3) in paragraph (3) by striking "periodic inspection program" and all that follows through "and its inlets" and inserting the following: "periodic inspection program of—

"(A) all offshore pipeline facilities; and

"(B) any other pipeline facilities which cross under, over, or through navigable waters, as such term is defined by the Secretary, if the location of such pipeline facilities in such navigable waters could pose a hazard to navigation or public safety, as determined by the Secretary";

(4) in paragraph (4) by striking "offshore pipeline facility" and inserting "pipeline facility described in paragraph (3)"; and

(5) by adding at the end the following new paragraphs:

"(5) TRANSFER PIPELINE FACILITIES.—The Secretary shall not exempt from regulation under this Act any offshore pipeline facility solely on the basis of the fact that such pipeline facility serves to transfer hazardous liquids in underwater pipelines between vessels and onshore facilities.

"(6) SUPPLEMENTARY INITIAL INSPECTION.—

"(A) REQUIREMENT.—Not later than—

"(i) 3 years after the date of the enactment of this paragraph; or

"(ii) 6 months after the establishment of standards under subparagraph (D),

whichever occurs first, the operator of each offshore pipeline facility not described in paragraph (1)(A) shall inspect such pipeline facility and report to the Secretary on any portion of the pipeline facility which is exposed or is a hazard to navigation. This subparagraph shall apply only to pipeline facilities between the high water mark and the point where the subsurface is under 15 feet of water, as measured from mean low water.

"(B) EXTENSION.—The Secretary may extend the time period for compliance under subparagraph (A) with respect to a pipeline facility for an additional period of up to 6 months if the operator of the pipeline facility demonstrates to the satisfaction of the Secretary that a good faith effort, with due diligence and care, has failed to enable compliance with the deadline under subparagraph (A).

"(C) PRIOR INSPECTION RECOGNITION.—Any inspection of a pipeline facility which has occurred after October 3, 1989, may be used for compliance with subparagraph (A) if the inspection conforms to the requirements of that subparagraph.

"(D) ESTABLISHMENT OF STANDARDS.—The Secretary shall, within 2 years after the date of the enactment of this paragraph, establish, for the purposes of this paragraph, standards—

"(i) for what constitutes an exposed pipeline facility; and

"(ii) for what constitutes a hazard to navigation."

#### SEC. 208. GATHERING LINES.

(a) DEFINITION OF TRANSPORTATION OF HAZARDOUS LIQUIDS.—

(1) AMENDMENTS.—Section 202(3) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2001(3)) is amended—

(A) by striking "any such";

(B) by inserting ", other than regulated gathering lines," after "through gathering lines"; and

(C) by inserting ", but such term shall include the movement of hazardous liquids through regulated gathering lines" after "any of such facilities".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on the effective date of the regulations required under section 220 of the Hazardous Liquid Pipeline Safety Act of 1979, as added by subsection (b) of this section.

(b) REGULATIONS DEFINING GATHERING LINES.—Such Act is further amended by adding at the end the following new section:

#### "SEC. 220. GATHERING LINES.

"(a) GATHERING LINES DEFINED.—The Secretary shall, within 2 years after the date of the enactment of this section, define by regulation the term 'gathering lines'.

"(b) REGULATED GATHERING LINES DEFINED.—The Secretary shall, within 3 years after the date of the enactment of this section, define by regulation the term 'regulated gathering lines'. In defining such term, the Secretary shall consider such factors as location, length of line from the well site, operating pressure, throughput, diameter, and the composition of the transported hazardous liquid in determining the types of lines which are functionally gathering but which, due to specific physical characteristics, warrant regulation under this Act. Such definition shall not include crude oil gathering lines that are of a nominal diameter of 6 inches or less, are operated at low pressure, and are located in rural areas that are not unusually sensitive to environmental damage."

(c) CONFORMING AMENDMENT.—The table of contents contained in section 1(b) of the Hazardous Liquid Pipeline Safety Act of 1979 is amended by adding at the end the following new item:

"Sec. 220. Gathering lines."

#### SEC. 209. REVISED REPORTING REQUIREMENTS.

(a) PROPERTY DAMAGE THRESHOLD.—Section 205(a) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2004(a)) is amended by striking "\$5,000" and inserting "an amount established by the Secretary".

(b) DATE OF ANNUAL REPORT TO CONGRESS.—Section 213(a) of such Act (49 U.S.C. App. 2012(a)) is amended by striking "April 15" and inserting "August 15".

#### SEC. 210. AUTHORITY OF SECRETARY.

The first sentence of section 205(a) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2004(a)) is amended by striking "when" and inserting "to the extent that".

#### SEC. 211. ENFORCEMENT.

(a) MAXIMUM CIVIL PENALTY.—Section 208(a)(1) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2007(a)(1)) is amended by striking "\$10,000" and inserting "\$25,000".

(b) ENFORCEMENT ORDERS.—Section 211 of such Act (49 U.S.C. App. 2010) is amended by adding at the end the following new subsection:

"(f) ENFORCEMENT ORDERS.—In case of contumacy or refusal to obey a subpoena, or refusal to allow officers, employees, or agents authorized by the Secretary to enter, conduct inspections, or examine records and properties for purposes of determining compliance with this Act, by any person who resides, is found, or transacts business within the jurisdiction of any district court of the United States, such district court shall, upon the request of the Attorney General, acting at the request of the Secretary, have jurisdiction to issue to such person an order requiring such person to comply forthwith. Failure to obey such an order is punishable by that court as a contempt of court."

**SEC. 212. EMERGENCY FLOW RESTRICTING DEVICES.**

Section 203 of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2002) is further amended by adding at the end the following new subsection:

**"(n) EMERGENCY FLOW RESTRICTING DEVICES.—**

**"(1) SURVEY AND ASSESSMENT.**—The Secretary shall, within 2 years after the date of the enactment of this subsection, survey and assess the effectiveness of emergency flow restricting devices (including remotely controlled valves and check valves) and other procedures, systems, and equipment used to detect and locate pipeline ruptures and minimize product releases from pipeline facilities.

**"(2) REGULATIONS.**—Not later than 2 years after the completion of the survey and assessment required by paragraph (1), the Secretary shall issue regulations prescribing the circumstances under which operators of hazardous liquid pipeline facilities must use emergency flow restricting devices and other procedures, systems, and equipment described in paragraph (1) on such facilities."

**SEC. 213. PARTICIPATION IN AGREEMENT PROCEEDINGS.**

**(a) IN GENERAL.**—Section 209(b) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2008(b)) is amended by adding at the end the following new paragraph:

**"(6) OPPORTUNITY FOR STATE COMMENT.**—The Secretary shall provide, to appropriate State officials responsible for pipeline safety in any State in which a pipeline facility is located, notice and an opportunity to comment on any agreement proposed to be entered into by the Secretary to resolve a proceeding initiated under this section with respect to such pipeline facility. Comment submitted under this paragraph shall incorporate comments of affected local officials."

**(b) EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect on the 180th day following the date of the enactment of this Act.

**SEC. 214. AUTHORIZATION OF APPROPRIATIONS.**

Section 214(a) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2013(a)) is amended—

(1) by striking "and" at the end of paragraph (8);

(2) by striking the period at the end of paragraph (9) and inserting a semicolon; and

(3) by inserting after paragraph (9) the following new paragraphs:

**"(10) \$1,600,500 for the fiscal year ending September 30, 1992;**

**"(11) \$1,728,500 for the fiscal year ending September 30, 1993;**

**"(12) \$1,866,800 for the fiscal year ending September 30, 1994; and**

**"(13) \$2,000,000 for the fiscal year ending September 30, 1995."**

**SEC. 215. ADDITIONAL STATE STANDARDS.**

Section 203(d) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2002(d)) is further amended by inserting "that has submitted a current certification under section 205(a)" after "Any State agency".

**SEC. 216. UNDERWATER ABANDONED PIPELINE FACILITIES.**

Section 203(l) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2002(l)) is further amended by adding at the end the following new paragraph:

**"(7) ABANDONED PIPELINE FACILITIES.—**

**"(A) TREATMENT.**—For the purposes of this subsection, except with respect to the initial inspection required under paragraph (1), the term 'pipeline facilities' includes underwater abandoned pipeline facilities. For the purposes of this subsection, in a case where such a pipeline

facility has no current operator, the most recent operator of such pipeline facility shall be deemed to be the operator of such pipeline facility."

**"(B) REGULATIONS.—**

**"(i) IDENTIFICATION OF HAZARDS.**—In issuing regulations under paragraph (3), the Secretary shall identify what constitutes a hazard to navigation with respect to underwater abandoned pipeline facilities.

**"(ii) OTHER REQUIREMENTS.**—In issuing regulations under paragraphs (3) and (4) regarding underwater pipeline facilities abandoned after the date of the enactment of this paragraph, the Secretary shall—

**"(I) include such requirements as will lessen the potential that such pipeline facilities will pose a hazard to navigation; and**

**"(II) take into consideration the relationship between water depth and navigational safety and factors relevant to the local marine environment."**

**"(C) REPORTING REQUIREMENTS.—**

**"(i) FORM.**—The operator of a pipeline facility abandoned after the date of the enactment of this paragraph shall report such abandonment to the Secretary in a manner specifying whether the facility has been properly abandoned according to applicable Federal and State requirements.

**"(ii) PRE-ENACTMENT ABANDONED PIPELINES.**—Within 3 years after the date of the enactment of this paragraph, the operator of a pipeline facility abandoned before the date of the enactment of this paragraph shall report to the Secretary reasonably available information, including information in the possession of third parties, relating to the abandoned pipeline facility. Such information shall include the location, size, date, and method of abandonment, whether the pipeline had been properly abandoned pursuant to applicable law, and such other relevant information as the Secretary may require. Within 18 months after the date of the enactment of this paragraph, the Secretary shall specify the manner in which such information shall be reported.

**"(iii) MAINTENANCE OF RECORDS BY UNITED STATES.**—The Secretary shall ensure that the information reported under clause (ii) is maintained by the Federal Government in a manner accessible to the appropriate Federal and State agencies.

**"(iv) COLLISIONS.**—The Secretary shall request that State agencies which have information on collisions between vessels and underwater pipeline facilities report such information to the Secretary in a timely manner and make a reasonable effort to specify the location, date, and severity of such collisions. Chapter 35 of title 44, United States Code, relating to coordination of Federal information policies, shall not apply to the collection of information under this clause.

**"(D) ABANDONED DEFINED.**—For purposes of this paragraph, the term 'abandoned' means permanently removed from service."

**TITLE III—GENERALLY APPLICABLE PIPELINE SAFETY PROVISIONS****SEC. 301. GRANTS-IN-AID AUTHORIZATION.**

Section 17(c) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1684(c)) is amended by striking "and \$5,500,000 for the fiscal year ending September 30, 1991" and inserting "\$5,500,000 for the fiscal year ending September 30, 1991, \$7,750,000 for the fiscal year ending September 30, 1992, \$7,750,000 for the fiscal year ending September 30, 1993, \$9,000,000 for the fiscal year ending September 30, 1994, and \$10,000,000 for the fiscal year ending September 30, 1995".

**SEC. 302. UNDERGROUND STORAGE TANKS.**

Section 9001(1)(D) of the Solid Waste Disposal Act (42 U.S.C. 6991(1)(D)) is amended to read as follows:

"(D) pipeline facility (including gathering lines)—

"(i) which is regulated under the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1671 et seq.),

"(ii) which is regulated under the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2001 et seq.), or

"(iii) which is an intrastate pipeline facility regulated under State laws as provided in the provisions of law referred to in clause (i) or (ii) of this subparagraph,

and which is determined by the Secretary to be connected to a pipeline or to be operated or intended to be capable of operating at pipeline pressure or as an integral part of a pipeline,".

**SEC. 303. PIPELINE ACCIDENT INVESTIGATIONS.**

Section 304(a)(1)(D) of the Independent Safety Board Act of 1974 (49 U.S.C. App. 1903(a)(1)(D)) is amended by inserting "or significant injury to the environment" after "substantial property damage".

**SEC. 304. ONE-CALL ENFORCEMENT.**

**(a) ONE-CALL ENFORCEMENT.**—Section 20 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1687) is amended by adding at the end the following new subsections:

**"(g) VIOLATIONS.**—Any person who knowingly and willfully—

**"(1) engages in excavation activities—**

**"(A) without first using an available one-call notification system to determine the location of underground facilities in the area being excavated; or**

**"(B) without heeding appropriate location information or markings established by an operator of a natural gas or hazardous liquid pipeline facility; and**

**"(2) subsequently damages—**

**"(A) a natural gas pipeline facility resulting in death, serious bodily harm, or actual damage to property exceeding \$50,000; or**

**"(B) a hazardous liquid pipeline facility resulting in death, serious bodily harm, actual damage to property exceeding \$50,000, or release of more than 50 barrels of product,**

shall, upon conviction, be subject, for each offense, to a fine under title 18, United States Code, imprisonment for a term not to exceed 5 years, or both.

**"(h) MARKING OF FACILITIES.**—Upon notification by an operator of a damage prevention program or by a contractor, excavator, or other person planning to carry out demolition, excavation, tunneling, or construction in the vicinity of a natural gas or hazardous liquid pipeline facility, the operator of the pipeline facility shall accurately mark, in a reasonable and timely manner, the location of the pipeline facilities in the vicinity of such demolition, excavation, tunneling, or construction."

**(b) TECHNICAL AMENDMENTS.**—Subsections (a)(1) and (c)(1) of section 11 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1678) are each amended by inserting "or section 20(h)" after "section 10(a)".

**(c) NOTIFICATION OF OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION.**—The Secretary of Transportation shall, in consultation with the Occupational Safety and Health Administration, establish procedures to notify such Administration of any pipeline accident in which an excavator, causing damage to a pipeline, may have violated Occupational Safety and Health Administration regulations.

**SEC. 305. ADDITIONAL INSPECTORS.**

To the extent and in such amounts as are provided in advance in appropriations Acts, the Secretary of Transportation, in fiscal year 1993, shall employ and retain thereafter an additional 12 employees for regional or field pipeline safety offices above the number of such employees authorized for fiscal year 1992. The primary functions of such additional employees shall be—

(1) to provide technical assistance and training to State pipeline inspectors and to assist in the review and management of pipeline safety grants;

(2) to inspect pipeline facilities, including interstate and intrastate hazardous liquid pipeline facilities in those States that do not have a hazardous liquid pipeline safety program that meets the requirements of section 205 (a) or (b) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2004 (a) or (b));

(3) to assist the States identified in paragraph (2) in developing hazardous liquid pipeline safety programs that meet such requirements; and

(4) to inspect interstate hazardous liquid pipeline facilities constructed before 1971.

**SEC. 306. DEVELOPMENT OF UNDERGROUND UTILITY LOCATION TECHNOLOGIES.**

(a) *IN GENERAL.*—The Secretary of Transportation shall carry out a research and development program on underground utility location technologies.

(b) *AUTHORIZATION OF APPROPRIATIONS.*—There is authorized to be appropriated to carry out this section \$500,000 for fiscal years beginning after September 30, 1992. Such sums shall remain available until expended.

**SEC. 307. STUDY OF UNDERWATER ABANDONED PIPELINE FACILITIES.**

(a) *STUDY.*—The Secretary of Transportation, in consultation with State and other Federal agencies having authority over underwater natural gas and hazardous liquid pipeline facilities and with pipeline owners and operators, the fishing and maritime industries, and other affected groups, shall undertake a study of the abandonment of such pipeline facilities. Such study shall include—

(1) a survey of Federal policies and authorities with respect to abandonment of such pipeline facilities;

(2) an analysis of the extent and nature of the problems currently caused by such pipeline facilities;

(3) an analysis of alternative methods and requirements for abandonment as well as the relevant costs and other factors associated with those alternative methods and requirements;

(4) an analysis of the navigational, safety, and environmental impacts and economic costs associated with the disposition of pipeline facilities permanently removed from service;

(5) an analysis of various factors associated with retroactively imposing requirements on previously abandoned pipeline facilities; and

(6) other matters as may contribute to the development of a recommendation for Federal action.

(b) *REPORT TO CONGRESS.*—Not later than 3 years after the date of the enactment of this Act, the Secretary of Transportation shall submit to Congress a report on the results of the study undertaken under this section, together with a recommendation for Federal action.

(c) *ADDITIONAL AUTHORITY.*—Based on the findings of the study undertaken under this section, the Secretary may require, by regulations issued under the Natural Gas Pipeline Safety Act of 1968 or the Hazardous Liquid Pipeline Safety Act of 1979, operators of facilities abandoned before the date of the enactment of this Act to take any additional appropriate actions to prevent hazards to navigation in connection with such facilities.

(d) *AUTHORIZATION OF APPROPRIATIONS.*—There is authorized to be appropriated to carry out this section \$300,000 for fiscal years beginning after September 30, 1992. Such funds shall remain available until expended.

**TITLE IV—RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION**

**SEC. 401. RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION.**

(a) *ESTABLISHMENT.*—Chapter 1, title 49, United States Code, is amended by adding at the end the following new section:

**“§112. Research and Special Programs Administration**

“(a) *ESTABLISHMENT.*—There is established in the Department of Transportation a Research and Special Programs Administration.

“(b) *ADMINISTRATOR.*—

“(1) *APPOINTMENT.*—The Administration shall be headed by an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate.

“(2) *REPORTING.*—The Administrator shall report directly to the Secretary.

“(c) *DEPUTY ADMINISTRATOR.*—The Administration shall have a Deputy Administrator who shall be appointed by the Secretary of Transportation. The Deputy Administrator shall carry out duties and powers prescribed by the Administrator.

“(d) *RESPONSIBILITIES OF ADMINISTRATOR.*—The Administrator of the Administration shall be responsible for carrying out the following:

“(1) *HAZMAT TRANSPORTATION SAFETY.*—Duties and powers vested in the Secretary of Transportation with respect to hazardous materials transportation safety, except as otherwise delegated by the Secretary.

“(2) *PIPELINE SAFETY.*—Duties and powers vested in the Secretary with respect to pipeline safety.

“(3) *ACTIVITIES OF VOLPE NATIONAL TRANSPORTATION SYSTEMS CENTER.*—Duties and powers vested in the Secretary with respect to activities of the Volpe National Transportation Systems Center.

“(4) *OTHER.*—Such other duties and powers as the Secretary shall prescribe, including such multimodal and intermodal duties as are appropriate.

“(e) *LIMITATION ON STATUTORY CONSTRUCTION.*—Nothing in this section shall affect any delegation of authority, regulation, order, approval, exemption, waiver, contract, or other administrative act of the Secretary with respect to laws administered through the Research and Special Programs Administration of the Department of Transportation on the date of the enactment of this section.”

(b) *CONFORMING AMENDMENT.*—The analysis for chapter 1 of such title is amended by adding at the end the following new item:

“§112. Research and Special Programs Administration.”

(c) *AMENDMENT TO TITLE 5, UNITED STATES CODE.*—Section 5314 of title 5, United States Code, is amended by adding at the end the following new item:

“Administrator, Research and Special Programs Administration.”

**TITLE V—HAZARDOUS MATERIALS TRANSPORTATION ACT TECHNICAL AMENDMENTS**

**SEC. 501. CORRECTION TO REFERENCE TO INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT.**

Section 103(8) of the Hazardous Materials Transportation Act (49 U.S.C. App. 1802(8)) is amended by inserting after “Education” the following: “Assistance”.

**SEC. 502. DEFINITIONS OF HAZMAT EMPLOYEE AND EMPLOYER.**

Section 103 of the Hazardous Materials Transportation Act (49 U.S.C. App. 1802) is amended in each of paragraphs (5)(B) and (6)(A)(iii)—

(1) by striking “reconditions” and inserting “manufactures, reconditions.”; and

(2) by inserting “as qualified” after “represented”.

**SEC. 503. TECHNICAL CORRECTIONS TO SECTION 106.**

(a) *IN GENERAL.*—Section 106 of the Hazardous Materials Transportation Act (49 U.S.C. App. 1805) is amended—

(1) in subsection (c)(1)(C) by inserting “(in other than a bulk packaging)” after “5,000 pounds or more”;

(2) in subsection (c)(8) by inserting “, or carries out an activity at more than one location,” after “one activity”;

(3) in subsection (c)(12) by striking “117(h)” and inserting “117A(h)”;

(4) in subsection (d)(5) by striking “this section” and inserting “this subsection”; and

(5) in subsection (d)(5) by inserting “, in quantities established by the Secretary,” after “motor carrier”.

(b) *SUBSECTION DESIGNATION AND HEADING.*—Section 8 of the Hazardous Materials Transportation Uniform Safety Act of 1990 is amended by inserting before “Section 106” the first place it appears the following: “(a) *IN GENERAL.*—”.

**SEC. 504. TECHNICAL CORRECTION TO SECTION 115.**

Section 115(a) of the Hazardous Materials Transportation Act (49 U.S.C. App. 1812(a)) is amended by inserting “, 117A, 118,” after “117”.

**SEC. 505. TECHNICAL CORRECTIONS TO SECTION 116.**

Section 116 of the Hazardous Materials Transportation Act (49 U.S.C. App. 1813) is amended—

(1) in subsection (c) by inserting “and” after “alternative routes.”; and

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

“(e) *DEFINITIONS.*—For purposes of this section, the following definitions apply:

“(1) *HIGH-LEVEL RADIOACTIVE WASTE.*—The term ‘high-level radioactive waste’ has the meaning given such term in section 2(12) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(12)).

“(2) *SPENT NUCLEAR FUEL.*—The term ‘spent nuclear fuel’ has the meaning given such term in section 2(23) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(23)).”

**SEC. 506. TECHNICAL CORRECTION TO SECTION 118.**

Section 118(d) of the Hazardous Materials Transportation Act (49 U.S.C. App. 1816(d)) is amended by striking “117(h)” and inserting “117A(h)”.

**SEC. 507. UNIFORMITY OF STATE MOTOR CARRIER PERMITTING FORMS AND PROCEDURES.**

(a) *WORKING GROUP.*—Section 121(a) of the Hazardous Materials Transportation Act (49 U.S.C. App. 1819(a)) is amended—

(1) in paragraph (1) by striking “States that” and inserting “a State to”;

(2) in paragraph (1) by striking “, by motor vehicle” and inserting “by motor vehicle in such State and for a State to permit the transportation of hazardous materials in such State”; and

(3) in paragraph (2) by inserting “and permit” before “forms and”.

(b) *CONSULTATION REQUIREMENT.*—Section 121(b) of such Act is amended by inserting “and permit” before “requirements”.

**SEC. 508. EXEMPTION FOR CERTAIN RAIL-MOTOR CARRIER MERGERS.**

Any transaction in which a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of title 49, United States Code (or a person controlled by or affiliated with such a rail carrier) seeks to acquire control of a motor carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter II of chapter 105 of such title shall be exempt from the fourth sentence of section 11344(c) of such title (1) if, during the period between November 30, 1987, and May 1, 1992, such rail carrier or person acquired a minority stock interest in the motor carrier, and (2) if such rail carrier or person (or a person controlled by or affiliated with such rail carrier or person) was authorized by the Commission to provide transportation as a

motor carrier before the acquisition of such minority stock interest.

Amend the title so as to read: "An Act to increase the safety to humans and the environment from the transportation by pipeline of natural gas and hazardous liquids, and for other purposes."

AMENDMENT NO. 3404

(Purpose: To authorize the Secretary of Transportation to approve construction of the Page Avenue extension in St. Louis, Missouri, and for other purposes.)

Mr. LAUTENBERG. Mr. President, I move that the Senate concur in the amendments of the House with a further amendment, now at the desk, on behalf of Senator DANFORTH.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG], for Mr. DANFORTH, proposes an amendment numbered 3404.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place, insert the following new sections:

SEC. . PAGE AVENUE EXTENSION.

(a) Upon submission of a request by the State of Missouri for Federal Highway Administration approval of the Page Avenue Extension project (hereinafter cited in this section as "the project"), the Secretary of the United States Department of Transportation (hereinafter cited in this section as "the Secretary") is authorized to waive the requirements of section 138 of title 23, United States Code and section 303 of title 49, United States Code, for the alignment designated by the State of Missouri as the "Red Alignment", as described in the draft environmental impact statement approved by the Federal Highway Administration on May 30, 1990, if:

(1) the Secretary determines that a final environmental impact statement has been completed by the State of Missouri and approved by the Secretary; and

(2) the State of Missouri enters into an enforceable agreement with the Secretary to implement a project mitigation plan that includes, at a minimum—

(A) expansion of the Creve Coeur Lake Memorial Park (hereinafter cited in this section as "the Park") in the vicinity of St. Louis, Missouri, by at least fifty percent, through acquisition and addition to the Park of not less than 600 acres of land;

(B) development of a walking and bicycle path that is not less than ten feet in width and connects the Park to the KATY Trail State Park in St. Charles County, Missouri;

(C) construction of nature trails in the wooded upland portion of the addition to the Park referred to in subparagraph (A);

(D) development of a Wetland Wildlife area that includes lake areas and marshes, trails, observation points, and other environmentally compatible features in the Park or in one of the additions to the Park referred to in subparagraph (A);

(E) dredging of Creve Coeur Lake to help remedy a chronic siltation problem and to promote fish and wildlife populations;

(F) construction of a new lake in one of the additions to the Park referred to in subpara-

graph (A) to help alleviate the recurrence of a chronic siltation problem in a manner that minimizes, to the maximum extent practicable and in accordance with section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344), the disturbance of any existing wetlands;

(G) design and construction of features to minimize the visual and physical impact of the project in the vicinity of the Park, consistent, to the extent practicable, with recommendations of the design committee established in accordance with subsection (c), including—

(i) the use of textured concrete, as appropriate;

(ii) the minimization of bridge pier sizing in the elevated portion of the project;

(iii) the use of a bridge design that is more aesthetically pleasing than standard elevated roadway designs;

(iv) construction of bridge siderails with materials that are effective noise attenuators to reduce operational noise levels near the bridge;

(v) design and construction of a drainage system to prevent contamination of Creve Coeur Lane and Creve Coeur Creek with pollution from roadway runoff;

(vi) landscaping of the area between the elevated roadway and Creve Coeur Mill Road to enhance visual parameters without compromising road user safety; and

(vii) the placement of signs to direct road users to appropriate park entrances and facilities;

(H) such other mitigation measures as the Secretary may determine are appropriate to ensure that the environmental benefits of the project mitigation plan exceed the environmental damage associated with the project; and

(I) a monetary contribution by the State of Missouri as may be necessary to implement the entire mitigation plan, in an amount not less than \$6,000,000, including the payment of not less than \$250,000 for facility improvements in the Park, and all funds to develop and implement the mitigation plan shall come from non-federal sources of funding.

(b) None of the costs to develop or implement the project mitigation plan referred to in subsection (a) shall be considered expenditures pursuant to or in satisfaction of the transportation enhancement requirements of section 133 of title 23, United States Code (as amended by section 1007 of The Intermodal Surface Transportation Efficiency Act of 1991, P.L. 102-240, 105 Stat. 1927-1931).

(c) The Governor of the State of Missouri shall establish a design committee to develop recommendations concerning design and construction features to minimize the visual and physical impact of the project in the vicinity of the Park. The Committee shall include representatives of local elected officials, regional park officials, local community groups, design professionals, environmental organizations, and business organizations.

(d) To the maximum extent practicable, the State of Missouri shall implement the project mitigation plan referred to in subsection (a) prior to the commencement of construction of the Page Avenue Extension project. At a minimum, the mitigation measures specified in subsection (a)(2)(A) and (a)(2)(C) shall be completed prior to commencement of construction of the Page Avenue Extension project.

(e) If the project does not comply with all other requirements of federal environmental law that are applicable to the project, including sections 134 and 135 of title 23, Uni-

ted States Code (as amended by sections 1024 and 1025 of the Intermodal Surface Transportation Efficiency Act of 1991, P.L. 102-240, 105 Stat. 1955-1962 and 105 Stat. 1962-1965) and all other requirements of the Intermodal Surface Transportation Efficiency Act of 1991 (P.L. 102-240, 105 Stat. 1914 et seq.), any waiver of the requirements of section 138 of title 23, United States Code and section 303 of title 49, United States Code, granted by the Secretary under the authority of this section shall be stayed pending a determination by the Secretary that the project has been brought into compliance with such other requirements. Any determination by the Secretary under the preceding sentence shall be subject to judicial review.

SEC. . RURAL ACCESS.

The table contained in section 1106(a)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2037-2042) is amended in item number 52, relating to Bedford Springs, Pennsylvania—

(1) by striking "Bedford Springs,";

(2) by inserting "in Bedford Springs, Pennsylvania," after "access road"; and

(3) by inserting "or other projects in the counties of Bedford, Blair, Fulton, and Huntington, as selected by the State of Pennsylvania" after "therewith".

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote.

Mr. JEFFORDS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, I rise in support of S. 1583, the Pipeline Safety Act of 1992. The amendment before us today reauthorizes the natural gas and hazardous liquid pipeline safety programs of the Department of Transportation [DOT] through fiscal year 1995.

While the transportation safety record of pipelines is commendable, improvements are always appropriate. In this regard, S. 1583 requires DOT to undertake enhanced pipeline safety measures in certain circumstances where there is a demonstrated safety need. One such area is the inclusion of environmental protection, in addition to the protection of life and property, in calculating pipeline safety priorities. S. 1583 also mandates the establishment of industrywide guidelines on instrumental internal inspection devices, also known as smart pigs, excess flow valves, and customer-owned service lines.

The legislation requires minimum pipeline operator training requirements and provides authority for 12 additional Federal pipeline inspectors. Additionally, the legislation includes criminal sanctions for excavators who cause major damage to pipelines after knowingly and willfully failing to use one-call utility locating systems.

I believe this is a good bill that will continue to enhance the safety of pipeline transportation. I, therefore, ask my colleagues to join me in support of this legislation.

Mr. EXON. Mr. President, as chairman of the Surface Transportation Subcommittee, I am pleased to recommend that the Senate pass S. 1583, the Pipeline Safety Act of 1992. In the first session of this Congress, on October 7, 1991, the Senate passed its original version of this bill. For the last several months, members of the Senate Commerce Committee have worked with the House Committees on Energy and Commerce and Public Works to craft a compromise bill which incorporates the best components of each committee's bill. I would like to thank the members and staffs of these committees for the bipartisan cooperation exhibited and the diligence employed in developing the legislation before you today.

The bill, as amended, expands the Department of Transportation's [DOT's] pipeline safety responsibilities to include environmental protection, in addition to the protection of life and property, in assessing safety priorities. The bill also provides the following: improved identification of pipelines in environmentally sensitive and high-density population areas through the use of inventory and mapping; penalties for pipeline operators and excavators who fail to participate in State and local one-call damage prevention programs; analysis and corrective action regarding abandoned underwater pipelines; and increased use of state-of-the-art technology, including excess flow valves for natural gas pipelines and excess flow restricting devices for hazardous liquid pipelines.

Additionally, the legislation, as amended, provides for: increased inspection requirements, including use of instrumental internal inspection devices, smart pigs; a program to improve the operation and maintenance of customer-owned service lines; better pipeline operator training; a national program to inspect underwater pipelines to ensure they are properly buried and do not impose a hazard to navigation; elimination of the blanket exemption for low internal stress pipelines; safety coverage of some gathering lines; and monitoring of the effectiveness of industry guidelines to encourage cast iron pipe replacement.

S. 1583, as amended, authorizes funding for the Federal pipeline safety programs and State grants which are all offset by users fees as follows: for the Natural Gas Pipeline Safety Act of 1968, \$6,405,000 for fiscal year 1992, \$6,857,000 for fiscal year 1993, \$7,000,000 for fiscal year 1994, and \$7,500,000 for fiscal year 1995; for the Hazardous Liquids Pipeline Safety Act, \$1,600,500 for fiscal year 1992, \$1,728,500 for fiscal year 1993, \$1,866,800 for fiscal year 1994, and \$2,000,000 for fiscal year 1995; and for the State grants-in-aid, \$7,750,000 for fiscal year 1992, \$7,750,000 for the fiscal year 1993, \$9,000,000 for the fiscal year 1994, and \$10,000,000 for the fiscal year 1995.

The amendment also provides statutory authority for the Research and Special Programs Administration within DOT. Additionally, the legislation makes various technical amendments to the Hazardous Materials Transportation Act and provides for a statutory exemption for certain rail-motor carrier mergers subject to the jurisdiction of the Interstate Commerce Commission.

I wholeheartedly encourage my colleagues to support this bipartisan effort to further improve the safety of our Nation's pipeline system.

Mr. DANFORTH. Mr. President, today the Senate takes the final step toward enactment of S. 1583, the Pipeline Safety Act of 1992. This important legislation includes provisions similar to those first proposed in S. 1055, the Pipeline Safety Improvement Act of 1991 that I introduced with Senators BOND and DOLE.

S. 1055 responded to a series of pipeline accidents in Missouri and Kansas between September 1988 and May 1991. Similarities between some of the accidents indicated that certain kinds of pipeline need more attention so potential dangers can be avoided. The bill addressed issues affecting the following kinds of pipelines:

Natural gas distribution lines caused explosions in Oak Grove, MO, 2 people killed; Kansas City, MO, 1 killed, 5 injured; and Overland Park, KS, 4 injured.

Cast iron natural gas pipelines ruptured in Kansas City, MO, 1 injured; and Topeka, KS, 1 killed, 5 injured.

Oil pipelines spilled 850,000 gallons of crude oil in Maries County into the Gasconade River, and 100,000 gallons into the Chariton River near Ethel, MO.

S. 1583, as amended by the House, requires the Department of Transportation to take the following safety actions:

First, protection of the environment, as well as lives and property, from pipeline hazards;

Second, collection of specific information on pipelines located in environmentally sensitive and highly populated areas;

Third, assessment of the effectiveness of current safety procedures, systems and equipment used for detecting, locating, and reducing damage from hazardous liquid pipeline ruptures;

Fourth, performance standards and regulations for the installation of excess flow valves on natural gas distribution lines for improving safety; and

Fifth, distribution and monitoring of new industry guidelines for cast iron pipe replacement.

In addition to reauthorizing funding for all Federal pipeline programs, the Pipeline Safety Act of 1992 also contains provisions affecting the following concerns: pipeline operator testing; the

use of instrumented internal inspection devices; identification of underwater pipelines posing navigation hazards; maintenance of customer-owned natural gas service lines; and criminal penalties for excavators who cause major damage to pipelines after knowingly and willfully failing to heed information provided to them on underground pipeline locations.

Mr. President, these initiatives would improve the safety of people, property, and the environment throughout the United States. I urge my colleagues to support final passage of S. 1583.

#### THE PAGE AVENUE EXTENSION PROJECT

Mr. President, the Page Avenue project would solve what is arguably the worst traffic congestion problem in Missouri. The project will connect St. Louis County, MO's most populous county, with St. Charles County, the fastest growing county in Missouri and one of the fastest growing in the Midwest. The main crossing between the two counties, the 10 lane I-70 bridge over the Missouri River, is the most heavily used bridge in the State, with traffic exceeding capacity during much of the day.

The Red Alignment for the Page Avenue extension project has the overwhelming support of the public and of a bipartisan list of elected officials from the area. Both Missouri Senators, both U.S. Representatives, from the area, the Governor, the county executive of St. Louis County, the presiding commissioner of St. Charles County, and the State senators and representatives all support the project. At a June 1990 public hearing in St. Charles, approximately 1,100 people showed up in support of the plan, with only a few in opposition. This was a record turnout for a highway hearing in the State of Missouri and demonstrates the tremendous public interest in expeditious approval of the Page Avenue extension project.

The Red Alignment runs across the southern end of Creve Coeur Park and would require an elevated causeway across the southern tip of Creve Coeur Lake. Since 1970, a plan similar to the Red Alignment has been part of the St. Louis region's plans to relieve area traffic problems. In 1973, the Missouri Highway and Transportation Commission approved a study which established a Page Avenue extension corridor. Since then, St. Louis County has protected the Red Alignment corridor from development. Developers made construction decisions, and individuals made purchases and rentals, with the strong expectation that the route would be developed where the county and the State planned it to be. Thousands of individuals have made decisions about purchasing or selling property with that expectation in mind.

To compensate for any environmental damage, the State will signifi-

cantly improve the park with a massive enhancement plan for Creve Coeur Lake Memorial Park. According to the St. Louis County executive, the State's enhancement plan would transform the park into the premier urban park in our State. The State will donate 640 acres to St. Louis County, increasing the size of the park by over 50 percent; develop a walking and bicycle path; construct nature trails in a wooded part of the park; develop a wetland wildlife area that includes lake areas and marshes, trails, observation points, and other environmentally compatible features; dredge Creve Coeur Lake to help remedy a chronic siltation problem; construct a new lake in one of the additions to the park; and design and construct features to minimize the visual and physical impact of the project to the park.

Because the Page Avenue extension traverses parkland, it must meet the requirements of section 4(f) of the Department of Transportation Act of 1966. The act states that the Secretary of Transportation may not approve a highway which traverses a public park unless there is no feasible and prudent alternative to the use of such land. While State and county officials believe that no such alternative exists to the Red Alignment, the courts have interpreted this standard so stringently that nearly any alternative is considered feasible and prudent despite costs, dislocations, or park enhancements. For the Secretary of Transportation this means that despite a plan to make the county park significantly larger and tremendously better—a plan that is strongly supported by St. Louis County—he risks certain court challenge, lengthy litigation, and endless delays if he approves the Page Avenue extension project along the Red Alignment. As a result, legislation is required in order to allow the State to proceed in a timely manner.

The amendment authorizes the Secretary of Transportation to waive the 4(f) requirement of the Department of Transportation Act and approve the project if: First, the State has completed its final environmental impact statement; and second, the State agrees to implement the extensive mitigation plan, and pay for it with non-Federal funds. Should the project be found not to comply with any other requirements of Federal environmental law, the 4(f) waiver would be stayed. I have been informed by the chief engineer of the Missouri Highway and Transportation Department [MHTD] that the MHTD is both willing and able to carry out its requirements. It is my understanding and expectation that this amendment will permit the Secretary of Transportation to approve

the project near the end of 1992. I anxiously look forward to the day when residents of the St. Louis area have both a much better transportation network and a much better park.

Mr. PRESSLER. Mr. President, I rise today in support of final passage of S. 1583, the Pipeline Safety Improvement Act of 1992. I believe this act will improve the safety of our Nation's energy pipelines—both for humans and the environment.

Mr. President, there have been hazardous liquid pipeline leaks in my home State of South Dakota. These have been a major concern to myself and my constituents. Significant property losses have been incurred. The environment has been damaged. Fortunately, no major injuries have occurred in South Dakota. However, this is not true elsewhere in this country. This country needs pipelines to move energy resources. Most Americans prefer pipelines over truck transportation of hazardous liquids. But there have been problems. This legislation hopefully will correct most of the problems that have occurred in the last few years.

I am proud this Act contains a portion of legislation I introduced earlier this year, S. 2375, adding 12 inspectors to the Office of Pipeline Safety. They will focus on four areas. First, they will provide technical assistance and training to State pipeline inspectors. Second, they will inspect pipeline facilities, including interstate and intrastate hazardous liquid pipeline facilities in those States that do not have a hazardous liquid pipeline safety program. Third, they will help these States develop a hazardous liquid pipeline safety program. Last, these additional 12 inspectors will inspect interstate hazardous liquid pipeline facilities constructed before 1971.

I believe that the addition of these 12 positions within the Office of Pipeline Safety, focused as I have described, will contribute substantially to the safety improvements in this act. There are other improvements in the bill that will be very helpful as well. Technological improvements in the industry have occurred in the last few years. This legislation establishes requirements to improve pipeline safety by using this technology.

I commend my colleagues and members of the committee staff who have worked so diligently to craft this compromise. I urge all of my colleagues to support its final passage.

Mr. KASTEN. Mr. President, as the Ranking Republican Member of the Senate Commerce Committee's Subcommittee on Surface Transportation, I urge my colleagues to support the Pipeline Safety Act of 1992. This legislation is important to Wisconsin and to

the United States. S. 1583 will improve the safety of transporting natural gas and hazardous liquids through this nation's extensive system of pipelines. Also, this legislation makes the Secretary of Transportation responsible for protecting the environment, in addition to lives and property, from pipeline disasters.

On September 15, the House approved an amendment in the nature of a substitute to S. 1583, the Senate-passed pipeline safety reauthorization bill. This substitute language was agreed to after extensive negotiations between the House and the Senate. Its provisions were worked out with the close cooperation of the administration and the pipeline industry.

The final version of S. 1583 that we are considering today includes the following provisions:

First, funding authority for Federal pipeline safety programs and State grants all offset by users fees;

Second, protection of the environment from pipeline hazards;

Third, identification of pipeline in environmentally sensitive or high-density populated areas;

Fourth, performance standards and regulations regarding the use of excess flow valves (EFV's) on natural gas distribution lines;

Fifth, monitoring of the effectiveness of industry guidelines to encourage cast iron pipe replacement;

Sixth, DOT assessment of procedures, systems, and equipment to detect, locate, and shut down oil pipeline ruptures;

Seventh, criminal sanctions for excavators who cause major damage to pipelines after knowingly and willfully failing to use one-call utility locating systems;

Eighth, DOT data collection and study of underwater abandoned pipelines;

Ninth, testing and certification of individuals who operate or maintain pipelines;

Tenth, DOT authority to require certain pipelines to accommodate instrumented internal inspection devices, smart pits;

Eleventh, regulation of certain gathering lines;

Twelfth, safety of customer-owned natural gas service liens;

thirteenth, State participation in DOT corrective action agreements with pipeline companies;

Fourteenth, inspection of pipelines in navigable waters or offshore;

Fifteenth, civil penalties increased from \$10,000 to \$25,000 per violation per day; and

Sixteenth authority for 12 additional Federal pipeline inspectors.

S. 1583 also includes technical amendments to previous pipeline safety acts and to the Hazardous Materials Transportation Uniform Safety Act of 1990. Finally, it makes statutory the Research and Special Programs Administration.

#### DISTRIBUTION OF MATERIAL BY USIA

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of H.R. 5751, a bill to provide for the distribution within the United States of certain material prepared by the USIA; that the Senate proceed to its immediate consideration; that the bill be read a third time and passed and the motion to reconsider be laid upon the table.

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

So the bill (H.R. 5751) was deemed read a third time and passed.

#### COMMISSION ON INFORMATION TECHNOLOGY AND PAPERWORK REDUCTION ESTABLISHMENT ACT

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 739, H.R. 5851, a bill to establish the Commission on Information Technology and Paperwork Reduction.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 5851) to establish the Commission on Information Technology and Paperwork Reduction.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3405

(Purpose: To provide for the efficient and cost effective acquisition of nondevelopmental items for Federal agencies, to improve the General Accounting Office bid protest system, and for other purposes)

Mr. LAUTENBERG. Mr. President, there is an amendment at the desk on behalf of Senator LEVIN, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG], for Mr. LEVIN, proposes an amendment numbered 3405.

Mr. LAUTENBERG. 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 1, strike out line 3 and insert in lieu thereof the following:

#### TITLE I—COMMISSION ON INFORMATION TECHNOLOGY AND PAPERWORK REDUCTION

##### SEC. 101. FINDINGS AND PURPOSE.

On page 2, line 17, strike out "SEC. 2." and insert in lieu thereof "SEC. 102."

On page 2, line 18, strike out "section 1(b)" and insert in lieu thereof "section 101(b)".

On page 2, line 22, strike out "SEC. 3." and insert in lieu thereof "SEC. 103."

On page 7, line 3, strike out "SEC. 4." and insert in lieu thereof "SEC. 104."

On page 8, line 5, strike out "SEC. 5." and insert in lieu thereof "SEC. 105."

On page 8, line 9, strike out "4" and insert in lieu thereof "IV".

On page 9, line 1, strike out "SEC. 6." and insert in lieu thereof "SEC. 106."

On page 9, line 4, strike out "Act" and insert in lieu thereof "title".

On page 9, line 19, strike out "5" and insert in lieu thereof "V".

On page 10, line 14, strike out "SEC. 7." and insert in lieu thereof "SEC. 107."

On page 10, line 21, strike out "Act" and insert in lieu thereof "title".

On page 11, line 4, strike out "SEC. 8." and insert in lieu thereof "SEC. 108."

On page 11, line 6, strike out "Act" and insert in lieu thereof "title".

On page 11, line 7, strike out "SEC. 9." and insert in lieu thereof "SEC. 109."

On page 11, line 9, strike out "section 3" and insert in lieu thereof "section 103".

On page 11, line 10, strike out "SEC. 10." and insert in lieu thereof "SEC. 110."

On page 11, line 11, strike out "Act" and insert in lieu thereof "title".

On page 11, add after line 11 the following:

#### TITLE II—NONDEVELOPMENTAL ITEMS ACQUISITION

##### SEC. 201. SHORT TITLE.

This title may be cited as the "Nondevelopmental Items Acquisition Act of 1992".

##### SEC. 202. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the acquisition of nondevelopmental items can lower Federal agency procurement costs by—

(A) reducing or eliminating the need for research and development;

(B) reducing acquisition lead time by making use of existing production lines and facilities;

(C) opening competition for Federal agency contracts to thousands of manufacturers who sell products in the commercial market; and

(D) increasing Federal agency access to the market-driven innovations and efficiencies available in the commercial market;

(2) the efficient acquisition of nondevelopmental items is impeded when Federal agencies impose complicated specifications and unnecessarily burdensome contract requirements on simple commercial and off-the-shelf products; and

(3) legislation is needed to reduce impediments to the acquisition of nondevelopmental items and encourage increased acquisition of such items.

(b) PURPOSE.—The purposes of this title are to—

(1) establish a preference for the use of performance specifications and the acquisition of nondevelopmental items by Federal agencies;

(2) require training of appropriate personnel in the acquisition of nondevelopmental items;

(3) require Federal agencies to designate personnel responsible for promoting the acquisition of nondevelopmental items and challenging barriers to the acquisition of nondevelopmental items; and

(4) reduce impediments to the acquisition of nondevelopmental items by Federal agencies.

##### SEC. 203. NONDEVELOPMENTAL ITEMS.

(a) AMENDMENT TO THE FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended by inserting after section 303G the following new section:

"ACQUISITION OF NONDEVELOPMENTAL ITEMS

"SEC. 303H. (a) The Federal Acquisition Regulation issued under section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)) shall require that, to the maximum extent practicable—

"(1) the requirements of Federal agencies with respect to a procurement of supplies are stated in terms of—

"(A) functions to be performed;

"(B) performance required; or

"(C) essential physical characteristics;

"(2) such requirements are defined so that nondevelopmental items may be procured to fulfill such requirements;

"(3) such requirements are fulfilled through the procurement of nondevelopmental items; and

"(4) prior to developing new specifications, executive agencies conduct market research to determine whether nondevelopmental items are available or could be modified to meet agency needs.

"(b) As used in this section, the term 'nondevelopmental item' means—

"(1) any item of supply that is available in the commercial marketplace;

"(2) any previously developed item of supply that is in use by a department or agency of the United States, or a State or local government;

"(3) any item of supply described in paragraph (1) or (2) that requires only minor modification in order to meet the requirements of the procuring agency; or

"(4) any item of supply being produced that does not meet the requirements of paragraph (1), (2), or (3) solely because the item—

"(A) is not yet in use; or

"(B) is not yet available in the commercial marketplace."

(b) TECHNICAL AMENDMENT.—The table of contents for the Federal Property and Administrative Services Act of 1949 is amended by inserting after the item relating to section 303G the following:

"Sec. 303H. Acquisition of nondevelopmental items."

##### SEC. 204. COMMERCIAL ITEMS.

(a) SIMPLIFIED UNIFORM CONTRACT.—(1)(A) The Federal Acquisition Regulation issued under section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)) shall include a simplified uniform contract for the acquisition of commercial items by Federal agencies and shall require that such simplified uniform contract be used for the acquisition of commercial items to the maximum extent practicable. The uniform contract shall include only—

(i) those contract clauses that are required to implement provisions of law applicable to such an acquisition;

(ii) those contract clauses that are essential for the protection of the Federal Government's interest in such an acquisition; and

(iii) those contract clauses that are determined to be consistent with standard com-

mercial practice and appropriate for inclusion in such contracts.

(B) In addition to the clauses described under subparagraph (A), a contract for the acquisition of commercial items may include only such clauses as are essential for the protection of the Federal Government's interest in the particular contract, as determined in writing by the contracting officer for such contract, or in a class of contracts, as determined by the agency head with the approval of the Administrator for Federal Procurement Policy.

(2)(A) The Federal Acquisition Regulation shall require that, except as provided in subparagraph (B), a prime contractor under a Federal agency contract for the acquisition of commercial items be required to include in subcontracts under such contract only—

(i) those contract clauses that are required to implement provisions of law applicable to such subcontracts; and

(ii) those contract clauses that are essential for the protection of the Federal Government's interest in such subcontracts.

(B) In addition to the clauses described under subparagraph (A), a contractor under a Federal agency contract for the acquisition of commercial items may be required to include in a subcontract under such contract only such clauses as are essential for the protection of the Federal Government's interest in the particular subcontract, as determined in writing by the contracting officer for such contract, or in a class of subcontracts, as determined by the agency head with the approval of the Administrator for Federal Procurement Policy.

(3) Notwithstanding paragraphs (1) and (2) of this subsection, the Department of Defense may use uniform contract and subcontract clauses developed under section 824 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (10 U.S.C. 2325 note) in lieu of the uniform contract and subcontract clauses developed under this subsection.

(b) **WARRANTIES.**—The Federal Acquisition Regulation shall require that, to the maximum extent practicable, Federal agencies take advantage of warranties offered by commercial contractors and use such warranties for the repair and replacement of commercial items.

(c) **MARKET ACCEPTANCE.**—The Federal Acquisition Regulation shall direct agencies to require, where appropriate and in accordance with criteria prescribed in the regulations, offerors to demonstrate in their offers that products being offered have—

(1)(A) achieved a level of commercial market acceptance necessary to indicate that the products are suitable for the agency's use; or

(B) been satisfactorily supplied under current or recent contracts for the same or similar requirements; and

(2) otherwise meet the product description, specifications, or other criteria prescribed by the public notice and solicitation.

(d) **PAST PERFORMANCE.**—The Federal Acquisition Regulation shall provide guidance to Federal agencies on the use of past performance of products and sources as a factor in award decisions.

(e) **DEFINITIONS.**—As used in this section—

(1) the term "commercial item" means any item of supply that—

(A) requires no modifications or only minor modifications to meet the needs of the procuring agency;

(B) regularly is used for other than Government purposes; and

(C) is sold or traded to the general public in significant quantities in the course of normal business operations; and

(2) the term "Federal agency" has the meaning given such term in section 3(b) of the Federal Property and Administration Services Act of 1949 (41 U.S.C. 472(a)).

**SEC. 205. RULE OF CONSTRUCTION.**

Nothing in this title or amendments made by this title shall be construed to impair or affect the authorities or responsibilities conferred by section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) with respect to the procurement of automatic data processing equipment and services.

**SEC. 206. IMPLEMENTATION.**

(a) **TRAINING.**—The Administrator for Federal Procurement Policy shall issue guidelines for the training by executive agencies of contracting officers, program managers, and other appropriate acquisition personnel in the acquisition of nondevelopmental items. The guidelines shall provide, at a minimum, for training in the requirements of this section and the implementing regulations. In addition, the program shall provide for training of appropriate personnel in—

(1) the fundamental principles of price analysis and other means of determining price reasonableness which do not require access to commercial cost data; and

(2) market research techniques and the drafting of functional and performance specifications.

(b) **NONDEVELOPMENTAL ITEMS ADVOCATES.**—Section 20(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 418(c)) is amended to read as follows:

"(c) The advocate for competition for each procuring activity shall be responsible for promoting full and open competition, promoting the acquisition of nondevelopmental items, and challenging barriers to such acquisition, including such barriers as unnecessarily detailed specifications, unnecessarily restrictive statements of need, and unnecessarily burdensome contract clauses."

(c) **REGULATIONS REQUIRED.**—Within 270 days after the date of the enactment of this Act, Government-wide regulations to carry out the requirements in this section and rescind any regulations that are inconsistent with such requirements shall be published for public comment. Within one year after the date of enactment of this Act, final regulations shall be promulgated in the Federal Acquisition Regulation, and as necessary in the Federal Information Resources Management Regulation.

(d) **IMPROVED MARKET RESEARCH.**—Within 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives a report and recommendations on the use of market research in support of procurement of nondevelopmental items. Such report shall include—

(1) a review of existing Government market research efforts to gather data concerning nondevelopmental items;

(2) a review of the feasibility of creating a Government-wide database for storing, retrieving, and analyzing market data, including use of existing Government resources; and

(3) such recommendations for changes in law or regulation as the Comptroller General may consider appropriate.

**TITLE III—GENERAL ACCOUNTING**

**OFFICE BID PROTEST SYSTEM.**

**SEC. 301. GENERAL ACCOUNTING OFFICE BID PROTEST SYSTEM.**

(a) **GAO RECOMMENDATIONS ON PROTESTS.**—Section 3554 of title 31, United States Code, is amended—

(1) in subsection (b) by adding at the end the following new paragraph:

"(3) The head of the procuring activity responsible for the solicitation, proposed award, or award of a contract shall report to the Comptroller General if the Federal agency has not fully implemented recommendations of the Comptroller General under this subsection with respect to that contract within 60 days after receiving the recommendations, by not later than the end of that 60-day period."

(2) in subsection (c)(1) by striking "declare an appropriate interested party to be entitled to" and inserting "recommend that the Federal agency conducting the procurement pay to an appropriate interested party";

(3) by amending subsection (c)(2) to read as follows:

"(2) If the Comptroller General recommends under paragraph (1) that a Federal agency pay an amount of costs to an interested party, the Federal agency shall—

"(A) pay the amount promptly out of amounts appropriated by section 1304 of this title for the payment of judgments, and reimburse that appropriation account out of available funds or by obtaining additional appropriations for that purpose, or

"(B) report to the Comptroller General promptly why the recommendation will not be followed by the agency.";

(4) by adding at the end of subsection (c) the following new paragraph:

"(3) An interested party to which the Comptroller General has recommended that costs be paid under paragraph (1) and the Federal agency recommended to pay those costs shall attempt to reach agreement on the amount of the costs to be paid, but if they are unable to agree, a party may request that the Comptroller General recommend the amount of the costs to be paid."; and

(5) by amending subsection (e) to read as follows:

"(e)(1) The Comptroller General shall report promptly to the Committee on Government Operations and the Committee on Appropriations of the House of Representatives and to the Committee on Governmental Affairs and the Committee on Appropriations of the Senate in any case in which a Federal agency fails to implement fully a recommendation of the Comptroller General under subsection (b) or (c). The report shall include—

"(A) a comprehensive review of the pertinent procurement, including the circumstances of the failure of the Federal agency to implement a recommendation of the Comptroller General, and

"(B) a recommendation regarding whether, in order to correct inequity or to preserve the integrity of the procurement process, the Congress should consider—

"(i) private relief legislation;

"(ii) legislative rescission or cancellation of funds;

"(iii) further investigation by the Congress; or

"(iv) other action.

"(2) Not later than January 31 of each year, the Comptroller General shall transmit to the Congress a summary report describing each instance in which a Federal agency did not fully implement a recommendation of the Comptroller General under subsection (b) or (c) during the preceding year."

(b) **RATIFICATION OF PRIOR AWARDS.**—Amounts to which the Comptroller General declared an interested party to be entitled under section 3554 of title 31, United States Code, as in effect immediately before the en-

actment of this Act, shall, if not paid or otherwise satisfied by the Federal agency concerned before the date of the enactment of this Act, be paid promptly from the appropriation made by section 1304 of title 31, United States Code, for the payment of judgments, and the Federal agency shall reimburse that appropriation account out of available funds or by obtaining additional appropriations for that purpose.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect at the end of the 45-day period beginning on the date of the enactment of this Act.

Mr. LEVIN. Mr. President, as a general rule, I am not enthusiastic about establishing new Government commissions. I am not convinced that appointing a commission is the best way to solve a problem, and I have to question whether it makes sense to try to address the issue of paperwork reduction by adding yet another report to the mound of reports we already have on this issue.

I have no doubt that the Federal paperwork continues to impose a huge burden on many sectors of our society. While much, if not most, of the information collected by the Federal Government serves important public purposes, there is plenty of room for simplification and streamlining that could substantially reduce the burdens imposed by such data collection.

For the most part, however, I believe that this problem is best addressed not through the overarching generalities typical of most studies and reports, but through the hard, focused effort of reviewing specific statutes, regulations and policies to determine how they can be streamlined to reduce burdens.

For this reason, I have worked hard on a series of initiatives to reduce paperwork burdens imposed by specific sets of statutes and regulations. For example, I have advanced proposals to streamline the use of information in the acquisition process by creating a single Federal acquisition regulation, a uniform contract for the purchase of commercial products, and a uniform rule on access to acquisition information in the Department of Defense.

Similarly, the Lobbying Disclosure Act, which I introduced earlier this year, would replace a group of duplicative and redundant disclosure requirements with a single, uniform statute which would cover all professional lobbyists and streamline disclosure requirements to eliminate needless paperwork and ensure the disclosure of meaningful information about lobbying activities.

Despite my reluctance to participate in the establishment of new Federal commissions to study old problems, however, I am prepared to support this bill for two reasons.

First, I have reviewed the final report of the original Paperwork Commission, which completed its work more than 15 years ago. On the basis of that report, I believe that the Commis-

sion did solid work, digging beyond the surface of the issue, addressing some of the hard specifics of the problem, and making some sensible recommendations which led to important changes in Federal paperwork policy. If the new Paperwork Commission follows in the footsteps of the 1974 Commission, we may be able to make some real progress on this issue.

Second, nobody has been more dedicated to the cause of streamlining Government or has worked harder to reduce unnecessary paperwork burdens than Frank Horton, who was the Chairman of the original Paperwork Commission and the author of this bill. More than anything else, it is my confidence in Mr. Horton's commitment to the kind of tough-minded review that is really needed that convinces me that this bill should go forward despite my reservations.

Mr. President, I believe that there are two other matters that are appropriately considered in conjunction with this bill, and I offer an amendment to address these issues. My amendment would not alter the substance of H.R. 5851, but would simply add two measures to this bill, both of which have already passed the Senate. It is my understanding that they are acceptable to the House and to the administration.

The first measure is the Nondevelopment Items Acquisition Act, which already passed by the Senate earlier this Congress as S. 260. S. 260 would streamline the acquisition process and reduce the paperwork burden on Government and contractor officials in the purchase of commercial items and other off-the-shelf products—known as nondevelopmental items or NDI's. In particular, the bill would require Federal agencies to:

First, purchase NDI's to the maximum extent possible;

Second, simplify their product requirements, telling companies what they want, rather than how to build it;

Third, eliminate unnecessary and burdensome contract clauses that serve as an impediment to NDI contracts;

Fourth, enhance training for acquisition personnel in the procurement of NDI's; and

Fifth, designate officials responsible for promoting the acquisition of NDI's.

These provisions are already law with respect to defense procurement, and we need this bill to cover the civilian agencies as well. In 1990, the bill was approved twice by the Senate and once by the House—all without a single dissenting vote. Unfortunately, the House version of the bill, which differed slightly from the Senate version, was passed with only a few hours left in the session. Because the Senate did not have time to pass the bill again, the bill died with the Congress. The time has come to complete this unfinished business from the last Congress.

The second measure is an amendment to one section of the Competition in

Contracting Act [CICA] to address constitutional concerns that have been raised about the section in light of the Supreme Court's decision in *Bowsher versus Synar*. While it is not certain how the constitutional issue would be resolved in court, the section at issue clearly deviates from the balance of CICA by granting the Comptroller General the power to issue binding orders, rather than recommendations, with regard to bid protest costs. This amendment would address the discrepancy in the Comptroller General's powers, thereby assuring the stability of the bid protest system and avoiding the uncertainty that would be created by protracted litigation on the constitutional issue.

Mr. President, a provision similar to this one passed the Senate as an amendment to the Defense appropriations bill in 1988, and again as an amendment to the Defense authorization bill last year. In each case, the House stated that it needed more time to study the issue. Now, however, the House appears ready to act—in fact, the language of this amendment was drafted by the committee of jurisdiction on the House side. While this language is not identical to the language previously passed by the Senate, it clearly addresses the issue in a manner that is consistent with the positions taken by both the Senate and the administration.

Mr. President, I urge the adoption of my amendment and the passage of the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3405) was agreed to.

The PRESIDING OFFICER. Without objection the bill is deemed read the third time and passed.

So the bill (H.R. 5851), as amended, was deemed read three times and passed.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. JEFFORDS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### NATIVE AMERICAN LANGUAGES ACT OF 1992

Mr. LAUTENBERG. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2044.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

*Resolved*, That the bill from the Senate (S. 2044) entitled "An Act to assist Native Americans in assuring the survival and continuing vitality of their languages," do pass with the following amendment:

Strike out all after the enacting clause, and insert:

**SECTION 1. SHORT TITLE.**

This Act, other than section 4, may be cited as the "Native American Languages Act of 1992".

**SEC. 2. GRANT PROGRAM.**

The Native American Programs Act of 1974 (42 U.S.C. 2991 et seq.) is amended by inserting before section 804 the following:

**"SEC. 803C. GRANT PROGRAM TO ENSURE THE SURVIVAL AND CONTINUING VITALITY OF NATIVE AMERICAN LANGUAGES.**

**"(a) AUTHORITY TO AWARD GRANTS.**—The Secretary shall award a grant to any agency or organization that is—

- "(1) eligible for financial assistance under section 803(a); and
- "(2) selected under subsection (c);

to be used to assist Native Americans in ensuring the survival and continuing vitality of Native American languages.

**"(b) PURPOSES FOR WHICH GRANTS MAY BE USED.**—The purposes for which each grant awarded under subsection (a) may be used include, but are not limited to—

- "(1) the establishment and support of a community Native American language project to bring older and younger Native Americans together to facilitate and encourage the transfer of Native American language skills from one generation to another;
- "(2) the establishment of a project to train Native Americans to teach a Native American language to others or to enable them to serve as interpreters or translators of such language;
- "(3) the development, printing, and dissemination of materials to be used for the teaching and enhancement of a Native American language;
- "(4) the establishment or support of a project to train Native Americans to produce or participate in a television or radio program to be broadcast in a Native American language;
- "(5) the compilation, transcription, and analysis of oral testimony to record and preserve a Native American language; and
- "(6) the purchase of equipment (including audio and video recording equipment, computers, and software) required to conduct a Native American language project.

**"(c) APPLICATIONS.**—For the purpose of making grants under subsection (a), the Secretary shall select applicants from among agencies and organizations described in such subsection on the basis of applications submitted to the Secretary at such time, in such form, and containing such information as the Secretary shall require, but each application shall include at a minimum—

- "(1) a detailed description of the current status of the Native American language to be addressed by the project for which a grant under subsection (a) is requested, including a description of existing programs and projects, if any, in support of such language;
- "(2) a detailed description of the project for which such grant is requested;
- "(3) a statement of objectives that are consonant with the purpose described in subsection (a);
- "(4) a detailed description of a plan to be carried out by the applicant to evaluate such project, consonant with the purpose for which such grant is made;
- "(5) if appropriate, an identification of opportunities for the replication of such project or the modification of such project for use by other Native Americans; and
- "(6) a plan for the preservation of the products of the Native American language project for the benefit of future generations of Native Americans and other interested persons.

**"(d) PARTICIPATING ORGANIZATIONS.**—If a tribal organization or other eligible applicant decides that the objectives of its proposed Native

American language project would be accomplished more effectively through a partnership arrangement with a school, college, or university, the applicant shall identify such school, college, or university as a participating organization in the application submitted under subsection (c).

**"(e) LIMITATIONS ON FUNDING.**—

**"(1) SHARE.**—Notwithstanding any other provision of this title, a grant made under subsection (a) may not be expended to pay more than 80 percent of the cost of the project that is assisted by such grant. Not less than 20 percent of such cost—

**"(A)** shall be in cash or in kind, fairly evaluated, including plant, equipment, or services; and

**"(B)(i)** may be provided from any private or non-Federal source; and

**"(ii)** may include funds (including interest) distributed to a tribe—

**"(I)** by the Federal Government pursuant to the satisfaction of a claim made under Federal law;

**"(II)** from funds collected and administered by the Federal Government on behalf of such tribe or its constituent members; or

**"(III)** by the Federal Government for general tribal administration or tribal development under a formula or subject to a tribal budgeting priority system, such as, but not limited to, funds involved in the settlement of land or other judgment claims, severance or other royalty payments, or payments under the Indian Self-Determination Act (25 U.S.C. 450f et seq.) or tribal budget priority system.

**"(2) DURATION.**—The Secretary may make grants made under subsection (a) on a 1-year, 2-year, or 3-year basis.

**"(f) ADMINISTRATION.**—(1) The Secretary shall carry out this section through the Administration for Native Americans.

**"(2)(A)** Not later than 180 days after the effective date of this section, the Secretary shall appoint a panel of experts for the purpose of assisting the Secretary to review—

- "(i) applications submitted under subsection (a);
- "(ii) evaluations carried out to comply with subsection (c)(4); and
- "(iii) the preservation of products required by subsection (c)(5).

**"(B)** Such panel shall include, but not be limited to—

**"(i)** a designee of the Institute of American Indian and Alaska Native Culture and Arts Development;

**"(ii)** a designee of the regional centers funded under section 5135 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3215);

**"(iii)** representatives of national, tribal, and regional organizations that focus on Native American language, or Native American cultural research, development, or training; and

**"(iv)** other individuals who are recognized for their expertise in the area of Native American language.

Recommendations for appointment to such panel shall be solicited from Indian tribes and tribal organizations.

**"(C)** The duties of such panel include—

**"(i)** making recommendations regarding the development and implementation of regulations, policies, procedures, and rules of general applicability with respect to the administration of this section;

**"(ii)** reviewing applications received under subsection (c);

**"(iii)** providing to the Secretary a list of recommendations for the approval of such applications—

**"(I)** in accordance with regulations issued by the Secretary; and

**"(II)** the relative need for the project; and

**"(iv)** reviewing evaluations submitted to comply with subsection (c)(4).

**"(D)(i)** Subject to clause (ii), a copy of the products of the Native American language project for which a grant is made under subsection (a)—

**"(I)** shall be transmitted to the Institute of American Indian and Alaska Native Culture and Arts Development; and

**"(II)** may be transmitted, in the discretion of the grantee, to national and regional repositories of similar material;

for preservation and use consonant with their respective responsibilities under other Federal law.

**"(ii)** Based on the Federal recognition of the sovereign authority of Indian tribes over all aspects of their cultures and language and except as provided in clause (iii), an Indian tribes may make a determination—

**"(I)** not to transmit copies of such products under clause (i) or not to permit the redistribution of such copies; or

**"(II)** to restrict in any manner the use or redistribution of such copies after transmission under such clause.

**"(iii)** Clause (ii) shall not be construed to authorize Indian tribes—

**"(I)** to limit the access of the Secretary to such products for purposes of administering this section or evaluating such products; or

**"(II)** to sell such products, or copies of such products, for profit to the entities referred to in clause (i)."

**SEC. 3. AUTHORIZATION OF APPROPRIATIONS.**

Section 816 of the Native American Programs Act of 1974 (42 U.S.C. 2992d) is amended—

(1) by inserting "803C" after "803A" each place it appears; and

(2) by adding at the end the following:

**"(f)** There are authorized to be appropriated to carry out section 803C, \$2,000,000 for fiscal year 1993 and such sums as may be necessary for fiscal years 1994, 1995, 1996, and 1997."

**SEC. 4. NATIVE AMERICANS EDUCATIONAL ASSISTANCE ACT.**

**(a) SHORT TITLE.**—This section may be cited as the "Native Americans Educational Assistance Act".

**(b) AGREEMENT TO CARRY OUT DEMONSTRATION PROJECT.**—The Secretary of the Interior is authorized to enter into an agreement with a nonprofit captioning agency engaged in manufacturing and distributing captioning decoders, for the purpose of carrying out a demonstration project to determine the effectiveness of captioned educational materials as an educational tool in schools operated by the Bureau of Indian Affairs.

**(c) REPORT.**—Prior to the expiration of the 12-month period following the date of the agreement entered into pursuant to subsection (b), the Secretary of the Interior shall report to the Congress the results of the demonstration project carried out pursuant to such agreement, together with recommendations of the Secretary.

**(d) AUTHORIZATION.**—There are authorized to be appropriated such sums as may be necessary to carry out this section.

Mr. INOUE. Mr. President, I am pleased that the House of Representatives has acted expeditiously in approving my bill, S. 2044, and returning it to this body for final approval. I accept the amendments of the House in the spirit of advancing the enactment of the Native American Languages Act of 1992.

Since my attention has been called to a word change that may seem ambiguous, however, I need to clarify that the word change that was made by leg-

islative counsel was intended only to conform to words used in the existing Native American Programs Act, and is not a substantive modification of the bill's provisions for native language program grants.

In section 803C, establishing a program of grants to help assure the survival and continuing vitality of native American languages, the word "programs" has been replaced by the words "a project," and a question has been raised as to whether such change is intended to result in only one grant being made for a community language project bringing younger and older native Americans together, only one grant being made for teaching of teachers or interpreters, or only one grant being made for training of native Americans for programs to be broadcast in native languages.

Let me state plainly that such an outcome will not be the result of the word change. The rules of statutory construction are clear that the use of the singular includes the plural, unless the context indicates otherwise. The context in which the word "project" occurs is a bill providing for grants to be awarded for a multiplicity of native American language purposes, including such projects. The rules of construction, in other words, provide assurance that, depending upon the level of appropriations and the quality of applications received by the administration for native Americans, there could be several or many community language efforts involving older and younger native Americans, several or many teacher or interpreter training programs, several or many native language broadcast training programs, or any combination of these activities.

In closing, I thank the chairman of the Education and Labor Committee in the House, WILLIAM D. FORD, and the chairman of the Subcommittee on Human Resources, MATTHEW G. MARTINEZ, and their staffs for their vigorous support of the Native American Languages Act, and I thank my colleagues in this body for acting today so that S. 2044 may soon become law.

Mr. LAUTENBERG. I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion. The motion was agreed to.

#### AUTHORIZING PRINTING OF ADDITIONAL COPIES OF "DEVELOPMENTS IN AGING: 1991"

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be discharged from further consideration of Senate Resolution 320, authorizing the printing of additional copies of a Senate report entitled "Development in Aging: 1991"; that the Senate pro-

ceed to its immediate consideration; and that the resolution be deemed agreed to and the motion to reconsider be laid upon the table.

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

So the resolution (S. Res. 320) was deemed agreed to as follows:

#### S. RES. 320

*Resolved*, That there shall be printed for the use of the Special Committee on Aging, in addition to the usual number of copies, the maximum number of copies of volumes 1 and 2 of the annual report of the committee to the Senate, entitled "Developments in Aging: 1991", which additional copies may be printed at a cost not to exceed \$1,200.

#### TED WEISS CHILD SUPPORT ENFORCEMENT ACT OF 1992

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Banking Committee be discharged from further consideration of H.R. 6022, a bill to amend the Fair Credit Reporting Act to require the inclusion in consumer reports of information provided to consumer reporting agencies regarding the failure of consumers to pay overdue child support; that the Senate proceed to its immediate consideration; and that the bill be deemed read for the third time, passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

So the bill (H.R. 6022) was deemed read three times and passed.

Mr. BRYAN. Mr. President, I rise in support of H.R. 6022, the Ted Weiss Child Support Enforcement Act. This legislation sponsored by Congressman LARRY LAROCCO of Idaho is a tribute to the late Congressman Ted Weiss of New York. Ted Weiss devoted his career to helping people, and it is only appropriate that legislation designed to help children from broken homes is named after him.

There are 12 million children in this country who get less than they deserve because their parents are not paying court-ordered child support. Because their support checks never come, some of these children have so little that the taxpayers have to help support them through the AFDC Program.

This legislation would amend the Fair Credit Reporting Act by requiring credit bureaus to record delinquencies of \$1,000 or more of the parent who has failed to make the payments. The bill requires credit bureaus to report the information when it is provided by the Child Support Enforcement Agency.

Failure of a deadbeat dad to live up to his legal obligation to support his children after separation or divorce should become a part of his financial credit history. Delinquent child support debt should be considered by credit granters, just as they consider delinquent mortgage payments or the failure to make car loan payments.

Since the Child Support Amendments of 1984, the Nation's credit bureaus have been working with the Federal Office of Child Support Enforcement to encourage State and local child support agencies to report delinquent payments to the credit bureaus. In fact, even without this legislation, 1.5 million delinquent records are currently included in credit reports. Clearly, there is a compelling moral reason to identify those individuals who have a legal obligation to provide financial support for their children and are not doing so. These families are being denied almost \$5 billion annually which they should rightfully receive.

We hope that this legislation will encourage more States to become providers of credit history information and to report this information to credit bureaus. We hope that this legislation makes parents think again before they walk away from their child support obligations. They will not be able to skip out on their children and have a clean credit report.

Mr. President, this legislation is an important first step in assuring that credit reports be used as a tool against deadbeat dads. I want to commend the gentleman from West Virginia, Mr. ROCKEFELLER and Senator LIEBERMAN for proposing legislation, S. 2596, which finishes this important job. S. 2596 would not only require consumer reporting agencies to include the information in their reports if the information is provided to them by a child support agency but it also would require all offices of child support enforcement to report all delinquent parents who are delinquent on child support payments of \$1,000 or more.

I look forward to working with Senators ROCKEFELLER and LIEBERMAN next session to pass this vital requirement because if the State child support agencies are not required to report deadbeat dads to the credit bureaus, thousands of noncustodial parents will continue to live a life of luxury with their charge cards, while the children are denied basic needs. Unfortunately, it falls to the State and Federal governments to pick up the cost of their minimal support.

In conclusion, Mr. President, this legislation says to anyone thinking of applying for credit: put your children first. You are not going to have a clean credit report until you meet your obligation to your children.

#### CORRECTING THE ENROLLMENT OF S. 523

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the enrollment of S. 523 be corrected to reflect the following changes that I send to the desk on behalf of Senator WARNER and Senator HATCH.

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

**LLOYD B. GAMBLE RELIEF ACT**

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 782, H.R. 3590, a bill for the private relief of Lloyd Gamble.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3590) for the relief of Lloyd B. Gamble.

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 Judiciary, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

**SECTION 1. CONSENT TO SUIT.**

Notwithstanding any statute of limitations, lapse of time, bar of laches, or limitation of liability for injuries arising out of activity incident to service on behalf of the United States (i.e. *Feres Doctrine*), the Court of Claims shall have jurisdiction to hear, determine, and render judgment upon any claim of Lloyd B. Gamble of Fairfax, Virginia against the United States arising from injuries sustained by him as a result of the administration to him, without his knowledge, of lysergic acid diethylamide by United States Army personnel in 1957.

**SEC. 2. RESTRICTIONS UPON SUIT.**

Suit upon any such claim may be instituted at any time within 1 year after the date of enactment of this Act. Nothing in this Act shall be construed as an inference of liability on the part of the United States. Except as otherwise provided in this Act, proceedings for the determination of such claims, and review and payment of any judgment or judgments thereupon shall be had in the same manner as in the case of claims over which such court has jurisdiction under section 1491 of title 28, United States Code. Should the Court render judgment in favor of Lloyd B. Gamble and against the United States, any damages arising from injuries sustained by him shall not exceed \$253,488.

**AMENDMENT NO. 3406**

Mr. JEFFORDS. Mr. President, on behalf of Senator THURMOND, I send an amendment to the substitute 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 Vermont [Mr. JEFFORDS], for Mr. THURMOND, proposes an amendment numbered 3406.

Mr. JEFFORDS. 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 1, line 10, immediately following the words "United States arising from" add the following: "economic or noneconomic".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3406) was agreed to.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JEFFORDS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. If there are no further amendments, the question is on agreeing to the substitute amendment, as amended.

So the substitute amendment, as amended, was agreed to.

The PRESIDING OFFICER. Without objection, the bill is deemed read a third time and passed.

So the bill (H.R. 3590), as amended, was deemed read three times and passed.

Mr. JEFFORDS. Mr. President, I move to reconsider the vote by which the bill as amended, was passed.

Mr. LAUTENBERG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

**TECHNICAL AMENDMENT OF THE CLAYTON ACT**

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Senate proceed to immediate consideration of S. 3330, a technical amendment of the Clayton Act which provides a 3-month extension of the deadline for the FTC to report data on interlocking directorates—this was introduced earlier by Senators METZENBAUM and THURMOND—that the bill be deemed read three times, passed, and the motion to reconsider be laid upon the table.

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

The bill (S. 3330) was considered, ordered to a third reading, deemed read the third time, and passed, as follows:

[The bill, S. 3330, will appear in a subsequent issue of the RECORD.]

**UNANIMOUS CONSENT AGREEMENT—H.R. 5427**

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that when the Senate proceeds to the consideration of the conference report to accompany H.R. 5427, the legislative branch appropriations bill, that there be 30 minutes for debate on the conference report equally divided and controlled between Senators REID and GORTON, and that a rollcall vote on adoption of the conference report, if ordered, occur without any intervening action or debate immediately following the vote on the veto override of the cable bill, if the Senate has completed debate on the appropriations conference report by that time.

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

**EDUCATION OF THE DEAF ACT AMENDMENTS OF 1992**

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Senate Labor Committee be discharged from further consideration of H.R. 5483, the Education of the Deaf Act Amendments of 1992, and that the Senate proceed to its immediate consideration, that an amendment by Senators HARKIN and DURENBERGER be agreed to, that the bill as amended be read for a third time and passed, that the motion to reconsider be laid upon the table, and any statements thereon appear at the appropriate place in the RECORD.

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

**AMENDMENT NO. 3407**

On page 3, line 25, strike out "and".  
On page 4, line 1, strike "(B)" and insert "(C)".

On page 3, after line 25, add the following:

(B) in paragraph (4) by amending the paragraph to read as follows:

"(4) appoint a president and establish policies, guidelines, and procedures related to the appointments, the salaries, and the dismissals of professors, instructors, and other employees of Gallaudet University, including the adoption of a policy of outreach and recruitment to employ and advance in employment qualified individuals with disabilities, particularly individuals who are deaf or individuals who are hard of hearing;" and".

On page 4, line 1, strike "(B)" and insert "(C)".

Beginning on page 4, strike out line 12 and all that follows through line 17 on page 5, and insert the following new section:

**"SEC. 104. ELEMENTARY AND SECONDARY EDUCATIONAL PROGRAMS.**

"(a) GENERAL AUTHORITY.—(1)(A) The Board of Trustees of Gallaudet University is authorized, in accordance with the agreement under section 105, to maintain and operate exemplary elementary and secondary education programs, projects, and activities for the primary purpose of developing, evaluating, and disseminating innovative curricula, instructional techniques and strategies, and materials that can be used in various educational environments serving individuals who are deaf and individuals who are hard of hearing throughout the Nation.

"(B) The elementary and secondary programs described in subparagraph (A) shall serve students with a broad spectrum of needs, including students who are lower achieving academically, who come from non-English speaking homes, who have secondary disabilities, who are members of minority groups, or who are from rural areas.

"(C) The elementary and secondary programs described in subparagraph (A) shall include—

"(i) the Kendall Demonstration Elementary School, to provide day facilities for elementary education for individuals who are deaf, to provide such individuals with the vocational, transitional, independent living, and related services they need to function independently, and to prepare such individuals for high school and other secondary study; and

"(ii) the Model Secondary School for the Deaf, to provide day and residential facilities for secondary education for individuals who are deaf, to provide such individuals with the

vocational, transitional, independent living, and related services they need to function independently, and to prepare such individuals for college, other postsecondary opportunities, or the workplace."

On page 6, line 8, insert before the semicolon "or hard of hearing".

On page 6, line 11, after "deaf" insert "or hard of hearing".

On page 6, line 12, after "deaf" insert "or hard of hearing".

On page 6, line 20, after "deaf" insert "or hard of hearing".

On page 11, line 25, strike "and" after the semicolon.

On page 12, line 10, strike the period and insert "; and".

On page 12, between lines 10 and 11, insert the following:

(3) in subsection (b) by adding, at the end of the following new paragraph:

"(6) establish a policy of outreach and recruitment to employ and advance in employment qualified individuals with disabilities, particularly individuals who are deaf or individuals who are hard of hearing."

On page 15, line 5, insert before the period ", except that nothing in this subparagraph shall be construed to prohibit the University and NTID from educating the Congress, the Secretary, and others regarding programs, projects, and activities conducted at those institutions".

On page 16, line 15, strike the end quotation marks and the second period.

On page 16, between lines 15 and 16, insert the following new subparagraph:

"(C) The Secretary is not authorized to add items to those specified in subparagraph (B)."

On page 19, line 14, strike "Section" and insert "(a) EDUCATION OF THE DEAF ACT.—Section".

On page 19, line 17, strike "AND EVALUATION" and insert ", EVALUATION, AND REPORTING".

On page 20, between lines 17 and 18, insert the following new subsection:

(b) REPORT.—Not later than 180 days after the date of enactment of the Education of the Deaf Act Amendments of 1992, the Secretary of Education shall submit a report to Congress regarding progress made by the Department of Education in implementing the recommendations of the Commission on Education of the Deaf pertaining to the provision of a free and appropriate public education to children who are deaf, and children who are hard of hearing, and with respect to the establishment of standards for programs and personnel to meet the educational, communicative, and psychological needs of children who are deaf, and children who are hard of hearing. In preparing this report, the Secretary of Education shall solicit input from the community of individuals who are deaf, and individuals who are hard of hearing.

On page 21, line 2, before the period insert "or hard of hearing".

On page 21, line 14, after "deaf" insert "or hard of hearing".

Beginning on page 22, strike line 4, and all that follows through line 23 on page 27, and insert the following new subsections:

"(a) ESTABLISHMENT OF PROGRAMS.—

"(1) The Secretary and the Board of Trustees of Gallaudet University are authorized to establish the Gallaudet University Federal Endowment Fund as a permanent endowment fund, in accordance with this section, for the purpose of promoting the financial independence of the University. The Secretary and the Board of Trustees may enter into such agreements as may be necessary to

carry out the purposes of this section with respect to the University.

"(2) The Secretary and the Board of Trustees or other governing body of the institution of higher education with which the Secretary has an agreement under section 112 are authorized to establish the National Technical Institute for the Deaf Federal Endowment Fund as a permanent endowment fund, in accordance with this section, for the purpose of promoting the financial independence of NTID. The Secretary and the Board or other governing body may enter into such agreements as may be necessary to carry out the purposes of this section with respect to NTID.

"(b) FEDERAL PAYMENTS.—

"(1) The Secretary shall, consistent with this section, make payments to the Federal endowment funds established under subsection (a) from amounts appropriated under subsection (h) for the fund involved.

"(2) Subject to the availability of appropriations and the non-Federal matching requirements of paragraph (3), the Secretary shall make payments to each Federal endowment fund in amounts equal to sums contributed to the fund from non-Federal sources (excluding transfers from other endowment funds of the institution involved).

"(3) Effective for fiscal year 1993 and each succeeding fiscal year, for any fiscal year in which the sums contributed to the Federal endowment fund of the institution involved from non-Federal sources exceed \$1,000,000, the non-Federal contribution to the Federal endowment fund shall be \$2 for each Federal dollar provided in excess of \$1,000,000 (excluding transfers from other endowment funds of the institution involved).

"(c) INVESTMENTS.—

"(1) Except as provided in subsection (e), the University and NTID, respectively, shall invest its Federal endowment fund corpus and income in instruments and securities offered through one or more cooperative service organizations of operating educational organizations under section 501(f) of the Internal Revenue Code of 1986, or in low-risk instruments and securities in which a regulated insurance company may invest under the laws of the State in which the institution involved is located.

"(2) In managing the investment of its Federal endowment fund, the University or NTID shall exercise the judgment and care, under the prevailing circumstances, that a person of prudence, discretion, and intelligence would exercise in the management of that person's own business affairs.

"(3) Neither the University nor NTID may invest its Federal endowment fund corpus or income in real estate, or in instruments or securities issued by an organization in which an executive officer, a member of the Board of Trustees of the University or of the host institution, or a member of the Advisory Board of NTID is a controlling shareholder, director, or owner within the meaning of Federal securities laws and other applicable laws. Neither the University nor NTID may assign, hypothecate, encumber, or create a lien on the Federal endowment fund corpus without specific written authorization of the Secretary.

"(d) WITHDRAWALS AND EXPENDITURES.—

"(1) Except as provided in paragraph (3)(B), neither the University nor NTID may withdraw or expend any of the corpus of its Federal endowment fund.

"(2)(A) The University and NTID, respectively, may withdraw or expend the income of its Federal endowment fund only for expenses necessary to the operation of that in-

stitution, including expenses of operations and maintenance, administration, academic and support personnel, construction and renovation, community and student services programs, technical assistance, and research.

"(B) Neither the University nor NTID may withdraw or expend the income of its Federal endowment fund for any commercial purpose.

"(C) Beginning on October 1, 1992, the University and NTID shall maintain records of the income generated from its respective Federal endowment fund for the prior fiscal year.

"(3)(A) Except as provided in subparagraph (B), the University and NTID, respectively, may, on an annual basis, withdraw or expend not more than 50 percent of the income generated from its Federal endowment fund from the prior fiscal year.

"(B) The Secretary may permit the University or NTID to withdraw or expend a portion of its Federal endowment fund corpus or more than 50 percent of the income generated from its Federal endowment fund from the prior fiscal year if the institution involved demonstrates, to the Secretary's satisfaction, that such withdrawal or expenditure is necessary because of—

"(i) a financial emergency, such as a pending insolvency or temporary liquidity problem;

"(ii) a life-threatening situation occasioned by natural disaster or arson; or

"(iii) another unusual occurrence or exigent circumstance.

"(e) INVESTMENT AND EXPENDITURE FLEXIBILITY.—The corpus associated with a Federal payment (and its non-Federal match) made to the Federal endowment fund of the University or NTID shall not be subject to the investment limitations of subsection (c)(1) after 10 fiscal years following the fiscal year in which the funds are matched, and the income generated from such corpus after the tenth fiscal year described in this subsection shall not be subject to such investment limitations and to the withdrawal and expenditure limitations of subsection (d)(3).

"(f) RECOVERY OF PAYMENTS.—After notice and an opportunity for a hearing, the Secretary is authorized to recover any Federal payments under this section if the University or NTID—

"(1) makes a withdrawal or expenditure of the corpus or income of its Federal endowment fund that is not consistent with this section;

"(2) fails to comply with the investment standards and limitations under this section; or

"(3) fails to account properly to the Secretary concerning the investment of or expenditures from the Federal endowment fund corpus or income.

"(g) DEFINITIONS.—As used in this section:

"(1) The term 'corpus', with respect to a Federal endowment fund under this section, means an amount equal to the Federal payments to such fund, amounts contributed to the fund from non-Federal sources, and appreciation from capital gains and reinvestment of income.

"(2) The term 'Federal endowment fund' means a fund, or a tax-exempt foundation, established and maintained pursuant to this section by the University or NTID, as the case may be, for the purpose of generating income for the support of the institution involved.

"(3) The term 'income', with respect to a Federal endowment fund under this section, means an amount equal to the dividends and interest accruing from investments of the corpus of such fund.

"(4) The term 'institution involved' means the University or NTID, as the case may be.

"(h) AUTHORIZATION OF APPROPRIATIONS.—

"(1) In the case of the University, there are authorized to be appropriated for the purposes of this section such sums as may be necessary for each of the fiscal years 1993 through 1997.

"(2) In the case of NTID, there are authorized to be appropriated for the purposes of this section such sums as may be necessary for each of the fiscal years 1993 through 1997.

"(3) Amounts appropriated under paragraph (1) or (2) shall remain available until expended.

"(i) EFFECTIVE DATE.—The provisions of this section shall take effect as if included in the provisions of the Education of the Deaf Act of 1986."

On page 29, line 17, strike "71" and all that follows through "1997" on line 20, and insert "75 percent beginning the academic year 1993-1994, and 90 percent beginning the academic year 1994-1995".

On page 29, between lines 20 and 21, add the following new subsections:

"(c) REDUCTION OF SURCHARGE.—Beginning the academic year 1993-1994 and thereafter, the University or NTID may reduce the surcharge under subsection (b) to 50 percent if—

"(A) a student described under subsection (b) is from a developing country;

"(B) such student is unable to pay the tuition surcharge under subsection (b); and

"(C) such student has made a good faith effort to secure aid through such student's government or other sources.

"(d) DEFINITION.—For purposes of subsection (c), the term 'developing country' means a country that has a 1990 per capita income not in excess of \$4000 in 1990 United States dollars."

Beginning on page 32, strike out line 9 and all that follows through line 12 on page 36 and insert the following:

#### SEC. 201. POSTSECONDARY EDUCATION.

(a) REGIONAL CENTERS.—Section 625(a) of the Individuals with Disabilities Education Act (20 U.S.C. 1424a(a)) is amended by inserting after the first sentence in paragraph (6) the following new sentences: "The Secretary shall continue to provide assistance through September 30, 1994, to the current grantees operating the four regional centers for the deaf under subsection (a) of this section. The Secretary shall continue to provide such assistance through September 30, 1995, unless the authorization of appropriations for parts C-G of the Act is extended by September 30, 1994."

(b) STUDY.—There shall be conducted a General Accounting Office study of the four regional centers for the deaf under section 625(a)(2) of the Individuals with Disabilities Education Act (20 U.S.C. 1424(a)(2)). The scope of such study shall be determined by the Chairpersons and Ranking Minority members of the Subcommittee on Disability Policy of the Committee on Labor and Human Resources in the Senate, and of the Subcommittee on Select Education of the Committee on Education and Labor in the House of Representatives.

Beginning on page 39, strike out line 8 and all that follows through line 10 on page 40.

On page 40, line 11, strike "Subtitle C" and insert "Subtitle B".

On page 40, strike lines 13 through 16 and insert the following:

The amendments described in this title shall take effect on October 1, 1992.

Mr. HARKIN. Mr. President, I rise today on behalf of Senator DURENBURGER and myself in support of

H.R. 5483, the Education of the Deaf Act Amendments of 1992, with a series of amendments.

The Education of the Deaf Act of 1986 (Public Law 99-371) established the Commission on the Education of the Deaf [COED], it authorized funding for Gallaudet University and its two model demonstration schools, and it authorized funding for the National Technical Institute for the Deaf [NTID] at Rochester Institute of Technology. The Commission was designed to examine the status of education programs serving individuals who are deaf throughout the country, including regional postsecondary programs authorized in the Individuals with Disabilities Education Act. The purpose of the university and NTID is to provide postsecondary education and training to deaf individuals to prepare them for further education or for successful employment. The two model schools at Gallaudet, the Kendall Demonstration Elementary School and the Model Secondary School for the Deaf, are to function as national demonstration programs for developing and disseminating effective teaching techniques and materials to be used in other educational settings where students who are deaf may be found.

In 1988, the Commission reported to Congress that the "present status of education for persons who are deaf in the United States is unsatisfactory," and they cited 52 recommendations to improve education for students who are deaf and hard of hearing. The subcommittee spent a great deal of time over the past year reviewing those recommendations and discussing related issues with affected parties and members of the deaf community. We have enjoyed the support and guidance of the staff of the Department of Education, we have solicited input from representatives of the university and NTID and we have had numerous constructive conversations with those who represent the interests of the community of people who are deaf and hard of hearing. We have also had extensive communication with Dr. Frank Bowe, chairman of the COED. Finally, we have received excellent guidance from the professional staff of the Congressional Research Service, especially pertaining to technical issues including the Federal endowments and cost principles.

We were extremely pleased to find that the House bill, H.R. 5483, incorporates many of our intended modifications. We compliment Congressman OWENS, Congressman BALLENGER, and their very committed staff. Indeed, because of the House bill addresses so many of the most important issues of the reauthorization, we have found it necessary only to propose a small number of amendments. I would like to describe briefly the major provisions of the bill. I will then specify particular

changes to the legislation, section by section, and I will highlight those which represent amendments of the Senate to the House version.

Very gradually, the Education of the Deaf Act Amendments of 1992 reauthorizes the Education of the Deaf Act of 1986 through fiscal year 1997, with several amendments to the act. It extends and amends the authorizations for Gallaudet University and NTID, and it repeals parts B and C of title I of the EDA, thereby consolidating the authorities for the elementary and secondary programs under that act. The bill increases accountability for Federal funds provided to the institutions, and it improves the administration of their programs, with the intention of improving educational opportunities—from the elementary to postsecondary levels—for persons who are deaf or hard of hearing. H.R. 5483 also repeals title III of the EDA, which authorized the COED, because the Commission's duties have been completed.

I urge my colleagues to support the bill as amended.

A detailed section by section description of the bill follows.

#### SECTION-BY-SECTION ANALYSIS, EDUCATION OF THE DEAF ACT AMENDMENTS OF 1992 AS AMENDED BY THE SENATE

##### Section 1—Short title

##### TITLE I—AMENDMENTS TO THE EDUCATION OF DEAF ACT OF 1986

##### Subtitle A—Reorganization of the Act

##### Section 101—Reorganization

This section, by repealing and redesignating various provisions of the Act, has the effect of consolidating the authorities relating to Gallaudet University and NTID under one title.

##### Subtitle B—Gallaudet University

##### Section 111—Board of Trustees

This section makes technical changes to existing law relating to the composition and powers of the Board. The Senate has included an amendment that requires the Board to establish an affirmative action policy to promote employment and advancement in employment qualified individuals with disabilities.

##### Section 112—Establishment of Authority for Certain Programs

This section amends, in its entirety, part B of Title I of the existing Act to combine the authority for the elementary and secondary education programs (the Kendall Demonstration School and the Model Secondary School for the Deaf, commonly referred to collectively as the "Precollege" programs) operated by Gallaudet University under a new section 104. Current administrative requirements for both schools would be consolidated to ensure consistent application to both schools. The Senate has amended language in order to underscore the preeminence of the national mission over the actual operation of the two elementary education programs. Finally, this section makes applicable to Gallaudet University certain provisions of the Individuals With Disabilities Education Act (IDEA) when parents privately place their children at these two schools.

##### Section 113—Establishment of Certain Requirements

This section requires that the agreement between the Department of Education and

Gallaudet University for the establishment and operation of the Model Secondary School for the Deaf also include the Kendall Demonstration Elementary School. The agreement would cover the national mission activities and the operation of both school programs. A new agreement must be completed within 1 year after enactment of these amendments and can be periodically updated as determined necessary by either the Department of the University. Language has been added specifying that it is the authorizing committees of Congress who should be the recipients of the annual report that is currently required.

**Subtitle C—National Technical Institute for the Deaf**

**Section 121—Agreement for NTID**

The section requires that the current agreement be assessed for modification within 1 year of enactment of these amendments. It should also be periodically updated as determined necessary by either party. Language has been added specifying that it is the authorizing committees of Congress who should be the recipients of the annual report that is currently required. The Senate has amended the bill to require the institute to establish an affirmative action policy to promote employment and advancement in employment qualified individuals with disabilities.

**Subtitle D—General Provisions**

**Section 131—Definitions**

This section adds definitions for the terms "international student," "NTID," and "University."

**Section 132—Gifts**

This section amends section 402 of the Act by combining provisions that pertain to the receipt of certain gifts by Gallaudet University and NTID.

**Section 133—Audit**

This section adds a new subsection prohibiting the two institutions from spending any appropriated funds on certain items. While lobbying with appropriated funds is prohibited, a Senate amendment explicitly allows the University and NTID to continue to educate Congress, the Secretary of Education, and others regarding programs, projects, and activities conducted at those institutions.

This section also requires both institutions to develop policies on the allowability of expenditures with 6 months of enactment. The cost principles established by the Office of Management and Budget (OMB) for educational institutions are suggested as guidance. These general policies must address explicitly eight particular items of expense, but the Senate has included language prohibiting the Secretary from adding items to those eight specified here. These policies must be submitted to the Secretary of Education for review and comment, and also to the appropriate committees of Congress.

**Section 134—Reports**

This section amends section 404 of the existing Act, which has the effect of combining language that requires annual reports from both institutions. The submission date has been changed from October 15 of each year to "not later than 100 days after the end of each fiscal year." Some existing reporting requirements have been expanded while others have been added.

**Section 135—Monitoring, evaluation, and reporting**

This section clarifies the responsibility of the Secretary of Education for monitoring and evaluation of all activities relating to

the two institutions. It also allows the Secretary to conduct studies in the area of deaf education. This section places an existing reporting provision regarding these activities of the Secretary into this section. A Senate amendment requires an additional report from the Secretary regarding progress made by the Department of Education in implementing particular recommendations of the Commission on Education of the Deaf. Language authorizing appropriations for these activities has been included.

**Section 136—Liaison for education programs**

This section adds to the list of entities the liaison office must interact with such "other Federal and non-Federal agencies, institutions, or organizations involved" in the field of deafness. The duties of the liaison office have been expanded to include reviewing research and other activities in the field of deafness for the purpose of only determining overlap and opportunities for coordination.

**Section 137—Federal endowment programs**

By Senate amendment, this section modifies the endowment provisions in current law by making the Federal endowment fund permanent. This section also requires a two-to-one match when non-Federal contributions to the fund exceed \$1 million, thus generating two non-Federal dollars for every Federal dollar at levels over \$1 million. Provisions have been added that set out limitations on the investment of endowment funds, and the Senate has amended additional provisions that require the University and NTID to maintain records of income generated from the respective Federal endowment fund. The section specifies exceptional circumstances under which the Secretary may authorize the expenditure of a portion of the Federal endowment fund corpus or of interest income beyond the 50% currently permitted. Additionally, the Senate has included language specifying that investment limitations on the corpus, and investment limitations and withdrawal and expenditure limitations on the income generated from that corpus, shall no longer apply after a period of ten years following the fiscal year in which the funds are matched.

**Section 138—Scholarship program**

This section creates a program for the purpose of providing scholarships to individuals who are deaf or hard of hearing for careers in deaf education or special education. Grants would be given to institutions of higher education or special education. Priority consideration for the scholarships would be given by these institutions to individuals who are deaf or hard of hearing and from under-represented backgrounds, particularly minority individuals.

**Section 139—International students**

This section adds a new section limiting the international student enrollment to approximately 10% of the total student body at each institution. Additionally, the Senate has modified language that would have increased the tuition surcharge paid by international students. Whereas the House version included a figure of 135 percent in the tuition surcharge, to be phased in over a period of ten years, the Senate amendment implements an increase from the present rate of 50 percent to 75 percent for the academic year 1993-1994, and a further increase to 90 percent for the following academic year. This section, as amended by the Senate, also establishes a process whereby students from developing countries who cannot pay the surcharge can obtain a reduction each year to the 1992-1993 rate of 50 percent. In accord-

ance with pending legislation (concerning the eligibility of countries for loans from multilateral banks), and recent data from a 1990 per capita income not in excess of \$4,000 in 1990 United States dollars.

**Section 140—Authorization of appropriations**

This section extends the authorization for Gallaudet University and its two school programs and for NTID for five years and authorizes such sums for each of those years.

**Subtitle E—Technical Amendments**

**Section 151—Technical amendments**

This section makes various technical and conforming amendments particularly relating to changes in terminology.

**Subtitle F—Effective Dates**

**Section 161—Effective dates**

This section makes the effective date for this title as October 1, 1992.

**TITLE II—PROVISIONS REGARDING OTHER ACTS**

**Subtitle A—Individuals With Disabilities Education Act**

**Section 201—Postsecondary Education**

This section directs the Secretary to continue to provide assistance through September 30, 1994 to the current grantees operating for four regional centers authorized under Section 625(a) of the Individuals with Disabilities Education Act (IDEA). It also assures such assistance through September 30, 1995, unless the authorization of appropriations for parts C-G of the Act is extended by that day in 1994.

Additional provisions direct the General Accounting Office to conduct a study of the four regional centers, the scope of which is to be determined by the Chairperson and Ranking Minority members of the Subcommittee on Disability Policy of the Committee on Labor and Human Resources in the Senate, and of the Subcommittee on Select Education of the Committee on Education and Labor in the House of Representatives.

**Section 202—Training personnel; education interpreters**

This section allows the Secretary to carry out new teacher training projects under section 631(a) of the Individuals with Disabilities Education Act (IDEA) in the area of deafness. This training provision would permit education institutions in partnership with local education agencies and center schools for students who are deaf to carry out regional model demonstration programs on deafness and secondary disabilities. Types of individuals to whom pre-service and in-service training is to be provided is described.

This section additionally would amend Section 631 of IDEA permitting the Secretary to make grants to institutions of higher education and other appropriate non-profit agencies or organizations for the establishment or continuation of educational interpreter training programs to train or retrain personnel to effectively meet the various communication needs of elementary and secondary students who are deaf and deaf-blind.

**Section 203—Research and related activities**

This section authorizes new research projects under 641 of the Individuals with Disabilities Education Act. This provision permits the funding of institutions of higher education in partnership with other appropriate agencies and organizations such as local educational agencies and center schools for students who are deaf to perform

specific activities related to the unique needs of children who are deaf and each project must provide for the meaningful involvement of parents, family members, and adult role models.

The Senate deleted a house proposal modifying section 202 of the rehabilitation act of 1973. Those modifications directed secretary to expand purposes of the rehabilitation and training center on deafness/hearing impairments to include a function to develop and demonstrate effective strategies in the provision of education to students who are deaf or hard of hearing and are from minority backgrounds.

#### Subtitle B—Effective Dates

##### Section 221—Effective dates

This section makes the effective date for this title October 1, 1992.

Mr. DURENBERGER. Mr. President, I rise today to express my support of the Senate amendments to H.R. 5483, the Education of the Deaf Act Amendments of 1992, and I urge my colleagues to act swiftly to ratify the bill. I want to thank the distinguished chairman of this committee, for once again making it a pleasure to work with him. As is always the case on the Subcommittee on Disability Policy, we come to the floor completely united on this bill, and I do appreciate the fine leadership, support and assistance Senator HARKIN continues to provide as the chairman of the subcommittee. I also want to thank the talented men and women on the subcommittee staff who have worked so diligently on this bill—Bob Silverstein, Alison Rosenberg, and Annie Silberman.

By congressional standards, the Education of the Deaf Act is small in scope. The primary function of this legislation is to authorize funding for: the Commission on the Education of the Deaf; Gallaudet University and its two model demonstration schools; and the National Technical Institute for the Deaf [NTID] at the Rochester Institute of Technology. But as small as this bill is, the impact of these two schools and the Commission is enormous on the deaf community of this country and the world.

The Commission, which was established by the Education of the Deaf Act in 1986, has provided invaluable information to all involved with the deaf community in this country. The subcommittee has considered the Commission's recommendation carefully in this reauthorization, and we will continue to do so in future reviews of legislation relating to deaf education.

And we all know the important role that Gallaudet plays in the education of individuals who are deaf in this country and throughout the world. Gallaudet serves as a tremendous inspiration for individuals who are deaf both for the excellent reputation the school has for the quality of its education; and for having the first deaf president of a major educational institution in this country, King Jordan. I have had the honor of getting to know President

Jordan from working on this reauthorization, and I have been stuck by the special talent and thoughtful influence he brings to Gallaudet and to the deaf community as a whole.

I also am proud of the function that Gallaudet plays in the international deaf community. Students from developing countries who are deaf and come to America to study can have profound effects on their communities at home. Many return to their native lands to start schools where there are none, or to become teachers at existing educational facilities.

Given the serious lack of educational opportunities for individuals who are deaf worldwide, access to Gallaudet for foreign students provides a crucial educational network for people that would otherwise be totally isolated. That is why I am particularly pleased to see the Senate amendments to the House bill regarding the cap and surcharge on foreign students to include a waiver for developing countries.

I also support the Senate amendments regarding the four regional demonstration centers for the deaf. Minnesota is lucky and proud to house one of these centers, which are awarded funding on a competitive basis, in our State, the St. Paul Technical College. St. Paul Technical College, and the other three regional centers, have done much to improve the educational opportunities for students who are deaf in this Nation. There clearly exists a need in this country for numerous higher education institutions serving individuals who are deaf other than Gallaudet, and it is vitally important that the four demonstration centers remain strong and thriving.

The Senate amendment to this bill striking the House language regarding these institutions will insure that these programs, which are successfully providing direct services to students who attend them, will continue to be able to do so.

I also want to pledge here and now, that when the future of these demonstrations is revisited with the reauthorization of the Individuals with Disabilities Act, I will continue to work hard to strengthen these programs.

There are some key people at the St. Paul Technical College who have provided much needed assistance and recommendations in this reauthorization who I would like to thank: Bob Lauritsen, Patrick Duggan, and Deborah Wilcox and David Buchkoski who also participated in a working group to advise me on the Reauthorization of the Rehabilitation Act.

These people are the ones who are truly on the front lines of some of the issues facing individuals with disabilities today. Their thoughts and insights are vital to the legislative process in Washington and I continue to look forward to working with them and their fellow Minnesotans who comprise

the strong and proud disability community in my home State.

Mr. HATCH. Mr. President, passage of the Education of the Deaf Act will enable Gallaudet, the National Technical Institute for the Deaf [NTID], the Kendall Demonstration Elementary School [KDES], and the Model Secondary School for the Deaf [MSSD] to further their basic mission, which is to provide exemplary education for individuals who are deaf or hearing impaired.

NTID and Gallaudet provide quality education and training to postsecondary students on their respective campuses. Other lesser known but equally important programs reach children and youth who are deaf or hearing impaired at the Kendall Demonstration Elementary School [KDES] and the Model Secondary School for the Deaf [MSSD].

The concepts of efficiency and coordination of resources are incorporated into this legislation. This bill streamlines the administrative workings of KDES and MSSD to coordinate the programs between the two schools, making them more compatible in their educational procedures. Furthermore, the numerous financial requirements of the four schools will be organized in a manner that is more consistent with efficient management of their programs and objectives and that ensures appropriate monitoring of funds.

Mr. President, we have heard much about educational improvement and quality in this Congress. I am pleased we are passing an education bill that will really deliver. Educational opportunities and services for people who are deaf or hearing impaired will be improved with the passage of this legislation.

The bill was deemed read the third time, and passed, as follows:

[The bill H.R. 5483, will appear in a subsequent issue of the RECORD.]

#### MOWA BAND OF CHOCTAW INDIANS RECOGNITION ACT

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 670, S. 362, the Mowa Band of Choctaw Indians Recognition Act.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 362) to provide Federal recognition of the Mowa Band of Choctaw Indians in Alabama.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I rise to state my opposition to the passage of this bill. I know the Senator from Alabama has worked very, very hard to

round up support, to develop a consensus for action in this body to pass the bill. Our Committee on Indian Affairs conducted hearings, looking into the merits of the proposal to legislatively grant recognition to the application of the Mowa Band of Choctaw Indians in Alabama for Federal recognition, giving them legal status as beneficiaries of Federal Indian programs and other services that would be accorded to them under the law if this bill were passed.

The reason for my opposition is simply that we have an established procedure under the law already for administrative recognition through a petitioning process that involves establishing evidence to meet certain criteria in the law so that we are upholding the framework for recognition that has now been long established.

All of those groups, tribes seeking to gain legal recognition under the existing law, must follow that procedure.

It is my understanding, and this was borne out in testimony before our committee, that this petitioning group has had a petition before the Department of the Interior under the law for some time now. Having grown impatient with that process, it has now decided to proceed in another direction and that is to go directly to Congress and to get a law passed, creating an exception by the passage of this law, certifying this group as a lawfully constituted and legally entitled group to receive benefits as an Indian Nation or an Indian tribe—a sovereign entity.

There is a Mississippi band of Choctaw Indians. There are others who have the title of the tribal name Choctaw in Oklahoma and in other States as well.

There is a great deal of controversy, Mr. President, over whether or not this petitioning group is a legitimate band of Choctaw Indians, and there is serious disagreement in Indian country on that point. We heard a lot of testimony on both sides of that issue in hearings before our committee, and I would say to the Senate that it certainly created serious doubts in the mind of at least this Senator and I know in the minds of others as well, although I am not purporting to be here today to speak for other members of the committee or other Senators on either side of the aisle.

The fact is the committee did report the bill favorably and it is pending before the Senate today and will be passed, I am sure, on a voice vote in this body. So I am not here to prolong the debate, to drag out the process, but it seemed to me important enough to come to the floor and say that I think this is a very bad precedent to depart from the existing requirements of law in a controversial recognition case and create an exception based on evidence that is in sharp dispute about the legitimacy of this petitioning group under the current standards and criteria established by law.

My hope is that the Senate will be restrained when it is called upon in future situations and refrain from creating an exception to the rule because what is going to happen is the exception will be the rule. Groups who may have a hard time establishing their legitimacy, for whatever reason, before the administrative bodies of our Federal Government will begin to ignore the requirements of existing law for recognition and come directly to the Congress, challenging their representatives in the House and the Senate to circumvent the procedures and the rules that are already established and to create a recognition process that is outside the usual channels that have been established. That is why we have the recognition law on the books now, to keep that from happening so that we in the Congress are not called upon to make these decisions.

I daresay that if you took a survey in the Senate of all members and asked questions about what the facts were in this situation, there would be very little personal knowledge about these facts in the Senate. That is not a criticism of any Senator. It is just impossible in each of these cases for each Member to know all of the facts that are relevant to the decision we are called on to make today in this bill.

So I oppose its passage, Mr. President.

I oppose S. 362, which legislatively gives Federal recognition to the MOWA Band of Choctaw Indians of Alabama.

The issue of legislative recognition of petitioning groups of Indian people is one of the more controversial issues in Indian Affairs. My position is that all groups seeking recognition should follow the Federal acknowledgment process and meet the criteria established by law. I believe legislative action creates a dual system for recognition, one system in which the Congress applies no criteria, and one system in which the Interior Department applies a set of established criteria. Unless the situation is extraordinary, Congress should not grant Federal recognition. Because of the inconsistency and unfairness it creates among petitioning groups, it should not be permitted.

As a member of the Interior Appropriations Committee, I can attest to the fact that funding for Indian programs is inadequate to meet existing tribal needs. Native Americans suffer the worst conditions of unemployment, the lowest life expectancy, inadequate education, and other serious social and economic conditions. Our Government has a special responsibility to native Americans based on treaties, statutes, and Federal court rulings. Federal acknowledgment establishes a perpetual government-to-government relationship between the tribe and United States and has major political, social, and economic implications for the petitioning tribe and Federal, State, and local governments.

Congress has created special programs for federally recognized tribes, including housing, educational assistance, social services, and medical benefits. To qualify for the benefits, and services available to federally recognized tribes, a group must satisfy the requirements for recognition established by the Department of the Interior. This bill gives instant eligibility for numerous Federal programs and benefits afforded only to federally recognized tribes. The Department of the Interior's qualifications for recognized tribes are as follows:

First, the group can be identified by historical evidence, written or oral, as being an American Indian tribe;

Second, its members have existed as a distinctive Indian community viewed as American throughout history until the present;

Third, the Indian group has maintained political influence over its members as an autonomous entity throughout history until the present;

Fourth, the membership group is composed principally of persons who are not members of any other Indian tribe; and

Fifth, the tribe has not been the subject of congressional legislation expressly terminating their relationship with the Federal Government. Under this bill the 3,000 Mowa members would be given every benefit of all federally funded Indian services by circumventing the established administrative recognition process—a process that was developed in 1978 with the support of Indian tribal governments, Congress, and the administration to ensure objective and uniform evaluation.

According to the Congressional Budget Office, the cost of S. 362 to the American taxpayers is estimated at \$10 million a year. This expenditure for the congressionally recognized Mowa tribe would have a profound effect on federally recognized tribes which have met the established requirements as I listed previously.

The Congress has a consistent policy in congressional recognition by exercising a congressional prerogative when the historical record has been persuasive that a particular group was a treaty signatory or recognized in some other accepted manner. However, in the Mowa case there is no evidence that Congress would be correcting a historical oversight or neglect.

The passage of S. 362 would establish a precedent that would weaken the administrative process.

I am not opposed to the Mowa seeking Federal recognition, but I do think the tribe should follow the same recognition process as required of other groups petitioning the Federal Government for recognition. The acknowledgment process establishes the authenticity of a sovereign legal entity. If the current administrative process needs reform, then we should correct the

process, but in the meantime, individual tribes should not circumvent process all others must follow.

I ask unanimous consent that the statement of administration policy dated September 21, 1992 concerning this bill be printed in the RECORD.

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

OFFICE OF MANAGEMENT AND BUDGET  
Washington, DC, September 21, 1992.

STATEMENT OF ADMINISTRATION POLICY

(S. 362—Mowa Band of Choctaw Indians Recognition Act—Shelby of Alabama and Heflin of Alabama)

If S. 362 is presented to the President, the Secretary of the Interior will recommend a veto, because the bill would statutorily acknowledge the Mowa Band of Choctaw Indians in Alabama.

In 1978, the Department of the Interior established an acknowledgment process to ensure that all petitions for recognition as a federally recognized tribe would be evaluated in support of the Indian tribes, and Congress provides each petitioning group the opportunity for an unbiased, detailed review of its petition.

S. 362, however, would circumvent this process. To do so may erroneously acknowledge a group as an Indian tribe, thereby entitling the group to numerous Federal programs and benefits afforded federally recognized tribes. Recognition through legislation would be unfair to all other groups seeking Federal acknowledgment and would undermine the administrative process that was designed to eliminate the need for *ad hoc* determinations through legislation.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, 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. 362

*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 "Mowa Band of Choctaw Indians Recognition Act".

FEDERAL RECOGNITION

SEC. 2. Federal recognition is hereby extended to the Mowa Band of Choctaw Indians of Alabama. All Federal laws of general application to Indians and Indian tribes shall apply with respect to the Mowa Band of Choctaw Indians of Alabama.

RESTORATION OF RIGHTS

SEC. 3. (a) All rights and privileges of the Mowa Band of Choctaw Indians which may have been abrogated or diminished before the date of enactment of this Act by reason of any provision of Federal law that terminated Federal recognition of the Mowa Band of Choctaw Indians of Alabama are hereby restored and such Federal law shall no longer apply with respect to the Band or the members of the Band.

(b) Under the treaties entered into by the ancestors of the Mowa Band of Choctaws, all historical tribal lands were ceded to the United States. Congress does hereby approve

and ratify such cession effective as of the date of the said cession and said cession shall be regarded as an extinguishment of all interest of the Mowa Band of Choctaws, if any, in said lands as of the date of the cession. By virtue of the approval and ratification of the cession of said lands, all claims against the United States, any State or subdivision thereof, or any other person or entity, by the Mowa Band of Choctaws, including but not limited to, claims for trespass damages or claims for use and occupancy, arising subsequent to the cession and that are based upon any interest in or right involving such land, shall be regarded as extinguished as of the date of the cession.

(c) The Mowa Band of Choctaws has no historical land claim and cannot, and shall not utilize its Federal recognition as provided by this Act to assert any historical land claim. As used herein, "historical land claim" means a claim to land based upon a contention that the Mowa Band of Choctaws, or its ancestors, were the native inhabitants of such land or based upon the Mowa Band of Choctaws' status as native Americans or based upon the Mowa Band of Choctaws' Federal recognition as provided by this Act.

(d) Except as otherwise specifically provided in section 4 or any other provision of this Act, nothing in this Act may be construed as altering or affecting—

- (1) any rights or obligations with respect to property,
- (2) any rights or obligations under any contract, or
- (3) any obligation to pay a tax levied before the date of enactment of this Act.

LANDS

SEC. 4. (a) All legal rights, title, and interests in lands that are held by the Mowa Band of Choctaw Indians of Alabama on the date of enactment of this Act are hereby transferred to the United States in trust for the use and benefit of the Mowa Band of Choctaw Indians of Alabama.

(b)(1) Notwithstanding any other provision of law, the Mowa Band of Choctaw Indians of Alabama shall transfer to the Secretary of the Interior, and the Secretary of the Interior shall accept on behalf of the United States, any interest in lands acquired by such Band after the date of enactment of this Act. Such lands shall be held by the United States in trust for the benefit of the Mowa Band of Choctaw Indians of Alabama.

(2) Notwithstanding any other provision of law, the Attorney General of the United States shall approve any deed or other instrument used to make a conveyance under paragraph (1).

(c) Any lands held in trust by the United States for the benefit of the Mowa Band of Choctaw Indians of Alabama by reason of this section shall constitute the reservation of such Band.

(d) The Congress finds that the provisions of this section are enacted at the request of the Mowa Band of Choctaw Indians of Alabama and are in the best interests of such Band.

SERVICES

SEC. 5. The Mowa Band of Choctaw Indians of Alabama, and the members of such Band, shall be eligible for all services and benefits that are provided by the Federal Government to Indians because of their status as federally recognized Indians and, notwithstanding any other provision of law, such services and benefits shall be provided after the date of enactment of this Act to the Band, and to the members of the Band, without regard to the existence of a reservation

for the Band or the location of any of the residence of any member of the Band on or near any Indian reservation.

CONSTITUTION AND BYLAWS

SEC. 6. (a) The Mowa Band of Choctaw Indians of Alabama may organize for its common welfare and adopt a constitution and bylaws in accordance with regulations prescribed by the Secretary of the Interior. The Secretary of the Interior shall offer to assist the Band in drafting a constitution and bylaws for the Band.

(b) Any constitution, bylaws, or amendments to the constitution or bylaws that are adopted by the Mowa Band of Choctaw Indians of Alabama shall take effect only after such constitution, bylaws, or amendments are filed with the Secretary of the Interior.

MEMBERSHIP

SEC. 7. (a) Until a constitution for the Mowa Band of Choctaw Indians of Alabama is adopted, the membership of the Band shall consist of every individual who—

(1) is named in the tribal membership roll that is in effect on the date of enactment of this Act, or

(2) is a descendant of any individual described in paragraph (1).

(b) After the adoption of a constitution by the Mowa Band of Choctaw Indians of Alabama, the membership of the Band shall be determined in accordance with the terms of such constitution or any bylaws adopted under such constitution.

REGULATIONS

SEC. 8. The Secretary of the Interior shall prescribe such regulations as may be necessary to carry out the purposes of this Act.

Mr. JEFFORDS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. PRYOR. 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 Vermont is recognized.

Mr. JEFFORDS. I thank the Chair. (The remarks of Mr. JEFFORDS pertaining to the introduction of S. 3316 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

THE SATURN AUTOMOBILE

Mr. SASSER. Mr. President, I rise on the floor of the Senate this afternoon to pay tribute to the workers and the management of the Saturn automobile plant in Spring Hill, TN. These men and women have dedicated themselves to producing a world-class American product. They have dedicated themselves to restoring pride and uncompromising quality to a vital American industry.

I submit that by all measures they have succeeded brilliantly. The consumer satisfaction delivered by the Saturn Division is currently unsurpassed by any car at any price, foreign, or domestic.

Now, that is an outstanding achievement when you consider as recently as 3 years ago Saturn was still a dream on the drawing board, a bold experiment to build an automobile using the state-

of-the-art techniques at every stage of production. The ingenuity, the skill, and the plain American grit of over 6,000 Saturn employees have made what was a dream 3 years ago a wonderful reality.

In the space of a single product year, Saturn has shot to the top of the consumer surveys. Most notably, it has commanded the highest tier of the J.D. Power surveys which are the benchmark for automotive quality and consumer satisfaction.

Across a broad range of categories, Saturn has set the new standard, from sales satisfaction to delivery condition of the automobile, to retailer's happiness with their franchisees. In each case, Saturn has walloped its competitors and held its own with such luxury nameplates as Mercedes-Benz and Lexus, cars costing four or five times as much, cars that were never thought to be in competition with Saturn until suddenly, to their surprise, they found they were.

The J.D. Power organization summed it up very well by stating: "For a car in the lower middle market, Saturn is doing the best job of all. By comparison, the Japanese are doing a relatively poor job." So said J.D. Powers.

Mr. President, the men and women of Saturn are winning straight ahead. They are winning without gimmicks, without trade subsidies, without quota protection. The playing field with Japan may not yet be level, but the men and women of Saturn are winning anyway.

Consumers with the free choice to purchase the highest quality automobile at the lowest cost choosing Saturns over any imports.

Nationwide, we find that 53 percent of 1992 Saturn buyers listed an import as their second choice.

In California, where automobile buying trends have been set in the past, surveys indicate that 65 percent of Saturn buyers said they chose a Saturn over imports. The people of Saturn are taking back the market because their product is superior, because they are working overtime to meet the demand, and because their attention to quality is unequalled.

As a result, Saturn now leads the industry in new car sales per dealer, the first time in 15 years that an American automobile has held that distinction.

And the reason is simple: It is quality, American quality. The Saturn automobile is 100 percent designed, engineered, and assembled in the United States of America by Americans using American parts. You can say that about very few automobiles today.

We live in a day when Honda's plant in Ohio has more American parts in it than a Mercury Tracer assembled in Mexico, or a Plymouth Laser assembled in Japan. We get confused over the content of automobiles. Buying an American nameplate is no longer the

guaranteed best way to support the American economy, or our Nation's work force.

But, Mr. President, Saturn cuts through the confusion. It is uniquely and entirely an American achievement. There is no foreign source. There is no foreign design. There is no foreign assembly. The Saturn automobile is all American, right down to the last nut and bolt and piston and gasket.

So my message this afternoon, Mr. President, is one of gratitude, gratitude to the workers and management of Saturn, who have given us back our product. They have proven that American ingenuity and know-how still is second to none in the world. There have been many doubters along the way. Sure, they have been some mistakes and there have been some false starts. But the workers and management at Saturn have overcome them with a measure of grace and dedication that we can all admire.

The men and women at Saturn never lost confidence in their ability to excel. There have been no easy victories, no neat solutions; only the driving, creative effort to solve problems and breathe new life into the American automobile industry.

The people at Saturn are convincing the world that we are once again a can-do people, a can-do Nation. They are pioneers, building tomorrow's products. They set the standard for all of the American industry to follow.

So I know I speak for all Members of the U.S. Senate, as well as millions of Americans, when I say to the workers and managers at the Saturn plant in Spring Hill, TN: Thank you for bringing our confidence back in our ability to produce and compete; and thank you for restoring our pride in American products.

Mr. President, I yield the floor.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, let me say to this body, I would like to associate myself with the remarks of the distinguished Senator from Tennessee. He is dead right on everything he said in his incredible story, one that I hope we are going to see repeated a number of times in other areas, with other automobiles.

#### TRIBUTE TO SENATOR ALAN CRANSTON

Mr. BIDEN. Mr. President, today, I want to pay tribute to one of our departing colleagues, a man I consider to be one of the giants of the Senate, ALAN CRANSTON.

ALAN CRANSTON's life has spanned the century—a century marked by unsurpassed human achievement in science and technology, but marred by the bottomless horror of global conflict. These contrasting images of the 20th century

remind us that despite the technological revolutions in areas from medicine to manufacturing, we have been unable to discover the key to world peace.

The search for that key has been the central guiding principle of ALAN CRANSTON's life. Throughout his 24 years in the Senate, ALAN has demonstrated an extraordinary devotion to world peace.

Some people pursue power for its own sake; they look upon issues as a means to political advancement. ALAN CRANSTON's entire political career stands in sharp contrast to such cynicism. His ambition has been driven by issues, particularly the issue of nuclear arms reduction.

If I may be forgiven a personal aside, 5 or 6 years ago I was seeking ALAN's support for an office other than the one I now hold. I was sitting with him in a taxicab, about to go into a function being held in the Loop in Chicago.

Before we got out, he said: "I only have one question for you." Of all the thousands of issues he could have asked me about, he said: "I only have one question." He said: "How devoted are you to controlling nuclear weapons—to nuclear arms control—and to changing the dynamics of the relationship between the United States and Russia?" It is the only question he asked me, Mr. President.

Time and again, ALAN CRANSTON has brought us together, Democrats and Republicans, to focus on the opportunities for curbing the arms race.

For years, he convened the informal SALT study group, which met periodically in the whip's office, where ALAN encouraged a continuing dialog among Senators about reducing our Armageddon arsenals. He carried this dialog forward in his position as Democratic whip and as a senior member of the Foreign Relations Committee.

Indeed, ALAN CRANSTON was a tireless advocate for nuclear arms control. He was a key player in passage of the landmark Nuclear Nonproliferation Act, which curbed U.S. nuclear exports and strengthened sanctions against nations that would divert nuclear energy technology into weapons.

He consistently spoke out against efforts by third world dictators to achieve nuclear weapons. He warned us about the dangers of Iraq's nuclear program—years before George Bush did.

It was ALAN CRANSTON who led the effort to curb aid to Pakistan until that nation turned away from the nuclear threshold. And it was ALAN CRANSTON who highlighted the dangers in the nuclear weapons programs of India, China, and North Korea.

ALAN CRANSTON fought—even when jobs in his home State of California were at stake—against unnecessary nuclear weapons programs and delivery systems, such as the MX missile and the B-2 bombers.

And now, in the final weeks of ALAN CRANSTON's Senate career, it is fitting that we have enacted a nuclear test moratorium and ratified the START Treaty—two historic achievements that ALAN CRANSTON played no small part in bringing about.

One of ALAN CRANSTON's great accomplishments grew from political defeat. Though he did not secure the Democratic nomination for President in 1984, ALAN achieved a larger goal by raising awareness about nuclear dangers and support for a mutual, verifiable nuclear freeze.

As the Los Angeles Times wrote the day after ALAN withdrew from the race:

His insistence that arms control and peace are a president's most important responsibility [have] raised the nuclear consciousness of the campaign. That is a noble contribution.

Of course, ALAN CRANSTON's contributions extend far beyond the arms race. In the Foreign Relations Committee, he was a forceful proponent of the South African sanctions legislation in 1986 and a critical voice in opposing the Reagan administration's misguided policies in Central America.

As chairman of the Asia Subcommittee, he has been a leading critic of the Bush administration's policy of constructive engagement with Beijing. He spearheaded the committee's effort which resulted in an about-face in United States policy toward Cambodia, where the Bush administration had underestimated the ambitions of the genocidal Khmer Rouge.

And he has provided a guiding hand in United States policy toward the Philippines. After the democratic revolution in that country in 1986, it was ALAN CRANSTON—along with our colleague Senator LUGAR and others—who urged the establishment of multilateral assistance initiative, a long-term proposal for aid and investment aimed at stabilizing the new government.

ALAN CRANSTON has made important contributions in many other areas—in protecting the environment, in advancing the cause of civil rights, in caring for the needs of our brave veterans, and in promoting the cause of equal rights for women.

For me, ALAN CRANSTON has embodied the credo stated by the American architect, Daniel Burnham:

Make no little plans—they have no magic to stir men's blood. Make big plans; aim high in hope and work, remembering that a noble, logical diagram once recorded will never die, but long after we are gone will be a living thing, asserting itself with ever-growing insistency.

ALAN, your quest for world peace will continue to stir magic in men's blood. That ideal, which you so persistently pursued, will continue to assert itself—here in this Chamber and around the world—long after we are gone.

ALAN, for 24 years, you have been a quiet leader. You have counted our votes, you have twisted our arms, and

you have brought us together to reason with one another.

It should be noted that ALAN CRANSTON is retiring from this body, but is still devoting his time in retirement to see to it that the current rapprochement between Russia and the United States becomes a permanent condition. He is still working tirelessly and will head up an institute to do this; to, in fact, bring about the prospect of continued dismantlement of the nuclear arsenals that have been brought about as a consequence of the cold war.

I would like to pay Senator CRANSTON my personal respect and gratitude for all he has done for this country.

Mr. CRANSTON addressed the Chair. The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. Mr. President, I came to the floor, and I rise on the floor, to thank my friend from Delaware for his act of friendship and generosity. I deeply appreciate his comments on what I have sought to do in the Senate, and before the Senate, and what I will seek to do after the Senate, due to my passion for peace.

I do believe that I have made some contributions that do count in that realm.

I also say, in passing, I think I have also accomplished some things in other realms, such as the environment and the causes of equal rights, human rights, civil rights, voting rights, transportation, housing for veterans, and much else. But most of all, I was concerned through the cold war about the dangers of nuclear war, and I worked for better understanding with the Soviet Union through that long, dark period in world and American history.

Now, there are great hopes that we can avoid such dangers in the future, and I shall continue to work on that front.

I want to note also that the Senator from Delaware has made his own vast and remarkable contributions on the peace front and on the foreign affairs front, where he has provided great leadership and great thought, dedicated to the issues that confront our country.

I thank him as a wonderful friend and a great Senator.

#### NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1993—CONFERENCE REPORT

The PRESIDING OFFICER (Mr. BRYAN). The Chair informs the Senate, the Senate having received the conference report on H.R. 5006, pursuant to the order of October 3, 1992, that report is considered adopted, and the motion to reconsider is laid on the table.

(The conference report is printed in the House proceedings of the RECORD of October 1, 1992.)

#### CABLE TELEVISION CONSUMER PROTECTION ACT OF 1992—VETO

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of the President's veto message on S. 12, which the clerk will report.

The legislative clerk read as follows: A bill (S. 12), the Cable Television Consumer Protection and Competition Act of 1992.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. Under the previous order, there will now be 1 hour of debate with the time to be equally divided and controlled by the two leaders or their designees.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the time on the bill be controlled by Senator DANFORTH and Senator BURNS.

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

Who yields time?

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BURNS. Mr. President, I will just have an opening statement here, as we start down this road. This whole debate today regarding cable reregulation has been set up by some speeches made previously here on this floor this afternoon. One of them has to do with jobs. We beat up on our President because the economy has not grown and job creation has not really happened like we would all like to see it. Yet, we are starting right down another pathway here that is going to cost jobs here in America—reregulation. I find it ironic that this is the President's fault, and it is not the Congress' fault.

No other industry has enjoyed the growth through slow economic times like that of the cable industry. It did not do that until it was unregulated. There are a lot of things that this Government does and a lot of things this Congress does and about 2 years later we come back and look at it and say, "Whoops, we made a mistake there, maybe we should undo that." We find out that is very, very hard to do.

Mr. President, we are in another one of those situations where we might have to say whoops again. So as we look at this situation—and we will have some statements later on down the line—the underlying fact in this country is that jobs are a result of the creation of goods and services which are sold to consumers and users. This bill restrains cable's ability to create new jobs, clear and simple. There is no other argument that could even come up to that.

Senator GORE, with this bill, wants to stop this new job creation, and President Bush wants new jobs to continue to be created. If that is not a defining point, I do not know what is. President Bush has been doing everything in his power to create jobs this

last 4 years, and the Congress has stood in his way every step of the way.

Then we stand back and say, "Aren't we in bad shape?" This country is not nearly as bad as everybody thinks it is. We are still the largest economy in the world, largest exporter in the world. In fact, our economy is bigger than the next three put together, and I do not see anybody making a big exodus out of this country to live somewhere else. I do not get one letter from people wanting out. But we will, if this continues, because we are heading right down that old track.

This bill is just another example of a regulatory Congress that is trying to ram a bad piece of legislation down the President's throat.

Mr. President, I do not see my colleague on the floor, and I reserve the remainder of my time.

The PRESIDING OFFICER. Who seeks recognition?

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. DANFORTH. Mr. President, I yield 6 minutes to the Senator from Hawaii.

Mr. INOUE. Mr. President, I rise today to urge my colleagues to support S. 12, the Cable Television Consumer Protection and Competition Act of 1992 and override the President's veto.

The purpose of this legislation is very simple and straightforward: To promote competition in the video industry and to protect consumers from excessive rates and poor customer service where no competition exists.

At the same time, it continues to permit the cable industry to grow and bring to the American public a new array of programming and other services. This bill represents a balanced and bipartisan package.

There is an effort underfoot to make this a partisan issue. It is not. This bill passed the Senate by a vote of 74 to 25, with a majority of both Democrats and Republicans voting for the bill.

If this measure does not become law the only losers will be America's consumers. This bill would not be here before us today were it not for the consumer outrage over the way they have been treated by the cable industry.

I hope that my colleagues will not let this measure fall over partisan politics. Our first responsibility is to the American people who want us to put in place protections against cable's monopoly power.

To promote competition, the bill ensures that competitors receive access to cable programming, not for free, but for the same price that the programming is sold to cable operators.

Contrary to the President's assertion, this bill does not require the government to set prices for programming nor dictate to whom it is sold. It simply provides that programmers owned

by cable operators cannot discriminate.

This bill also permits municipalities to construct their own cable systems in competition with the existing operator, and it prohibits a franchising authority from unreasonably refusing to award a second franchise.

The President says that competition will not increase under this bill. He is wrong. If we do not pass this bill, there will never be competition to cable.

On September 24 the Wall Street Journal ran an article titled "Cable Firms Say They Welcome Competition but Behave Otherwise: Some Established Systems Go to Great Lengths To Keep Rivals Out of the Game."

The article points to the tactics used by cable operators to keep out competition. The article also notes that there are a number of provisions in S. 12 that will address the very anti-competitive tactics used by cable systems. Mr. President, I ask unanimous consent that this article be printed in the RECORD.

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

[From the Wall Street Journal, Sept. 24, 1992]

**CABLE FIRMS SAY THEY WELCOME COMPETITION BUT BEHAVE OTHERWISE—SOME ESTABLISHED SYSTEMS GO TO GREAT LENGTHS TO KEEP RIVALS OUT OF THE GAME**

(By Mark Robichaux)

ELBOW LAKE, MN.—This farming community has many charms: It is clean, friendly and nestled amid tiny lakes. And for a while there, residents could get paid for receiving cable television.

That is what happened when Triax Midwest Associates, an affiliate of Denver-based Triax Communications Corp., faced a challenge to its exclusive franchise. After years of customer complaints that Triax's service was shoddy and its rates too high, the town (pop. 1,200) decided to go into the cable business itself. It erected a 180-foot antenna across the highway from Triax's tower and hung its cables just under Triax's on the utility poles.

The municipal system quickly signed up 60% of the subscribers in town at \$14.95 a month, beating Triax's price by \$1. But last summer, in the middle of a price war, Triax matched the city's rates, then flew in a legion of salespeople to go door-to-door, offering Elbow Lakes citizens a rebate of \$100, paid on the spot, if they agreed to sign up for a year. The city countered the next day with a monthly rate of \$5.95. So did Triax. Now the town's system is struggling and faces a yearly loss. It has been forced to raise its rates back up to \$14.95, and nobody knows whether the residents will stay loyal or go for Triax's discount deals.

**SLOW MOTION**

Five years after the cable industry was deregulated, fewer than 1% of the cable markets in the U.S. are served by two or more providers, and rates have risen an average of 61% for the most popular service. Alternatives to cable, such as microwave transmission and direct-broadcast satellite reception, haven't materialized as full-fledged competitors. Complaints continue to reverberate about what many consumers perceive as cable companies' unregulated monopolies.

The bill cleared by Congress this week addresses this dissatisfaction by reimposing some community control on cable companies' behavior. The cable companies and President Bush, who says he will veto the measure, argue that the bill could actually raise costs for consumers, partly because it would enable broadcasters to obtain payments from cable companies for their signals. They maintain that competition in the cable market, not regulation would serve consumers best.

But a close look at the few markets where entrenched cable companies have been challenged by newcomers suggests that competition is the last thing that the big cable operators want. Beyond simply playing hardball, entrenched cable operators have sought to lock out or cripple would-be competitors. They have engaged in disabling price wars, filed numerous lawsuits and hobbled the sale of municipal competitors' bonds. They have vigorously lobbied local and state governments to keep their turf exclusive. In New York, an incumbent cable operator threatened apartment co-op boards with a halt in its service if the co-ops let a competitor in. In Cape Coral, Fla., a city famed for its Arbor Day celebrations, a cable provider charged that a would-be competitor planned to destroy 600 to 700 trees to string cable (it didn't actually plan to cut any).

**FRUITS OF MONOPOLY**

"The cable industry has tasted the fruits of the monopoly and they'll do whatever they can to drive a potential competitor out of town," charges Gene Kimmelman, executive director of the Consumer Federation of America, a consumer lobbying group. "They want it both ways: They argue they want competition, yet they do everything imaginable to block it."

The cable industry vigorously defends its behavior, dismissing any notion that its practices are anti-competitive. Cable companies say they are simply protecting their markets, competing as any prudent business would. The big operators feel the threat of competition acutely, because they borrowed heavily to buy up cable systems in the 1980s. Cable companies further argue that it's virtually impossible for two cable operators in one market, offering discounted prices, to make a reasonable profit. In many respects, they argue, cable is a natural monopoly.

"What do you expect the operators to do—sit there like a bump on a log and lose customers?" asks Steve Wilkerson, president of the Florida Cable Television Association. "Cable operators are going to compete head to head to keep their customers. What is so anti-competitive about that?"

**KEEPING THEIR DISTANCE**

The big cable operators haven't tried to compete with one another; they buy and sell territories, but so far they haven't sought to penetrate one another's markets. Generally the challengers are frustrated small-town governments and scrappy companies, usually undercapitalized, that operate in areas where an incumbent has a reputation for giving poor service and increasing its rates.

More than 130 disenfranchised communities are exploring the prospect of either inviting competition or starting a cable company of their own. One of them is Niceville, Fla., hamlet (formerly known as Boggy) near the end of the state panhandle. Niceville has been fighting for the better part of a decade to start its own service. Warner Cable Communications Inc., a unit of Time Warner Inc., so riled the small town with rate rises and much-criticized service that angry resi-

dents voted to tax themselves to construct a \$2 million cable system.

But Time Warner used the courts to challenge the city's right to build, arguing among other things that by operating a system of its own, the government would be infringing on Time Warner's First Amendment right to free speech. After hard-fought victories, one in state court and another in the U.S. Supreme Court, the town proceeded this year to sell the bonds to start construction. But a bond-rating agency refused to rate the bonds, despite Niceville's respectable credit history. That's because Time Warner filed yet another lawsuit in 1987. This one charged the town with "unlawful municipal competition," alleging, among other things, that it misled residents about the cable system's viability.

Today, seven years and almost \$300,000 after starting its effort, Niceville still hasn't strung its first inch of wire. "They [Time Warner] asserted every constitutional, legal and contractual theory I think I've ever seen," says Niceville city attorney Gillis Powell Sr. "It's been a very complicated, very costly, very exhausting experience."

James Moore, the attorney representing Warner Communications, argues that neither Niceville nor any other municipality belongs in the cable business. "How can the city be a regulator and a competitor at the same time?" he demands.

That is one of the questions the federal regulation bill addressed. The bill would enable local governments to regulate rates for basic cable programming based on guidelines developed by the Federal Communications Commission, and would authorize the FCC to step in when local authorities don't do the job right.

The legislation is also aimed at encouraging competition to entrenched cable operators. It would prohibit exclusive franchises, requiring cities to consider at least two applicants. Local governments could operate a cable system without going through the formal franchising process. The bill would also require cable operator-owner networks that currently sign exclusive contracts, such as TNT, to sell programming to all comers.

#### THE ALLENTOWN EXAMPLE

There is evidence that on a level playing field, cable companies can compete, with attendant benefits for consumers. In Allentown, Pa., two private cable companies started 25 years ago at opposite ends of the town, met in the middle and continued to wire over one another's neighborhoods, house by house. The two—Service Electric and Twin County Trans Video—both are profitable today, and have split the market roughly in half.

"I'm not exaggerating when I say we have no problems whatsoever with cable," says Joseph Rosenfeld, an assistant to the mayor in Allentown. "These companies are terrified of people switching. I was watching an Eagles game and that went out during an electric storm. Within half an hour, in the rain, they had the thing fixed."

Allentown is an exception mainly because it took a path that other communities didn't when cable television began: It allowed two operators into its territory. As cable spread in the early 1980s, most local governments granted a single franchise to a single operator. Running two wires along poles or digging up public roads twice seemed impractical. In return, cable operators often had to agree to costly concessions levied by city councils, which usually included a percentage of gross revenue, elaborate public-access studios and state-of-the-art equipment to televise council meetings.

Then, in 1984, cable companies argued that they needed relief from local governments' rate restrictions and unreasonable demands. Competition from emerging technologies would hold rates down, the industry argued. Besides, the broadcast networks had a far bigger audience than cable, which had wired less than half the country at the time.

So the Cable Act of 1984, which became effective in 1987, was intended to allow the industry to flourish, and at the same time open the door for competition. The industry has indeed flourished since deregulation—revenue has almost doubled in the past six years to \$22 billion—but the emerging technologies still are larval, and incumbent cable operators doing battle with newcomers can exploit the considerable advantages of having had exclusive franchises.

By far the bloodiest cable battleground, even by the industry's sanguinary standards, is in central Florida, where Telesat Cablevision Inc. has gone up against some of the nation's most powerful cable operators. The fight has taken such a heavy toll that Telsat has canceled plans for any further expansion in Florida. Telesat's parent, FPL Group, owner of Florida Power & Light, has put Telesat up for sale.

Telesat, based in Pompano Beach, touched off a price war when it marched into central Florida in 1987. It started out wiring apartment buildings, then quickly expanded to more than a dozen communities serving 53,000 cable homes. In every market, Telesat met what is president, Harry Cushing, describes as the "scorched-earth policy" of entrenched cable companies.

In the Orlando area, Telesat encountered tow of the industry's biggest operators: Cablevision Industries Corp., with 1.7 million subscribers nationwide, and Cablevision of Central Florida, a division of Time Warner Inc., with 6.7 million. (The two companies are unrelated; "cablevision" is a name widely used in the industry.) In 1987, the year Telesat made its debut in Orange County, Fla., Cablevision Industries charged \$10.95 a month in its markets, and the Times Warner unit \$12.85.

Both incumbents quickly cut their rates to \$6.50—but left prices unchanged in neighborhoods that couldn't get Telesat. William Brown, president of Time Warner's unit there, calls the simultaneous rate drop "coincidence," adding "there was absolutely no collusion."

Between the price wars and the race between companies to wire homes, Orange County quickly became a hodgepodge of different cable rates for different enclaves. Cindy Utter, who lives in one of Orlando's blue-collar subdivisions, pays the Time Warner unit \$20.70 a month. But just down the road, in an area that gets Telsat, her neighbors pay Time Warner \$13.95 monthly. "It's not fair," Ms. Utter fumes. Counters Time Warner's Brown: "It's fair to meet competition wherever it comes up. You have to protect your market share short of losing money."

#### HOMEOWNERS GET INVOLVED

In 1990, at the behest of embittered residents, the local homeowners' association took the lead in pushing for an ordinance that would prevent cable companies from charging different prices for cable in the same market. "We had a lot of people mad that they were subsidizing their neighbors' cable bill," says Cheryl Moore, then-president of the Orange County Homeowners Association.

Time Warner orchestrated the industry's counterattack, sparing no effort to make its presence felt by local politicians. On the day

the Orange County Commission voted on the proposed ordinance, big cable trucks surrounded the building, and inside, virtually every seat was taken by Time Warner employees, who had been given time off with pay to attend the meeting.

They had arrived that morning shortly after 7 a.m. for the 9 a.m. showdown. "The residents were forced to stand up in the back, and there as no parking for blocks," Ms. Moore says. "The people were livid." Time Warner's Mr. Brown says, "We gave employees time off and it was voluntary, but I'm pleased we had such a terrific turnout."

Heated debate ensued as the sides presented conflicting economic data. In the end, the ordinance failed, 3-2, with three Republican commissioners voting against it. The incumbents' presentation was made by two cable-company attorneys active in Republican fund raising. "Special interests hit a grand-slam home run and the residents lost," Linda Chapin, a commission member who spearheaded the argument for the new ordinance, said at the time. Weeks later, during a race for the job of commission chairman, Time Warner included campaign fliers for Ms. Chapin's (ultimately defeated) opponent in its monthly cable bill.

#### LEVEL PLAYING FIELD?

Telesat now blames its lower-than-projected cash flow and choked-off subscriber growth in Orange County on the failure of the ordinance. The company's 42% penetration there contrasts sharply with the 61% it achieved in nearby Citrus County, which adopted a uniform-pricing law. (A similar uniform-pricing provision is included in the regulation bill passed by the House and Senate.)

In Dade County, Telesat got stopped dead in its tracks by a state law known as the "level playing field" act. In theory, it was designed to ensure that the second cable franchise wouldn't get more favorable treatment than the incumbent. But in the 10 states where such legislation has been enacted, many cable newcomers contend it has enabled incumbents to manipulate the franchising process. Often at the established cable company's urging, local governments hold public hearings and conduct extensive studies on the impact of so-called overbuilders. In the end, communities frequently end up imposing more burdensome financial obligations and construction schedules on second cable systems. Dade County proved no exception.

For instance, a six-month, \$100,000 study into the feasibility of competition led to one delay after another in the processing of Telesat's application for a franchise. At every county meeting, Mr. Cushing, Telesat's president, says the incumbents prodded the county to ask for more data before taking any action.

Finally, after 2½ years of waiting, Telesat withdrew its application. Among other reasons, it cited in its FCC filing "no hope overcoming incumbent opposition with close political ties to commissioners." Later that year, the Dade County cable administrator who recommended doing a feasibility study was hired by Tele-Communications Inc., owner of Storer Communications Inc., one of the incumbent operators, to run its Miami cable operations. Anthony Bello, the former cable administrator, says any suggestion that the two events were related is "poppycock," stressing that Tele-Communications had no pending business with the county at the time of his job negotiations.

Elsewhere in Florida, even as Telesat toiled to lay wire, it found it couldn't get ac-

cess to popular cable program networks, many of which are at least partly owned by the largest cable operators in the country. For instance, Telesat can't get the Sunshine Sports Network, which carries Orlando Magic basketball games and Florida State University sports. The Sunshine network is 51% owned by a group of cable operators and 49% owned by a partnership between cable entrepreneur Bill Daniels and Liberty Media Corp., a spinoff of Tele-Communications. The network is distributed through exclusive contracts to incumbent systems.

Today, Telesat is struggling in virtually all its Florida markets. Several of its operations have been sold to or merged with incumbent operators, some of which charge Telesat with being a "green-mailer"—industry jargon for a company that enters a market for the purpose of inducing a buy-out. Mr. Cushing, Telesat's president, denies the charge. "I have a firm belief in the American dream," he says, "but I am disillusioned."

The few U.S. communities that have achieved cable competition have emerged as pockets of envy for the rest of America's couch potatoes.

In Paragould, Ark., the incumbent Cablevision Systems Corp. was determined to be the only game in town. When the town launched a \$3.2 million bond issue to build its own cable system, Cablevision filed two lawsuits to stop it, and even offered to finance the new system on the condition Cablevision be allowed to operate it.

But the town system is up and running, and in the face of its first competition ever, once-villified Cablevision Systems has become a paragon of service. If it doesn't repair outages within one hour, it will give \$5 off or a free month of Home Box Office. And its rates are among the lowest in the country: Cablevision charges \$9.50 a month for 45 channels; the town charges \$12.50.

Paragould property owners have to pay an average tax of \$3 a month to defray the cost of the town's new system, but many think it's worth it. Amanda Gramling waited for years on the edge of town for cable service from incumbent Cablevision. But it wasn't until the town got into the business that both companies—Cablevision and the town system—beat a path to her door. "We're a lot better informed today, and we have one of the lowest rates around," says Mrs. Gramling, who now tunes into the town's live coverage of the county fair and her second-grade daughter's school plays. "We can thank competition for that."

Mr. INOUE. The President's contention that the conference report drops the provision that would have permitted the telephone companies to provide cable service in communities with up to 10,000 residents, ignores the fact that the FCC is presently conducting a proceeding to do just that. Moreover, if the conferees had retained that provision then the FCC would have been precluded from raising the limit should it find that telephone companies should provide cable service in communities with more than 10,000 residents.

This measure also addresses the exorbitant rate increases many consumers have suffered since deregulation. Rates for cable service have risen three times faster than inflation, and complaints about poor customer service have been numerous. To protect consumers, S. 12 gives the FCC, and in some cases, local

authorities, the ability to ensure that rates are reasonable where no competition exists. It also directs the FCC to establish customer service standards.

Regarding retransmission consent and must carry, I want to note that when the Senate considered this legislation in January, the cable industry and the President supported the Packwood substitute which contained both retransmission consent and must carry. Thus, every Member that voted for the substitute or S. 12 voted for both of these provisions.

It has been argued that S. 12 will irreparably harm the cable industry. It will not. Two Wall Street Journal articles have stated that this bill will not hurt cable stocks or cable's cash-flow.

Mr. President, I ask unanimous consent that these two articles be printed in the RECORD.

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

[From the Wall Street Journal, Oct. 1, 1992]

Cable's carping about the cost of the reregulation bill may be exaggerated.

Wall Street analysts remain stoutly bullish on cable-TV stocks despite cable industry grouching that the bill will mean up to \$1 billion a year in payments for programs the companies now receive free. Analysts like stocks such as Tele-Communications, Inc., Comcast Corp., Time Warner Inc. and others anyway. Why? Wall Streeters believe the cable operators' cash flow won't be affected. What's more, they say the law would do away with regulatory uncertainty.

If the bill now before President Bush passes, more than 1,100 local TV stations will negotiate with the 9,000 or so local cable systems over fees for programming. But analysts expect the cost to be well below the \$1 billion estimate. Analysts say most broadcast stations may opt for the status quo: free programming in exchange for their current position on the local cable system dial. Others may forgo cash in favor of, say, cross promotions.

Smith Barney's John Reidy says he'd be "very surprised" if there were any major cash outlays by cable firms.

#### CABLE TELEVISION RE-REGULATION PASSED BY HOUSE

(By Mary Lu Carnevale)

WASHINGTON—The house voted 280-128 for a bill that would reimpose rate regulation on cable television and stimulate competition against local cable-TV monopolies.

The vote total indicates that proponents could have a difficult time overriding an expected veto by President Bush, who reiterated his opposition to imposing a lid on cable-TV rates. A two-thirds vote in both houses of Congress is required to override a presidential veto.

The bill, a compromise ironed out last week by a House and Senate conference committee, would enable local governments to regulate rates for basic cable programming, based on guidelines developed by the Federal Communications Commission. It would allow the FCC to regulate basic rates when local authorities don't follow its guidelines or don't have the legal authority or sufficient personnel to do the job. The basic tier of cable-TV service would include local broadcast stations as well as the cable system's

public access, education and government channels.

Cable rates have risen about 60% since December 1986, when they largely were deregulated under the 1984 Cable Act.

To spur competition, the bill would require cable companies' program affiliates to make their programs available to emerging competitors, including microwave services and direct broadcast satellite services. It also would bar local franchising authorities from issuing exclusive cable-TV franchises, and it would permit cities and towns to operate their own systems.

#### ENORMOUS OPPOSITION

The measure now goes to the Senate, where it has run into enormous opposition from cable companies and Hollywood studios. Opponents were heartened by a letter President Bush sent yesterday to Senate Republican Leader Robert Dole saying he would veto the bill. The president's letter suggested that "Congress would best serve consumer welfare by promoting vigorous competition, not massive re-regulation."

Although the Senate voted 78-18 for a tougher measure in February, its vote next week is expected to be closer. Cable industry lobbyists, recently joined by Hollywood moguls, have been busy in recent days making personal calls on most senators.

Opponents want to win enough votes in the Senate to ensure that the measure can withstand any attempt to override a veto. Barring that, they will try to delay the Senate vote as long as possible so that President Bush could let the bill die after Congress adjourns.

In the past few weeks, the cable industry has targeted consumers with an aggressive advertising campaign on cable stations and in newspapers as well as bill inserts warning that the legislation would force cable systems to boost rates substantially. Supporters of the bill, including the Consumer Federation of America and the National Association of Broadcasters, charge that those claims are false and have asked for a Federal Trade Commission investigation.

#### HOLLYWOOD'S POSITION

Hollywood studios, which supply many popular TV programs, oppose the bill because even though it would allow local broadcasters to charge cable systems for carrying their programs, the studios believe they are entitled to some of that money. Under current law, cable companies pick up local broadcasters' signals for free.

While directly providing for regulation only on rates for basic cable service, the measure would authorize the FCC to investigate and resolve consumer complaints about rates for cable services that aren't in the basic, regulated tier. Many cable systems have set up new levels of service in anticipation of legislation that would regulate the basic service tier.

The bill also would require cable companies to update their systems within 10 years with technology that would let customers buy the basic tier of service plus any premium channel, without having to buy expanded basic service. The new equipment, which some cable companies already are installing in their networks and at customers' homes, also is used to provide pay-per-view services such as the Olympics triplecast.

Wall Street analysts said a new law wouldn't hurt cable stocks despite operators' complaints about new financial burdens. "I don't think the revenue or cash flow of cable operators will change dramatically if the bill is passed," said Kenneth Goldman, a cable-television analyst at Bear, Stearns & Co.

But he said it is unclear whether the FCC will exercise its authority aggressively beyond regulating the basic tier of service. Another unknown is the true cost of the provision allowing broadcasters to collect fees from cable companies. He said the provision "would require thousands of different negotiations between individual cable operators and broadcast stations."

John Redy, an analyst with Smith Barney, Harris Upham & Co., agreed that the bill "would be livable for the cable industry, if not desirable." He said it at least would clear up the regulatory uncertainty that has plagued the industry in recent years.—*Mark Robichaux in New York contributed to this article.*

Mr. INOUE. S. 12 passed the Senate earlier this year by a vote of 73 to 18.

Because of its wide support and logic, a majority of both Republicans and Democrats voted in support of this bill. Supporters of S. 12 include: cities, consumer groups, unions, public and commercial broadcast stations, the religious broadcasters, and senior citizens.

S. 12 will promote competition and impose regulation until that competition develops. I urge all of my colleagues to look beyond the rhetoric being employed by the cable industry and the President to the solid foundation that supports S. 2. I urge all of my colleagues to support S. 12 and override the President's veto.

In closing, Mr. President, may I just say that, as much as I admire my friend from Montana, I am certain he will agree with me that history has demonstrated that monopolies never create jobs. It is the system that we all admire and love, the free enterprise system, the competitive system, that provides jobs. Everyone agrees, Mr. President, that the cable industry is a monopoly. It is anticompetitive. If we put into practice the free enterprise system, that is when jobs will be created.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BURNS. Mr. President, I yield 3 minutes to the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, 2 weeks ago I voted against the conference report to S. 12, the cable television reregulation bill. Today, I will vote to sustain the President's veto on this measure.

I regret that I must vote against S. 12, because I support some form of regulation of the cable television industry. I certainly agree that consumers need to be protected from being gouged by unscrupulous cable operators. I agree that legislation is needed to ensure that cable companies provide prompt and convenient services to their subscribers.

Unfortunately, Mr. President, this bill goes way too far. Although it includes rate reregulation and service provisions, it also includes many flawed provisions that could produce

unintended and potentially harmful consequences for consumers.

In short, I believe this bill does more harm than good and could ultimately cost consumers in the form of higher cable rates. In other words, Mr. President, this is a classic case of overreaching by the broadcasting industry. I would like to cite four principal reasons for my vote to sustain the veto.

First, I oppose the retransmission consent provisions in this legislation. Under this part of the bill, cable companies, at the option of the broadcasters, could be forced to pay a fee to local broadcast stations in order to carry their signals on cable. There is a legitimate debate about who benefits more when a cable system carries broadcast signals. Cable picks up the local broadcasters, and they convey them out to their subscribers.

Who gets the most out of it? Cable charges a fee for its services and gains an attractive marketing tool when they said they would carry the local station for 7, 8 or 9 or whatever it is. Broadcasters benefit from an expanded market penetration and improved signal reception in most instances.

My concern here is that the fee mechanism established in the bill would almost certainly harm consumers. After all, if cable is going to be required to pay a fee to the broadcasters, then it must raise the revenue to cover those costs. That is clear.

I understand that the head of CBS has said that this means a billion dollars to the broadcasters. Where is that billion dollars going to come from? It is going to come from someone, obviously from the consumers, namely the ratepayers, the subscribers to the cable. Consumers will be forced to absorb these new costs in the form of rate increases.

I believe retransmission consent will produce higher, not lower, rates for cable subscribers. How odd it is that this provision that they have to pay more is included in a bill that is labeled as a Consumer Protection Act.

Second, I oppose the bill's program exclusivity or forced access provisions. Under this section of the bill, cable companies would be prohibited from developing a television program and then enter into a contract.

Under this exclusivity provision the developer of a program cannot enter an exclusive arrangement. They have to sell to whoever comes along who wants to buy it.

Clearly television subscribers, cable subscribers, want new programming. After all, superior programming is one of the reasons people are prepared to pay \$30, \$40, or even \$50 in some instances per month for cable.

Almost certainly, the exclusivity provision in this bill that says you cannot sell to whom you want, you have to sell it to anybody who comes along, clearly that is going to result in a re-

duction in the number of programs that are produced by the developers, by the programmers.

What incentive, after all, is there for a cable system to risk developing a new program which may sell and may not be good and may be bad? If they hit it, they have to sell that program to a competitor or potential competitor.

I must say this is a peculiar provision. Since when in America do we dictate to whom one must sell one's goods or one's artistic creation?

Third, this bill would establish an all-encompassing regulatory structure. It would require the FCC to adopt nearly 30 new regulations governing the cable industry. It would regulate television set technology standards, TV and VCR equipment compatibility, and pay-per-view adapters. And while I support regulation to improve customer service and control prices, I cannot in good conscience support a bill that smothered cable in the crushing embrace of Federal regulation.

And, fourth, this bill will prove costly to both consumers and the Federal Government. Retransmission consent, technology requirements, and the costs associated with complying with more than two dozen new Federal regulations will increase costs for cable companies who will inevitably pass these costs along to consumers. Not only the retransmission programs but a host of other factors will go up.

In addition, the Congressional Budget Office estimates that it will cost taxpayers more than \$100 million over 5 years to implement the requirements of this legislation.

Mr. President, most Rhode Island cable subscribers want what I want: to be assured of good service and of fair rates. Yet in this 50-page bill, just 8 pages are devoted to consumer service and rate regulation issues. The remainder of the bill is filled with regulation after regulation that has little to do with the consumer.

If the President's veto is sustained—and I hope it will be—I will be ready early next year to support genuine cable reform legislation to protect consumers from excessive rate increases and improve customer service.

The PRESIDING OFFICER. Who yields time?

The Senator from Missouri.

Mr. DANFORTH. I yield 5 minutes to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized for 5 minutes.

Mr. GORTON. Mr. President, S. 12, this cable television bill has received great prominence over the course of the last 2 or 3 weeks, perhaps greater prominence than a bill on this subject would normally receive.

A great deal of concern has been expressed across the country and here in Washington, DC about the intensity of the lobbying over this issue, the huge

amounts of money in advertising by cable television companies and in return by television stations themselves, by the President on one side, by consumer interests on another side.

Paradoxically, it seems to this Senator that the very intensity of that lobbying, because it does come from both sides of the issue, and because in most cases it comes from groups with an obvious self interest in the outcome of the legislation, makes it easier rather than more difficult to vote for or against this bill on the merits of the bill itself.

No Member can make happy all of the lobbyists or lobbying organizations. Each Member may as well look at the provisions of the bill and make a determination as to whether or not it is good or not for himself or for herself.

One needs only to concentrate on the impact of this bill on those who are not lobbying, the unorganized consumers, the general public interests of the people of the United States. At that point it seems to me quite clear that the merits of the bill are overwhelming in favor of passing it notwithstanding the veto of the President.

Remember what caused the bill in the first place; the fact that an unregulated monopoly has increased prices of this service three times as rapidly as the Consumer Price Index has gone up over the period of time since that monopoly has been unregulated.

Remember the history of this Nation and of this body for a century and a half from the time in the middle of the second half of the 19th century when it first occurred to Congress that an unregulated railroad monopoly could not be permitted to exist. It is the theory of the free enterprise system that monopolies, where they are absolutely necessary, should in fact be regulated. But that far better than monopoly is competition. And it is the primary goal of this bill to create competition in cable television or in the provision of its goods and services not to reregulate. The reregulation takes place only where there is no competition and lasts only as long as there is no competition.

This bill is, in fact, consumer protection oriented. It is no accident that three former attorneys general of both parties are here on the floor to argue in favor of the bill.

We should not allow unregulated monopolies. We should create competition whenever possible. This bill accomplishes both goals. It is in the consumer's interest. If you vote in the interest of your unorganized constituents you will vote in favor of the bill.

The PRESIDING OFFICER. Who yields time?

Mr. DANFORTH. Mr. President, I yield 3 minutes to the Senator from Connecticut.

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

Mr. LIEBERMAN. I thank the Senator from Missouri and thank the Chair.

This is not, and should not be, an issue that divides us down the aisle of this Chamber that separates Republicans from Democrats.

When I first came to the Senate, I introduced a cable consumer protection bill with my Republican colleague from Connecticut, Congressman CHRIS SHAYS.

As I look around this Chamber at this moment, this bill only reached the floor of the Senate, because of the strong support given it on a bipartisan basis, including a leadership role by the Republican Senator from Missouri. A majority of both parties passed this bill on the Senate floor just 2 weeks ago. So let us stand together again today.

Let us reject the appeals of those who would make us believe that this bill has suddenly changed into a narrow struggle along party lines. Let us not let another good bill for the American people go down the drain of mindless partisanship.

The reality is that in the absence of competition the cable industry has relentlessly raised prices on the American consumer year after year. Since deregulation rates have climbed three times the rate of inflation. And the cable industry gets away with this kind of highway robbery because there is only one cable shop in most towns across America. And that is not what I take to be free enterprise.

A vote against this bill is a vote for the status quo. Without this bill there will not be nationwide minimum customer service standards for cable, and cable companies will continue to charge monopoly prices that are nearly 30 percent higher than they are in the very few markets in America where there is real competition.

Mr. President, in passing S. 12 we have heard the calls of America's cable consumers for help. We have forged changes in this bill that promote competition and protect consumers until competition arrives. Seventy-four Senators of both parties went on record supporting this bill just 2 weeks ago and nothing has changed in the cable marketplace since that time. The monopoly has not disappeared, competition has not appeared, and prices have not been controlled.

So I urge my colleagues to stand firm and together once again for fairness to cable consumers and vote to override the veto of S. 12.

I thank the Chair and I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. DANFORTH. Mr. President, I yield 5 minutes to the Senator from South Dakota.

The PRESIDING OFFICER. The Senator from South Dakota is recognized, Mr. PRESSLER.

Mr. PRESSLER. Mr. President, I rise to urge an override of the President's veto. I rise in support of S. 12, the Cable TV Consumers Protection and Competition Act. I would like to summarize my arguments in four parts.

First off, I am voting as I am because the sports fans of America are mad, and when the sports fans of America are mad, Congress must wake up.

From my State I have heard from sports fans who have been denied the option to get pay-for-view sports programs, because their local cable company has not taken the initiative to provide it. I have heard from sports fans who are in cable areas that have been denied programming from ESPN, and some of those are the rural electric cooperatives. They were not getting it until I personally intervened with the company.

The sports fans of America are mad, first of all, and they want this legislation to pass. It is a piece of consumer legislation.

The sports fans of America do not pay much attention to Congress, but they are watching this piece of legislation and they are consumers.

Second of all, small independent cable operators and others have been denied certain programming. Small, independent cable operators, home satellite dish distributors, and wireless cable operators have had to compete for years against the larger cable television operators for programming on an uneven playing field. The vertically integrated multisystem operators [MSO's] have long had a lock on programming. Outsiders find there is no way to join the MSO/video programmer club.

The cable giants have a stranglehold on programming and will not let go.

To explain what this means to the consumer: If they are in an area where there is going to be competition, the new competition cable company will be told you cannot get HBO, we have an exclusive contract with the existing company, or you cannot get the sports network ESPN, because it has an exclusive with the incumbent cable company. And frequently the incumbent cable company owns a part of the programming supplier.

This will be changed under this piece of legislation. This is true consumer legislation.

Third, access to programming is a serious problem for people in smaller cities, and most people in this country live in smaller cities. Even the people of California, most of them, live in smaller towns and cities. That is one of the reasons I disagree with the slogan of the campaign against small States. Most people think of themselves living in smaller cities or towns. But access to programming is a serious problem in many of these smaller cities, even in California. It does not have to be South Dakota.

Some programmers have absolutely refused to make programming available to those home satellite dish distributors who serve rural backyard dish consumers. Discriminatory pricing and refusals to deal with rural home satellite dish owners penalize consumers in the smallest towns and the farms and ranches in South Dakota and America. Today, satellite dish consumers pay 500 percent more for television programming than consumers using other technologies, and that is a fact. It is a very serious one.

As a Republican, I share the President's belief that competition should supplant more Government regulation. I have pointed out, this is not competition. This is monopoly and vertical monopoly, the cable companies working with the programmers to block out anybody new. I am one of those who voted for cable deregulation in 1984. I went all the way for the cable companies and at that time the broadcasters were fighting them.

Now I am back on the broadcasters' side. Who knows where we will find ourselves in the future?

But the point is, the cable people did a good job of wiring America, but then they abused their monopoly position. Then they began to invest and coinvest with programmers and now they are locking anybody new out. So we are going to have a stalemate.

The cable industry is not a competitive industry. It has no competition. It is an industry that has abused its monopoly position. Cable television rates have skyrocketed since 1984, when I and other Senators joined in deregulating the cable industry, hoping it would behave responsibly. This legislation will correct the situation.

Finally, the Consumer Federation of America and the Federal Communications Commission both estimate that this legislation will cost consumers over \$6 billion. That is in terms of the amount that will go back. The legislation will save consumers over \$6 billion in cable rate overcharges.

The PRESIDING OFFICER. The Chair informs the Senator that the 5 minutes allocated to him have expired.

Mr. PRESSLER. I ask unanimous consent for 1 more minute.

Mr. DANFORTH. I yield 1 more minute to the Senator.

Mr. PRESSLER. Opponents may contest this figure; however, earlier this year, Federal Communications Commission Chairman Al Sikes estimated that the rate of competition this bill would foster would bring about \$5.3 billion of savings to consumers.

So we have the Consumer Federation of America and Chairman Al Sikes, who is a Republican, estimating that consumers will get between \$5 and \$6 billion back in overcharges that would have been charged as a result of this bill. That is \$5 or \$6 billion.

So let us stand with the consumers.

Essentially what we are voting on today is a \$5 to \$6 billion tax relief package for cable consumers.

I urge my colleagues to support this tax cut for cable consumers, and I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BURNS. Mr. President, I yield 5 minutes to my friend from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi [Mr. LOTT], is recognized for 5 minutes.

Mr. LOTT. Mr. President, I thank the distinguished Senator from Montana for yielding me this 5 minutes, and congratulate him on the job that he has done on this issue.

I think just a little of history is in order here today. This bill, S. 12, has had a long and tortured history. I guess the Senator from Missouri and others have been working on it for at least 4 years, maybe longer. But it goes back beyond that. It really goes back to the early eighties when the cable industry was stifled by regulation, controlled by Government, and restricted from being able to grow and expand.

In its wisdom, the Senate, in 1984, deregulated the cable industry, and what did we have? We had an explosion of development, innovation, opportunity; things really improved all across this country. It worked. Deregulation worked.

Did they make some mistakes? Yes, because of the growth and because of the diversity, sometimes their service was not what it should be. Did rates go up? Yes, because rates had been artificially stifled by Federal Government regulation.

But, remember this, this is not an essential monopoly. It is not a utility. This is not something that is going to kill you if you do not have it. The health and safety of the community is not at stake.

The consumers still have the ultimate weapon on cable and its service and its rates. They do not have to pay it. They can demand that the rates be lower, or they can say I will go to some other option.

And there will be other options, lots of other options in the future. In the next 4 years, next 10 years, you are going to see tremendous developments in this area, many different options of how you get your cable. And I have no doubt that the telephone companies and other companies are going to be in this area offering competition and development.

Yet it is being said we must have Government reregulation. How did this happen? Some people say: Well, the service is not good enough; the rates have gone up too high.

Talking about a rural State, here is my rural State of Mississippi. I do not know how well my colleagues can see it, but all these red dots here represent cable companies in Mississippi. And

then the little black numbers right here also represent them. You see that my rural State of Mississippi is literally covered now by cable service. And that is fantastic.

But there is another interesting thing about this map. Under existing FCC regulations, all of the reds already are regulated by the Government. Only the few little black ones around Jackson and along the coast and right up into the Memphis market are not already regulated.

Under this administration, the FCC has already moved in and started doing some regulation where it is needed.

So my question is: Why do we need this at this particular time? It know it is a tough vote. It is a tough call.

There are some good things in this bill and I have supported them along the way in committee and when it was here in the full Senate.

But I continue to raise questions and reservations about too much regulation and what is going to happen when this is turned back over to municipal governments. I think in the end we end up with a bill that is too much regulation and is going to drive up costs. I cannot understand how people say this will save money.

Even the Congressional Budget Office has pointed out that for the FCC to implement these new regulatory requirements, it will cost taxpayers \$100 million over the next 5 years. State and local governments are expected to spend another \$8 to \$14 million a year to implement these regulations.

This bill will require cable operators to spend \$5.8 billion to deploy scrambling technology and equipment. The retransmission consent provision, according to the chairman of CBS, could cost the consumers up to \$1 billion.

In the end, somebody pays. Nobody is just going to absorb these additional costs.

I think any Senator in this Chamber would have to admit there will be more costs associated with more regulation. The subscribers are going to pay it; the consumers are going to pay it and the taxpayers are going to pay it.

So do not ever have any doubt in your mind that this reregulation is going to solve the problem. The thing that will solve the problem is competition.

But, this should not be the end of this process. We should vote here today to sustain the President's veto. We should come back next year and do a better job to encourage competition. We should not go for regulation and more artificial cost increases. We can do it right next year. This is not the end. This could be the beginning of what we really need to do in this legislation.

I should point out also that there are serious constitutional questions, first amendment questions.

The PRESIDING OFFICER. The Chair informs the Senator from Mis-

Mississippi that the 5 minutes allocated to him have expired.

Mr. LOTT. There are many other points I could make.

I will stop by saying this reregulation is a cost increase.

I urge my colleagues to vote to sustain the President's correct veto of this issue.

The PRESIDING OFFICER. Who yields time?

Mr. DANFORTH. Mr. President, I yield 1 minute to the Senator from Washington.

Mr. GORTON. Mr. President, in my earlier remarks I alluded to the fact that lobbying on this issue has been intense, that it has been conducted almost entirely by organizations with a financial interest in the outcome of the legislation on one side or another.

I find with some amusement that this statement applies even on the Olympian heights of newspaper editorialists who so often tell us that they act solely in the public interest.

I wish to share with my colleagues the last paragraph of a story which appeared in yesterday's Washington Post, and I will quote it:

One congressional aide who reviewed about 75 newspaper editorials about the cable bill found that newspapers owned by companies with interests in the cable industry opposed the bill uniformly. Newspapers whose companies owned only broadcast stations, or had no holdings in the TV business, favored the bill about 80 percent of the time, he said.

So, perhaps we could ignore the newspaper editorials, whichever side of the issue they find themselves on.

The PRESIDING OFFICER. Who yields time? The Senator from Missouri.

Mr. DANFORTH. How much time is left on my side?

The PRESIDING OFFICER. A little over 9 minutes.

Mr. DANFORTH. Mr. President, I yield myself 6 minutes.

I speak as a Republican politician and as a strong supporter of President Bush. And I speak as the Senator whose name happens to be first on S. 12. Along with Senator HOLLINGS and INOUE, I introduced this bill almost 2 years ago.

I want to say first of all that there are good arguments on both sides of this legislation. The President, in vetoing the bill, is true to what he takes to be basic Republican philosophy, which is that Government regulation is a problem for this country and we have to try to reduce that problem and reduce the amount of regulation.

Mr. President, I generally agree with that position. I certainly do not agree with some of the more partisan things that have been said attacking the President of the United States for his position on this bill. I do not agree, for example, with the statement of Mr. George Stephanopoulos, the communications director of the Clinton campaign, who made a statement October 3

saying that "George Bush slapped the American consumers across the face."

And I do not agree with Senator GORE's speech of September 29, when he said that the President was "owned lock, stock and barrel by the cable TV industry."

I do not agree with those statements. I do not think they are right. I do not think they are fair.

The President is doing what he thinks is correct and he believes he is opposing overregulation. The difference of opinion here has to do with when regulation is appropriate and when it is not. The President is against overregulation, against reregulation. The philosophy that is espoused by those of us who support this bill is that without regulation, cable companies in each particular community amount to unregulated monopolies, monopolies which have allowed consumer rates to go up three times the rate of inflation since 1986.

That is the difference of opinion. It is an opinion that can be fairly held by people on both sides. I would hope whoever ends up winning this argument does not gloat about it and does not try to rub it in.

I want to say a word about the role of Republicans particularly in the Senate with respect to this legislation, because Republicans have had a big hand in this legislation. Those of us who support it believe that we are very much in the tradition of a great Republican President, Theodore Roosevelt. In 1889, when the predecessor of this bill, S. 1880, was introduced, there were 7 Republican cosponsors for the bill and 8 out of 9 Republicans on the Commerce Committee voted to report the bill out of the committee. Then when S. 12 was introduced and reported out of the Commerce Committee, 6 of the Republicans on that committee voted to report S. 12 out, and 27 Republicans voted for final passage in the Senate and 24 Republicans voted for the conference report. And in the House, 98 Republican House Members voted for the bill and 71 voted of the conference report.

Since passage of the bill, when the bill was in conference, an effort was made to move in the direction of the President and during conference the President won some victories. For example, with respect to the definition of the basic tier of cable television that could be regulated by the communities, that was a victory for the administration. And there was another victory for the administration during the Senate debate in the prohibition of cities from granting exclusive franchises, moving in the administration's direction with respect to the importance of competition.

I would also like to say that I am sure that many of my friends on my side of the aisle are concerned about voting against the President, particu-

larly this close to an election, and are concerned about what is the effect of overriding a Presidential veto. I know that a lot of weight has gone on the President's perfect record on vetoes so far. But I would simply like to point out that a lot of Presidents have had vetoes overridden and a lot of them have been very strong Presidents.

Franklin Roosevelt, for example, had 9 vetoes overridden; Harry Truman had 12 vetoes overridden by Congress; Dwight Eisenhower was overridden twice; Richard Nixon 7 times; Gerald Ford 12 times; Jimmy Carter twice; Ronald Reagan was overridden 9 times.

So it is no weakness on the part of the President of the United States if he happens to have a veto overridden. It is no point of disrespect at all. It is a matter simply of disagreement.

The PRESIDING OFFICER. The Chair informs the Senator the 6 minutes he requested has expired.

Who yields time?

Mr. BURNS. I yield 5 minutes to the Senator from Colorado [Mr. WIRTH].

The PRESIDING OFFICER. The Senator from Colorado [Mr. WIRTH] is recognized for 5 minutes.

Mr. WIRTH. Mr. President, since we sent S. 12 to President Bush, the politics surrounding a possible override vote have been the focus of discussions and press reports about the bill. No matter how intriguing the political story might be, I do not think we should lose sight of the substance behind this bill.

If politics were the only factor at work here, I might want to support an override to help end President Bush's perfect record on override votes. But I will vote to sustain the President's veto because I believe S. 12 is bad communications policy and will actually hurt consumers, not help them.

#### TELECOMMUNICATIONS POLICY GOALS

S. 12, if it becomes law, will significantly influence the future shape of the telecommunications industry. We need telecommunications policies that promote the development of new technologies, products, and services. And our policies should seek to ensure that modern telecommunications is available to all Americans as we move further into the information age.

For nearly two decades we have been moving to a more competitive telecommunications marketplace. Competition spurs innovation and new technology. It also helps foster a diversity of communications equipment and information.

Innovation, lower prices, more choices, and broad access—these have been and should remain our goals. We need to consider whether the cable bill will help advance those goals or work against them. Unfortunately, the legislation does not pass that test.

#### S. 12 GOES WELL BEYOND ITS CONSUMER PROTECTION ROOTS

What began as an effort to address legitimate consumer problems has now

turned into a free-for-all involving several large and wealthy commercial interests. Cable's competitors have hidden behind consumer protection in order to advance communications policies that could never stand on their own. The financial rewards the legislation hands to these competitors clearly replaced consumer concerns as the driving force behind the bill.

For example, the broadcasting industry will benefit financially if the retransmission consent/must carry provisions become law. To get those rewards, the National Association of Broadcasters [NAB] has financed and led a massive lobbying campaign in support of the legislation. The NAB has gone so far as to implore broadcast stations to use their news programs as a lobbying tool to help the legislation become law. The legislation has gone so far beyond its pro-consumer roots that it would do consumers more harm than good.

#### CABLE ACT OF 1984

We've heard a lot of criticism of the Cable Act of 1984 as a sell-out of consumers. That criticism ignores the benefits consumers have reaped from that legislation. It has made it possible for the cable television industry to invest in new equipment, programming, and technology.

Because of those investments, consumers have access to a greater number and broader variety of programming choices. Consumers have much more to pick from today—whether they prefer news, local affairs, sports, children's, arts, movies, entertainment, or other types of programming. The rapid growth in the number of cable subscribers since 1984 confirms that consumers themselves recognize the benefits the Cable Act has made possible. Let me outline some of the programs we have seen since the Cable Act.

#### MORE CONSUMERS RECEIVE CABLE

The number of cable subscribers has increased from 30 million in 1984 to 56 million today. The number of cable systems climbed from 6,000 in 1984 to more than 11,000 today. Ninety-six percent of television homes can now receive cable. Only 72 percent could in 1984. More than 60 percent of these homes actually subscribe today.

#### CABLE VIEWERS GET MORE FOR THEIR MONEY TODAY

Ninety percent of cable subscribers received at least 30 channels, with the average subscriber getting more than 35. In 1984, only 38 percent of all cable systems offered 30 or more channels. One-third of all cable subscribers now receive 54 or more channels; channel capacity continues to increase—late last year a 150-channel system was launched in New York.

The price consumers pay for each basic channel increased at a lower rate than inflation from 1986, when rate deregulation took effect, to 1991. In 1986, consumers paid 44 cents per channel.

The inflation rate would have brought that figure up to 54 cents by 1991. Instead, consumers only paid 53 cents per channel in 1991.

#### CABLE HAS INVESTED IN NEW PROGRAMS FOR CONSUMERS

Cable operators' annual investments for basic cable programming have jumped from \$300 million in 1984 to almost \$1.8 billion this year. Overall program spending by both basic cable networks and premium cable services, like HBO, Showtime, and the Disney channel, has climbed from \$1.1 billion to \$2.8 billion during this period.

The number of cable networks—like C-SPAN, Discovery, CNN, ESPN, and TNT—has increased from 49 in 1984 to 76 in 1991, with continued expansion expected through the 1990's. These new networks have given viewers a wide choice of news, public affairs, entertainment, educational, children's, and sports programming.

#### CABLE IS MODERNIZING OUR COMMUNICATIONS INFRASTRUCTURE

Since 1984, the industry has invested more than \$5.4 billion in plant and equipment. Before the Cable Act, annual spending in this area was \$100 million. Consumers have benefits from the improved picture quality, reliability, increased availability of cable, and greater number of channels that this investment in new technology has made possible.

Technologies such as fiber optics and digital compression promise a huge jump in the number of channels available to viewers. At a time when many other industries have dropped their research capabilities, cable established CableLabs, a new research and development consortium. The industry has already begun to introduce fiber optics in many systems throughout the country and is working to bring high definition television and interactive series to consumers.

#### CABLE IS CREATING NEW JOBS FOR AMERICAN WORKERS

Cable has brought jobs to thousands of Americans since the Cable Act became law. Cable provided 67,000 jobs in 1984 and employs more than 106,000 today. The industry generates another 69,000 jobs through its suppliers.

#### CABLE'S PUBLIC INTEREST OBLIGATIONS AND EDUCATIONAL SERVICES

The Cable Act includes important equal employment opportunity provisions to prohibit discrimination in employment in the industry and encourage the industry to hire minorities and women. No other sector in the communications industry has agreed to a similar statutory obligation. The Cable Act allows franchising authorities to require that channels be dedicated to public, educational, or governmental use and requires cable systems to make channels available for commercial use. The Cable Act prohibits redlining of services, and requires operators to disclose to subscribers the kinds of infor-

mation the cable operator collects and maintains about customers.

The Cable Act permits cities to collect a franchise fee of up to 5 percent of gross revenues. The industry paid \$826 million in franchise fees in 1991, up from \$200 million in 1984. That's one quarter of the aid we provide cities through the Community Development Block Grant Program.

The cable industry's "Cable in the Classroom" program began in 1989 and now reaches nearly half of our public school junior and senior high school students with commercial-free educational programming at the industry's expense, \$53 million annually.

The industry has also developed programs that allow students to earn college and graduate degrees at home from accredited colleges and universities. These programs are available to millions of homes.

#### THE LEGISLATION WILL HURT CONSUMERS

It's true, in recent years, there have been some problems with basic cable rate increases and poor customer service that deserve out attention. I would support legislation to address the legitimate consumer issues. In fact, I worked hard 2 years ago in an attempt to pass balanced consumer protection legislation. The final legislation has become overweight with favors for cable's competitors, including: ABC, CBS, NBC, and other broadcasters; direct broadcast satellite operators like General Motors' Hughes Communications subsidiary; and wireless cable operators. These provisions do not protect consumers.

The bill will hurt consumers in a number of ways: First, it will drive up cable systems' operating costs by billions of dollars. Estimates of the bill's costs run between \$2 and \$6 per month for each cable subscriber. The sponsors of the bill argue that they do not intend for these costs to be passed along to consumers. Who are they kidding?

Where else is the money going to come from? Will the Federal Communications Commission really be able to force a cable system to leave its rates unchanged after its costs go up so dramatically?

How will the bill lead to higher rates? In some cases, it will require payment of so-called retransmission consent fees for broadcast programming that consumers receive for free today. That money will go right in the pockets of America's television broadcasters. I don't think there's any doubt that the average cable viewer needs the money more than television station owners.

The legislation will also require cable systems to install expensive new equipment. The new equipment is intended to allow consumers to pick and choose between all cable networks rather than paying for a package that includes stations they do not want.

But do not worry about the over-the-air broadcasters; they get a special

deal. If the legislation is enacted, consumers who want to buy any cable stations at all, would have to pay for the broadcast stations that they can already get over the air for free.

In order to make this transfer of income from consumers to broadcasters possible, the legislation will force the cable industry to spend as much as \$5 billion installing the new equipment. That will put upward pressure on rates.

Another part of the legislation that will hurt consumers is program access. Under this scheme, the creators of cable programs would be forced to sell the programs to their competitors. Think about that: A person creates a piece of intellectual property. Then the Government dictates who he must sell to and at what price. It's easy to see what will happen to the incentive to invest in new programs. The result will quickly be fewer choices for consumers.

Cable's competitors, not consumers, will benefit from program access. These competitors already can deliver cable programs to consumers at competitive prices. They will have no incentive to lower rates after program access lowers their expenses. They will just pocket higher profits. Retransmission consent, new equipment costs, increased operating costs, program access, and a rate regulatory structure that is overly cumbersome will all limit the cable television industry's ability to invest in new equipment, programs, and technology. As a result, the quality of cable service will stagnate. It may even decline. Viewers will get less new programming and more reruns.

Cable will also be less able to help modernize our communications infrastructure—so important to our future economic vitality—or bring consumers the wide range of new communications technologies, products, and services that are on the horizon.

#### CONCLUSION

We have not yet achieved our goal of a fully competitive marketplace. That's why it's necessary that we take some interim steps to protect consumers. However, competition is taking hold and increasing within the rapidly evolving video marketplace. Regulators have also recently taken several significant steps to accelerate the trend toward greater competition. Unfortunately, the legislation ignores these trends. It looks to the past to resolve today's problems, with no eye to the future. Whatever short-term benefits the cable bill may provide consumers will soon be dwarfed by the later costs. In the end, the only people who will be happy with the legislation are the special interests that it rewards.

If we do pass the legislation and it becomes law, we will have a great deal of explaining to do when our constituents see their cable bills increase. Are we prepared to defend our votes for leg-

islation that drove up cable rates? What will we say, that we thought it was in the public interest to hand broadcasters and other cable competitors higher profits out of consumers' pockets?

There is no question what we should do. This legislation is a handout for special interests that will hurt consumers in the long term. I wish we had not reached this point. If the legislation did not include so many extraneous provisions and instead tackled the legitimate consumer issues of rates and customer service head on, I believe it would already be law.

Unfortunately, the legislation does go well beyond consumer protection and I believe consumers will be better off if we do not enact legislation this year. The Senate should vote to sustain the President's veto.

Mr. President, this is another chapter in a very long saga related to attempts by entrenched industries in the country to stifle competition. This has been going on, particularly in the telecommunications industry now, for 60 years or more. We have had to write the Communications Act of 1934 to encourage competition in the public interest, to regulate in the public interest, convenience and necessity. Unfortunately as it related to new entries, the powers that were in the marketplace did everything they could to keep new entries out. We saw that in radio, we saw that in television, and we saw that certainly up one side and down the other related to cable.

Here was a new entrant, the new guy on the block, starting in the late 1960's as a faint sort of idea, gathering momentum in the 1970's and then enormous pressure to keep cable out of the marketplace.

Some of us who have fought that for a long time believe that our policy in the United States should be encouraging competition; it should be encouraging new entries; should be encouraging new technologies; should be encouraging new services and not leave it to a monopolistic few. That is why we passed the Cable Act of 1984, which has in fact been beyond our wildest dreams in terms of many, many of the successes it brought.

Consumers have signed up for cable very rapidly, where more than 50 percent of the households are touched by cable television; 96 percent of the television sets can receive cable. The explosion of that technology has taken off. Cable viewers get more for their money today than they ever have before. In fact, their cost per channel that they are receiving is less than it was when the legislation was passed which allowed the new entrant in. Cable itself has invested in a vast number of new services and offerings and now remains about the only public service broadcaster left around—the only public service left around.

There is no children's television, for example, on over-the-air broadcasting; look at how much time we have all spent watching CNN, and the vast number of new services offered.

Cable is remarkably also putting a huge amount of money into modernizing our whole telecommunications network. Fiberoptics is the network of the future and cable has been there first and foremost.

The public interest in educational offerings of cable are legion and I have mentioned them in this debate over and over and over again over the last number of years.

So this new entrant, bringing new services and bringing new ideas, is exactly what we ought to be encouraging. Unfortunately we now see the pressure from the established groups to try to put the new fellow down and to try to get a bigger piece of the action, transferring through regulatory and legislative action that which they could not do in the marketplace.

There are some legitimate issues that ought to be addressed in legislation. And those legitimate issues are in places where rates have been abused. There have been some cable operators who have not operated I think in the public interest, who raised their rates too rapidly. What we ought to be doing is allowing the FCC to regulate rates. That is fine. We ought to be looking at consumer issues such as quality of service. That is a perfectly legitimate thing to do. Cable has grown very rapidly and in some places has not been able to keep up with its own marketplace and we ought to be setting standards for the provision of services.

Those are legitimate issues and that is what we ought to be doing. But on top of that we have added this kind of bonanza for a whole set of interests that are out there.

What will this do? This, for example, is going to cost consumers a vast amount of money. The idea of retransmission consent alone, which arrogates to the broadcasters the right to charge for programming that is owned by a whole lot of people, for the most part is going to cost consumers a billion dollars a year. Program access is going to say to the people who are making programs: We are going to tell you how much you can sell your programs for. Can you imagine a book seller being told by the Congress who can buy his book and at what price?

Equipment mandates in this bill are going to cost the industry \$5 billion. Who is going to pay that? Is that going to come out of the blue sky? The consumers are going to pick up the equipment mandates. They are, in fact, mandated by the competing interests out there. Rates are going to go up in this bill by a great deal, probably \$2 to \$6 a month. Watch this, \$2 to \$6 a month, if this bill becomes law.

Cable is going to be discouraged, as it is already, from new investments in

the equipment which cable was doing such a good job with. That is going to come to a screeching halt. And certainly it is going to be discouraged from offering the kind of program content that we would like to see. Cable has so many promising new ideas coming to television, and these are now being stifled. People are putting on hold all these new ideas. They are not going to do it anymore.

All of these are the negatives in this bill written in by cable competitors. These have nothing to do with rates. These have nothing to do with service. These have nothing to do with legitimate issues in the bill related to services and related to rates. What these are is an attempt by a whole variety of other interests to raid through legislative action that they could not do in the marketplace.

We should not support that kind of activity. We should not support this kind of legislation. What we should do is sustain what is one of President Bush's good vetoes.

I thank the distinguished Senator from Montana for yielding.

Mr. President, I ask unanimous consent that a fact sheet on cable television since the Cable Act of 1984 and a fact sheet about what is wrong with S. 12 be printed in the RECORD.

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

**FACTSHEET—CABLE TELEVISION SINCE THE CABLE ACT OF 1984**

**1. More consumers receive cable.**

The number of cable subscribers has increased from 30 million in 1984 to 56 million today.

The number of cable systems climbed from 6,000 in 1984 to more than 11,000 today.

96 percent of television homes can now receive cable. Only 72 percent could in 1984. More than 60 percent of these homes actually subscribe today.

**2. Cable viewers get more for their money today.**

90 percent of cable subscribers receive at least 30 channels, with the average subscriber getting more than 35. In 1984, only 38 percent of all cable systems offered 30 or more channels.

One-third of all cable subscribers now receive fifty-four or more channels; channel capacity continues to increase—late last year a 150 channel system was launched in New York.

As a result of the increasing number of channels, cable viewers actually get a better deal today. The price consumers pay for each basic channel increased at a lower rate than inflation from 1986 (when rate deregulation took effect) to 1991.

The average price per channel has increased from 44 cents in 1986 to 53 cents in 1991. If the increase had matched inflation, the per channel cost would have reached 54 cents in 1991.

**3. Cable has invested in new programs for consumers.**

Cable operators' annual investments for basic cable programming have jumped from \$300 million in 1984 to almost \$1.8 billion this year.

Overall program spending by both basic cable networks and premium cable services,

like HBO, Showtime and the Disney Channel, has climbed from \$1.1 billion to \$2.8 billion during this period.

The number of cable networks—like C-SPAN, Discovery, CNN, ESPN, and TNT—has increased from 49 in 1984 to 76 in 1991, with continued expansion expected through the 1990s.

These new networks have given viewers a wider choice of news, public affairs, entertainment, educational, children's, and sports programming.

**4. Cable is modernizing our communications infrastructure.**

Since 1984, the industry has invested more than \$5.4 billion in plant and equipment. Before the Cable Act, annual spending in this area was \$100 million.

Consumers have benefited from the improved picture quality, reliability, increased availability of cable, and greater number of channels that this investment in new technology has made possible.

Technologies such as fiber optics and digital compression promise a huge jump in the number of channels available to viewers. At a time when many other industries have dropped their research capabilities, cable established CableLabs, a new research and development consortium.

The industry has already begun to introduce fiber optics in many systems throughout the country and is working to bring High Definition Television and interactive services to consumers.

**5. Cable is creating new jobs for American Workers.**

Cable has brought jobs to thousands of Americans since the Cable Act became law. Cable provided 67,000 jobs in 1984 and employs more than 106,000 today. The industry generates another 69,000 jobs through its suppliers.

**CABLE'S PUBLIC INTEREST OBLIGATIONS AND EDUCATIONAL SERVICES**

The Cable Act includes important Equal Employment Opportunity provisions to prohibit discrimination in employment in the industry and encourage the industry to hire minorities and women. No other sector in the communications industry has agreed to a similar statutory obligation.

The Cable Act allows franchising authorities to require that channels be dedicated to public, educational or governmental use and requires cable systems to make channels available for commercial use.

The Cable Act prohibits redlining of services, and requires operators to disclose to subscribers the kinds of information the cable operator collects and maintains about customers.

The Cable Act permits cities to collect a franchise fee of up to five percent of gross revenues. The industry paid \$826 million in franchise fees in 1991, up from \$200 million in 1984 (That's one quarter of the aid we provide cities through the Community Development Block Grant program).

The cable industry's "Cable in the Classroom" program began in 1989 and now reaches nearly half of our public school junior and senior high school students with commercial-free educational programming at the industry's expense (\$53 million annually).

The industry has also developed programs that allow students to earn college and graduate degrees at home from accredited colleges and universities. These programs are available to million of homes.

**WHAT IS WRONG WITH S. 12**

Retransmission consent: The retransmission consent provisions could force con-

sumers to pay more than \$1 billion per year for over-the-air broadcast signals they can now receive for free.

Program access: These provisions will force cable programmers to provide programs to their competitors at cut-rate prices.

Equipment mandates: Would require cable companies to install expensive new equipment that will cost the industry \$5 billion.

Likely to raise rates: The increased operating costs of retransmission consent, equipment mandated, and complying with an overly complex regulatory framework will inevitably be passed along to consumers. Estimates of these costs range from \$2 to \$6 per month for each cable subscriber.

Kills investment: The increased operating costs and program access will dramatically curtail the industry's ability to invest in new programs, equipment, and technology. Consumers will suffer as the quality of cable service quickly stagnates and eventually declines.

Handouts to cable's competitors: Retransmission consent and program access will transfer billions of dollars from consumers into the pockets of over-the-air broadcasters and satellite television distributors such as General Motors' Hughes Communications subsidiary.

Will keep a system from adding new cable networks: The prohibition on negative option billing is poorly written and unclear. It can be read as requiring a cable system to obtain the approval of every cable subscriber before adding a new cable network or other new service. That would either prevent systems from adding new networks or force them onto unregulated pay-per-view channels.

Mr. WIRTH. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DANFORTH. Mr. President, I yield the remainder of my time to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio is recognized for 2 minutes 56 seconds.

Mr. METZENBAUM. Mr. President, I rise to urge my colleagues to override the President's veto of S. 12. Here in the Senate, this issue has not been a partisan issue. There has been broad support for cable reform legislation among both Democrats and Republicans. And if we vote to override the President's veto, we will show just how bipartisan this issue really is.

The vote today presents my colleagues with a choice: You can vote to preserve the unrestricted power of the cable monopolies, or you can vote to protect consumers against a \$6 billion raid on their pocket by the cable monopolies.

The need for this legislation is clear. The record shows that the cable industry is abusing its power as an unregulated monopoly in overcharging consumers by billions of dollars each year.

Over 3 years ago, at a hearing held by my Antitrust Subcommittee, the Consumer Federation of America revealed that cable consumers are being overcharged by as much as \$6 billion per year. A number of other studies have shown the cable industry has been

exploiting its monopoly power and overcharging consumers ever since deregulation took effect in 1967.

The cable monopolies have overcharged consumers, stifled competition, and engaged in a propaganda campaign which distorts the truth and misleads the public. If we do not enact this bill, the consumers of this country will remain vulnerable to monopoly abuses by the cable industry.

The President made his choice. He decided to stand with the cable monopolies and against consumers. The Senate need not.

I urge my colleagues on both sides of the aisle not to repeat that mistake, too. The veto should not stand. I urge my colleagues to vote to override.

The PRESIDING OFFICER. Who yields time?

Mr. BURNS. Might I inquire of the time remaining on this side?

The PRESIDING OFFICER. There is 5 minutes, 20 seconds.

Mr. BURNS. I yield 3 minutes to my friend, Mr. STEVENS, from Alaska.

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

Mr. STEVENS. Mr. President, I joined a bipartisan group to try and find an alternative that was acceptable to the White House. I still regret that we could not find the support in the Senate for that. It provided basic rate regulation and increased competition. It would have increased the rural exemption to 10,000, and would not have restricted program access. I am particularly concerned about the rural exemption.

Back in the time when cable first came to Alaska, it came to the small cities and it was carried over the telephone wires. That led to our insistence there be an exemption for rural areas to provide cable service through the telephone system. This bill would have increased to 10,000 that exemption, and it would have meant lower rates for many rural areas.

I think that the way to lower rates is through competition and, in my judgment, this bill goes back to reregulation and puts an additional burden now, both on the private sector and on government, to pay for reregulation, instead of trying to stimulate the competition that will come with the development of new technology.

Telephone companies in this country have almost universally deployed networks that can provide video programming. Telephone companies realize the economies of scope in the provision of voice data and video services which could lower the cost of providing each type of service.

We have new telecommunications technologies, fiber optic cable, burst cable—there are a great many technologies coming—they are on the screen; many people have talked about them today—that will make a great deal of difference to the consumer.

I regret very deeply the feeling I have that the President's veto is going to be overridden. I intend to try to sustain it. The reason I regret it is that I feel, without question, this bill will bring increased costs to cable subscribers. It will put us back into reregulation in a period when we should be going ahead into fostering more competition. Worse than anything else, it does to the rural areas of our country a great injustice in not recognizing the problems.

Take just the one example of the addressable converters. How many people in my State want an addressable converter? And yet, the system that serves them will have to buy one for each one of them, whether they need them or not. I am told that the cost of cable service for those addressable converters will be up to \$5.8 billion before this bill is totally enforced.

If the megalopolis of this country want this kind of reregulation, then they ought to have it. I do not believe we need it in rural areas.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. BURNS. Mr. President, has all time on the other side expired?

The PRESIDING OFFICER. The answer is no; there is approximately 1 minute left.

Mr. BURNS. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. The Senator controls 1 minute and 43 seconds.

Mr. BURNS. The Republican leader wants about 5 minutes, and he will take that out of his leader time, if that is possible.

So I ask unanimous consent that the Republican leader be able to take 5 minutes of his leader time to speak.

Mr. MITCHELL. What is the request, Mr. President?

Mr. BURNS. The Republican leader wants 5 minutes, but he wants to take it out of his leader time.

Mr. MITCHELL. I have no objection to that.

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

Mr. BURNS. Mr. President, I rise today to proudly stand, shoulder-to-shoulder, with President Bush in strong opposition to the massive, counterproductive cable reregulation bill which the President has vetoed. The cable reregulation bill promises consumer protection and competition but delivers neither. The reregulation bill will mean:

Higher cable rates for consumers;

Loss of American jobs;

A dramatic decline in the innovation of both cable technology and programming; and

Increased regulatory costs.

The President agrees with me that telephone company competition, as an alternative to reregulation, would mean:

Lower cable rates for consumers;

Improve service quality;

Offer greater richness and diversity of video programming;

Spur technological innovation by both cable television and telephone companies which will;

Improve our international competitiveness posture;

Spur domestic growth, job creation, and productivity gains; and

Through availability of education, health care, and other social services will provide Americans with a better quality of life.

I urge my colleagues to join me in:

First, sustaining the President's veto;

Second, opposing the reregulation bill; and

Third, supporting the President and me in pursuing alternative, procompetitive legislation in the next Congress.

#### BACKGROUND

I, like the President, recognize that there have been problems with basic cable rate increases and poor customer service that deserve our attention. Cable's performance, quite frankly, has been less than flawless.

The cable debate began as an attempt to address those legitimate consumer problems. The reregulation bill, however, fails to adequately address these consumer needs.

Let me make clear up front, Mr. President, that I have the greatest respect for Senators DANFORTH, INOYE, and HOLLINGS, who have diligently led the charge in support of this bill here in the Senate.

I, like President Bush, agree with my distinguished colleagues in vigorously pursuing the goal of improving service quality and lowering cable subscriber rates.

Unfortunately, these legitimate consumer issues have been used to advance communications policies that might not stand on their own. The reregulation bill includes layer upon layer of bureaucratic regulations, directives, and mandates that offer greater benefits to favored special interest sectors of the communications industry than they do to consumers. The result is a bill that is neither good communications policy nor good for consumers.

Many of the reregulation bill's provisions seek to resolve intraindustry disputes in favor of cable's competitors. Overreaching regulatory provisions will greatly limit cable's ability to invest in new programming and technologies which spur job creation.

We have seen dramatic growth in both the capacity of cable systems and the variety of programs available to viewers since the Cable Act of 1984 encouraged investment by the industry. Today there are more than 70 cable programming networks offering a highly diverse and rich range of specialized programming. Many more program-

ming networks are in the planning stage. Since 1984, the cable television industry has invested more than \$5.1 billion in plant and equipment, annual investment in basic cable programming has more than tripled, and cable service has become available to 90 percent of American homes. If that growth grinds to a halt, as a result of massive reregulation, consumers will see the quality of their service stagnate, if not regress.

In exchange, under the reregulation bill, consumers aren't ever assured of lower cable rates, as promised by reregulation proponents. It is very possible, even likely, that the legislation will actually lead to higher—not lower—cable rates, a fact which has been conceded by the supporters of the reregulation bill.

As just one of many examples, the reregulation legislation will certainly increase cable companies' operating costs by mandating that they install expensive new plant and equipment. These costs may well run into the billions of dollars. One study indicates that these and other expenses resulting from the legislation will add up to an additional \$2 to \$6 per month for each cable subscriber.

No one should be surprised if consumers wind up picking up this tab one way or another. Where else is the money going to come from? The sponsors of cable reregulation may not intend for the costs to be passed along to consumers. But will regulators be able to force cable companies to absorb those costs? I think not. And, not so surprisingly, the very sponsors of this reregulation bill have recently conceded that rate increases will continue under their bill.

The impact of this overreaching reregulation legislation will be felt by the economy as a whole, not just the cable industry and its subscribers. Moreover, the cable reregulation bill will increase Government's regulatory costs by tens of millions of dollars. In addition, cable is growing dynamic industry that is exporting its technology and programming abroad as well as expanding in the United States.

At a time when we are struggling to create new jobs and expand and improve our telecommunications infrastructure, why are we considering legislation that will damage an industry that has created nearly 40,000 new jobs since 1984 and is not now a critical component of our national communications system—which remains the envy of the world.

#### JOB AND ECONOMIC IMPACT

The cable reregulation bill will—plain and simple—cost America jobs. And in light of the economic downturn we're experiencing today, that loss of jobs is a price too high to pay.

As a policy-making body, we have a responsibility to look at the cable industry and determine how we might re-

solve some of the problems with cable without strangling it with unnecessary, counterproductive, burdensome regulations.

Our Government is good at imposing regulations and, frankly, I'm convinced that a major contributor to this recession we're experiencing today is unnecessary regulation that has strangled American business. Granted, some regulation is necessary in a free-market economy. But just last year, for instance, the Federal Government implemented 514 significant regulatory actions—significant meaning those regulations likely to have an annual effect on the economy of \$100 million or more, a major increase in costs or prices, or significant adverse effect on competition.

One recent comprehensive study conducted by Robert Hahn and John Hird from Yale found that the yearly societal cost of regulation is \$300 to \$500 billion. Regulation, down and dirty, raises costs, raises operating expenses, and raises the need for a business to make ends meet, often by laying off employees.

Right now, the citizens of this country are hurting. We've seen jobs lost throughout America, jobs with law firms, retail stores, banks, real estate enterprises, car manufacturers, and the list goes on. One industry, however, continues strong employment during these trying economic times and that is the cable industry. Throughout the last decade cable employment nearly tripled.

#### CABLE INVESTMENT IN TECHNOLOGY

In addition to job loss, let me briefly talk about the impact cable reregulation would have on cable industry investment in communications technology.

The cable industry has been at the forefront of advances in communications technology. Starting as a retransmitter of over-the-air broadcast signals, the cable industry pioneered the use of communications satellites as a distribution technology for entertainment and informational programming with the launch in 1975 of HBO's nationwide network via satellite.

The cable industry continues its advancement of technology by continually upgrading the technical quality and capacity of the more than 11,000 cable systems in the United States serving over 60 percent of television households. Moreover, cable is exploring the latest innovative services that can be provided through the cable medium. In 1989, for example, the cable industry spent close to \$1 billion rebuilding and upgrading plant and equipment—which was almost 73 percent more than the amount the industry spent improving its plant just 4 years earlier while still under rate regulatory constraints. This spending includes rapid growth in the application of cutting-edge technologies such as

fiber optic technology and high definition television.

Cable systems have also been expanding their service to more rural customers. While cable initially was only able to economically serve areas with an average population density of 60 homes per mile, due to industry research and development efforts since deregulation, cable systems can now serve areas with an average of 10 homes per mile, and in some cases areas with as few as 5 homes per mile.

Each of these technological advances would be seriously threatened if cable reregulation were enacted in its present form. As I indicated last week when debating this issue, the mere threat of reregulation had a dramatically negative impact on cable industry investment in communications technology in 1990.

And now we're thinking about committing regulation strangulation on this viable industry in an attempt to address what I believe are very legitimate concerns about cable rates, customer service, and the future of the telecommunications industry.

#### EFFECTS OF REREGULATION ON CABLE PROGRAMMING

When Congress passed the Cable Communications Policy Act of 1984, a primary purpose of the act was to "assure that cable communications provide and are encouraged to provide the widest possible diversity of information sources and services to the public." In meeting that goal, the Cable Act has been a clear success.

The number of cable program services has more than doubled since the Cable Act. Cable systems' expenditures for basic cable programming have risen from \$234 million in 1983 to \$1.4 billion in 1991. Statistics aside, any cable viewer in America can tell you that more cable networks exist and they're a lot better than they used to be.

The results of cable deregulation can be seen every day on the screens of Black Entertainment Television, the Discovery Channel, Arts and Entertainment, Turner Network Television, Cable News Network, the Family Channel, Nickelodeon and a host of other basic cable networks. Viewers clearly have noticed the improvement. That is why basic cable's share of the total U.S. television audience has risen from an 11 percent of viewing in 1983 to a 29 percent share of viewing today. That this dramatic improvement of cable programming occurred alongside deregulation is no coincidence.

Turner Broadcasting is a clear example of the success of the Cable Act in programming diversity and improvement. Since deregulation, TBS has launched two new cable networks, TNT and the Cartoon Channel—promoting diversity. And, TBS programming on all of its networks has been allowed to improve. TBS's estimated expenditures on entertainment programming, in-

cluding sports, grew from \$45 million in 1984 to over \$534 million in 1990. Made-for-TV movies now typically cost \$3 to \$4 million to produce—as much as, if not more than the cost of broadcast movies.

In a recent Roper poll, television viewers cite cable by 47 percent to 28 percent for regular broadcast television as having lots of variety. Cable networks' growth is not just a result of greater cable penetration. From 1984 to 1989, viewing of basic cable networks more than doubled the rate of cable-home growth. In the past 3 years, basic cable viewership growth outstripped cable home growth by 4 times. This growth must be attributed to both the increase in basic cable networks and the increase in original programming provided by basic cable programmers: over a quarter of the highest rated basic cable programs—excluding sports—during 1990 were original cable productions. For example, premiers of TNT-original movies and miniseries garnered audiences averaging 64 percent higher than nonoriginal programming aired in the same time periods in 1990 and 93 percent higher in 1991.

Despite the higher programming costs which go along with better programming, cost-conscious consumers have benefited. Improved basic cable allows subscribers to decrease their expenditures for pay services and to lower their overall cable bill—and many are. Pay cable penetration has declined for the past 3 years. And, while basic cable's share of viewing has doubled in the last 4 years, pay networks' share of viewing has declined slightly.

Yet, basic cable, including cable networks like CNN, Arts & Entertainment, and BET, is precisely the target for rate regulation under S. 12. Unlike rate-of-return regulation under which a cable operator could mark up and pass through programming cost increases, the regulation in S. 12 would make programming improvements of existing cable networks and the creation of new cable networks extremely difficult. Yet, few would argue that the consumer's interest really is served by freezing the status quo of programming in place.

The tension between a programmer's desire to improve his product and a cable operator's desire to hold down expenses are present already in the marketplace and create extreme difficulties between operators and program suppliers. The cable operator's reluctance to spend additional money for programming is reinforced by the priority which local regulators assign to improvements in cable plant, service, and other factors unrelated to programming.

Introduction of regulation into the equation is likely to tip the balance of cable operator incentives in a way harmful to programming development and, ultimately, consumer value.

At an average price of under \$20 per month, basic cable is still a good entertainment value, especially when compared to the price of taking a family of four to the movies, \$18.99, or a baseball game, \$32.36.

The exact result of the imposition of S. 12's rate regulation, which is far broader than what existed before the Cable Act, is impossible to quantify, but the history of cable rate regulation strongly suggests that programming quality improvement will be stunted or reversed.

#### COMPETITION VERSUS REGULATION

The 1984 Cable Act is not perfect, but it has been successful in building more systems, developing more original programming, and creating more jobs.

By injecting real and meaningful competition into the cable business, as proposed by Minority Leader DOLE and myself in S. 1200, the Communications Competitiveness and Infrastructure Modernization Act, we will lower rates, spur better programming, improve services, and enhance responsiveness.

I agree that cable's performance has been far from flawless. Consumers have expressed outrage over rate increases and poor system reliability. I, and the President, believe that strong action should be taken to lower rates and improve service quality. Reregulating the cable industry, however, is not the answer—competition is.

Reregulation will not adequately address consumer concerns. Those who propose reregulation of cable miss a key point about the 1984 Cable Act. The law's shortcoming was not that it deregulated cable rates, but that it erected a number of barriers to competition—most importantly the prohibition to telephone company competition.

As a result, there was no check on cable's ability to increase its rates. My legislation, which the President fully endorses, addresses this problem with a proposal for direct head-to-head competition between cable and telephone companies.

What some now propose as a remedy—reregulation—will undermine the benefits of greater, richer programming diversity, job creation, and technological innovation, while perpetuating its flaws—the barriers to entry. Moreover, in passing this cable reregulation bill, Congress will be giving cities an irresistible incentive to maintain cable monopolies and regulate rather than promote competition.

The President and I are in favor of increasing competition in the video programming marketplace. But this cable reregulation bill does not—and I repeat—does not promote competition among cable companies or other potential multichannel providers, namely the many local telephone companies located throughout the country.

Instead, the cable reregulation bill provides local governments with powerful new incentives to preserve cable

monopolies and it maintains the prohibition on telephone company competition.

Under current law, cities receive a lucrative franchise fee of 5 percent of their cable company's gross revenues, as a significant source of many cities' funding. In return, the municipality thwarts new competitors. One essential key to promoting competition is to reduce, if not eliminate, those fees which cities are, of course, quite reluctant to do.

Now comes this cable reregulation bill, which allows cities to continue receiving fat franchise fees. Added to this franchise fee extraction is the ability to once again regulate rates. The catch is that the city can only regulate as long as the local cable system remains a monopoly, or in the words of the reregulation bills: has no "effective competition." In other words, if a city allows a second cable system, it loses the power to regulate. With competition, the city would also come under severe pressure from the original operator to renegotiate the high franchise fee it agreed to pay only in a monopoly environment.

No incentives, however, are provided which would encourage competition from an additional multichannel provider.

In passing this reregulation bill, Congress, wittingly or unwittingly, will be giving cities an irresistible incentive to maintain cable monopolies and regulate rather than promote competition. True, the bill codifies a court decision clarifying that cities may start their own cable systems. But, while the bill instructs cities not to unreasonably deny a second cable franchise, that provision is riddled with exceptions that greatly dilutes its potential impact on competition from additional cable systems. Our alternative, pro-competitive legislation eliminates these troubling exceptions.

Moreover, under the reregulation bill, far more powerful incentives are provided to the cities to regulate the monopoly status quo. Most importantly, the cable-telco cross-ownership prohibition remains intact—even the modest increase in the rural exemption which Minority Leader DOLE and I have pushed was unceremoniously stripped from the bill in conference—which provides the best evidence that calling this reregulation bill pro-competitive is a sham.

This reregulation bill says that cable regulation should reflect what is occurring in competitive cable systems. But, Mr. President, regulation cannot imitate competition no matter how well intentioned the regulatory bureaucrat at the Federal, State or local level. When faced with competition, as will result from the President's alternative bill, a cable company must offer reasonable prices, good service, and quality programming. Under the reregula-

tion bill, regulation will not stem rate increases—this has been admitted by the sponsors of the bill. Moreover, regulation cannot motivate the level of customer service competition can. And, importantly, if history is any indication, rate regulation is likely to cause program quality and quantity to suffer, not improve.

This reregulation bill is regulatory overkill—plain and simple—which imposes far broader cable regulation than the Congress got rid of just 8 years ago. The FCC and local governments will be micromanaging every decision a cable company makes—from what prices are charged, to equipment used, to programming carried.

One clear indication of just how much regulation is contained in this reregulation bill are estimates that the FCC would have to find an amount equal to approximately 20 percent of its current budget to pay for cable reregulation. And that does not count the costs of local regulation, which comes on top of the FCC's costs.

Like the President, I believe it's high time to deal directly with the question of competition in the video programming marketplace and the many other critical questions involving national communications policy.

Our procompetitive, alternative bill, S. 1200, is designed to address the problems involving cable by injecting real competition in the cable market by permitting head-to-head telephone company-cable television competition.

I, like President Bush, believe that competition, rather than reregulation, creates the most substantial benefits for consumers and the greatest opportunities for American industry. Head-to-head competition between telephone companies and cable television companies will drive down rates and improve service quality for consumers, while promoting industry development and technological innovation.

Competition in cable TV works. In the 65 cities that allow competition, prices have fallen by 20 to 25 percent and customer service has improved greatly.

According to one independent study, competition could result in \$4.41 billion in annual benefits or \$80 per year for each cable subscriber in America.

Our alternative legislation, by taking bold, forward-looking actions to accelerate the deployment of advanced telecommunications networks, has the additional advantage of markedly improving our international competitiveness posture and dramatically spurring domestic economic growth, productivity, and job creation.

Furthermore, through advanced educational, health care, and other social services made possible with advanced telecommunications technology, we can establish a quality of life for all Americans which is unparalleled in our Nation's previous history.

CONCLUSION

The cable reregulation bill looks to the past to resolve today's problems—with no eye to the future. We need to consider how the legislation will affect telecommunications consumers tomorrow and the day after tomorrow. The ongoing digital revolution in communications products and technology that I spoke at length about last week is driving dramatic changes in the marketplace and regulations. We must not limit cable's ability to compete in the many promising new communications services that are on the horizon.

I believe the cable reregulation bill will do consumers more harm than good, particularly in the long term. Consumers will be better off if we defeat it and instead enact our alternative, procompetitive cable legislation that tackles the legitimate consumer issues of rates and customer service head on and without extraneous provisions of uncertain impact.

I urge you to join us in opposing this overreaching legislation.

I ask for your assistance in sustaining the President's veto.

And once this draconian measure is defeated, I ask you to join me in the next Congress when we debate and enact procompetitive legislation which will have a positive impact on our economic and social welfare on into the information age of the 21st century.

Mr. President, I ask unanimous consent that the following material appear immediately following my remarks:

First, the President's veto message;  
Second, a series of newspaper editorials concerning the cable reregulation bill; and

Third, a series of statistics concerning the cable television industry.

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

<i>Annual regulatory costs of S. 12 to cable consumers</i>	
	<i>Millions</i>
Federal .....	\$67.9
State and local .....	264.7
<b>Total Annual Regulatory Cost ....</b>	<b>332.6</b>

Source: Hunt, Carl E., Analysis of Proposed Federal Cable Legislation, August 24, 1992.

THE WHITE HOUSE,  
October 3, 1992.

To the Senate of the United States:

I am returning herewith without my approval S. 12, the "Cable Television Consumer Protection and Competition Act of 1992." This bill illustrates good intentions gone wrong, fallen prey to special interests.

Contrary to the claims made by its proponents, this legislation will not reduce the price Americans pay for cable television service. Rather, the simple truth is that under this legislation cable television rates will go up, not down. Competition will not increase, it will stagnate. In addition, this legislation will cost American jobs and discourage investment in telecommunications, one of our fastest growing industries.

S. 12 is clearly long on promises. Unfortunately, it is just as clearly short on relief to the American families who are quite rightly

concerned about significant increases in their cable rates and poor cable service. Although the proponents of S. 12 describe the bill as procompetitive, it simply is not. Indeed, the only truly competitive provision, one that would have expanded the ability of telephone companies to compete with cable companies in rural areas, was dropped from the bill at the last minute.

S. 12 tries to address legitimate consumer concerns, but it does so by requiring cable companies to bear the costs of meeting major new federally imposed regulatory requirements and by adopting costly special interest provisions. For example, the bill requires cable companies for the first time to pay broadcasting companies, who have free access to the airwaves, to carry the broadcasters' programs. The undeniable result: higher rates for cable viewers.

Beyond increasing consumer costs, the bill takes certain key business decisions away from cable operators and puts them in the hands of the Federal Government. One provision, which is unconstitutional, requires cable companies to carry certain television stations regardless of whether the viewing public wants to see these stations. Another special interest provision would put the Federal Government in the position of dictating to cable companies to whom and at what price they could sell their programs. These types of federally mandated outcomes will discourage continued investment in new programs to the detriment of cable subscribers who have come to expect a wide variety of programming and new services.

I believe that the American people deserve cable television legislation that, unlike S. 12, will deliver what it promises: fair rates, good programming, and sound service.

GEORGE BUSH.

THE WHITE HOUSE, October 3, 1992.

[From The Wall Street Journal, Oct. 2, 1992]

THE GREAT CABLE TV BATTLE

It's a war, fought with mud and vitriol. With President Bush today vetoing a bill to reregulate cable TV, Senator Al Gore, a co-sponsor of the bill, is howling that the President is owned "lock, stock and barrel" by the cable companies. He calls himself a champion of competition.

Broadcasters, who favor regulating the rates competing cable operators charge, accuse the cable industry of price gouging. Cable operators respond by leaking a memo from broadcast lobbyists to local stations urging them to enlist their news operations in the fight to regulate cable. And the Washington-based lobbies that proclaim themselves "consumer groups" cry ceaselessly for rate regulation.

The attempt to override Mr. Bush's veto will come quickly, and it's expected to be close. The one serious question in the middle of all this is whether the bill delivers on its promise to encourage competition among the entrenched cable monopolies.

Vice presidential candidate Gore says the bill would force the price of basic cable down and promote competition by prohibiting cities from granting "exclusive" franchises.

Senator Gore is right that the cable industry has driven up prices through monopoly deals with local governments. Some of the more unseemly ways in which the industry has blocked competitors were detailed by Mark Robichaux in the Sept. 24 Journal. But anyone who looks closely at the actual content of the cable bill will discover that its pro-competitive language is largely rhetorical and provides cities with new incentives to preserve their cable monopolies, not dismantle them.

Currently, cities receive a lucrative "franchise fee" of 5% of a cable company's gross revenues. The city can extract such a high fee because in return it usually thwarts competitors (though only rarely by awarding explicitly exclusive franchises).

Under the cable bill, cities would still get the franchise fees while also receiving the power to regulate rates. As to introducing competition, consider this huge disincentive embedded in the bill: Cities may regulate rates only if their local cable systems remain a monopoly and have no "effective competition." In other words, if a city allows in a second cable system, it loses the power to regulate. It would also come under severe pressure from the incumbent operator to renegotiate the high franchise fee it agreed to pay only in a monopoly environment.

Letting in competition would force local polls to give up some of their petty power and maybe do some real work. And pigs will fly. Says Senator Conrad Burns of Montana, "Clever lawyers have written a bill that sounds procompetitive, but actually excludes any real chance for head-to-head cable competition."

Why then are cable companies so opposed to the bill? As economist Tom Hazlett notes nearby, if they have a choice between a regulated monopoly and an unregulated monopoly, they'll take the latter.

Privately, cable companies are relieved that the bill doesn't drop the barriers to letting the Baby Bells in the game. A provision to allow phone companies to compete with cable systems in rural areas was thrown overboard in conference.

The pro-competitive language that remains adds up to a form of Potemkin Competition. (That sense of illusion is how we feel about much else that Senator GORE is promising at the moment.) Emerging new technologies—from hair-thin fiber optic cable to the marriage of computers and cable—soon may revolutionize communications. But Congress's cable bill won't be joining the revolution.

That's too bad. Competition in cable TV works. In the 65 cities that allow competition, prices have fallen by 20% to 25% and customer service has improved greatly. Maybe next time.

#### BILL COULD ENTRENCH CABLE-TV MONOPOLIES

Your Sept. 24 page-one story "Captive Audience: Cable Firms Say They Welcome Competition but Behave Otherwise" makes a good point, so far as it goes: Cable-television companies do need competition. Unfortunately, the article implies that the new cable bill would help; that it would bolster local governments in their fight to bring competition to cable monopolists. Actually, it provides municipalities with powerful new incentives to preserve cable monopolies.

Under current law, cities receive a "franchise fee" of 5% of their cable company's revenues, a big source of many cities' funding. One key to promoting competition is to reduce those fees, which cities are understandably reluctant to do. The cable bill would allow cities to continue receiving high franchise fees while returning to the cities the power to regulate rates. The catch is that the city can regulate only as long as the local cable system remains a monopoly or, in the words of the bill, has no "effective competition."

Congress, wittingly or unwittingly, would be giving cities an irresistible incentive to maintain cable monopolies and to regulate rather than promote competition. True, the bill codifies a court decision clarifying that

cities may start their own cable systems. True, the bill instructs cities not to "unreasonably deny" a second cable franchise and prohibits discriminatory pricing among customers. But the bill's incentives to maintain the status quo are far more powerful.

One of the bill's goals is that regulation should reflect what is occurring in competitive cable systems. But regulation cannot imitate competition. When faced with competition, a cable company must offer reasonable prices, good service and quality programming. Although regulation might stem price increases, it cannot motivate the level of customer service—only competition can do that. And if history is any guide, rate regulation is likely to cause program quality to suffer, not improve.

This bill imposes far broader cable regulation than Congress got rid of just eight years ago. The Federal Communications Commission and local governments will be right in the middle of every decision made by a cable company.

If this cable bill passes, the more than "130 disenfranchised communities" that according to you are exploring competition will likely opt for the safety of regulation. Thus, these and hundreds of other communities will not face real competition in the foreseeable future.

Sen. CONRAD BURNS.  
Rep. NORMAN F. LENT.

WASHINGTON.

[From the Wall Street Journal, Oct. 2, 1992]

IN CABLE WAR, CONSUMERS GET SNAGGED

(By Thomas W. Hazlett)

President Bush has said he will veto the bill reregulating the cable TV industry—perhaps as early as today. This would be just the latest salvo in the high-profile debate over the bill—a debate that is being pitched as a struggle between liberals pushing pro-consumer controls and Reaganite deregulators defending the free market. Not even close.

The mythology upon which reregulation rests is that consumers were treated wisely and humanely by local regulators before the Reagan administration preempted local rate controls in the Cable Act of 1984. In fact, the deregulation of cable TV was achieved largely under the Carter administration in the late 1970s; FCC red tape had served to protect TV broadcasters from the emerging cable technology since the early '60s. When the final clearance of regulatory underbrush came in 1984, it was authored by Democratic Rep. (now Sen.) Timothy Wirth.

The Cable Television Consumer Protection and Competition Act of 1992 is a muddle, a huge opportunity foregone. There is a crying need for an honest effort to constrain the monopoly cable systems that now hog the dial, and there are even some promising starts in the legislation to do so. The provisions that open up access by competitors for satellite programming, restrict selective price cutting, and warn municipalities not to grant exclusive franchises are steps in the right direction.

Yet the bill's loophole to eliminate damage awards against cities that refuse to issue competitive franchises will negate the effect of such rules. And the stipulation that allows City Hall to get back into the cable regulation business only where monopolies prevail will positively encourage exclusive franchises. Beyond all this, there is the sinful lack of a pro-active competition policy: Where are the provisions that would let telephone companies compete with cable, or would order the FCC to make generous new

airwave space available for wireless cable technologies? These muscular measures, sadly lacking in the current bill, would put energetic rivals in the market, lowering prices while increasing quality, in two to five years.

Instead, the cable bill advertises lower consumer rates by establishing direct controls on only the "basic tier"—local broadcast signals and public access channels (Wayne's World programming). Problem: Virtually nobody subscribes to these no-frills tiers. You may have noticed your own cable company "retiering" to prepare for this end run around rate control. This is the form of regulation, but the substance of a consumer fraud.

Americans are upset about having just one company to choose from in the typical cable market. They should be: A recent survey of 100 competitive cable companies showed that their prices are about 20% below the average in areas where there is a monopoly. The idea that local rate regulation lowers effective prices, however, has already been discredited by out deregulation experiment. Since localities lost their power to set rates at the end of 1986, two things have happened: Nominal prices have increased (61% in the first 4½ years of deregulation), but so has the quality of cable programming. For instance, the average number of channels on the most popular basic package rose 30%, keeping the inflation adjusted price-per-channel just about constant. The question: Which has risen more, price or quality?

Since deregulation, a significantly higher percentage of consumers having access to cable elect to subscribe. More over, Nielsen ratings reveal that cable viewership is skyrocketing: a 60% increase in basic cable network viewership between 1986 and 1990, even subtracting out the increase in cable subscribership. In the one consumer poll that counts, viewers are voting with their time and money that the higher quality is worth the extra cost.

Besides, the dirty little secret of cable regulation is that it is legally impossible. While cities or the FCC may gain the authority to set rates, they clearly cannot dictate the quality of cable's product—TV programming. That would constitute content control, "unconstitutional under the First Amendment. A cable operator has every right to respond to rate controls by reducing either the number or quality of channels carried.

But don't believe me, don't believe consumers, and don't believe the U.S. Constitution about the likely effects of recontrolling cable television rates. The most compelling argument comes from cable's most vehement competitor, broadcast television.

The broadcasters, nostalgic, for the good old days when the feds actively suppressed their rival, are now a declining sector in mortal ratings combat with cable. The current legislation would correctly reverse an inequity voted by Congress in the Copyright Act of 1976 that allows cable systems to retransmit local off-air TV signals without compensating the stations. (Though the reform comes in a very twisted manner—adding "must carry" regulations already twice found unconstitutional by the federal courts.) But the broadcasters are also enthusiastic about rate controls on cable. They tipped their hand in a 1990 FCC proceeding, in which the sole issue was cable rate regulation; the National Association of Broadcasters filed its official position that it applauded efforts to control all basic cable rates.

Why would the NAB, whose members are hemorrhaging audience shares to their wired

competitors, favor "tough" regs said to make cable an even better bargain for consumers? The profit-motivated NAB clearly anticipates that the net effect of reregulation will be a fall-off in quality in excess of any cost savings, which will drive viewers back to "free off-the-air television." There's your smoking gun on the economic impact of cable reregulation.

Sen. Al Gore now accuses President Bush of being a tool of the cable interests for threatening to veto the new Cable Act. Oops, Senator—could you not then be called a broadcaster still for supporting it?

Having failed to seize the initiative and force a consumer-friendly solution to the cable monopoly problem, the president will now have to either hold his nose and sign-off on this contradictory policy brew, or cover his ears and veto it. If they televise this on C-Span, I'm going to turn the volume down just to see if I can make a video guess as to which of his senses he selects to abandon.

[From the Wall Street Journal, Apr. 7, 1992]

#### REREGULATING MEANS TYING UP CABLE

(By James C. Miller III)

Congress' "fine tuning" may well bring static to our TV screens. The Senate recently passed the so-called Cable Television Consumer Protection Act, which President Bush has threatened to veto. A similar bit of legislation, the Cable Television Consumer Protection and Competition Act, is wending its way from subcommittee to committee in the House.

The reformers want to hold down the rates for basic cable services. But their plan would rob us of better channels. It could also mean still-birth for innovative services that are just being developed.

In 1984, Congress exempted cable operators' from rate control by local jurisdictions where the Federal Communications Commission determined there was "effective competition." In 1985, the FCC said there was effective competition whenever a local community was served by three or more over-the-air broadcast stations. Starting January 1987, the operators serving the vast majority of cable consumers were exempt from local rate regulation for basic services.

The Reagan administration supported the 1984 Cable Act because of widespread municipal corruption and concern over the slow pace of cable expansion. Because of the power local governments wielded over cable companies, many officials were caught up in ugly charges of favoritism, bribes and kickbacks. Moreover, legal squabbles and other uncertainties over investment returns were seen to be retarding cable development.

In hindsight, it is apparent that these concerns were well-founded. Deregulation cut back local corruption. Skeptics also should look at a new study by Robert D. Tollison of George Mason University and Robert Ekelund Jr. of Auburn University. "The High Costs of Cable Reregulation" reports that following deregulation, cable service availability and programming expanded dramatically. The amount operators spent on basic programming went to \$1.5 billion in 1991 from \$302 million in 1984.

Investors also widened spending on facilities and technology. The share of systems with more than 30 channels rose to 72% in 1991 from 38% in 1984.

Messrs. Tollison and Ekelund note that rates for basic cable services have risen since deregulation. For example, the General Accounting Office found that the rate on the most popular tier of service rose to \$18.84 in April 1991 from \$11.71 in November 1988. But,

as they point out, such an increase must be placed in perspective. During the earlier period of local control, cable rates lagged far behind inflation. So it was only natural for rates to catch up after prices were freed.

It is also appropriate to adjust for changes in the quality of programming. Since the number of channels on the basic tier rose to some 35 from around 27, the rate per channel rose only nine cents during this period. (In fact, when you also adjust for inflation on this new basis, you discover that the basic rate per channel actually fell a penny.) Cable penetration increased substantially after deregulation took effect. It would appear that consumers prefer improved service, even at a higher price.

Rather than applaud this performance, many in Congress would take us back to the "good old days" of less diversity. They would do this despite the fact that the FCC tightened its definition of "effective competition" last June. Under the new rules, a community must have at least six over-the-air broadcast stations to be exempt from local control. That increases the share of cable operators subject to local rate regulation to approximately one-half of all operators.

Why is diversity so important? Because it is the specialized programming that would be jeopardized the most if rate regulation over basic services is reimposed. Regulation is price control, and price control means cable services will have fewer dollars to spend on low earners and loss makers like our educational channels.

Let me admit to a personal fondness for CNN, C-SPAN, the Discovery Channel, and Arts and Entertainment. Others no doubt prefer Black Entertainment Television, Turner Network Television or religious programming. The Spanish- and Korean-language broadcasts, MTV, home-shopping, weather and country-music channels are all part of the selection created for a society whose tastes and needs for video communications vary. In the name of "fairness," regulators are willing to punish consumers by cutting back the selection available to them.

More disturbing is the prospect that rate reregulation may truncate the development of new cable services that could prove very helpful to consumers in general; For instance, with interactive TV, viewers could register their opinions—on policy issues, or pop music—and send messages to several parties with the push of a button. Interactive TV also has tremendous potential as a long-distance classroom. GTE, for example, is already operating an interactive cable system in California.

Good intentions here mask a cruel hoax. Reregulation of cable TV might save a few dollars a month for those content with little more than rebroadcasts of over-the-air station fare. But it will do this at overwhelming cost to consumers who prefer something more.

[From the Denver Post, Oct. 1, 1992]

#### BUSH SHOULD VETO PROPOSAL TO REREGULATE CABLE TV

A congressional proposal to reregulate cable television would cost consumers dearly, and so George Bush should stick by his promise to veto this ill-conceived and poorly written piece of legislation. While sponsors have touted the measure as a consumer protection act, it really is an effort by competitors of cable TV to restrict that industry's rapid growth.

A good example of how backward this measure truly is cropped up in Denver. Right

now, Mile Hi Cablevision offers subscribers a basic package that contains public access channels, all the local commercial and public broadcast stations, and popular cable-only channels such as CNN and Nickelodeon. Under the just-passed congressional proposal, however, cable TV firms would have to offer a basic package of only the local broadcast and public access channels—CNN and other cable channels would be tossed out of the mix.

At the same time, though, the measure would increase the price that cable TV companies pay for retransmitting local broadcasts, and these higher costs would be passed on to customers. Thus, the measure would force up prices for the very cable TV services it purports to control.

That sort of goofiness is what led Bill Bradley, head of the City of Denver's telecommunications office, to write to Bush this week, pleading for the President to veto the proposal as he has said in the past he would do.

The counterproductive elements in this measure also prompted the entire Colorado congressional delegation to vote against it. Imagine a measure so outrageous that Denver liberal Pat Schroeder and Colorado Springs conservative Joel Hefley wound up on the same side of the issue. Their colleagues from other states who supported the measure apparently hadn't done their homework, for even desperate politicians wouldn't have voted for such a stupid proposal if they simply had taken time to read what it really said.

George Bush is right when he maintains these matters would be best settled in the marketplace, not on the Potomac.

[From the Philadelphia Inquirer, Sept. 29, 1992]

#### REREGULATING CABLE TV

Millions of Americans have a love-hate relationship with cable TV. With its sports, movies, home-shopping, hearings, music videos and so on, it's a many-splendored thing. But the average cost of basic cable service has risen by 60 percent since the cable industry was deregulated five years ago. Cable TV, which enjoys a government-created monopoly in all but a few local markets, simply has too much power to dictate the price of its services.

So Congress has passed a bill that combines two sound strategies: new controls on the price of cable services, and new rules to help emerging technologies become strong competitors to cable. Unfortunately, for all its claims about saving customers' money, this bill also includes an unjustified giveaway to television stations that would raise the cost of cable. That's reason enough for the measure to be vetoed, as President Bush has promised.

The worst part of the current bill from a customer's point of view is that local cable systems would lose the right to carry broadcast signals from local stations free of charge. Any station could charge a cable company for this right, and if the parties didn't reach an agreement, that station's programming wouldn't be available on cable. Consumers lose out either way—through higher costs for the cable service or less programming.

This battle isn't over some grand principle—it's about money. The television stations (and television networks) see their product being repackaged by profit-making cable companies that aren't giving them a piece of the action. The cable companies have traditionally argued that they're mere-

ly enhancing the stations' signal, helping them deliver the advertisements that are their main source of revenue.

TV stations claim that these charges would be too modest to have any significant impact on what customers pay for cable. But that's absurd. Estimates of the total charges industry-wide range up to \$1 billion a year. And if you think the cable industry is going to absorb the cost, rather than crank them into people's bills, you're dreaming.

In short, the cost of buying these broadcast rights could substantially offset what cable customers save from the bill's most-fundamental change: letting the Federal Communications Commission control what cable systems charge for a basic package of local stations. This may sound bureaucratic, but it's justified in light of the cable companies' sharp price increases. In addition, the commission would be required to judge the reasonableness of charges for extra service—channels ranging from Nickelodeon to CNN to Cinemax. We're leery of this because these channels are a playground for innovative programming, and if the commission squeezes rates too hard, it will stifle that innovation.

As for the strategy of coaxing new competitors, those parts of the bill are generally sound. The bill, for example, would give home satellite dish programmers and "wireless" cable operators more access to programming that the cable industry originates, allowing them to offer a richer mix to potential customers.

If this bill is starting to sound halfway decent, that's because it is halfway decent. But halfway isn't good enough.

At this point the only way to stop the giveaway to television stations is through a presidential veto, which, if sustained, would give the cable industry a reprieve. The hope here is that Congress would pass a less flawed, more consumer-oriented bill in 1993.

[From The Kansas City Star, Sept. 29, 1992]

#### CABLE'S CONGRESSIONAL NANNY

Since deregulation of the cable television industry, rates have increased by 61 percent. Viewers are continually upset by poor service and unanswered complaints—the usual frustrations that accompany monopoly power.

Cable, in short, has fouled its own nest. To a great extent, the industry is itself to blame for the current effort to reregulate rates. Yet the latest serving of congressional mishmash is not the answer. Implicit in this debate has been the peculiar notion that the "need" for entertainment is now on a par with that of public utilities.

The measure now on the president's desk directs the Federal Communications Commission to decree standard rates for basic cable service in markets lacking competition, and permits appeals of disputes over prices for add-on programs. The Washington bureaucracy will grow to assure that Americans—those believers in limited government, remember?—receive what the government thinks is a "fair" price for television.

Cable offers some serious fare such as C-SPAN, CNN or the Discovery Channel, and many rural residents would have little to watch without cable. But come on. This controversy has a lot less to do with fairness than with how to divvy up cable's \$22 billion a year in revenues.

One provision would allow broadcasters to charge cable companies for retransmitting the signals. That rang bells in Hollywood, which sent a horde of lobbyists east to tell its Democratic allies: "We want our cut, too,

whenever broadcasters air one of our movies." This change may well result in higher cable rates, not lower.

What Congress should have done was limit its efforts to fostering competition: sharpen anti-trust law, if necessary, to blunt the legal tools monopolists use to exclude competitors, and let technology gradually solve the problem of competition. Microwave and satellite delivery may yet help provide a counterweight. Working separately, the FCC seems determined to permit telephone companies to enter this market.

Admittedly, much of that is in the future, but even now—contrary to what some say—cable should not be seen as a natural monopoly. Some two dozen markets have competition, and in these cities rates are reasonable and service standards high.

To be sure, some of the bill's provisions would help boost competition, such as those banning exclusive franchises and those prohibiting exclusive contracts between programmers and cable operators.

Even so, President Bush should make good on his veto threat. The notion that government has some kind of duty to decree a "fair" price for what is mostly entertainment is more than sad. It's worth recalling that if government today is held in widespread contempt, it is largely because it attempts to do too much.

[From the San Diego Union Tribune, Sept. 28, 1992]

#### CABLE CAPERS: EVEN IF RATES FALL, VIEWERS COULD PAY MORE

President Bush has on his desk a bill that would re-regulate cable television. His decision to sign or veto the measure should be predicated on a simple question: Will consumers benefit?

Various consumer groups argue that cable subscribers stand to reap bountiful savings. The Consumer Federation of America, for instance, estimates that "on a national scale, people can expect a reduction in basic rates of up to 30 percent."

But basic rates could tumble 100 percent and consumers still could pay higher overall cable rates. That's because, under the language of the bill, basic service is defined as public, educational and government cable channels, as well as local over-the-air broadcast affiliates of ABC, CBS, NBC, Fox and PBS.

Such widely viewed cable offerings as CNN, MTV and ESPN, and premium channels like HBO and Showtime, are not considered basic service. Cable operators could easily charge more for these optional channels to offset a 30 percent rate reduction for basic service.

Basic cable rates rose 56 percent between 1986 and 1991, from an average \$11.14 a month to \$17.34, according to the General Accounting Office.

The cable industry has not remained in place since deregulation. It has increased the proportion of American households wired for cable from 45 percent to 90 percent. It has expanded the number of available cable channels from 29 to 72.

It is true that many local cable operators around the country enjoy effective monopolies. But lawmakers are mistaken if they think that re-regulation of the industry will check the monopoly power of cable companies and discourage artificially high prices.

In fact, prior to deregulation, 94 percent of proposed cable rate increases were approved by local governments, which typically collect 5 percent of cable system's gross revenues as a franchise fee.

A federal law written in the best interests of consumers hardly would restore a regu-

latory system in which 94 percent of rate increases are approved.

Rather, a consumerist law would promote competition in local cable markets, recognizing that only when two or more operators are vying for the same viewers will consumers be assured of the highest quality service and the most reasonable prices.

The misnamed Cable Television Consumer Protection and Competition Act falls woefully short on this count. It deserves a veto.

[From the Cleveland Plain Dealer, Sept. 25, 1992]

#### CONGRESS AT THE CABLE TV SWITCH

On principle, and heedless of political costs in an election year, President George Bush should veto legislation regulating cable television prices. In so doing he undoubtedly would risk incurring voters' displeasure and face the prospect of being overriden in Congress. But he would also display courage by taking up the gauntlet thrown down by congressional Democrats seeking to embarrass him. As well, he would rebuke fellow Republicans who for electoral reasons jumped on a bandwagon mistakenly labeled consumer protectionism.

Don't be misled by the cable bill's margins of support in the House and Senate. Far from being good legislation that would benefit consumers, the new laws could saddle the cable industry with costs that probably would be passed on to the subscriber, either directly or in the form of fewer program choices.

One need not accept the dizzying range of dollar amounts the industry contends the public will pay or cable operators will have to assume. No doubt their figures will turn out to be inflated. At the same time, however, you can bet there will be a steeper price to pay than pro-regulation lawmakers are prepared to allow.

What is most objectionable about the legislation is not that it permits the Federal Communications Commission to set rates for basic cable packages. You could argue cleanly and fairly over whether free-market considerations should prevail or whether, because it is a monopoly in some communities, cable invites government intervention.

But under pressure from over-the-air broadcasters and other interests, Congress overloaded the final bill. Some of the added provisions will benefit cable's competitors, including local TV stations that will be entitled to sell retransmission rights for their programs. Others, supposedly intended to help customers get better service, amount to governmental micromanaging of cable companies.

Cable TV, as lawmakers appear to have forgotten, is a commodity to be purchased or not, at the consumer's discretion. It is not a constitutional right. It should be noted that the industry spared no expense in its own lobbying efforts against legislation. Nonetheless, consumers one day may have cause to regret that Congress thought it had a right to dictate the terms under which cable could market its offerings.

[From the Dover (NH) Foster & Daily Democrat, Sept. 25, 1992]

#### STOP PROTECTING US

If there is an industry the Congress hasn't regulated yet, keep it a secret.

Cable television and its customers will feel the long arm of federal regulation unless President Bush vetoes a bill passed by wide margins in both the House of Representatives and the Senate. And even if there is a

veto, the size of the votes in both houses might be enough to hand the president his first defeat in a string of 31 vetoes that have withstood attempts at override.

The cable bill was sold as a consumer protection measure. Heaven protect us from congressional protection.

The regulation of cable television—or rather its re-regulation (it was de-regulated in 1984)—is supposed to provide television viewers with a shield against rising rates. That's what supporters of the measure say it will do.

What the cable bill will really do is provide the on-air broadcasters—especially the major networks—and companies that distribute television over satellite and microwave radio channels with a piece of the cable revenue pie. You can expect the networks and satellite companies to support rate increases as soon as they see some benefit to themselves.

The bill passed by the Congress requires the Federal Communications Commission to set up a "reasonable" rate schedule for a basic package of cable programs and would include more limited regulation of the expanded packages that include such things as MTV, HBO, movie channels and sports channels.

Who is going to determine the definition of the word "reasonable"—the FCC? Who is going to determine the content of a basic package—the FCC? Who is going to hold rate hearings—the FCC?

Why this insistence in the regulation of cable television? What was once ignored as an industry is now seen as a gold mine and the very people who were ignoring it—the broadcasters—want a piece of the pie with none of the expense.

Cable television is not a necessity. It is not a public utility. In the sense that electricity or telephone or water or gas is a public utility. Why do rates have to be regulated?

Let the marketplace do its work. If cable is too expensive, we won't buy it. We'll put the antenna back upon the roof or read a book.

The cable companies aren't stupid. They aren't going to kill the Golden Goose.

For cryin' out loud, stop protecting us from the boogiemans.

[From The Cincinnati Post, Sept. 25, 1992]

#### THE WRONG RE-REGULATION

One of the biggest battles Washington has seen all year is raging now, and it affects about six in 10 American households, cable television.

The Congress, by large majorities, has sent President Bush a bill that would re-regulate the cable television industry. The president has threatened to veto it, mainly on grounds that it would impose federal price controls when competition will ultimately be able to accomplish the same task.

We agree with the president—up to a point. This particular bill deserves to be defeated. But it contains much that is valuable. With some changes—notably giving state public utility regulators, rather than the Federal Communication Commission, authority to set rates in monopoly markets—it would merit support.

The measure now on the table would require the FCC to set rates for "basic" service—local commercial and public channels, plus one or two "super stations." This is a function we think would be better handled by state regulators, such as the Public Utilities Commission of Ohio, whose staffs already have expertise in monopoly rate cases and, often, in the broad field of telecommunications.

Regulation at either the state or federal level ought to be limited to monopoly franchises; its aim should be to encourage competition. As technology advances, the rationale for geographic cable monopolies will steadily diminish.

The cable bill does contain several measures aimed at promoting such competition, as well as others designed to benefit cable customers in the short term.

Local governments, for example, would be barred from issuing exclusive franchises. Within 10 years, cable companies would have to let customers buy only those channels they want, rather than the relatively large package. The bill would require certain large companies that produce what is now "cable" programming to license their products to competitors who might offer it over new transmission networks, such as satellite and "wireless" cable. And it would pave the way for consumers to buy their own converter boxes and remote control devices.

The real trigger for the lobbying battle now under way in Washington has little to do with the interests of cable customers. It deals, instead, with the proposed requirement that cable companies negotiate with local broadcasters for the right to carry their signals. In essence, Congress proposes to make cable companies pay broadcasters for a signal that the broadcasters are sending out for free over the airwaves. The cable industry argues that this provision would drive up costs for their customers, and more than offset any savings the rest of the bill might achieve. Hollywood, meanwhile, has charged into the fray on the side of cable operators—mainly out of fear that it will lose out on a slice of a new revenue pie.

Sound like a lot of static? It is. Suspect the debate has been fueled by partisan politics and by a non-partisan willingness to reap campaign contributions from competing lobbyists? No doubt.

Within, the issue is one that will ultimately touch the lives of most Americans. The public policy goal should be a flourishing telecommunications network—one capable of supporting the technology's vast potential.

[From the San Antonio Express-News, Sept. 24, 1992]

#### CABLE REGULATION WON'T REDUCE BILLS

President Bush's promised veto of a cable TV regulation bill may be overridden, but Bush is right on the issue.

The cable bill is an election-year product. The Democratic-controlled House and Senate passed the measure by large margins, claiming it would benefit consumers.

Although cable TV rates have risen more than 50 percent since they were deregulated five years ago, this bill won't do much to control them. It would put bureaucratic fingers on control knobs.

Under the bill, the Federal Communications Commission would set and enforce "fair" charges on bare-bones basic cable service. That includes local commercial and public channels, plus one or two super stations.

Expanded cable packages would have limited regulation, and added charges for them could drive monthly bills up, not down.

Congress would specify how many phone lines each cable company must have for customer complaints. It would also require operators to refine technology within 10 years so subscribers could receive one free premium channel, such as HBO.

If Bush's veto is overridden and the bill becomes law, few cable customers will see their

bills reduced. The way to bring cable charges down is through competition, not regulation.

[From the Hartford Courant, Sept. 22, 1992]

#### THIS CABLE-TV BILL ISN'T IT

"For the cable industry to claim that it's coming to the rescue of consumers is like the shark swimming to the rescue of the drowning man," said Sen. Joseph I. Lieberman of Connecticut last week after the U.S. House voted to reimpose tough regulations on cable television.

Good metaphor, but it also applies to self-proclaimed consumer advocates who say that the bill would reduce cable rates substantially. It wouldn't necessarily. In fact, it's likely to increase subscription prices.

Government regulation usually is imposed with the best of intentions, but the rules become complex and convoluted by the time special interests finish writing them. And consumers are left scratching their heads.

The Courant's corporate parent, Times Mirror Co., owns cable television systems and therefore has an interest in the bill that President Bush has vowed to veto. But no one at corporate headquarters has had any input in this editorial.

To some extent, the cable TV industry deserves the lumps it's been getting in Washington. In Connecticut, rates have increased by more than 50 percent since Congress lifted regulatory control in 1987. Service, in many instances, has been awful. Customers often feel helpless.

Given the monopoly status of cable systems and their use of public airwaves, government is justified in setting minimum service standards. Moreover, government ought not to throw a protective umbrella over the cable industry if competitors want to get into the market.

But the bill approved last week by the House does more than require the Federal Communications Commission to set a maximum price for basic cable TV service and authorize local regulators to ensure that the rates are "reasonable."

Towns and cities would be allowed to operate their own cable systems. The bill would in effect require cable operators to carry all the local channels. At the same time, operators would have to get permission from local broadcasters for "retransmission rights."

If the operators wind up having to pay the local channels for retransmission rights, the costs are likely to be passed on to consumers.

Cable companies would also be required to update their systems within 10 years to give their customers more choices. The companies already are investing in such equipment and will continue doing so because that has been the nature of the business. Survival depends on keeping up with the latest technology. But guess who will wind up paying when government gets into the business of requiring the installation of certain equipment and setting deadlines. Consumers, of course.

Perhaps the most disturbing voice being heard from supporters of cable deregulation is the one claiming that the bill would improve programming. Beware of those who want government to get involved in cable program "quality."

The cable industry should neither be shielded from competition nor permitted to get away with shoddy service or galloping rates. As U.S. Rep. Nancy L. Johnson of the 6th District noted, "We ought to do something, but this [bill] isn't it."

[From the Harlingen (TX) Valley Morning Star, Sept. 22, 1992]

#### REGULATIONS NOT NEEDED

The debate over "re-regulation" of cable television sounds suspiciously more like a battle between cable and broadcast TV over market share, two behemoth industries, each protected and regulated in various ways by the government, trying to rig the rules in their favor.

The fact is that cable television was never "deregulated" in any meaningful way in the first place. The industry was freed of federal price controls under the Cable Communications Policy Act of 1984 (which went into effect in 1987) but has never been subjected to real market competition. Cable television still operates through a system of virtual monopoly franchises granted by local governments to operate in limited areas. That is a recipe for the sorts of problems consumers complain about: higher prices, poorer service.

Legislation before Congress would, above all else, further regulate (rather than "re-regulate") the industry by virtually turning it into a public utility.

The bill would give new powers to the Federal Communications Commission to set cable service and price standards. Far from introducing competition, the bill effectively would impose a national cartel. It is difficult to see how service would improve if cable company profits are limited by political decision-making.

The bill also attempts to settle a long-standing complaint from the broadcast television industry, forcing cable firms to get permission to offer network programming on the cable. It would also force cable firms to sell their own programming to competitors. Such decisions ought not to be the province of government and would not be both broadcast and cable television truly deregulated, that is, set free from both government protection and government intervention.

The costly, anti-competitive cable re-regulation bill should be short-circuited. The real problem with cable TV is that it still is regulated too much.

[From the Akron Beacon Journal, Sept. 21, 1992]

#### MEDDLESOME BILL

All along, the trouble with congressional attempts to reregulate the cable television industry has been that lawmakers seem ill-equipped to set new rules, thousands of them, for an industry that is rapidly changing. What's written today may well be obsolete before the subject comes up again on Capitol Hill.

The result will be an industry less in tune with viewers, equipped with fewer tools to develop new programming, to provide the products the market demands.

That prospect hasn't deterred lawmakers. The House of Representatives plunged ahead last week, approving legislation that a majority claims will benefit consumers, holding prices down, ensuring that cable is affordable for most Americans.

The one encouraging thing about the vote was that the majority may not be enough to override an expected veto by President Bush. Even before the president acts, the Senate could put a halt to this shortsighted legislation. It could reject the bill, perhaps as early as this week.

To be sure, some of the nation's 11,000 cable operators have gouged their customers. Across the country, cable rates have increased 60 percent since 1986, two years after

the industry was deregulated. However, rather than write legislation that aims at the bad actors, lawmakers would penalize the industry as a whole.

Among the many new rules, Congress would expand requirements on cable operators to carry certain channels. It would more narrowly define the package of channels they can offer. It would require cable firms to pay broadcasters for the right to transmit their signals.

The latter step is particularly onerous, since cable actually extends the reach of broadcasters, even \* \* \* homes. More \* \* \* casters alone would profit from programming transmitted to cable, programs that, in many cases, it developed. Quite reasonably, Hollywood wants a share of any transmission fee.

As eager as proponents of reregulation are to point to the rising costs of cable, they should note as well that, in the same time, programming has improved dramatically; far more channels are available. And significantly, the number of subscribers continues to rise, from 17.7 million in 1980 to 56.2 million in July.

If consumers are voting with their dollars, that suggests a substantial degree of satisfaction with the cable industry.

If anything, Congress should be opening the doors to greater competition. That would not only diminish the power of the quasi-monopolies that cable franchises are, it would attract new investment to the industry, the kind of investment that encourages new programming and new methods of broadcasting, the kind of investment that, in the long run, better serves consumers of television.

[From the Denver-Rocky Mountain News, Sept. 20, 1992]

#### CABLE BILL: STATIC AND SNOW

Suddenly the commodity preoccupying the U.S. Congress isn't wheat or sugar or tobacco but potatoes—the variety that takes root on den couches. Hence, by a 280-128 vote, the House has approved a measure that would cap the rates cable TV companies can charge for basic service.

Under the House bill, bureaucratic fingers would be all over the fine-tuning knob. Congress not only would empower the Federal Communications Commission to set and enforce "fair" cable charges, Congress also would specify how many phone lines each cable company must dedicate to customer complaints. It would require cable operators to refine technology within 10 years so that subscribers to basic service could enjoy one "free" premium channel (e.g., HBO). Good grief, Congress doesn't regulate the Post Office this closely.

Most Congress members claim that reregulating cable, liberated from federal control in 1984, would save consumer dollars. But the FCC would set rate ceilings only for bedrock service—local commercial and public channels, plus one or two "super stations." These strictures would impel cable companies to charge fees for each of the 30 or so channels (ESPN, The Discovery Channel, etc.) that they now sell for one flat price. Some bargain. True, the feds could begin capping rate for these "second-tier" channels, too. But Washington cannot force a business to operate at a loss. Hold onto those rabbit ears, friends.

Yet one provision of the House bill makes sense—that barring local authorities from offering cable firms exclusive franchises. Such sweet deals explain cable overpricing; in towns where viewers can choose between two services, channel selection is greater and monthly charges average 25 percent less.

But one decent feature does not a whole bill redeem. President Bush should veto this cable regulation measure, which is mainly static and snow.

[From the Washington Post, Sept. 19, 1992]

#### UNCLE SAM IN CHARGE OF CABLE

The cable legislation approved by the House and now headed for a Senate vote calls for the federal government to step in and re-regulate the industry from rates to program packaging. But this approach assumes that cable, now supplied mostly by monopolies, is a utility as necessary as electricity or telephone service. In fact, cable is a consumer option in what should become a more competitive market. This particular bill would give government a role in cable that consumers may not find so welcome over the long haul.

Forget the cable industry ads predicting that passage of the bill would send everybody's cable rates through the ceiling. Forget as well the arguments of supporters—including over-the-air broadcasters, who like a provision that would force cable operators to negotiate with them before retransmitting their signals—that the bill would force price cuts of up to 30 percent. Both sides—and we note here that The Washington Post Co. owns cable systems as well as broadcast television stations—have restored to heavy lobbying. So has the motion picture industry, which opposes the bill because Hollywood wouldn't get any cut of the royalties that broadcasters could seek from cable operators.

Under the measure, the government would set "reasonable" rates for what it would define as "basic" programming, control prices for installation and equipment, require efficient customer service and force cable operators to equip all subscribers for channel selections that now are sold as packages of channels. The result of all these requirements is not more competition; its more likely to be cost-cutting by eliminating cable programming or even entire channels.

The effort to control gouging by cable operators should focus on increasing competition, not on heavy reregulation. Until competitors do materialize, some determination of a reasonable rate of return for certain basic cable service is a legitimate legislative pursuit next year. This bill goes overboard.

[From the Baltimore Sun, Sept. 19, 1992]

#### DISTORTING THE CABLE TV BILL

The battle now reaching a climax in Congress over re-regulating the cable television industry is a classic example of a bill intended to aid consumers that has almost been submerged by interest groups fighting each other for competitive advantages.

The bill started as a consumer protection measure. Congress lifted controls on cable TV operations in 1984. Charges promptly skyrocketed in many areas. Often service quality dipped almost as quickly. The cable TV operators gained a reputation for concentrating on expansion and amalgamation but neglecting their captive audiences. The bill would restore price controls on cable TV and impose quality standards for service. It would also ease the way for competitors in the 97 percent of areas that are saddled with monopoly franchises.

So far so good. Even some in the cable TV industry could live with that. But the bill, passed Thursday in the House of Representatives and due soon for a final vote in the Senate, goes father. It would force the cable systems to negotiate with the over-the-air

broadcasters for the right to carry their signals on their systems. Now the cable systems are required to carry local broadcasts but need not pay for them. The bill would also force the cable companies to sell programming that it has developed for its own use to potential competitors.

These latter two provisions have the cable industry howling. It had howled so loudly and, in some cases, so irresponsibly that it has damaged its own case. The cable industry contends the new regulations would increase customers' bills by perhaps \$4 a month. No one knows what, if anything, cable systems would have to pay broadcasters for the rights to carry their signals. Maybe nothing. The broadcasters and cable systems need each other: Cable would be hard to sell without network and local over-air programming, and broadcasters need to assure their advertisers the programs they pay for are reaching the whole market.

With House passage, the battle shifts to the Senate. The cable industry is lobbying furiously to get enough Senate votes to sustain a promised veto by President Bush. It's getting help from Hollywood, where movie producers have decided that if cable must pay for over-air material, they should get a cut of the programs they produced, too.

While the bill's sponsors still point to this protection for consumers as the measure's main features, it has in fact been encrusted with provisions that could mean billions of dollars to broadcasters and Hollywood producers. If the Senate fails to muster a veto-proof majority, the bill's original supporters ought to start all over next year, keeping the new proposal strictly focused on the consumer's interests.

[From the Wyoming Eagle, Sept. 17, 1992]  
CABLE BILL WOULD END UP HURTING  
CONSUMERS

It's been difficult to turn on a television set in recent days without being bombarded by commercials both for and against the cable reregulation bill now before Congress. With all of the hype, it's difficult to look beyond the emotional appeals and see how the legislation would truly impact both the industry and the consumers' wallet.

The cable industry, arguing for deregulation eight years ago, claimed that regulation had kept rates artificially low. As a result, since the industry won that battle in Congress, cable rates have risen three times faster than inflation.

Cable critics charge that for the extra money, many consumers have received shoddy service. The industry counters that it has invested in both improved equipment and programming.

In a sense, both claims have some validity. However, arguing about who's right and who's wrong in this controversy really does not get to the heart of the matter: what action will best protect the consumer in the future?

The cable bill approved by a House-Senate conference committee was originally designed as a pro-consumer piece of legislation that would hold down rates. However, it has turned into a mishmash of federal regulations that could easily lead to precisely what the cable industry has warned customers about in its campaign against the bill: higher rates.

Estimates by the Office of Management and Budget, the Department of Commerce and the industry itself indicate that the bill's passage would see cable bills rise between \$2 and \$4 per month. The increase would be justified by the cost of the bill's

provision that cable operators would have to pay local broadcast TV stations for using their signals. The cost would simply be passed on to cable customers.

Mr. KERRY. Mr. President, section 19 of the conference report directs the FCC to establish regulations to limit discrimination between satellite cable programmers and satellite broadcast programmers on the one hand, and multichannel video programming distributors on the other. Subsection 2(B)(ii) of section 19 provides that in setting its regulations the FCC shall not prohibit a programming vendor from establishing different prices, terms and conditions to take into account actual and reasonable differences in the cost of creation, sale, delivery, or transmission of satellite cable programming or satellite broadcast programming. Am I correct in understanding that as used in subsection 2(B)(ii) the cost of creation, sale, delivery or transmission of programming refers to costs incurred at the multichannel video programming distributor's level as well as at the program vendor's level?

Mr. INOUE. That is correct.

LOW-POWER TELEVISION MUST CARRY  
AGREEMENT

Mr. FORD. Mr. President, I would like to commend my colleague, the Senator from Hawaii for his efforts in moving cable legislation this year. I am unaware of any legislation that has stirred up so much activity and debate. Throughout the long hearings, negotiations in committee, on the Senate floor and in the conference committee the Senator from Hawaii is the glue that held this all together. He is very aware and has been most helpful on an issue that is important to me—must carry provisions for low-power television stations. When the Commerce Committee considered S. 12 I was successful in adding an amendment to provide must carry for low-power stations. There was no similar provision in the House cable bill. After long negotiations the conference report contains limited must carry for low-power stations and there has been some confusion about some of the limitations. I would like to address several questions to the chairman of the Subcommittee on Communications about this provision.

Mr. INOUE. I would be happy to answer questions from my colleague from Kentucky.

Mr. FORD. In section 614 low-power television stations are allowed must carry if the community of license of such stations and the franchise area of the cable system are both located outside the largest 160 metropolitan statistical areas, ranked by population, as determined by the Office of Management and Budget on June 30, 1990 and the population of such community of license does not exceed 35,000. Since the conference report was filed there have been questions raised as to whether the

cable system within the 35 miles limitation for must carry for low-power stations is in a community of over 35,000 if that cable system has to provide must carry.

Mr. INOUE. It is my understanding that the 35,000 population limit only applies to the community to which the low-power station is licensed. The limitations in this section were to make the amendment only apply to rural areas. The conferees did not intend to draw the amendment so tightly that it would not apply to any low-power station.

Mr. FORD. I would like to thank my colleague as I share his views. There is one other troubling provision that has been pointed out to me by low-power stations in Kentucky. Subsection (F) limits must carry for low-power stations if there is a full-power station licensed in the county or other political subdivision. Again, this provision only applies to the community of license and location of the low-power station, not the cable systems required to must carry a low-power station.

Mr. INOUE. That is correct. This restriction only applies to the area in which the low-power station is located.

Mr. FORD. I thank my colleague.

Mr. BROWN. Mr. President, would the chairman yield to engage in a colloquy on several provisions of the conference report on S. 12, the Cable Television Consumer Protection and Competition Act of 1992?

Mr. President, the cable industry is extremely important to my State of Colorado, and Jones International, Ltd., based in Englewood, CO, is one of the reasons why. Jones is representative of the cable industry's outstanding contribution and dedication to revitalizing America's educational system. Of particular merit is Jones' Mind Extension University [ME/U]: The Education Network, the Nation's fastest growing distance education network.

ME/U was established in 1987 to make equal access to education a reality for all Americans: regardless of where they live or what their condition in life. As a 24-hour education network, ME/U is affiliated with more than 20 prestigious universities and colleges across the United States and serves approximately 20 million households. It is the only cable program to offer a degree over the airways, offering more than 40 college courses each semester in topics ranging from mathematics to education. In addition to earning a college degree from the University of Maryland, students can earn a masters of arts degree in Education Technology from George Washington University or an MBA from Colorado State University.

I am therefore interested in two provisions in the Conference Report for the Cable Television Consumer and Protection Act of 1992. The first of these pertains to carriage of non-

commercial stations and access for "qualified educational programming sources". In reference to the non-commercial educational television provision, I feel the conferees have perhaps unintentionally slighted providers such as Jones' Mind Extension University: The Education Network.

Mr. INOUE. I would be happy to respond to my colleagues questions. First, in a report submitted to Congress in July 1990, the Federal Communication Commission, supported by a wealth of data, strongly recommended that Congress accept the noncommercial "must carry" requirement adopted by the conferees. I am very familiar with the Mind Extension University: The Education Network, and I want my good friend to know that I have been favorably impressed by its programming. In fact, as I told Glenn Jones himself, if all cable companies responded to the 1984 Cable Act as Jones International did, the legislation we are prepared to pass today may not have been necessary.

Mr. BROWN. I thank my colleague for his thoughtful comments. I now want to turn to another section of the House bill which was adopted by the conferees. In particular, I would like to address the provision related to qualified educational programming as defined in section 9(c)(3) of the conference report. The authors of this provision have chosen to define qualified educational programming source as "any programming source that has a documented annual expenditure on programming exceeding \$15,000,000", excluding general administration costs as well as operational costs. Mr. Chairman, ME/U is unequivocally one of the nation's finest educational programming initiatives. Unfortunately, it is unclear whether ME/U would meet the \$15,000,000 threshold established under this provision.

Could the chairman explain the genesis and purpose of the \$15,000,000 threshold? I am concerned that it may have the unintended effect of discouraging small educational providers from committing the resources to educational programming. Since the programming is commercial free, wouldn't the objectives of the act be best served by making the limited access available to all developers of educational programming, thereby increasing competition and quality of coverage?

Mr. INOUE. My distinguished colleague raises an important point. I do not believe it was the conferees intention, by creating a \$15,000,000 threshold, to exclude access for small private ventures. On the contrary, the intent of the legislation is to broaden the universe of providers of educational programming, and to do so in a non-discriminatory manner. If my colleague desires, I will work with him to correct any problems created by the \$15,000,000 threshold.

Mr. HOLLINGS. Mr. President, I rise in support of the conference report on the Cable Television Consumer Protection and Competition Act of 1992. I am disappointed that the President decided to veto this bill. This is a bipartisan bill, in which Congress is responding to the problems of consumers and the market. I have received thousands of consumer complaints from Americans all across the country concerning the cable industry, and I know my colleagues have received the same. In South Carolina, I have heard complaints from mayors and individual consumers about their cable rates and service. Skyrocketing charges, service outages, anticompetitive abuses, and other monopoly practices have generated an overwhelming public outcry for legislation to address these problems.

S. 12 is a carefully balanced effort to rein in the excesses of the cable industry without blocking further growth and technological innovation. Consumers will say that we should have regulated all cable services across the board. Competitors will say that we should have broken up the cable monopoly. Cable claims we are doing too much. But we have not taken a radical course. The bill that has emerged from our negotiations with the House is carefully tailored to address the most egregious cable practices—unreasonable rates, poor customer service, unfair marketplace advantages.

The President in his message vetoing this bill states that he opposes the retransmission consent and must-carry proposals in this bill. The record should reflect that earlier this year the President and the cable industry both supported those provisions when they were in the so-called Packwood substitute.

The assertion that the access to programming provisions of S. 12 will have the Government dictating the price of programs and to whom those programs must be sold is false. The access to programming provisions merely state that programmers cannot discriminate in making their programming available to other multichannel video distributors. Cable operators are free to set whatever prices they deem appropriate and sell to whomever they please so long as they do not discriminate.

Moreover, this is not the first time that action has been taken to help promote the development of competition in the video marketplace. In the late 1950's, cable operators were given the right to carry broadcast stations for free, in part, to help stimulate competition to broadcast stations. In the 1970's, in another attempt to stimulate competition, the FCC adopted the financial interest and syndication rules, which limit the ability of the networks to own and control programming. Today in the 1990's, we find that competition to cable is stifled by the in-

ability of competitors to obtain programming.

The cable industry is no longer a second-class video distributor that only retransmits broadcast programming. It has de facto exclusive franchises. It appears well on its way to becoming the dominant video distributor, and we must be attentive to the problems that monopolies create.

For instance, consider the situation in my own State of South Carolina. In Greer, Cencom Cable provides 36 channels of programming for \$23.95, while next door in Mauldin, customers pay \$25.95 for only 21 channels of programming. Consumers are paying more for less. In addition, prices have risen dramatically. In Bennettsville, the cable operator charged \$7 for basic cable in 1986; in 1991, it charged \$16.95, an increase of 142 percent for similar service. In Charleston, cable rates were \$10.45 for 35 channels; in 1992, the charge is \$22.00 for 29 channels, an increase of 111 percent, to receive fewer channels. In Spartanburg, customers were charged \$12.93 for 30 channels in 1986; in 1991, they were charged \$27.45 for the same number of channels, an increase of 112 percent. Everyone is frustrated, but there is little that the local authorities can do about these rate increases once the franchises are awarded.

When the cable debate first began 4 years ago, I was skeptical of the need for new legislation. The 1984 act seemed to have succeeded in achieving many of its goals. However, I have become convinced that there is a need to adjust the environment in which cable operates. S. 12 does not overturn the 1984 Act; it is a reasonable bill intended to address legitimate concerns about the provision of cable service.

The most ironic aspect of the cable industry's opposition to this legislation is that many of the provisions in this legislation are the result of the Commerce Committee's discussions with the cable industry last Congress when we were considering S. 1880. In fact, S. 12 contains many of the provisions that the cable industry agreed with only 3 years ago. But the cable industry walked away from the agreement we had reached. We offered to sit down several times with the cable industry to attempt to work out our differences, but the cable industry refused. Now we find that the cable industry is pulling out all the stops to oppose this legislation.

I believe that the conference report on S. 12 is a targeted approach to problems with the cable industry. It protects consumers and encourages competition, while at the same time permits the cable industry to grow. It enjoys the full support of the Consumer Federation of America, senior citizens, city and State officials, the National Association of Broadcasters, labor groups, cable competitors, and satellite

dish owners. The conference report on S. 12 is the product of many years of work by committees in both the Senate and House. The bodies have ironed out the differences between the two bills in bi-partisan and productive fashion.

I particularly thank Senators INOUE and DANFORTH for all of their hard work on this bill. This is an opportunity to show the public that Congress cares about their concerns. I urge my colleagues to support this important and necessary legislation and vote to override the President's veto.

Mr. DURENBERGER. Mr. President, I will vote today with the rural citizens of Minnesota and cable customers across my State to override this veto of the Cable Consumer Protection and Competition Act of 1992.

To say that this bill has been the subject of heavy lobbying would be an understatement. If people could get as worked up about reducing the deficit as they have on this bill, we could get somewhere.

But this issue should be decided on the merits, and it is the consumers of Minnesota who have by far the strongest case.

I have always believed that the marketplace does the best job of creating innovation, allocating resources and setting fair prices. I am generally suspicious of regulation. Government only has a reason to step in when it is clear that the market is not working.

No one can look at the cable industry now, especially in rural areas, and call that a market. These protected, regional monopolies are doing what monopolies always do: Provide a lesser quality product for a higher price.

Mr. President, my roots are in small town Minnesota. Small towns are as important to Minnesota's future as they have been to our past. But whether the issue is health care, insurance or cable television signals, rural citizens usually pay far more for far less than their fellow citizens in urban or suburban areas. That is the economic law of numbers at work.

But unless we're willing to watch those communities have their quality of life whittled away until there's no reason left to live there, Government, at times, is going to have to intervene to restore some fairness to the marketplace.

This is just such a case.

Many citizens of rural Minnesota receive their cable T.V. programming through the National Rural Telecommunications Cooperative, which was set up by REA. NRTC sells the signal at cost to 72,000 customers. Do you know what the difference in price is between the cost of this basic service that rural Minnesotans get from a non-profit group and what someone can buy in the Twin Cities? About 500 percent. It costs someone in a small town five times as much, because that is the price cable companies can demand in a

non-competitive system. There can be no justifying that.

A constituent of mine, Bob Larson of West Central Telephone called to express his support for S. 12. West Central Telephone owns United Datavision, a cable company serving the towns of Sebeka and Menahga (Wadena County).

As a cable operator, he is cognizant of the regulation embodied in the bill, but favors it because it would foster new broadcast technology benefitting both his company and the consumer.

United Datavision recently purchased the franchise for all of the non-cable portion of Wadena County. Although it is too expensive to run coaxial cable to rural households, those same noncable households can be served by direct broadcast satellite [DBS].

United Datavision will be able to provide DBS starting on April 1, 1994. The DBS satellite will be put into orbit next year.

Portions of S. 12 encourage the development of new broadcast technologies, including DBS. DBS is not a hypothetical broadcast technology but a viable system that is in operation in other countries. These new broadcast technologies not only provide competition for cable, but will provide service to areas of Minnesota that have neither cable nor adequate over the air broadcasting.

Without S. 12, there is a danger that DBS will be locked out of the programming market by the cable operators; a viable system with nothing to broadcast. By encouraging DBS through the cable bill, the question of cable regulation may eventually become an ancillary issue due to the flexibility and potential of emerging broadcast technology.

The example of United Datavision points out that both technologies can exist simultaneously, providing new business opportunities, better service, lower prices and jobs. With our without cable, much of rural America is ill-served by the broadcasting community. The cable bill contains provisions that reach beyond our existing broadcasting systems. By raising our sights above the warring factions and looking at good broadcasting itself as the aim, we can better serve the people of Minnesota and the Nation.

Like many of my colleagues, I found this far from an easy decision to make. In fact, I voted for the repeal of cable regulation in 1984. I stated then what I wanted to accomplish through deregulation. However, upon examining the state of cable service and prices since deregulation, I know that bill did not work. I have found that cable rates have skyrocketed, increasing at three times the rate of inflation, while there has been a concurrent plunge in the quality of service.

Mr. President, this bill will not stifle competition as the cable companies

have suggested because currently, there is no competition in 97 percent of the market. In the areas of the country where there is true competition in the cable industry, the rates are 30 percent of those in the monopolistic markets.

Cable operators argue that they have substantially increased the scope of options available to their subscribers; in fact, they have had a substantial increase only in price. Most of the innovation in the cable industry has come in the form of more pay channels or pay-per-view choices, while at the same time the basic rates have exhibited exponential increases. The shift toward pay-per-view maintains a cable monopoly over selected programming even in the face of competition.

In analyzing the nature of the cable television market, I have tried to determine if there is a viable solution to the problems in the industry that could be addressed through market forces. My determination is that there are significant enough impediments to an effective market place to warrant the adoption of S. 12.

The truth is that cable operators benefitted from the boost which came with deregulation back in 1986, just as Congress intended. Cable access improved, programming increased 50 percent, and market share increased.

But Mr. President, the providers of cable service consolidated their operations through leveraged buy-outs, accessibility to programming for competitors was greatly reduced, and rates increased well beyond the rates of inflation. While deregulation has achieved the goal of market expansion, it has unfortunately created a monopolistic rather than dynamic market.

Mr. President, I believe that business as usual will not achieve the goals of fair rates for consumers and a strong and competitive market for cable operators and programmers. In a vibrant market, businesses do not ignore consumer preferences with impunity.

The cable industry is not a vibrant, competitive market. It is an unregulated monopoly and takes advantage of consumers who have no choice but to accept the rising rates and deteriorating quality of service. Many of our constituents have complained that the cable operators are unresponsive. Currently, cable operators are in a position to ignore requests for services and complaints about customer service due to the complete lack of alternatives available to the customer.

When cable was in its infancy, it was granted the authority to retransmit local broadcasts without permission from or compensation to the broadcasters. That was as it should have been when cable essentially provided an antenna service for those who were not able to receive broadcast signals by conventional means. The situation, however, has changed.

After regulation ceased, cable operators became active players in all as-

pects of broadcasting, and are now direct competitors with broadcasters. They compete for advertising revenues, present alternative programming, and are a potent force in negotiating for lucrative programming such as major sports broadcasts.

Currently, cable's congressional mandate to carry programming purchased and produced at the expense of over-the-air broadcasters gives cable operators a significant advantage over broadcasters. While the availability of network programming, local programming, and public television on cable systems is a significant selling point for cable operators, broadcasters receive no reciprocal benefit from cable operators.

In the years since deregulation, cable operators have become increasingly competitive in the advertising community, and are in direct competition with the broadcasters, while using the broadcaster's programming to help sell their services. In effect, broadcasters subsidize a portion of cable programming; for cable operators, retransmission is a bonus, not a burden.

The retransmission consent portion of S. 12 will, in my judgment, ensure that FCC licensed broadcasters will not be hampered by the obligation to provide programming for their competitors in the advertising market. Under the 1934 Communications Act, broadcasters are not allowed to pick up other signals without consent. Retransmission consent would guarantee that cable operators should abide by the same rules.

Similarly, the must-carry regulation will benefit both local broadcasters and the communities which they serve by assuring that local signals are available through the local cable system. The combination of these two provisions will guarantee that broadcasters can effectively fulfill the purpose for which they were granted a license. Neither one of these provisions would necessarily require cable subscribers to pay for local broadcast television. The provisions do, however, ensure that broadcasters have a measure of control and certainty in how their programming is used.

Although my inclination is to look at regulation with a skeptical eye, the provisions of S. 12 represent a restrained approach. First, it prevents a patchwork of wild regulation by directing the FCC to establish a uniform standard under which local authorities can request regulatory authority.

Second, this regulation is only applicable to the basic tier of service and does not cover premium channels. It will manage programmers who are vertically integrated with major cable operators, by providing popular programming to competitors such as Wireless Cable. In so doing, it will send to the investment community a clear signal of support for such competitive alternatives.

Third, cable operators are afforded rights of appeal to the FCC. Finally, despite the arguments of its detractors, this bill is not an example of onerous regulation and governmental interference. The regulation embodies in S. 12 is only applicable to those areas where effective competition does not exist and its controls will be phased out upon the realization of such competition.

After long deliberation, Mr. President, I have determined that S. 12 is the best way to ensure that cable rates reflect market forces rather than indicating monopolistic prerogative. Implementation of the provisions of S. 12 are necessary to assure that cable rates and services are tied to positive market forces resulting in a discernable improvement in service, programming, and technology.

I have supported my President often on the vetoes he has sent to this Congress. I believe he has stopped a lot of bad legislation from becoming law. But I question the wisdom—both in terms of politics and public policy—of banking all that on this bill.

In 1987, President Ronald Reagan told several of us that it was crucial for Republicans to support their President and sustain his veto of the highway bill. As we all recall, it was a time when President Reagan was in very obvious political need. His Presidency was racked by the public trial called Iran-Contra. He asked us to put his interests ahead of the views of our constituents.

My message today is the same as it was then: "I'm sorry, Mr. President, Minnesota comes first."

Mr. ADAMS. Mr. President, I rise today to urge my colleagues to join me in overriding the President's veto of the Cable Television Consumer Protection Act.

This vote boils down to one issue and one issue only—greed. The cable industry exerts such an overwhelming monopoly that in more than 99 percent of the local markets, only one cable company exercises control. Since deregulation, the cable industry has established a stranglehold on the consumer pocketbook. The price of cable service has soared, more than tripling the rate of inflation.

There must be something wrong with the TV reception at the White House these days. The President receives the cable industry message sharp and clear and he never focuses on the consumer picture. Contrary to the recent wave of misinformation by the cable industry, the cable bill is a responsible approach towards reducing price gouging and encouraging increased competition in this monopolized industry. Where there is no effective competition, this legislation seeks to provide fair and responsible regulation of rates in order to protect consumers.

With unemployment at more than 9 million people and the economy in a

chronic recession, any rate increase has a harmful effect on American households. Rate increases have an especially harmful impact on people with fixed incomes. Cable TV has become a lifeline to the world for many senior citizens; and as the National Council of Senior Citizens points out, seniors on fixed incomes find it harder and harder to pay their skyrocketing cable rates.

Shocking rate increases for individual households since enactment of the 1984 Cable Communications Policy Act make the rate regulations of basic tier cable the most important provision in this bill. The average rate increase since 1986 for our five markets in Washington State was 85 percent.

A Washington State senator recently wrote me that he receives hundreds of letters annually from cable television customers complaining about poor service, increasing rates, and a lack of choice. This bill give consumers a choice and is simply the right thing to do.

A mayor of a major city in the State of Washington recently wrote me the following note:

For the past 2½ years City staff has been engaged in franchising negotiations with our local cable operator. We have discovered that few of the public benefits envisioned by the supporters of the 1984 Cable Act have come to fruition, and the process of crafting a franchise which meets the community's future cable-related needs and interests is frustrated for all sides involved.

The cable bill is a responsible measure that looks forward to future competition, especially from new wireless cable systems. It provides competitors of the existing cable system with fair access to programming. The Skyline Entertainment Network, a wireless system in Spokane, WA, claims that big cable system operators try to maintain their monopolies by limiting their competitors' access to programming. Skyline and a similar wireless system in Yakima, WA, are good examples of the type of new systems that the bill will encourage.

Let's set the record straight. Responsible regulation to protect consumers and encourage competition is not misguided micromanagement of the cable industry; it is simply common sense. Consumers cannot continue to be burdened by the unrestrained hand of an expansionist monopoly over the cable marketplace. We, in this body, have a responsibility to the public to get the cable industry headed down the right road, and eventually toward a competitive market with the consumers' best interest at heart.

It has always been the province of the President since the days of Teddy Roosevelt's trust busting to protect the American people from exploitation by the outrageous business conduct of monopolized industries. That responsibility now lies in the hands of Congress because this President has abdicated Government's role in consumer protection.

Mr. President, in conclusion, I call upon my colleagues to put partisan interests aside and champion the best interest of the American people by voting to override the President's veto. It is a good bill, it is fair bill, and will protect consumers against outrageous price gouging by the cable industry.

Mr. SIMPSON. Mr. President, I rise to discuss the veto message to S. 12, the cable bill.

This is certainly one of the toughest votes that I have cast during this session of Congress. It ought not to have been. It is not the substance of this bill that has made it such a tough and difficult vote, but rather the swirl of hype and distortion that has surrounded the issue, usually in the form of well-funded advertising from the various sides that stand to gain financially from the outcome of this vote.

It is interesting to notice how cable television and network television, who have such difficulty finding time to air important information about such issues as the Federal deficit, have managed to flood the airwaves with, to put it charitably, misleading ads about this legislation.

It has not been a pretty sight. Both sides have striven valiantly to portray themselves as being on God's side. We are defending the people, defending the consumer, the ads all imply, and anyone on the other side is a foe of the consumer.

That simply is not the situation, not by a long shot. It is, instead, a question of whether an imperfect regulatory bill is better than the status quo. It is not an easy choice, and reasonable people can disagree.

I had various concerns about this legislation, and I have them still. I voted for the Packwood substitute last January in an effort to moderate the terms of the legislation. That amendment failed, 35 to 54. Despite my concerns, I voted for this bill because I did not think the existing situation—with cable television acting as a local monopoly in almost all cases—could be made to work for the consumer. We needed some legislation to bring more competition into the system, and to regulate practices where that competition did not arise.

This was not a choice, to my mind, between doing right and doing wrong—it was a very difficult choice between a bill that I believed was imperfect and a status quo which I felt ought to end.

I am very, very disappointed to be voting to override a veto at this time. The President is perhaps the sole individual who did not play politics with this issue. His opposition to the bill was consistent from the beginning. The Congress failed to address his concerns in conference—and knowingly did so—and he was left with a bill he could not sign.

That all being said, I must hold to my position that this bill is better

than no bill. I believe that Senator DANFORTH and others have done their best to put together a bill that gives some immediate relief to the consumer while opening the door to a greater amount of competition in the cable industry. The rate regulation provisions have been moderately drawn in conference, and I have always favored the retransmission consent provision. The consumer needs some provisions like these while the provisions promoting competition take time to work.

My final view is simply that, if we pass this bill, the consumer will be better served than if we don't.

So I cast this vote with some reluctance and some frustration. I fell confident that I am acting in accordance with my view of the public interest—I am not as confident about the altruistic attitude of some others who have pontificated about this issue. It is tiresome to be lectured to about moralities by commercial interests who view this issue through the prism of their own profit motives.

But that is enough—I will now hold my peace on the subject. I will support this legislation, notwithstanding the President's veto, and I urge my colleagues to do the same.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DOLE. Mr. President, when it comes protecting cable consumers, the sponsors of this bill have tuned into the wrong channel.

As I see it, Congress has two responsibilities in addressing consumer problems with the cable industry. First, and foremost we must ensure that consumers are not gouged and that they are protected both today and tomorrow. And second, we should establish a strong communications policy that ensures our Nation's edge in the communications industry. Unfortunately the bill the President vetoed fails on both counts.

Consumers have asked us to address the very real problems of cable rates and service shortcomings. I cannot recall a town meeting or chamber of commerce breakfast back in Kansas that did not hear at least one complaint about this industry.

So the urge to do something is understandable and justifiable. But that something should not be a measure that will cut off the development of the programming and information that consumers really want, should not be a reregulatory scheme which will entrench and perpetuate the existing

cable monopolies, and above all, should not be something that in the end will leave consumers paying more for less, still captive to a government sanctioned monopoly.

Mr. President, from the perspective of genuine consumer protection and common sense communications policy, this bill flunks the test.

S. 13 dictates cable system architecture for the 10 years and thereby ignores more cost effective delivery systems that may come with innovation. This mandate is an expensive gambit, raising costs of cable operators up to an estimated \$5.8 billion.

S. 12 was stripped of any true competitive provisions. I supported a provision to promote competition in rural areas by permitting telephone companies to offer cable services to communities with populations smaller than 10,000. This provision would have gone a long way toward reasonable cable rates for rural America. Unfortunately, it was completely eliminated in conference.

While S. 12 does not understand competition, the FCC does. Earlier this year, the FCC authorized telephone companies to deliver video programming to consumers through video dialtone services, which I encouraged. If we were really serious about promoting free-market competition, we would have provided in this bill for telephone company entry—the only entity strong enough to go head to head with the cable companies. True competition spurs better services, innovation, and jobs.

And let us face it, S. 12 is not the consumer's Robin Hood. It does not take from the rich and give back to the poor. Cable companies are not going to get stuck with this bill. The consumer is. That means that under this bill, cable customers will pay even more to watch the proceedings of Congress on C-SPAN, or whatever their favorite programming may be.

Mr. President, as we approach the 21st century, we must also have a coherent communications policy. America has a rich history in the communications field—from the pony express to the telegraph, telephones, radios, and televisions, we have always been innovators and world leaders.

With recent and rapid developments in the communications field, including computers, fiber optics, fax machines, cellular phones, and satellites, America needs a flexible, forward-looking communications policy more than ever before. Restrictive regulatory policies will be counterproductive and will mean that the United States will lose its global competitive edge. Competition, not Federal regulations, is the only regulator that can accommodate the opportunities that will accompany advances in technology.

Mr. President, this bill is not the answer to the justifiable frustrations of

cable consumers. This cable bill is neither good for the consumer nor good communications policy. We all want to address the concerns of cable consumers, so let us change the channel, tune in next year, and do it in a responsible way.

I urge my colleagues to sustain the President's veto.

Mr. President, for all the reasons I set forth in my statement, I think the veto should be sustained. I am not certain the veto will be sustained. But I would just add one additional thing. Like any other bill near the election, there has been a lot of politics and a lot of talk about politics and a lot of comments about the President's position and others' positions with reference to this bill.

My junior colleague from Tennessee was quoted as saying in the Chicago Tribune, September 29, 1992:

George Bush knows that on this issue this cable monopoly owns him lock, stock, and barrel. If you veto the cable bill, you will have sided with the monopolies and against the American people.

Another quote in the Associated Press just a couple days ago: "President Bush has vetoed important consumer legislation to protect his rich friends in the cable monopolies."

Another in Reuters, the same date: "So he can protect the ability of big cable companies to keep soaking their consumers."

In my view, this is partisanship to the nth degree, and it makes it rather difficult, I hope, for some of my colleagues on this side of the aisle to understand that this has become a political game. This is politics. The merits of this legislation went out the window 2 weeks ago, 3 weeks ago, 30 days ago. And now we have one candidate for Vice President, my distinguished junior colleague from Tennessee, out saying the President is owned lock, stock, and barrel by the cable industry. Where is the proof? Where is the proof? And how can we continue to make reckless charges just because it may be campaign season?

So I say to my colleagues on this side of the aisle, this is politics. This is an effort to embarrass President Bush 30 days before the election, 1 week before the first debate. That is what it is all about. The merits of this legislation have been forgotten. We have a fight between big money interests on both sides, the networks, the cable companies, the movie industry, the big newspapers, and the consumer has been forgotten.

So I urge my colleagues to sustain the President's veto. He has not asked for much. We have sustained 10 vetoes in the Senate. They have sustained 10 vetoes in the House. Some have been pocket vetoed, some have been referred to committees. This is an important piece of legislation. It should not have been politicized, but it has been politi-

cized. So I ask my colleagues on this side and the others who have voted with us before to sustain the President's veto. We will get good legislation next year based on competition and not reregulation, based on policy and not based on politics.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from Missouri is recognized.

Mr. DANFORTH. I ask unanimous consent to proceed for 1 minute.

The PRESIDING OFFICER. The Senator indeed has 1 minute. He will be recognized.

Mr. DANFORTH. Mr. President, this is not a partisan bill. This bill was reported out of the Senate Commerce Committee with a majority of Republicans voting for it. The fact that a Presidential veto is overridden is not a slap in the face to the President. President Reagan had 9 vetoes overridden. President Nixon had 7. President Eisenhower had 2. President Truman, whom everybody is citing this year, had 12 vetoes overridden. It is not an insult to the President. It is merely a disagreement on an issue.

The PRESIDING OFFICER. The question is, Shall the bill pass, the objections of the President of the United States to the contrary notwithstanding? The yeas and nays are mandatory under the Constitution. The clerk will now call the roll.

The assistant legislative clerk called the roll.

Mr. MACK (when his name was called). Present.

The yeas and nays resulted—yeas 74, nays 25, as follows:

[Rollcall Vote No. 264 Leg.]

YEAS—74

Adams	Ford	McConnell
Akaka	Glenn	Metzenbaum
Baucus	Gore	Mikulski
Bentsen	Gorton	Mitchell
Biden	Graham	Moynihan
Bingaman	Grassley	Murkowski
Bond	Harkin	Nunn
Bradley	Hatch	Pell
Breaux	Hatfield	Pressler
Bryan	Heflin	Pryor
Bumpers	Hollings	Riegle
Burdick, Jocelyn	Inouye	Robb
Byrd	Jeffords	Rockefeller
Coats	Johnston	Roth
Cochran	Kassebaum	Sanford
Cohen	Kasten	Sarbanes
Conrad	Kennedy	Sasser
D'Amato	Kerrey	Simon
Danforth	Kerry	Simpson
Daschle	Kohl	Specter
Dixon	Lautenberg	Thurmond
Dodd	Leahy	Warner
Domenici	Levin	Wellstone
Durenberger	Lieberman	Wofford
Exon	McCain	

NAYS—25

Boren	Garn	Seymour
Brown	Gramm	Shelby
Burns	Helms	Smith
Chafee	Lott	Stevens
Craig	Lugar	Symms
Cranston	Nickles	Wallop
DeConcini	Packwood	Wirth
Dole	Reid	
Fowler	Rudman	

ANSWERED "PRESENT"—1

Mack

The PRESIDING OFFICER. If there is no other Senator wishing to vote, on this vote the yeas are 74, the nays are 25. One Senator responded "present." Two-thirds of the Senators voting, a quorum being present, having voted in the affirmative, the bill, on reconsideration, is passed, the objections of the President of the United States to the contrary notwithstanding.

Mr. DOLE addressed the Chair. The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, let me indicate that I am disappointed in the outcome, but I knew at the outset what the result would be. I say to my colleagues on this side, many of whom would have voted to sustain the President's veto, we were somewhere between 32 and 34 votes. We could never nail down the 33d one to get the 34th one. It has been a great effort.

I thank many of my colleagues who voted on the other side for a willingness to sustain the President's veto. This is the first time we failed to sustain the President's veto. There is still an opportunity in the House. We have sustained 10 vetoes in the Senate and 10 in the House; 7 or 8 have been pocket vetoed. Some have gone back to committees. There may be one other bill pending.

In any event, I thank my colleagues, and I thank the President of the United States for the efforts he made on a personal basis to help sustain the veto. I regret the outcome, but it is over, and I hope the right decision was made.

Mr. MITCHELL. Mr. President, I commend the authors of the legislation, the distinguished Senator from Missouri [Mr. DANFORTH], the Senator from Hawaii [Mr. INOUE], and the chairman of the committee, Senator HOLLINGS, for their diligent efforts in making the enactment of this legislation which is important to the American consumers possible.

LEGISLATIVE BRANCH APPROPRIATIONS ACT, FISCAL YEAR 1993—CONFERENCE REPORT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the conference report to accompany H.R. 5427, the legislative branch appropriations bill, with 30 minutes for debate, equally divided and controlled in the usual time; and at the conclusion or yielding back of that time, the Senate proceed, without any intervening action or debate, to vote on the legislative appropriations bill.

The PRESIDING OFFICER. The clerk will state the conference report.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the

amendments of the Senate to the bill (H.R. 5427) making appropriations for the Legislative Branch for the fiscal year ending September 30, 1993, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of today, October 5, 1992.)

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum and ask that the time be charged equally against the two sides.

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

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. 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 Nevada is recognized.

Mr. REID. Mr. President, the conference report on H.R. 5427, making appropriations for the legislative branch for fiscal year 1992, and for other purposes is at the desk. I have no reservation in recommending its adoption by the Senate.

The agreements incorporated in this Report 102-1007 add up to a fair, responsible, but, I stress, very tough bill. In the aggregate, the sum of the appropriations it provides is less than the amounts requested in the President's budget by \$395,216,443 in budget authority and \$319,108,000 in outlays or 12.3 percent. More significantly, it contains significant reductions in funding below current levels for the legislative branch. The net result, according to CBO scoring, is a cut in total spending of approximately \$150 million below the fiscal year that ended last Wednesday. In percentage terms, this represents a 6.5-percent cut below last year's levels of expenditure. So all my colleagues should know that this conference report that is now going to the President shortly is 6½ percent below last year's level of expenditures. This is about 1½ percent more than when we left this body last week. We have made additional significant cuts. I think the conferees from both Houses can take some justifiable pride in that achievement. To my knowledge, none of the other domestic appropriations bills for this year, all of which provide funding mainly for the other two branches of Government, have come close to meeting that standard.

The conference report and joint explanatory statement provide a detailed description of the agreements we are

recommending. Let me just touch upon a few of the more significant items.

The Senate version of this legislation included an amendment, adopted during floor consideration, calling for a 15-percent reduction in legislative branch spending over 3 years. While the conferees concluded that this provision was ultimately unworkable, I am glad to say that we are returning with a bill that surpasses the first year objective of that amendment insofar as actual spending is concerned. We have cut expenditures by 6.5 percent, a full point and one-half more than the amendment contemplated for the first year. So we are on the right trajectory and we intend to do our best to stay there.

That amendment also called for a study of the staffing requirements of the Congress. The bill before the Senate includes a legislative provision which addresses that concern in reauthorizing the Ad Hoc Joint Committee on the Congress. We also included appropriate language on this matter in the statement of managers accompanying the Conference report.

So we are going to get that also. That is study staffing levels of the Senate and the House.

This would be as to individual staffs. I know that the junior Senator from Texas was concerned about the staffing levels of the committee as compared to individual personal staffs. This will be looked into. As I said, we included a statement on this matter in the statement of managers.

Notwithstanding the very constrained levels of funding in this bill, I am pleased that we were successful in retaining half of the 141 positions the Senate had restored for the Library of Congress and Congressional Research Service.

I say to the senior Senator from Oregon, the man who has been so concerned about how the Library of Congress is treated, that we had level funding from last year. We in conference were able to split the difference so we came up with half of the increases we felt were appropriate.

The conference agreement also includes \$2 million of the \$7 million added in the Senate for the reconstruction of the Conservatory at the Botanic Garden.

The Senate bill also contained a major initiative with respect to the General Accounting Office.

Let me just say, in short, with the Government Accounting Office, I told my colleagues in the Senate those that objected to what in their minds was unfairness of some of the work done by the Government Accounting Office that I thought what we should do is have an audit of the Government Accounting Office like they audit everyone else. I think this was fair. It would not call for any cuts in the General Accounting Office.

We went to the House and some committee chairmen over there objected on

a jurisdictional basis as to our doing that. As a result of that there was a significant cut in the funding of the Government Accounting Office. I think they would have been much better off had we simply done the study that I requested.

After extensive discussions with a number of Senators, we had included provisions authorizing a comprehensive outside audit of GAO and earmarking \$2 million for the project under the Architect of the Capitol. This was offset by a comparable reduction in the GAO appropriation. These provisions reflected the ideas of several Senators, including the senior Senator from New Mexico, Senator DOMENICI, Senator BOND from Missouri, who is a member of our subcommittee, myself, and others. Moreover, these provisions had been modified in response to consultations at the staff level with the Governmental Affairs Committee before we brought the bill to the full Appropriations Committee. In fact, it is my understanding that the Governmental Affairs Committee intended to use the findings in the audit report as the basis for a series of oversight hearings on GAO's mission and performance.

Unfortunately, none of these provisions survived the conference. Several House full committee chairmen had written Chairman WHITTEN strongly opposing the Senate amendments with respect to GAO. As a consequence, the Managers for the House were absolutely adamant. And so we were forced to accept a compromise under which the GAO budget was slashed by another \$5 million and the audit provisions were deleted. I must say that I am personally disappointed in this outcome. I believe a thorough and impartial evaluation of GAO operations is long overdue and should precede any major changes in GAO's budget and program. I said on several occasions earlier this year that, absent such an audit, a large cut in GAO's budget was all but inevitable. And that, unhappily, is the way the issue came out this year.

I hope we will have better success and cooperation next Congress on this matter. But those who continue to oppose the audit approach and, at the same time, refuse to hold appropriate oversight hearings as promised almost 2 years ago now, should be on notice. No audit and no oversight will mean more and deeper cuts.

In closing, let me once again recognize Chairman FAZIO, the ranking member, Mr. LEWIS, and the other House conferees. I cannot say that meeting these gentlemen in conference is always a pleasurable experience. But it is never dull. I think we are usually able to work out a package of compromises that resolves our disagreements in a fair and responsible fashion. My thanks to them and their capable staff.

Much of the credit for what we have accomplished in this bill belongs to my

ranking member, Senator GORTON and the other Senate conferees. The Senate is particularly fortunate that Senator GORTON serves as ranking member of this subcommittee. He is committed to the welfare of this institution and of the legislative branch in general. His ideas and advice are invariably sensible and constructive.

The Senate delegation on the legislative bill, of course, always includes our full committee chairman, Senator BYRD, and his colleague and ranking member, Senator HATFIELD. Both personify what it means to be a Senator. Their guidance and assistance are invaluable.

The subcommittee is losing a valued Member in Senator ADAMS of Washington who will not be returning to the subcommittee and the Senate next Congress. His contributions to our deliberations will be missed. I extend to him my congratulations on his retirement and wish him well in his future endeavors.

Finally, I wish to acknowledge the work of our committee staff: Jim English, the full committee majority staff director; Keith Kennedy, the minority staff director for the full committee who, fortunately, is also assigned to this subcommittee; Lula Joyce and Ginny James, who provide capable administrative support; and Jerry Bonham, the majority clerk on the subcommittee.

I ask unanimous consent that an October 5 letter from the Congressional Budget Office in support of the statement I made regarding where this bill is financially, be printed in the RECORD.

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

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
Washington, DC, October 5, 1992.

Hon. HARRY REID,  
Chairman, Subcommittee on Legislative Branch,  
Committee on Appropriations, U.S. Senate,  
Washington, DC.

DEAR MR. CHAIRMAN: This letter compares the Congressional Budget Office (CBO) estimate of the budget authority and outlay scoring for the 1993 conference on Legislative Branch Appropriations, as reported on October 3, 1992, with CBO's latest estimate of the enacted 1992 bill:

LEGISLATIVE BRANCH APPROPRIATIONS BILL  
DISCRETIONARY ACCOUNTS  
(In millions of dollars and percents)

	Budget au- thority	Outlays
Fiscal year 1992 enacted .....	2,303	2,307
Fiscal year 1993 conference .....	2,275	2,157
Change .....		
Millions of dollars .....	-28	-150
Percent .....	-1.2	-6.5

The estimates shown for 1992 budget authority and outlays include the regular appropriation bill (P.L. 102-90) and the effect of the 1992 rescission bill (P.L. 102-298).

Sincerely,

JAMES L. BLUM,  
(For Robert D. Reischauer).

Mr. REID. I yield to my friend from Washington.

Mr. GORTON. Mr. President, Senator REID and I bring to the Senate today the conference report on H.R. 5427, the Legislative Branch Appropriations Act for fiscal year 1993. This measure passed the Senate last Thursday on a rollcall vote of 75 to 23. The conferees met Saturday afternoon and reached agreement promptly and amicably. I want to express my appreciation to our House counterparts, led by Representative FAZIO and Representative LEWIS, for working with us to produce an agreement that meets the requirements of fiscal constraint while providing for the services that our colleagues and our constituents demand.

Mr. President, our agreement provides a total of \$2,274,960,057 in new discretionary budget authority for all the entities of the legislative branch. This is a reduction of \$28,203,000 from the amount enacted last year.

In terms of outlays, our agreement will result in \$2,157,082,000 according to CBO, which is a reduction of \$149,827,000, or 6.5 percent below fiscal year 1992 outlays. When we brought this bill to the Senate floor, we were 5.2 percent below fiscal year 1992 outlays. Additional reductions were made in conference to bring us down to 6.5 percent below last year. I believe we have surpassed the standard set for us in the amendment offered by Senator SEYMOUR and adopted by the Senate on a 85-13 vote.

Mr. President, the changes agreed to in conference are as follows:

For the Library of Congress, the Congressional Research Service, and the Copyright Royalty Tribunal, the conferees agreed to split the difference between the House and Senate levels, increasing funding over the House level for these vital activities by nearly \$4,000,000.

For the Capitol Grounds appropriation, the House agreed to our proposal to fund the requested amount, so that we can continue the effort to improve the appearance and the accessibility of the grounds.

In other areas, the conferees were compelled to make reductions in order to achieve the savings necessary to meet the goals of the Seymour amendment. The Senate receded to the lower levels proposed by the House for the Capitol Police, and the House receded to the lower Senate levels for the office of the Architect of the Capitol. Due to our funding constraints, we were unable to sustain the Senate position of providing funding to initiate the reconstruction of the Botanic Garden conservatory. However, we were able to include funding to begin the design of that structure.

The House conferees did not wish to agree to the Senate language concerning peer review of GAO reports and reimbursement of detailees. I expect we

will pursue this matter again next year. But in exchange for agreeing to drop the language, we were able to win approval of further reductions in GAO funding to a total fiscal year 1993 level of \$435,167,000 or \$7,000,000 below last year's level.

The conferees agreed to a number of language provisions. We have extended the authorization for the Boren-Domenici joint committee to study the Congress until the end of next year, and we understand the joint committee will review the congressional staffing issue raised in the Seymour amendment. We have provided authority for the Architect of the Capitol to lease space in the Judiciary Office Building, vacating space in one of the House annexes. We have extended the deadline for the unification of the Capitol Police payroll, and we have reauthorized the Senate Caucus on International Drug Control.

We have also included, Mr. President, a provision relative to the Adams Fruit Co. versus Barrett case that was cleared on both sides of the aisle in both Houses and with OMB. We do not ordinarily agree to legislative matters beyond the jurisdiction of the subcommittee, but the widespread agreement on this matter made it difficult to resist strictly on jurisdictional grounds.

Mr. President, I recommend this bill to the Senate. I wish we could have provided more funding in some areas, but I recognize the political and fiscal imperatives that make that impossible at this time. I congratulate our chairman, Senator REID, for his deft handling of controversial bill, and thank Chairman BYRD and Senator HATFIELD for their support.

I should only like to add, Mr. President, and emphasize the point concluded in these written remarks, that by CBO scoring, we are 6.5 percent, some \$150 million, less in dollar appropriations for fiscal year 1993 than we were for fiscal year 1992. This is a most responsible proposal.

Although the amendment by the Senator from Colorado and the Senator from California was not included for future years, the goals which they set in their amendment for the year for which this appropriation is actually in effect was, in fact, met.

I believe that this goal could be met because of the hard work by the chairman, Senator REID, with whom it is a pleasure to serve, both during the long days of hearings and putting a bill together for the subcommittee, for the full committee, for the floor, and in the conference committee with the House.

I, too, want to thank our staff, without which we obviously could not have reached this point.

There are only two appropriations bills after this before the Congress can complete its work for the year. This is always a very, very difficult one, Mr.

President. But I think that we have acted responsibly, both to the people of the United States and for the proper functioning of this institution; and, for that matter, the balance of the Congress.

I am particularly happy about the support we have been able to provide for the Library of Congress which, in many respects, is the most important entity within the ambit of the legislative appropriations bill. I am sorry that it could not have been more.

I felt, and I know the chairman did, that we would like to have gotten for the Library of Congress the full Senate apportionment. But we did everything we possibly could to get the last almost \$200,000 as the last act of the conference committee.

I am also sorry that we have partly deferred rebuilding the Botanic Gardens, but I am convinced that will take place in the future.

And while we were not able to include the study of the General Accounting Office, which Senator REID and so many others wished to include in this bill, we have certainly brought some of our dissatisfactions to the attention of the GAO with an appropriation which is \$7 million less than it was for fiscal year 1992.

This is a good, sound, fiscally responsible proposal, and it should be passed.

Mr. President, I yield 5 minutes to the Senator from Colorado, [MR. BROWN].

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BROWN. Thank you, Mr. President.

I want to express my profound thanks to the distinguished chairman of the subcommittee and the ranking member. These two Senators have accomplished something that I do not recall ever having been accomplished in the time that I have served in Congress—in the decade that I spent in the House and the 2 years I have spent here—and that is, Congress actually cut its own budget.

I believe it is of extreme significance because without our involvement, without our willingness to face up to the problem, without this Congress' willingness to have the cuts come to their very own budgets, the American people are not going to think we are serious. And, in fact, we may not be serious.

I must say that I wish the entire amendment had been passed that the Senate had gone on record for. I think there is much more we can do in this area.

But the courage shown by the distinguished Senator from Nevada and the distinguished Senator from Washington is a guideline to what we have to have in the future. I believe the example they set with this bill in this effort this year shows an entirely new attitude in Congress.

I had hoped, of course, that we would have a study focused on proper staffing levels. I am convinced an outside group of experts who come in and do time and motion studies, who could give an objective view of the kind of staffing that is necessary here, will show up with the enormous staffing that I believe is present in the Congress, and give us some guidelines for the proper way to go in handling it. It is very possible that the study that the conference report does refer to can accomplish this job. I think all of us will keep our fingers crossed.

The bottom line is this: We did not do nearly what we should have, but it is a remarkable beginning. And that, I think, shows enormous courage in the leadership of this Senate that moved forward in that conference committee.

The PRESIDING OFFICER. Who yields time?

Mr. REID. I yield back the remainder of my time, unless the senior Senator from Oregon wishes to speak.

Mr. GORTON. Mr. President, I yield such time to the senior Senator from Oregon as he may wish to use.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I would like to commend the leadership of this subcommittee of our Appropriations Committee. Not only have they achieved the 602(b) allocation, but they have gone below it, as has been indicated, by 6.5 percent.

Mr. President, I just want to indicate again that the legislative branch appropriations has certainly had a great deal of focus, and sometimes I think more or less is a political football. But, nevertheless, in the time that this committee has worked, it has really, I think, addressed the components, including the legislative branch itself and the other agencies, such as the Library of Congress.

I am particularly happy about maintaining our commitment to the Library of Congress. That is a very significant part of not only the operation of the Congress, but to the entire Nation.

So I want to add my accolades for a job well done to this subcommittee and to its leadership.

Mr. GORTON. Mr. President, I yield back the remainder of my time, since no one else wishes to speak.

Mr. DOMENICI. Mr. President, I rise in opposition to H.R. 5427, the legislative branch appropriations bill for fiscal year 1993. I do not believe this bill goes far enough.

The statement of managers for this bill claims that "the conference agreement achieves an outlay reduction below the fiscal year 1992 level that surpasses the fiscal year 1993 objective" of the Senate amendment, which was a 5-percent reduction.

When all 1992 action is taken into account, including impact of the rescis-

sion bill, this conference report is basically at the 1992 level, using CBO estimates. Levels for most Senate accounts show no reduction from the Senate-reported bill.

I would also object to the deletion of language Senator BOND and I requested which would establish an Independent Peer Review Committee for the General Accounting Office.

Once again, we see where powerful House chairmen—chairmen of committees that receive the benefit of numerous GAO detailees—have moved to block any change in the status quo.

As the chairman and ranking member of the Legislative Branch Subcommittee know, for some time now I and many others have been concerned about the direction in which GAO seems to be heading—that it seems to be more interested in making policy pronouncements and grabbing headlines, rather than performing its traditional accounting and auditing functions.

My concerns have been expressed to the authorizing committee and the Legislative Branch Subcommittee. Last year, I introduced S. 1400, the General Accounting Office Reform Act, to bring attention to and to address some of these issues.

Much to my disappointment, the authorizing committee declined to examine any of the issues raised with regard to GAO. Therefore, I felt compelled to offer language in this year's legislative branch appropriations bill that addressed at least one of the issues.

The purpose of this legislation was to examine both the general procedures used in report generation, review, and issuance, as well as the methodologies employed in producing the reports.

This Peer Review Commission was not intended to be a witch hunt—it was an attempt to examine, in a fair and open manner, serious charges about GAO's objectivity and the integrity of their work.

I will not give up on this issue. Rest assured, as cochairman of the Joint Committee on the Organization of the Congress for the Senate, I intend to press for a review of GAO's role in this branch and in the Federal Government as a whole.

Mr. SEYMOUR. Mr. President, I rise to express my opposition to the conference report to H.R. 5427, the legislative branch appropriations bill.

To be frank, opposition is an understatement.

Less than a week ago, 85 Members of the U.S. Senate overwhelmingly voted for an amendment I introduced along with my good friends from Colorado and Arizona. This amendment would cut Congress' budget by 15 percent over the next 3 years, prohibit the carryover of unobligated funds, and require an independent audit of the staff needs of the current Congress. This amendment represented a commitment to long-

term reform—an effort to turn back the tide responsibly on a decade of irresponsible spending.

Eighty-five Senators, Mr. President.

This amendment represented modest reform. In fact, it was intended to be a compromise—a compromise of the majority will of the Senate, which expressed last April that our budget be reduced by 25 percent over a 2-year period.

Again, 85 votes in favor of long-term reform. A bipartisan recognition that our spending policies needed to emphasize frugal practices, not free-wheeling spends.

One day later, 402 Members of the House of Representatives instructed the conferees to retain the Seymour-Brown-McCain provision. Only one Member voted against the motion. Indeed, every House member of the conference committee—save one who did not vote—voted for the motion to instruct conferees. In effect, they were instructing themselves to keep the amendment.

What that the conference committee give us?

Not what was instructed by both Houses of Congress.

In terms of budget authority, the conference report represents merely a 1.25-percent reduction from fiscal year 1992.

In terms of outlays, the conference report represents a 6.5-percent reduction from fiscal year 1992.

I commend the conference committee for reducing fiscal year 1993 outlays beyond the 5-percent reduction I proposed last week. In that context, my efforts have been successful.

However, when it came to future cuts, the conference committee noticeably was silent. It called the proposed cuts in future years as unworkable because of the use of the word obligations rather than outlays or budget authority.

In other words, on the surface, it seems that confusion over the intent of my amendment with respect to future year cuts was the basis for its elimination.

If that was the case, Mr. President, why didn't the conferees seek the intent of the amendment from its authors? Indeed, given the extraordinary support for this amendment, its intent would seem to be clear. And if not, given the near unanimous support of the amendment, wouldn't the conference committee make a conscientious effort to clarify and work out this amendment?

Mr. REID. Mr. President, I ask unanimous consent that the pending matter be set aside for purposes of entering another unanimous-consent request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

#### FOREIGN OPERATIONS APPROPRIATIONS ACT, FISCAL YEAR 1993—CONFERENCE REPORT

Mr. REID. Mr. President, I submit a report of the committee of conference on H.R. 5368 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5368) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1993, and for other purposes, having not, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of today, October 5, 1992.)

Mr. LEAHY. Mr. President, I am pleased to urge adoption of the conference report on H.R. 5368, the Foreign Operations, Export Financing, and Related Programs Appropriation for fiscal 1993.

The most important good news about this conference report is that it cuts the foreign aid program by about \$700 million below the fiscal 1992 level, and it is \$1 billion below President Bush's request. Those savings will go to reduce the Federal deficit, which was my top priority in proposing a major cut in the foreign aid program this year.

There are other important features of the conference report I would like to highlight for Senators.

I am delighted that the Leahy-Kasten amendment prohibiting the use of any foreign aid funds to subsidize or otherwise induce U.S. businesses to cut back or close their operations in the United States and to relocate abroad is retained and strengthened with language drawn from a bill offered in the House by Congressman GEORGE BROWN. The provision now also prohibits the use of U.S. foreign aid funds from contributing to the creation or operation of export processing zones abroad unless the President certifies to Congress that such support will cause no loss of jobs in the United States. As chairman of the Foreign Operations subcommittee, I am absolutely determined that the foreign aid programs will in no way assist in the export of American jobs. That would be an outrage, and none of us should tolerate it.

The conference report for the first time breaks with the cold war era and begins the difficult adjustment to the new challenges the foreign aid program must confront. All grant military aid to the so-called NATO base rights countries, Turkey, Greece, and Por-

tugal, has been eliminated. Provisions are made for loans to these nations to purchase American military equipment. But, with the collapse of the Warsaw Pact, there is no further justification for giving these NATO nations hundreds of millions of dollars every year to keep purchasing sophisticated weapons to deter a new nonexistent military threat from the Soviet Union. Our NATO friends can continue to buy American equipment, but they will have to pay back any loans they contract.

I am extremely pleased that we have been able to increase disaster assistance programs by nearly \$150 million in this conference report. We target refugee and disaster aid to the terrible catastrophes occurring in southern Africa, particularly Somalia, and in Bosnia, Slovenia, Croatia, and Kosovo in the former Yugoslavia. This is one area I felt a major increase was justified, and I know the American people want to be generous in helping these suffering people.

The conference report also seeks to strengthen U.S. export promotion programs. More U.S. exports mean more American jobs. There is a rough rule of thumb that every \$1 billion in exports supports 20,000 American jobs. The foreign aid program can, and I am determined that it will, do more to promote U.S. exports and enhance American international economic competitiveness. In addition to expanding the export assistance programs of the Export-Import Bank and the Overseas Private Investment Corporation, the conference report contains a provision drafted by the distinguished chairman of the Appropriations Committee which seeks to increase the proportion of foreign aid dollars going to capital infrastructure projects. Properly designed and executed capital projects can help meet basic infrastructure needs in the developing countries and also recycle our aid dollars back to the United States through contracts with American firms.

At my initiative, the conference report provides \$350 million for U.S. bilateral family planning programs abroad. Reducing soaring global population growth is a vital national interest of this Nation. We cannot cope with massive degradation of the international environment, enormous poverty and hopelessness in the Third World, and rapid depletion of the Earth's natural resources unless the population growth rate is brought down rapidly and substantially. United States leadership in this effort is one of my top priorities as chairman of the Foreign Operations subcommittee.

The conference report also provides funding at the President's request levels for the new independent republics of the former Soviet Union and the nations of Eastern Europe, including the Baltics. The United States must be in

the forefront of helping our former adversaries make the very difficult transition to democratic institutions and free enterprise economies. The long-term hopes for a peaceful, cooperative world depend on these nations making this transition successfully. I cannot visualize a more important security interest of the United States than to assist Eastern Europe and the former Soviet Union to build new democratic, peaceful societies.

I am especially proud that the conference report retains a provision I proposed in the Senate bill to establish a special \$50 million program to provide American agricultural commodities to help feed the poor, especially mothers and children, in the former Soviet Union. This is an urgently needed program for Russia and the other republics, where we attempt to ensure that the weakest and most vulnerable segments of society get fed. There is practically no social safety net in Russia, and the poor, weak and defenseless need special help.

The conferees also agreed to provide the quota increase for the International Monetary Fund which was included by the Senate Appropriations Committee. Although I did not recommend a U.S. contribution for the IMF quota increase in the bill I brought to the Appropriations Committee, the Committee decided to include it and the conference committee to retain it. However, I want to emphasize that this appropriation does not actually cost the American taxpayer anything. There is no budgetary effect of the appropriation, since the U.S. contribution is an exchange of assets with the IMF, akin to a bank deposit. In return for our deposit of the U.S. contribution, we receive the right to withdraw an equivalent amount in Special Drawing Rights, a basket of hard currencies polled in the IMF.

The conference report also adopts a Senate provision authorizing the President to provide up to \$10 billion in loan guarantees to Israel, in amounts up to \$2 billion per year, over 5 years. This humanitarian program is intended to help Israel in its massive task of absorbing an anticipated 1 million immigrants from the former Soviet Union.

Of special importance is that the conference report provides that Israel is to pay through fees to the U.S. Treasury all costs of this loan guarantee program. Not one dollar is appropriated in this bill to cover any costs associated with this program, and there is absolutely no cost to the American taxpayer. The bill provides that whatever the costs are determined to be, Israel must assume all of them itself. The Government of Israel has committed itself as primary guarantor of any loans taken out under this program. The U.S. guarantee would only come into effect if the government of Israel defaulted on its own guarantee. The

likelihood of such a default is virtually zero. Israel has a perfect repayment record on its loans from the United States, and there is no meaningful risk the Government of Israel would permit such a default. On the contrary, there is every reason to expect, and this is supported by a study by the General Accounting Office, that the Israeli economy will be able to service the debt taken out under this program without undue difficulty.

Finally, I want to mention military aid for Indonesia. I was pleased that the conferees chose to prohibit IMET funds for Indonesia in response to the massacre of from 75 to over 100 peaceful demonstrators in East Timor last November. The reports of both Senate and House Appropriations Committees discuss at length their concerns about this atrocity. Suffice it to say that the conferees felt the United States needed to make a strong statement in support of human rights after what happened there.

Mr. President, there are many other important aspects of the conference report, but I will not take the time of the Senate in the waning hours of this session to describe them. They are set forth fully in the printed conference report.

Before concluding, I would like once again to thank my colleague and friend, Senator KASTEN, for his leadership and cooperation in developing this bill. We have worked hard all through the 4 years of my chairmanship to prepare bipartisan foreign aid programs. He deserves the thanks of the Senate for his leadership on foreign aid.

I want also to thank the hardworking staff of the subcommittee for their dedicated assistance in producing this program. Eric Newson, the subcommittee staff director, provided strong direction and was a never ending source of ideas for how to resolve problems and to steer this unpopular bill through the political and policy reefs. Tim Rieser, as always, is the conscience of the subcommittee. Tim made sure we never overlooked the needs of real people in real situations as we worked on these programs. We must never lose sight that we are trying to help living, breathing people through these large, complicated programs. Fred Kenney did his usual superb job of making this complex process work. Without his drive, knowledge of the appropriations process, and willingness to work hours that would cause most people to drop, we could not have reached this point.

The minority staff worked cooperatively and constructively with us. I want to thank Jim Bond, the minority clerk, and Juanita Rilling for their efforts to make this a bipartisan bill. I want to make special note that Jim Bond completed 20 years of service on the Appropriations Committee as we were preparing to mark up the bill in

subcommittee. Jim is one of the most experienced, canny and imaginative members of the Appropriations Committee staff, and I congratulate him on his 20 years of service to the Senate, the committee and the American people.

Mr. KASTEN. Mr. President, I would like to say a few words about this conference agreement.

First, I wish to thank the chairman of the subcommittee, Mr. LEAHY, who ably represented the Senate throughout these negotiations, and was very helpful to me in the face of my own difficult schedule.

It is fitting that we are poised to pass the final hurdle toward enactment of the loan guarantees for Israel to help absorb Jewish immigrants the day before Yom Kippur.

I have been asked who will administer the Israeli loan program. It is expected that the Agency for International Development's Housing Investment Guarantee Office will administer these guarantees. In my view, it is important that they do so, as they have expertise based on previous experience with the \$400 million guarantee provided to Israel earlier. Obviously, the State Department will have a strong policy role, but the expertise needed to administer the guarantees and loans is AID's.

This milestone in our policy vis-a-vis Soviet Jewish refugees is an important one for United States foreign policy and for the thousands who will be helped as a result of our action.

There are many who deserve thanks and appreciation for their assistance throughout this effort, but I would like to bring to the fore the memory of our esteemed late colleague, Senator SCOOP JACKSON, who laid much of the foundation for his success, years ago.

On other issues important to the Senate, we were able to get a reasonable compromise on the Enterprise for the Americas Initiative, so that that program can get started. The House accepted our additional funding for disasters in Africa, our increase for population planning assistance, Senate earmarks for the people in Bosnia, Hercegovina, and Kosovo as well as refugee assistance in Croatia, aid to the former states of the Soviet Union, Eastern Europe, and the Baltic States, and for a number of important programs aimed at helping children.

The conference report contains an amendment offered on the Senate floor requiring that the administration provide certification that Morocco is cooperating with the United Nations with respect to the Western Sahara situation, a certification which I have no doubt will be provided quickly. Some confusion has arisen over how this provision affects the earmarks. As the Senator from Kansas made clear on the floor when she offered this amendment, it was her intent only to affect aid

above \$52 million. So, there is no intention to vitiate the earmarks. Instead, at least \$52 million must be provided for Morocco, and once the certification is made, at least another \$8 million must be made available.

I am very disappointed in the outcome of amendment numbered 153, the buy America provision which I authored and which the Senate actually passed twice—once in the context of the Freedom Support Act, and once in this bill. The House insisted that we not enact this rewrite because the authorizing committee objected to our interference in their jurisdiction. Instead, they offered a meaningless provision which is contained in other legislation and which is basically business as usual.

Mr. President, it is important to understand what business as usual means. It means that we continue to have a foreign aid program with a United States procurement content of less than 20 percent; we will see more of what we saw in Mozambique, where the United States Treasury simply writes checks to Mercedes-Benz and Toyota so that those foreign companies could start up dealerships in Moputu; and we will continue to sit while low-level officials overseas and here in Washington routinely waive what few restrictions remain in the buy America provision of the Foreign Assistance Act.

Mr. President, contained in the legislation on a related subject is the Leahy-Kasten amendment which was modified in the conference on protection of U.S. jobs. This amendment was designed to prevent the type of incidences which were reported in the "60 Minutes" program alleging actual inducement of U.S. companies to move to Central America, thereby directly costing U.S. jobs. This was an important initiative, and while I'm happy that we were successful, the buy America proposal was at least as important, and it is regrettable that the authorizers would not allow us to proceed with this rewrite.

I do not believe that the foreign aid program should be utilized as a cash cow for foreign companies, and I will continue to pursue this issue. Hopefully, those who now see differently will wake up and understand that we are talking about U.S. jobs and the effect of their loss on American families.

Mr. DECONCINI. Mr. President, I am pleased that today the Senate is again playing its proper role in forming our Nation's foreign policy. With the passage of a free-standing fiscal year 1993 Foreign Operations bill, we mark the first time since 1990 that the Senate has passed a foreign aid bill which it helped draft. For the past year, the vast majority of our foreign aid programs has been kept on a life-support system under a continuing resolution which provided funding at the level of the House-passed Foreign Operations

bill or the previous year's level—which ever was lower. Today, however, our system is back up and running.

There are a number of important provisions contained in this bill which I strongly support. It is also a good bill because it represents a real reduction in foreign aid spending. The bill before us today is approximately \$400 million below last year's level and \$800 million less than requested by President Bush.

I am pleased that the bill finally provides loan guarantees for Israel to assist that beleaguered nation in absorbing refugees from Ethiopia and the former Soviet Union and in rebuilding its battered economy. After more than a year of delay by the President, the loan guarantees will begin being made available to Israel, and at no cost to the American taxpayer. As I stated on the Senate floor last week, I am concerned that this legislation provides the President with total discretion on the disbursement of these guarantees. President Bush has not been favorably disposed toward Israel and I fear that he may use this leverage to gain other concessions from Israel or to force it into untenable positions on issues such as the peace talks. In that statement, I put the administration on notice that if any political games are played with the extension of the loan guarantees, I will amend the first available legislative vehicle to ensure that the disbursement of the guarantees is made mandatory, not discretionary. I will maintain that position even under a Clinton administration.

I am also pleased that the legislation provides, at my urging, \$25 million for much needed micronutrient programs in developing countries. Micronutrients—vitamin A, iodine, and iron—are vital to the healthy physical and mental development of infants. This funding will provide early intervention opportunities for thousands of children around the world, helping them avoid cretinism, goiter, and other preventable disabilities and putting them on the road to becoming healthy, productive citizens.

This year the bill does not specify a funding level for the Microenterprise Loan Program. The report accompanying the bill, however, spells our Congress' intent with regard to the program. It specifies that \$85 million should be allocated for loans, at least \$20 million of which should be in small amounts of under \$300, and that women and the poorest of the poor be major recipients of these loans. It is a good program and is aimed at directly helping individuals—who oftentimes do not benefit from Foreign Aid Programs—work their way out of poverty. The microenterprise program is not earmarked in the bill because the administration and the Agency for International Developmental [AID] have pleaded with Congress to be allowed flexibility in administering this and

other programs. AID has not had a great track record with this program. At first, it tried to stop it from getting started. Then it grudgingly accepted the program, but made claims that it was meeting and exceeding targets without having the data to support its claims. Things are much better today, however, and the flexibility AID has sought is being provided. I want the administrators at AID to know that I will be closely following their implementation of the microenterprise program to ensure that it complies with congressional intent. I think that AID will do its work well, but if it falters in this task, I am putting the administration on notice that I will seek an earmark in next year's bill.

I am also pleased that the bill before us today was altered, and improved, by the House and Senate conferees in a number of significant ways. In a wise move aimed at cutting foreign aid and moving to acknowledge that the cold war is over, the bill provides concessional loans, not direct grants, to Turkey, Greece, and Portugal for foreign military programs. These so-called base-rights countries are under no direct military threat at this point. Indeed, Turkey—a valued friend and ally of the United States in times of crisis such as the Korean war and Operation Desert Storm—continues to aid the illegal occupying forces on Cyprus and tacitly supports the delaying tactics used by the leader of the Turkish Cypriots, Rauf Denktash, to stall the United Nations-sponsored talks in New York. The division of Cyprus is a major irritant within NATO, and appears to be one of the primary reasons why the European Community has reacted so coolly to Turkey's overtures at being included in the EC. None of these countries really needs to buy more weapons and I am pleased that this bill encourages a move away from such practices.

Also, this bill prohibits any military training assistance for the government of Indonesia. Last year, Indonesian government troops fired on peaceful, unarmed, pro-democracy demonstrators on the island of East Timor. Accounts of the massacre state that between 75 and 125 people were killed. Many of the bodies still have not been accounted for. In the aftermath of Indonesia's Tiananmen Square, some of the unarmed protesters received sentences of up to life in prison. At the same time, the troops who fired on the peaceful demonstrators only received prison terms of 12-18 months. The Bush administration protested Congress attaching any conditions on the restoration of this aid based on claims of Indonesia's sovereignty. However, we place conditions on aid to a large number of countries, including some of our largest aid recipients. For too long, this country has turned a deaf ear to Indonesia's dictatorial rule and its sad record on human rights. Perhaps this

action will send a strong message to Jakarta that the United States is serious about human rights in every corner of the world.

This bill is not perfect. For instance, it contains a provision I strongly oppose to extend aid to Russia—whose troops continue to occupy the independent countries of Estonia, Latvia, and Lithuania. On balance, however, it is a good bill. If we must have foreign aid programs at all, I am pleased that we are ensuring that more of the aid is targeted to directly helping people. Americans are a generous people and are willing to reach out to help others. We must continue to ensure that their dollars are wisely spent.

Mr. BRADLEY. Mr. President, I rise to comment on one of the most important aspects of the bill now before us. This Foreign Operations appropriations bill provides \$417 million in aid to the countries of the former Soviet Union—aid as crucial to the people of these new countries as to the citizens of the United States who hope for a safe and profitable American future. I believe that the linchpin of this aid effort is the \$50 million appropriated to fund expanded exchange programs between the former Soviet Union and the United States. This money will go far to help instill a vision of democracy in the future leaders of the new countries, and to renew our own commitment to democratic ideals and hope for world peace.

Our most valuable resource is not our dollars, but our people. Americans are born with the understanding that in the democratic system, everyone counts. Every American can not only make a difference, but it is their duty to try. This is a power that cannot be transferred through grain credits. It must come from person-to-person contact. We must pass this vision of democracy on to the future leaders who will be shaping new countries in the former Soviet Union. It is a tall order, but America is up to the challenge.

Late last week, the Senate passed the conference report on the Freedom Support Act. Included in the bill was \$50 million in authorizations for greatly expanded exchanges of former Soviet students, young businessmen, agriculture specialists, and local officials. This appropriations bill now before us provides the \$50 million needed to implement the idea.

Mr. President, I believe the key component of the exchanges outlined in the Freedom Support Act is the high school exchange program. Out of the \$50 million appropriated in the bill before us, \$20 million is authorized through the Freedom Support Act to be used explicitly to expand programs targeted to high school students. This money will fund about 5,000 student exchanges over the next year. These youth will live with families, attend schools, and return to their own homes

having learned about our institutions, skills, and values. They will have acquired a better appreciation of how they—the future leaders of the new countries—can create their own institutions.

Because the need is so extensive, this bill is targeted to bringing as many students as possible over to study in the United States. But we want their experiences to be meaningful. For this reason, the legislation favors longer-term programs over short-term stays.

To ensure that the students gain an understanding for the foundation of our working democracy, we should enlist the help of American programs that expose students to the inner workings of our Government. Such programs, like Close Up, share the philosophy of this legislation.

Most of the authorized funds are aimed at bringing students from the former Soviet Union to the United States. Yet a percentage of the funds are set aside to send American high school students to the CIS. Cultural exchanges benefit both sides. Not only would we be assuring peaceful ties between these nations and ours, we can also learn much. Americans can learn from having foreign students in their homes and classrooms. Americans studying in Kiev, St. Petersburg, Vilnius, and Alma-Ata will return with a better understanding of the people of these new republics; they will also have the unique privilege of witnessing firsthand the new frontiers of democratic capitalism.

The remaining \$30 million appropriated for exchange programs under this bill before us are authorized to fund exchanges of older students and professionals from the public and private sectors. This money could fund as many as 5,000 exchanges of students, agricultural experts, Government officials, and young businessmen and women over the next year.

As in the high school exchanges, the undergraduate and graduate exchanges will allow future leaders of the former Soviet Union to study and experience American society. They would also create links between our universities, colleges, and community colleges, and their institutions of higher learning.

The small business exchanges would provide a means for young managers to work will small business in the United States and experience firsthand what it means to be an entrepreneur. We would like to see them spread to each of our 435 congressional districts, with local community groups helping to sponsor the trainees.

United States businesses serving as sponsors to young managers from the former Soviet Union will be establishing future business contacts in a market that includes 300 million potential new consumers. Their ability to get involved in the new States depends to a certain extent on their knowledge of

local conditions, opportunities, and their ability to work with people who are already familiar with Western business practices.

We have also appropriated \$10 million under the Commerce, Justice, State and judiciary appropriations bill to expand Fulbright programs into the countries of the former Soviet Union.

The Iron Curtain between our societies has parted, Mr. President, but contact between our people and the people of the former Soviet Union remains woefully limited. In the 1990-91 school year, the total number of undergraduate and graduate students from the former Soviet Union on USIA exchanges was 1,210. China had almost 40,000 for the same period. Even Switzerland had more students at American universities than did the former Soviet Union. The time has come to address the gravest need, and expand our contact and influence in the former Soviet Union.

It is my hope that in the years ahead we will see tens of thousands more students over here with the implementation of the Freedom Support Act funded by the bill before us today. This must be only a beginning. I am encouraged that this body has acted swiftly to address an urgent long-term need of both our new-found ally, and by extension, the United States. We must continue the momentum. The fragile reforms that President Yeltsin has set into place must be buttressed by dreams as well as reality.

It is imperative that these programs are up and running by 1993. I will urge the government agencies which will be handling the administration of these programs to expedite the process by utilizing the experience and the expertise of the nonprofit sector. The government should contract out to nonprofit organizations as much as possible to remove the exchanges from the bureaucracy that could delay their immediate implementation.

The people of the newly independent states must be brought out of their isolation now. We must make up for 40 years of barriers between our citizens, and theirs. We cannot afford to be complacent. A slow response risks retrenchment of economic and democratic reforms. It also risks the growth of new versions of authoritarian rule. Mr. President, we are at a crossroads and the time is short. We must embrace this opportunity by funding exchange programs under this bill.

Mr. LAUTENBERG. Mr. President, I am pleased that the fiscal year 1993 Foreign Operations appropriations bill includes a 2-year extension of a provision in current law which facilitates the granting of refugee status for certain historically persecuted groups.

The law is commonly referred to as the Lautenberg-Morrison refugee law, since Representative MORRISON and I were its prime sponsors. I greatly ap-

preciate the assistance of Representative BERMAN, who was the prime sponsor of the 2-year extension provision in the House this year. I also appreciate the assistance of Senator BIDEN, who championed this 2-year extension in the Senate Foreign Relations Committee.

The existing law formally recognizes that the historical experience of certain persecuted religious minorities in the Soviet Union and Indochina, and a pattern of arbitrary denials of refugee status to members of these minorities, entitles them to a relaxed standard of proof in determinations about whether they are refugees.

The law lowers the evidentiary standard required to qualify for refugee status for Soviet Jews, Soviet Evangelical Christians, religiously active Soviet Ukrainian Catholics and Orthodox, and certain categories of Vietnamese, Laotians, or Cambodians. Once a refugee applicant proves he or she is a member of one of these groups, he or she only has to prove a credible basis for concern about the possibility of persecution. Refugee applicants normally must prove a well-founded fear of persecution.

Legislation to extend the law for 2 years has been endorsed by the Council of Jewish Federations, the U.S. Catholic Conference, the American Jewish Committee, the Ukrainian National Association, Inc., the Hebrew Immigrant Aid Society, the National Conference on Soviet Jewry, the Union of Councils for Soviet Jews, the New York Association for New Americans, the Lutheran Immigration and Refugee Service, and World Relief.

This law has had a real and positive impact on refugee adjudication. This liberalized standard is still necessary because conditions for the persecuted groups in the former Soviet Union and Indochina still exist, and in some cases, have worsened.

While Soviet Jews have been permitted to emigrate in much greater numbers, those remaining face a greatly increased threat to their well-being. Anti-Semitism and heightened harassment, violence, and public expressions of hatred by anti-Semitic groups like Pamyat are still occurring, and in some areas, are on the rise. While national policies may have changed, many local officials harbor old hatred for these historically persecuted groups. Evangelical Christians and Ukrainian Catholic and Orthodox continue to experience harassment.

There is a clear case for including Indochinese in an extension of the Lautenberg amendment. Conditions have improved somewhat in these countries, but certain groups continue to suffer as a result of their previous associations with the United States, their political actions in opposing hardline Marxist governments which permits no political dissent or freedom of expression, and for their religious beliefs.

The majority of Vietnamese to whom the law applies are former reeducation camp prisoners who were sent to the camps because of their political or religious views. Many reeducation camp inmates were associated with the American Government during our Vietnam war involvement. A majority of those coming to the United States are joining families who were resettled here 10-15 years ago.

This law is working as intended. It has replaced an arbitrary and slow process of refugee adjudication in the former Soviet Union with a stable, consistent and fair process. It has meant that people already terrorized by longstanding hatred and persecution in their native lands are not further traumatized by a system that does not recognize their historical suffering, or makes arbitrary distinctions between people who have suffered similar fates.

The law originally passed the Senate by a vote of 97-0 in 1989, and became law as part of the fiscal year 1990 Foreign Aid Appropriations Act. It was extended in the fiscal year 1991 Foreign Aid Appropriations Act.

The INS estimates that it will take 2 years to process Soviet Jews who are in the pipeline, those who have begun the application process. Given questions about stability in the republics of the former Soviet Union, the law should be extended for 2 years.

I am pleased the Congress is extending this law for 2 years.

Mr. REID. Mr. President, I ask unanimous consent that the conference report be agreed to, the motion to reconsider be laid upon the table, and any statements therein appear in the RECORD at the appropriate place as though read.

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

So the conference report was agreed to.

#### LEGISLATIVE BRANCH APPROPRIATIONS ACT, FISCAL YEAR 1993—CONFERENCE REPORT

Mr. REID. Mr. President, it is my understanding we are now back on the legislative branch appropriations bill.

The PRESIDING OFFICER. The Senator is correct.

#### SUPERINTENDENT OF DOCUMENTS

Mr. FORD. Mr. President, would the senior Senator from Nevada clarify the legislative branch appropriations bill conference report language relating to the Superintendent of Documents. Is it the intention of the conferees that the feasibility study on enhancing public access to Federal electronic information proceed whether or not H.R. 5983 is enacted into law?

Mr. REID. I am pleased to respond to my friend, the senior Senator from Kentucky. The answer is "Yes." The conferees intended to direct the Superintendent of Documents to conduct a

feasibility study to enhance public access to Federal electronic information and to utilize the assistance of the Community College Distance Learning Center in Owensboro, KY, in that study. That feasibility study is not dependent on passage of H.R. 5983.

Mr. FORD. Mr. President, I thank my friend, the chairman of the Legislative Branch Appropriations Subcommittee.

Mr. REID. Mr. President, I ask for the yeas and nays on adoption of the conference report.

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 conference report.

The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Tennessee [Mr. GORE], is necessarily absent.

Mr. SIMPSON. I announce that the Senator from Wisconsin [Mr. KASTEN], is necessarily absent.

The PRESIDING OFFICER (Mr. HARKIN). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 68, nays 30, as follows:

[Rollcall Vote No. 265 Leg.]

#### YEAS—68

Adams	Durenberger	Moynihan
Akaka	Exon	Murkowski
Baucus	Ford	Nunn
Bentsen	Glenn	Packwood
Biden	Gorton	Pell
Bingaman	Graham	Pryor
Boren	Harkin	Reid
Bradley	Hatfield	Riegle
Breaux	Hollings	Robb
Bryan	Inouye	Rockefeller
Bumpers	Jeffords	Rudman
Burdick, Jocelyn	Johnston	Sanford
Byrd	Kennedy	Sarbanes
Cochran	Kerry	Sasser
Cranston	Kerry	Shelby
D'Amato	Lautenberg	Simon
Danforth	Leahy	Simpson
Daschle	Levin	Stevens
DeConcini	Lieberman	Thurmond
Dixon	Lugar	Wellstone
Dodd	Metzenbaum	Wirth
Dole	Mikulski	Wofford
Domenici	Mitchell	

#### NAYS—30

Bond	Gramm	McConnell
Brown	Grassley	Nickles
Burns	Hatch	Pressler
Chafee	Hefflin	Roth
Coats	Helms	Seymour
Cohen	Kassebaum	Smith
Conrad	Kohl	Specter
Craig	Lott	Symms
Fowler	Mack	Wallop
Garn	McCain	Warner

#### NOT VOTING—2

Gore	Kasten
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So the conference report was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. FORD. I move to say that motion on the table.

The motion to lay on the table was agreed to.

#### UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that Senator RUDMAN be recognized to address the Senate for up to 10 minutes, and that at the conclusion of his remarks the Senate proceed to the consideration of the conference report on H.R. 5504, the defense appropriations bill, and that it be considered under the following time limitations: That there be a total of 60 minutes for debate, 20 minutes under the control of Senator STEVENS, 20 minutes under the control of Senator INOUE, and 20 minutes under the control of Senator NUNN.

Mr. STEVENS. Reserving the right to object, Mr. President, I did have a request from the Senator from Arizona [Mr. McCAIN] for 20 minutes.

Mr. MITCHELL. Mr. President, I modify my request by adding the request for 20 minutes for Senator McCAIN.

Mr. STEVENS. May I ask, did the Senator from New Hampshire want time?

Mr. RUDMAN. The majority leader has already reserved that for me.

Mr. STEVENS. I thank the Chair.

Mr. MITCHELL. Mr. President, I withhold my request.

Mr. RIEGLE. Five minutes for me.

Mr. MITCHELL. Mr. President, I ask unanimous consent that upon the completion of Senator RUDMAN's remarks, Senator RIEGLE be recognized for up to 5 minutes, and then the Senate proceed to the consideration of the conference report under the terms that I have previously stated, as modified.

The PRESIDING OFFICER (Mr. HARKIN). Is there objection? The Chair hears none, and it is so ordered.

The Senator from New Hampshire is recognized for 10 minutes.

#### FAREWELL TO THE SENATE

Mr. RUDMAN. Mr. President, I thank the majority leader for his usual courtesy, and I rise for probably the last time to address my colleagues in this great institution.

I wish to start by thanking the people of New Hampshire for giving me the opportunity, the privilege to serve. They have a special understanding of Government. They have a willingness to listen to hard truths, and they have been a wonderful constituency to represent. No man or woman can have a greater privilege bestowed on them than to represent the people of their State.

Second, let me thank the staff of all of the Members of the Senate, with whom I have worked for the last 12 years. You are truly an extraordinary group of young people, very dedicated, very knowledgeable, and certainly ease

the path of those who must cast the votes.

I want to say something to the national news media, with whom I have had a great deal to do through Iran-Contra and Gramm-Rudman, the ethics hearings, the Souter nomination, and many other instances. You have for the most part been fair. You have reported what I have said faithfully, and I want to thank you for what I think has been a marvelous understanding of your role and mine.

Finally, I want to thank the men and women of this body. I have said in recent months that the thing about the Senate which puzzles me is that lately the institution as a whole does not in my mind add up to the sum of its parts. It is quite the opposite of something that is synergistic, and I have wondered why. Maybe in the coming years that will change, because I have to say here what I have said many times. I have never met such an extraordinarily able, talented, dedicated, hardworking group of people as I have in this institution. There is so much talent, so many different personalities, different backgrounds, as I look at the people present tonight. It is a very special place, with very special people, and I hope in the coming years the institution can coalesce to bring those talents together in a bipartisan way to do what is good for America.

I want to say to the two leaders of this body that you have both been my friends: Senator MITCHELL, the majority leader, a neighbor from Maine; Senator DOLE, from Kansas, a man I admired long before I came here. I wonder if the people of this body and the people of this country recognized what extraordinarily talented men we have leading this institution.

BOB DOLE, who came from grievous wounds suffered in Italy, spent years in hospitals, entering this Congress as a very young man, and who everyone respects and recognizes is an extraordinary talent, and who has been a leader for the past two Presidents. No President could expect more.

More than that, BOB DOLE has been my friend. I will say to BOB DOLE, with no insult intended to the present occupant of the White House, who is also my friend, I wish we could have done better in New Hampshire, because he was my choice.

I want to say to the majority leader, GEORGE MITCHELL, who only arrived a couple years before I did, his rise to leadership in this body is nothing short of extraordinary. The son of immigrant parents, truly living in poverty as a young man, he aspired to greater things. He went to Bowdoin College, became a very respected U.S. attorney, a Federal judge, and then a U.S. Senator. When he became majority leader, I wrote him a little note which said, "George, I know that you are going to be fair but you will be tough." I will

say to the majority leader, he has been fair to a fault and tough, which is as it should be as we meet the adversarial interests that arise.

To all my other colleagues, I have found something special about each of you, and the bittersweet moment of leaving this week will be that I will no longer have you as everyday friends.

That moment will count to everyone in this body. I made a choice that this was my time to leave. But make no mistake; I will miss each of you.

I have looked through the history books to find a couple of quotes about the U.S. Senate, and two struck me. I am going to just read them into the RECORD. They are short.

Woodrow Wilson said this:

The Senate of the United States has been both extravagantly praised and unreasonably disparaged, according to the predisposition and temper of its various critics. \* \* \* The truth is, in this case as in so many others, something quite commonplace and practical. The Senate is just what the mode of its election and conditions of public life in this country make it.

And how true that is as we grapple with the issues of the time.

Finally, as some of you know, I have the great privilege of sitting behind the desk of Daniel Webster. It is I think the only desk in the Senate in which the top does not open. Mr. Webster sat behind this desk in the Old Senate Chamber, and then, of course, when the Senate moved, it was placed here. And inscribed in the drawer are the names of some very great U.S. Senators—Styles Bridges, Norris Cotton, Tom McIntyre, to name just a few.

Webster was a special man. He was from New Hampshire; represented Massachusetts, but probably the greatest public servant that New Hampshire ever produced. I have kind of been a student of his works, and I thought that the last words that I utter here on this floor ought to be his words. So let me give you a quote of his that I think is special and each of us should take to heart as Members of this truly great institution.

He said:

If we work upon marble, it will perish; if we work on brass, time will efface it. If we rear temples, they will crumble to dust. But if we work on men's immortal minds, if we impress on them high principles, the just fear of God, and love for their fellow-men, we engrave upon those tablets something which no time can efface, and which will brighten and brighten to all eternity.

On those great words of Daniel Webster, I say God bless all of you, and thank you each so very, very much.

#### SENATOR WARREN RUDMAN

Mr. MITCHELL. Mr. President, before the Senate adjourns sine die, I will have a more detailed statement to make about my friend and colleague

from New Hampshire, and other Senators who will be leaving at the end of this session as the distinguished Republican leader already has done in some cases, and I know intends to do with others.

But I will just take this occasion to say that the eloquence and integrity of the Senator from New Hampshire, as demonstrated in his final words, reminds all of us of how much we will miss him personally, and the extent to which this Senate will be a different and diminished place without him.

In behalf of all of our colleagues, I wish him the very best success.

#### SENATOR WARREN RUDMAN

Mr. DOLE. Mr. President, let me indicate also that I will be making a statement about my good friend, Senator Rudman. I wanted to hear what he said about me first. So I will go and finish my statement.

But, seriously, he is my friend and I will make my statement sometime tomorrow, or the following day, or maybe even Thursday. I assume we will be here.

I thank him very much for his kind remarks, but above all, his friendship and even though he is leaving, it does not mean we are going to be parting.

I thank my colleague.

#### SENATOR WARREN RUDMAN

Mr. GRAMM. Mr. President, to many who have already seen him on television, WARREN RUDMAN is just another pretty face. But to those of us who have been privileged to serve with him, it is nice, I think, as we begin to reflect on what the Senate will be without him, to be reminded that even though we read about great people in history books, we do not necessarily recognize them when we are working with them. Only when they leave do we recognize by the empty space they leave how important they were.

Mr. President, I believe that as we look back on WARREN RUDMAN's work and mission and his commitment, we will realize that he is and has been one of those great people who have served in the Senate.

#### SENATOR WARREN RUDMAN

Mr. MCCONNELL. Mr. President, listening to the distinguished Senator from New Hampshire reminds me of a brokerage commercial of some challenge which goes something like this: "When the brokerage house speaks, everyone listens."

Frankly, in the 8 years I have been in the Senate, I cannot think of anyone other than the senior Senator from New Hampshire for whom I can say when he speaks, everyone listens. Usually, in this Chamber, when we speak,

nobody listens. But it can truly be said of Senator RUDMAN that when he spoke, we all listened. He advice was invariably good advice. His integrity, of course, is absolutely unimpeachable.

Let me say to my friend from New Hampshire, most of us are easily replaced and will largely be forgotten. That is not true of the Senator from New Hampshire.

Mr. President, I yield the floor.

#### SENATOR WARREN RUDMAN

Mr. SIMPSON. Mr. President, I, too, before we adjourn will revise and extend my remarks with regard to my friend, WARREN RUDMAN.

But let me just say that it has been an adventure, an elixir of energy and spirit, and pugnacious perseverances of this man—who no wonder he was the light heavyweight NCA boxing champion at Syracuse many a year ago, not too many. My old partner was the heavyweight NCA boxing champion from Wisconsin. He said when you get to the Senate—I had been here—get to know WARREN RUDMAN. He is one of the greatest guys I have ever known and a fighter for the things he believes in, and he is.

This is not a eulogy. I will not go any further on that. But I am pleased that I have had an opportunity to share not only part of my legislative life, but my personal life with him.

I wish him well in his new quest, along with our former colleague, Senator Paul Tsongas. You will be doing great things from outside this body and hopefully in this body with people like SAM NUNN, and PETE DOMENICI, JAY ROCKEFELLER, myself, others who are involved in the CSIS activity. We can do some things inside this Chamber that deal with honest things. We all know what we have to do. You can help us, and I just say that the best tribute I can pay is a simple one. This is all the man there is.

I thank the Chair.

#### SENATOR WARREN RUDMAN

Mr. BRADLEY. Mr. President, I had not expected to be on the floor at this moment, but I do not want this moment to pass without saying just a few words.

I was actually thinking over the weekend about what I would say on the floor about Senator RUDMAN before he left the Senate, and I will indeed do that.

So these are not my final words. But in thinking about what I would say, I at least got through the first sentence of my comments. That sentence was the one thing you have to know about Senator WARREN RUDMAN is that he was once a pretty good boxer. And I think the words "pretty good" and "boxer" really define major parts of his character and personality.

There is a constant striving to be better. As those of us who have been hit in one way or another in a contest know, you can always be better, and once you are satisfied with where you are, you lose the edge. Senator RUDMAN has never lost the edge. And if I were to think about qualities in this impromptu moment, I would say: Courage, fairness, a willingness to face the truth, even if the truth hurts, a willingness to reach out and confront, as well as to try to mediate.

I have engaged in conflict with Senator RUDMAN, and I have benefited from his support. All things considered, I would rather benefit from his support. I have learned things from him, and I value his friendship, while he has been in the Senate, and I hope in years to come.

#### TRIBUTE TO SENATOR WARREN RUDMAN

Mr. STEVENS. Mr. President, I, too, will take the time to speak at length about my friend from New Hampshire. I think I will share with the Senate what I wrote to WARREN RUDMAN, that his leaving the Senate reminds me of an old cowboy song, "It Hurts So Much Without You, It's Almost Like You Were Here."

Senator RUDMAN has the ability to make us think about the things we do not want to think about, and the courage to do the things we know we have to do. I do not know that I have known any other Senator that had the courage and the conviction WARREN RUDMAN has had. I will speak at length later, but I wanted to tell him I was pleased to be here when he made his last remarks to the Senate.

#### TRIBUTE TO SENATOR WARREN RUDMAN

Mr. SMITH. Mr. President, I have had the privilege of serving in this New Hampshire delegation with Senator WARREN RUDMAN for the last 8 years, 6 years in the House of Representatives, 2 years here in the U.S. Senate. We met in 1980 as respective candidates for Federal office. He was running for the U.S. Senate, and I was running for the U.S. House, in two very crowded primaries.

WARREN RUDMAN's train came in a little bit earlier than mine. I lost a couple of elections. A lot of people may not realize, as I said to Senator RUDMAN in a tribute the other night, he was in a primary with John Sununu, along with about 9 or 10 other people, and he defeated Sununu by about 2,000 votes. It is interesting how history turned out. Maybe if Sununu would have been in the Senate, Senator RUDMAN would have been the chief of staff, and maybe the President would have been leading in the polls now. So history has a funny way of treating us sometimes.

I just want to say that in all of the years that I have known him, he has been always quite forceful. A mutual friend of ours, Bill Thompson, told me "if you do not make any enemies when you go through life, you are no damn good." I am sure WARREN has made a few, but he has also made a lot of friends. I am certainly going to miss him, and it will be strange not having WARREN RUDMAN in the delegation.

So I have to say, politically, goodbye, WARREN, but I am sure we will be seeing you from time to time as the years go by. Good luck.

#### COMMUNITY ENVIRONMENTAL RESPONSE FACILITATION ACT—CONFERENCE REPORT

Mr. MITCHELL. Mr. President, I submit a report of the Committee of Conference on H.R. 4016 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4016) to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to require the Federal Government, before termination of Federal activities on any real property owned by the Government, to identify real property where no hazardous substance was stored, released, or disposed of, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 3, 1992.)

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I am pleased that today we consider the conference report on H.R. 4016, the Community Environmental Response Facilitation Act. This legislation is substantially similar to legislation I introduced with Senator COHEN, S. 2828.

The legislation clarifies a process whereby clean parcels of otherwise contaminated Federal property can be identified and transferred before the remainder of the property is fully cleaned up. This applies to a broad range of Federal property but is particularly important to maximize economic reuse of Loring Air Force Base, which the administration has decided to close.

Loring is a Superfund site, but much of the property is not believed to be contaminated. Under this legislation, the Air Force would identify the clean parcels through a process detailed in the legislation.

In addition, the Environmental Protection Agency is required to decide whether to concur in the identification of the parcels as clean. This provides greater certainty to a needed process. In addition, the concurrence by EPA provides an independent assessment of the property that is likely to be sought by investors.

The legislation also provides that contaminated property can be transferred once it is cleaned up but before long-term pumping and treating of ground water or operations and maintenance are complete. This will speed transfer by allowing third parties to receive the property before decades of ground water treatment is complete.

Nothing in the legislation in any way alters the liability of the Federal Government for fully cleaning up any contamination it causes. What the legislation will do is speed transfer of Federal property so that it can be made available for economic reuse as soon as possible. This should help alleviate the strain on communities near closing bases, such as Loring.

I thank the work of my colleague on the conference.

Mr. WARNER. Mr. President, I would like to voice my support for the conference report on H.R. 4016, the Community Environmental Response Facilitation Act. This legislation will address a number of the current roadblocks in moving Federal lands to the private sector. I am particularly interested because of its impacts on the transfer of Department of Defense lands.

The recent base closure legislation has highlighted a number of shortfalls and gaps in current environmental law. To transfer Federal lands previously designated as contaminated requires cleanup in accordance with CERCLA. But, if the property was not contaminated, but only designated incorrectly, there were no provisions on how to transfer the clean land.

This bill will provide the necessary guidelines and procedures to permit the subdivision and parcelization of clean land from previously designated contaminated, national priority list property to permit transfer. The property can be transferred only after the clean property has been identified, designated as clean, and concurred with by the responsible official.

This parcelization together with the other bill provisions should permit quicker transfers of Federal lands.

Mr. LAUTENBERG. Mr. President, today we are bringing the conference report on this important legislation to the full Senate for final passage. As an original cosponsor of H.R. 4016 and a

conferee on that bill, I urge passage of the report.

This conference report, in an environmentally protective way, responds to the adverse economic effects that base closures can have on local communities. Its goal is to expedite the process for identifying and distinguishing between contaminated and uncontaminated portions of military bases and other Federal facilities that are slated for closure. Under existing law, the Federal Government cannot transfer property that has been contaminated with hazardous substances. Because some Federal agencies have been hesitant to transfer even the clean portions of property that may have been thought to have been contaminated or included within the boundaries of Superfund sites, local development of perfectly clean parcels of property has been stymied.

The conference report that we are bringing up for passage today will solve this problem. The result will be faster, more efficient cleanups, less economic disruption for affected communities, and a fostering of the reuse and redevelopment of former Federal property. All of these goals will be achieved without reducing in any way the Federal Government's existing responsibility for cleanup of these Federal properties.

Specifically, the conference report and the underlying bill have three major components. First, it would require the Federal Government to identify, at all facilities that are going to be closed, the uncontaminated parts of such property. Such identification is analogous to the environmental auditing procedures already typically followed in the private real estate market, and requires the concurrence of the Environmental Protection Agency or the State.

Second, it would clarify a transfer condition currently in the law. The Superfund law bars contaminated or potentially contaminated Federal land from being transferred unless the U.S. covenants in the deed that all remedial action necessary to protect human health and the environment has been taken. This legislation would clarify that this condition is met when construction and installation of an approved cleanup design have been completed, and EPA has determined that cleanup mechanisms are operating properly. So even if long-term pumping and treating of groundwater is necessary, or even if the site has not yet been formally taken off the Superfund National Priorities List, the property can be transferred. This is in accord with EPA's existing policy.

Third, in the case of potentially contaminated property at bases about to be closed, the legislation requires the United States to notify the State prior to entering into any lease for the property that will run past the date of base closure.

Mr. President, I believe that this legislation exemplifies the principle that environmental protection and economic development can and will work hand in hand. I congratulate the distinguished majority leader for his role in bringing this legislation to this point, and hope that the House of Representatives and the President will soon join us in providing this benefit for communities that are poised to turn the closure of a military base into an opportunity for reuse and economic development of the property.

Mr. CHAFFEE. Mr. President, today we have before us the conference report to accompany H.R. 4016, the Community Environmental Response Facilitation Act. Over the last several days, the conferees have worked out what were fairly minor differences between the House and Senate bills, and come up with what I believe is a very good proposal.

As those of us on the Committee on Environment and Public Works have learned over the last few years, a large number of closing military installations have some contamination from hazardous substances. Some have read the Comprehensive Environmental Response, Compensation and Liability Act of 1980—or as it is more commonly known, Superfund—to require that cleanup of contaminated portions of such installations must occur before any transfer of land—including clean parcels—can occur. The conference report would amend current law to allow the identification and transfer of clean parcels of land on closing Federal installations within a specified period of time. In making this change, the conference report recognizes the legitimate desire of States and local communities and others to take title to clean Federal property without unnecessary delay.

Mr. President, I should also note that the conference agreement gives EPA and the States an important role in the process of transferring these clean parcels of land. Specifically, the conference report provides that either EPA or the State is required to concur in a judgment that a parcel is clean before it can be transferred.

In conclusion, Mr. President, I believe that the conference agreement would make an important change in existing law that will facilitate transfers of Federal property that will, in turn, spur economic development around the country, while continuing without interruption the important job of cleanup. I urge my colleagues to support the conference report.

Mr. MITCHELL. Mr. President, under the previous order, I believe the Senator from Michigan is to be recognized.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

#### TRIBUTE TO SENATOR WARREN RUDMAN

Mr. RIEGLE. Mr. President, let me say with reference to WARREN RUDMAN, among other things, WARREN is also a great pilot. He has helped pilot the Senate on more occasion than one. In my view, WARREN is a great Senator and a great friend. He will be missed by all of us, and he will be very much missed by me. I add my good wishes to those that have already spoken, as he goes on to new and different challenges. It just will not quite be the same place without him, if I may say.

#### PROMPT CORRECTIVE ACTION IN BANKING SUPERVISION

Mr. RIEGLE. Mr. President, last year's banking bill included a new approach to banking supervision called prompt corrective action, which was aimed at ensuring that the American people not have to confront future failures of the deposit insurance system. That rule takes effect on December 19 of this year, and it provides important and necessary protection to American taxpayers.

Prompt corrective action generally requires regulators to close or sell banks or thrifts when shareholder capital falls below 2 percent of assets. Regulators can keep such a bank open only if doing so would better protect the deposit insurance fund, and they would have to make that certification. But properly enforced, this revision will significantly reduce future FDIC losses. This is essential to protect the \$70 billion of taxpayer money that has been loaned now to the bank deposit insurance fund.

The idea of this provision now in the law is to close an institution before its capital actually gets to zero, and while there is still some value left, because waiting for a bank or a thrift to become absolutely insolvent typically means it will have negative value by the time it is closed and therefore a corresponding loss of taxpayers' money.

The prompt corrective action provision says, in effect: Regulators, you must act earlier and more aggressively when a bank or a thrift gets into irreversible decline and is headed for insolvency. The regulators are compelled to get in there and correct the problems and turn the bank around, if it can be done. If it cannot be done, see that the bank is sold or closed before it becomes an additional loss to deposit insurance fund, and therefore a direct liability to the American people.

For 12 years the prevailing philosophy was to try to get away with merely codifying the existing discretion of the regulators. That is the same discretion whose abuse got us into this very problem, that broke first the S&L fund, and now since, the banking fund.

This legislation, however, sent the regulators and the banking system a

clear message, and that is: The era of lax supervision is over.

What is going to happen after December 19? Almost certainly, some banks will be closed or sold. Although the future is not certain, the FDIC now predicts that between 50 and 100 institutions with assets of roughly \$35 billion will require action by the regulators.

Under the leadership of the late chairman, William Taylor, the FDIC issued a public warning that 200 banks with combined assets of more than \$80 billion were projected to fail in 1992. Yet, in the first 8 months of this year, only 70 banks with \$20.9 billion of assets had failed, far below the rate of the FDIC forecast. This obviously raises the concern that the regulators are not shutting down ailing banks that should be closed and, therefore, minimizing the size of the problem that we are yet to face. If this is occurring, it will certainly raise the cost of these bank failures that will eventually fall upon the taxpayers.

While the administration has been quick to declare that banks, like the economy, have turned the corner, the late chairman Taylor clearly disagreed. He knew that many banks have not worked through their real estate problems that have severely eroded their capital. That's why last May, he urged the FDIC to hike the bank insurance premiums that are paid into the deposit insurance fund. Unfortunately, after Bill Taylor's sudden death, the FDIC Board yielding, I believe, to pressure, agreed to a much lower increase, which puts the taxpayer loan at greater risk and reduces the bank insurance costs that banks should properly bear themselves.

So prompt corrective action should not become a scapegoat for bank failures that will occur later this year. These failures will occur because of bad decisions made in past years by the managements of troubled banks, and the failure of those banks is now inevitable.

It is an inescapable problem, and if the economy sinks into greater difficulty, the number of bank failures could rise sharply. It is in that regard that it is absolutely essential that a comprehensive national economic recovery program be implemented immediately by the next President.

We haven't a moment to lose, because sustained economic recovery is vital if we are to ease the severe strains on our financial and banking structure.

So, in sum, we have a significant commercial banking problem, and prompt, corrective action will ensure that our regulators deal with it directly and at the lowest possible cost to taxpayers.

I thank the Chair and yield the floor.  
The PRESIDING OFFICER. The time has expired.

Mr. MITCHELL. Mr. President, will the Senator yield for one moment

while I make a unanimous-consent request?

Mr. INOUE. I yield.

#### UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I have a unanimous-consent request that has been cleared by the Republican leader. I ask unanimous consent that it be in order to proceed to the conference report on H.R. 776, the National Energy Policy Act.

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

Mr. MITCHELL. Mr. President, I now ask unanimous consent that it now be in order to lay the conference report before the Senate.

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

#### ENERGY EFFICIENCY ACT—CONFERENCE REPORT

Mr. MITCHELL. Mr. President, I submit a report of the committee of conference on H.R. 776 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 776) to provide for improved energy efficiency, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of today, October 5, 1992.)

#### CLOTURE MOTION

Mr. MITCHELL. Mr. President, I send a cloture motion to the desk and ask that it be stated.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair, directs the clerk to read the motion.

The legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the conference report on H.R. 776, the National Energy Policy Act:

George Mitchell, Daniel K. Akaka, Edward M. Kennedy, J. Bennett Johnston, Daniel K. Inouye, Jeff Bingaman, Timothy E. Wirth, Wendell Ford, Bill Bradley, Lloyd Bentsen, John Breaux, Claiborne Pell, Jay Rockefeller, Malcolm Wallop, Charles S. Robb, David L. Boren.

Mr. MITCHELL. Mr. President, I now ask unanimous consent to return the conference report at the desk to its previous status and that the Senate proceed to the DOD appropriations conference report as under the previous order.

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

#### DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, FISCAL YEAR 1993—CONFERENCE REPORT

Mr. INOUE. Mr. President, I submit a report of the committee of conference on H.R. 5504 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5504) making appropriations for the Department of Defense for the fiscal year ending September 30, 1993, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 4, 1992.)

The PRESIDING OFFICER. Time for debate under consideration of this conference report is limited to 80 minutes controlled as follows: 20 minutes each to the Senator from Hawaii [Mr. INOUE]; the Senator from Alaska [Mr. STEVENS]; the Senator from Georgia [Mr. NUNN]; and the Senator from Arizona [Mr. MCCAIN].

The Senator from Hawaii.

Mr. INOUE. Mr. President, I am pleased to submit the report of the committee of conference on H.R. 5504, the Department of Defense appropriations bill for fiscal year 1993. Mr. President, this has been a very difficult year for the conferees on Defense appropriations. We have worked in lengthy sessions to devise a compromise agreement which funds the essential requirements for the defense of our country in the post-Warsaw Pact world. In this bill, we propose measures to preserve the Nation's defense industrial base, and we act to ensure that sufficient funding is provided to fund the research and development programs which will protect the qualitative edge of America's military equipment in combat, whenever and wherever that might occur. Our recommended bill provides funding to keep America's men and women in uniform well equipped, well trained, and well led.

The amount of funding in the conference agreement—\$253.8 billion—is \$16.3 billion below the amounts appropriated last year for Defense. The conference bill is some \$34 billion below what was appropriated just 2 years ago. The allocation of budget authority for the Defense Appropriations Subcommittee this year is some \$14 billion below the ceiling, or cap, agreed upon in the budget summit. We have stayed

within the agreed summit level and the funding we have recommended to the Senate is under our budget allocation by nearly \$2 billion.

It has been difficult to achieve our objectives. We have met the challenge.

Mr. President, I would now like to detail some of our recommendations.

#### MILITARY PERSONNEL

Both the Senate-passed and the House-passed authorization bills reduce end strength for the Active Forces, as requested, by 98,617 from fiscal year 1992 to 1993. Funding levels contained in the conference agreement recognize this reduction.

Mr. President, I would also note that there are no recommendations for accelerating the drawdown from Europe. Our review indicates that troops are being withdrawn from Europe at rates which already impose hardships on military personnel. Indeed, because of our concern that those returning from Europe face unnecessary hardships, \$25 million is added to allow enlisted military personnel more time to find housing when they undergo a permanent change of station.

The administration requested total budget authority of \$77.4 billion for operation and maintenance [O&M] programs. The conference agreement provides \$72.8 billion, cutting \$4.6 billion from the request. The agreement is \$1.1 billion above the House level and \$1 billion below that of the Senate.

The conferees also accepted Senate recommendations which seek to encourage efficiencies and better management. The Senate recommendations proposed a series of adjustments under the heading "excess inventory initiative" which reduce the Department's request for purchasing spare parts and supplies by a total of \$3 billion. These reductions are made in light of the continuing problems DOD has had managing its supply system.

Mr. President, the conference agreement provides support for defense conversion, environmental programs, and disaster relief activities. The recommendations provide \$1.766 billion for defense conversion programs under Title 8—Defense Reinvestment for Economic Growth and under the R&D and operations and maintenance titles of the bill. These conversion programs include R&D activities, which I shall discuss later, and transition assistance for military and civilian workers. An increase in funding is provided for DOD's environmental program.

#### TITLE III—PROCUREMENT

Mr. President, under the procurement accounts, the conferees were concerned with the protection of the defense industrial base as well as the procurement of needed military equipment. Accordingly, the conference agreement recommends actions to various investment programs that reflect the need to decrease the Defense budget, but at the same time, build down

investment programs in such a way that the industrial base is maintained in a viable manner. Where possible, the recommendations support conversion of the industrial base to civilian applications.

In particular, I would call attention to the armament retooling and manufacturing support [ARMS] initiative, which will restructure the ammunition industrial base to make more efficient, cost effective use of its industrial capacity. This initiative will boost defense readiness, preserve jobs, and form the basis for economic growth in regions affected by Government plant closures.

Mr. President, I ask unanimous consent that an amendment which I had intended to propose to the Defense authorization bill be inserted into the RECORD at the conclusion of my remarks. I have asked for inclusion of this text into the RECORD because it may help to guide those who will implement the arms initiative as it appears in the Defense Authorization Act for fiscal year 1993.

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

Mr. INOUE. (See exhibit 1.)

Mr. President, while still under the procurement title, I would like to discuss our recommendations for various aircraft programs.

First, the F-16 program.

The budget proposed to buy 25 F-16 aircraft for the air force in the final procurement of that airplane. The conference agreement supports the procurement of 24 F-16's in fiscal year 1993.

Second, the C-17 program.

The C-17 is an airlift airplane intended to become the mainstay of air mobility for U.S. forces. The C-17 program, however, is again behind schedule and its prospects for getting back on schedule do not look good. Consequently, the conference agreement fund six aircraft instead of the eight requested in the budget.

Now, we get to the B-2 bomber program.

The conference recommendation fully funds the four remaining B-2 aircraft for a total program of 20 aircraft.

TITLE IV: RESEARCH, DEVELOPMENT, TEST AND EVALUATION

Mr. President, we have now come to the last major division of the bill which I propose to discuss in detail today and that is Title IV—Research, Development, Test and Evaluation.

The largest program under the R&D accounts is also the most problematic. It is the strategic defense initiative. The Pentagon sought \$5.3 billion in fiscal year 1993 for the strategic defense initiative [SDI] and theater missile defense initiative programs. The recommendation which the Senator from Alaska and I brought to the Senate on September 21 was to provide \$3.8 billion to establish a more fiscally supportable level and to permit more time for ade-

quate test and evaluation to occur before equipment is fielded.

Some Members wanted to reduce funding well below that level but the Senate accepted the committee approved recommendation and \$3.8 billion was the amount the Senate conferees carried into conference.

Mr. President, I know that while we were in conference, ill-founded rumors were spread by persons who apparently sought to discredit the conference agreement on SDI even before it was completed. I am pleased to inform my colleagues that Senator STEVENS and I did not waver, we did not break faith with our colleagues, we brought back a conference agreement which provides \$3.8 billion for SDI in fiscal year 1993—no more, no less—\$3.8 billion is the amount we pledged and it is the amount we delivered.

UNIVERSITY GRANTS

The Senate conferees have responded to requests for earmarking of funds for university grants in the same manner as the Congress resolved this issue in the fiscal year 1992 rescission bill. That is, we have put these university grants into a single provision granting the Secretary of Defense the discretion to award any particular grant.

Mr. President, that concludes my presentation of major recommendations. In a bill of the size and scope of the Defense appropriations bill there are many items of particular interest to individual Members. I would hope the Members would judge the work of the committee by its achievements and not by what they perceive to be its shortcomings. We have a good bill, a balanced bill, and one which I believe deserves the support of every Member of the Senate.

Mr. President, a bill of this magnitude and complexity cannot be managed by one man alone; it requires a team. We have a team—it is called the Appropriations Subcommittee on defense. Each member on that committee has contributed to the Senate's understanding of this important piece of legislation. Chairman BYRD, Senator HATFIELD and other members of the full committee have facilitated our work. I am deeply grateful to each of them—the members of the subcommittee, the members of the full committee, and my other colleagues.

But, Mr. President, I would be remiss if I failed to give special recognition to a singular presence, a Senator whose understanding of matters related to the national defense is unsurpassed. I have an undying debt of gratitude to my good friend the senior Senator from Alaska [Mr. STEVENS] for his support, his encouragement, and his willingness to help shoulder the burden of carrying this bill before the Committee and the Senate and in conference with the House. I treasure the opportunity to work with him in partnership on these weighty matters.

Mr. President, I also wish to recognize the tireless dedication of the staff of the subcommittee. Through the long hours they have labored to give effect to our actions. Selflessly, respectfully, and I might add, tenaciously, the staff of the subcommittee has struggled to bring to fruition the legislative actions of the Senate and the Congress. I wish to recognize; Richard Collins, Steve Cortese, Dick D'Amato, Hoot Albaugh, Rand Fishbein, Charlie Houy, Jay Kimmitt, Peter Lennon, Mary Marshall, Mavis Masaki, Jane McMullan, Jim Morhard, David Morrison, Mazie Mattson, Donna Pate, and John Young.

TRIBUTE TO JAY KIMMITT

Mr. INOUE. Mr. President, it is my pleasure to call to the attention of the Senate the dedication and service of one of the most trusted member of my staff. He is a man who does not seek recognition, but who nonetheless rises above the crowd by his sheer determination to get the job done, and who has gained the respect and admiration of his colleagues and those who know him as a man whose integrity is unimpeachable and whose commitment to securing the objectives of those he serves never falters.

His character was shaped by his service as an officer in the U.S. Army and his education at the U.S. Military Academy at West Point. He is marked by an unwavering allegiance to the Senate and to the Committee on Appropriations.

The man of whom I speak is Jay Kimmitt, and I am indeed fortunate that he is a member of my staff on the Subcommittee on Defense Appropriations.

Mr. President, Jay has worked for the Congress for nearly 10 years. The majority of that time he has spent on the Defense Appropriations Subcommittee where his responsibilities have grown with each year of service. He is now the primary staff analyst for Department of Defense procurement and for Army research and development programs.

Jay is known, both here in the Senate and in the Pentagon, as one whose incisive analysis, when jointed with his background and experiences in the military, can deflate the pretensions of those who would seek to "bamboozle" the Committee on Appropriations. He presents a formidable obstacle to those who would try to outrun caution or to dodge the careful examination of their requests for funding.

Mr. President, I am proud of Jay Kimmitt. It is an honor for me to work with him.

Mr. President, it is now my pressure to yield to my colleague, the chairman of the authorization committee, the Senator from Georgia [Mr. NUNN].

The PRESIDING OFFICER. The Senator from Georgia is recognized for up to 20 minutes.

Mr. NUNN. Mr. President, I thank the Chair, and I thank my colleague

from Hawaii and my colleague from Alaska for their very thorough and very commendable job in managing what everyone knows is one of the most difficult bills to manage.

Mr. President, under the circumstances, I think this bill is a good bill. I particularly want to commend the conferees for their support of several different provisions that originated in the authorization bill but that we worked side by side with the appropriators on all year, particularly the initiatives on defense conversion and transition initiatives that are so important to our men and women in the military and also to our communities throughout the Nation that are losing defense industry and are losing military bases.

We have worked very hard in the Senate this year to put together a bipartisan package of recommendations in this area and I think enactment of these initiatives will certainly be among the most important work done in the Congress this year.

I am also pleased the appropriation conference agreement follows the authorization conference agreement on the tactical aircraft modernization programs which are enormously important and which all of us know we have not solved this year. But at least we are trying to point in the right direction and we are awaiting both an affordability study and a roles and mission study to release all funding.

I would say the same in terms of the funding for the Nunn-Lugar demilitarization legislation which is so enormously important in preventing the spread of nuclear weapons and chemical weapons and countermissile technology around the world as the former Soviet Union undergoes its transition.

And there are a number of other funding provisions that are enormously important that I will not detail tonight.

Mr. President, I will support this conference report, and I do commend the managers of the bill. I do have some concerns that I think need to be set forth.

One concern is the direction in this bill to the Secretary of Navy to settle certain specific shipbuilding claims and several transfers of funds to non-DOD agencies for nondefense purposes.

There may be a good case for these shipbuilding claims to be settled. I hope that there is a good case, because each one of these three that have been identified in this bill have been found unjustified by the Navy.

There is one provision here to pay Bethlehem Steel, Sparrows Point, \$40 million using 1992 funds; \$55 million was appropriated last year. Secretary Garrett found these claims were unjustified.

There is \$13.3 million for Tampa Shipbuilding in Florida, and this was also found to be unjustified by the

Navy. The Navy and the Maritime Administration also had another claim for the same company, Tampa Shipbuilding, for TACS-7 and TACS-8, \$30.3 million. Each of these claims was found to be unjustified. I hope there is a better explanation than I have received on this, and I certainly do not discount the fact that there may be an explanation.

But any time we overrule a finding by the Navy or by the military services that the taxpayers of the United States do not owe this money and it is put in the bill as a directive to pay, it raises concerns, at least on my part.

Mr. President, my other major concern about the conference report is an old one that has come up several years in a row, and that is the university research earmarks. A little legislative history is in order here.

Two years ago, this issue was hotly debated before this body on the very day of sine die adjournment. When that difficult debate was over, the Senate adopted a provision, and the House followed when the conference report was sent back over, to stop the earmarking of university research funds in the DOD bill.

In the next year's Defense Authorization Act, we passed a provision that called for all university contracting grants to be awarded on a competitive merit selection basis. We also required a specific waiver of this provision in order to make it harder to earmark research projects for specific universities.

The very next year, Mr. President, the appropriations conference report, with no earmarks having been included in either the House or Senate passed bill, waived the competition requirements in the law and again brought us a bill loaded with university earmarks, and that bill was unamendable.

Last year it was the same story. The bill was brought to us at the last minute full of university earmarks. I reluctantly opposed the report last year because of this.

When the Department of Defense subsequently proposed to rescind the earmarked funds, the Appropriation Committee included the rescissions in both bills that passed the House and the Senate.

But something strange happened in conference. When the rescission bill came back from conference, the rescissions of the earmarks were dropped in spite of the fact they were in both bills. The earmarks then were added back, but they did include a provision that said the Secretary of Defense could spend an amount of each case that he felt was appropriate based on the contribution of the project to our national scientific and technology posture.

Obviously, the Secretary did not see much merit in these projects because they were on his rescission list. I understand, although I am not certain,

that none of these funds have been spent to date.

Mr. President, when the defense appropriation bill came before the Senate last week, there was approximately \$90 million in earmarked funds, but the Senator from Hawaii had done what he said he was going to do last year, and he carried out his word completely. These were discretionary. They were up to the Secretary of Defense.

I proposed an amendment to ensure that all of these grants and contracts to universities would be awarded on a competitive basis, in accordance with the current law which we passed 2 years ago. This amendment also called for a new procedure to use a merit-based review process rather than the oil peer review process that so many Members of the Congress have found objectionable in the past because there is considerable evidence it becomes an old boys network.

This new process would basically include the land grant colleges. I think we need to take another look at that procedure next year and perhaps broaden the group of colleges represented there.

But in any event, I think there is a strong case that our private colleges and universities ought to also be represented. My amendment was adopted giving the Senate a strong mandate to resist earmarking of these funds during the conference.

Now that the conference is complete, and despite the strong message against earmarking of these funds which has been given over and over again by this body, \$176 million has been earmarked for 28 colleges and universities.

I would note very quickly, however, that this \$176 million is divided into two parts: Those projects which came from the Senate and those which came from the House. The seven Senate earmarks, which total about \$75 million, are subject to the amendment I referred to and they will be subject to the competitive requirements of the law.

In other words, Mr. President, they will be selected on the merits. And if there are other schools that are not named in this report that have a better proposal, those other schools will also be able to compete.

The 21 House earmarks, which total \$101 million, on the other hand, are to be exempted from the law and awarded without competition. They are outright mandates to spend the money only on those projects. The conferees placed specific language in the report providing that.

To make matters worse, this conference report authorized 10 earmarks, in addition to those that I just mentioned, which are valued at \$94.8 million that were rejected and deleted from the fiscal year 1993 Energy and Water Appropriations Act and never passed by either legislative body.

Mr. President, I recognize the dilemma that our Senate conferees were in. I sympathize with their position. I understand the House is adamant on these projects. But I would have to say that this is a slap in the face of good Government.

Mr. President, I am disappointed by this blatant disregard on the part of the House conferees for the strong sentiment of most of the Members of the Senate and I believe also the House. I believe also at least the House is having second thoughts on this subject, because we have to ask the questions of ourselves: What kind of message does this send to the Department of Defense? Does it tell them that we in the Congress mean what we say when we call for increased oversight as our defense dollars become more scarce? I think not.

Also, Mr. President, we must ask ourselves what kind of message we are sending to colleges and universities that are the very foundation of the technology and management we will need in the future: Are we telling them that we value excellence in the research they do? I think not. Are we telling them that the sure way to be funded is not through excellence or performance or through merit-based selection: the way to be funded is through the office of a Member of Congress, regardless of the value and the merit of the proposed research.

Some of these may be worthwhile projects. They may be the best projects available. We may get our money's worth. But if they are good projects, they should stand up to a merit selection process.

And the thing that is most unfair, Mr. President, when you have these provisions inserted year after year by the House, is the fact that schools that are qualified, that are capable, are getting out of the process.

Mr. President, I am disappointed in these particular provisions. I do not know what can be done at this late date but I hope we can turn this around. I hope the projects will be on the rescission list and I hope that we will be able to readdress this, either before this session ends or early next year.

Mr. President, again I commend the Senator from Alaska and I again commend the Senator from Hawaii for the very difficult job under great time pressure.

I would also add that job was made more difficult this year because our authorization bill was not passed in an early stage, and I understand that makes it much more difficult for the appropriators to act. We were forced by circumstances beyond our own control not to pass our bill at the end of August and that made the process more complex for all.

Mr. President, before yielding the floor, yielding back the remainder of

my time, we had a little dialog here a few minutes ago with a marvelous going away speech and presentation by the Senator from new Hampshire, Senator RUDMAN. I will have more remarks to make about him later but he is a man of splendid ability, he has tremendous integrity, he has wisdom, he has common sense, and most of all he has fortitude. He has the courage of his convictions.

WARREN RUDMAN will be missed. Mr. President, I yield the floor.

I yield the remainder of my time.

The PRESIDING OFFICER (Mr. SARBANES). The Senator from Georgia yields the remainder of his time.

Under the agreement, 20 minutes is reserved to the Senator from Alaska, Mr. STEVENS, and 20 minutes to the Senator from Arizona, Mr. MCCAIN, which has not been used. The Senator from Hawaii has used 6 minutes of his time.

Who seeks recognition?

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, while the distinguished chairman of the Armed Services Committee is on the floor I would like to express my appreciation for, again, his achievements in carrying out a very difficult, arduous bill and especially for his continued support as we address the difficult personnel issues that affect our Armed Forces. As you all know, we are forcing thousands of young men and women to leave the military. I appreciate the concern and commitment on the part of the chairman in trying to ease the transmission and burden we are placing on these young men and women.

I would also like to express my appreciation to the distinguished chairman of the defense appropriations subcommittee and the ranking member, Senator STEVENS.

Senator INOUE and Senator STEVENS worked very hard on this bill and I think they have shaped a very difficult compromise that in policy areas I am fully supportive of.

I also rise again though, this year, Mr. President, to strongly oppose many of the add-ons, unauthorized and authorized, to this bill which we can frankly no longer afford. I find them, again, totally unacceptable.

I also want to admit from the start that I am not without sin in casting the first stone. All of us have had to accept legislation that contains items we wish had not been added to our bills. Further, all of us have to fight hard for our State and constituent interests. If we do not, the end result is inevitably to see our programs lose funding, regardless of their merit, and add-ons and pork take their place.

There is no man or woman in this body who can point the finger at others in innocence. In fact, it is one of our key functions to fight for the interests of the constituents we serve.

I do not believe, however, that we should close out this year's defense debate without at least some review of the problems we have created for our Nation's defense. I do not believe that we should ignore the fact we have created a new case for the line item veto, for restraint in disrupting the President's defense budget, and for eliminating the pork we insert into the defense budget.

We are in the process of making draconian cuts in defense spending. We are cutting spending on procurement in ways that threaten our defense industrial base. We are cutting spending on operations and maintenance in ways which threaten to recreate a hollow Army, a hollow Navy, a hollow Marine Corps, and a hollow Air Force. We are cutting force levels to a point which threatens our ability to fight another Desert Storm in a world that still has its tyrants and aggressors.

We are also cutting defense at a time when we face a major recession. We are forcing millions of Americans to find new jobs—Americans who won the cold war and many of whom fought in Desert Storm. Every time we put \$35,000 into any area that does not reflect a legitimate high priority need, we take a job away from an American who earned it and give it to someone who did not.

Let me repeat this point, Mr. President. There is no such thing as a free lunch and there is no such thing as free pork.

Every dollar any Senator or Congressman moves out of the President's defense budget request contributes to costing some American his or her job. Every time these dollars total up to \$35,000, they cost an entire job.

All of us tend to conveniently forget this when we make claims to our constituents. We all list what we added, but we never list what we took away. None of us go home and state what our net impact was on our States and districts. Quite frankly, most of us do not even know at the end of our deliberations whether we produced a net increase in jobs or spending unless we focus almost solely on pork and forget our Nation's security needs.

I believe that we need to remind ourselves of these facts before we finish our debates on this year's defense bills. I believe that we must lay the ground work for a searching examination of the add-ons we have made to the President's defense budget request. I believe that we should lay the ground work for open Government and for media review of what we have done.

#### FINDING DEFENSE PORK

In saying this, I must note that we face a very real problem this year in laying that ground work. We are rushing forward with legislation that none of us have really had the time to review.

I think that I can assert with absolute certainty that no member of this

body or the House has had time to read the entire fiscal year 1993 Defense Authorization Act or Defense Appropriations Act. We may be the world's greatest deliberative body, but no member has had timely access to the detailed tables that describe the spending patterns in our bills in the rush to complete this year's legislation.

No one really knows the details of all the add-ons to either defense bill. Further, even if we had days to review each act, the truth is that it takes weeks for even the Comptroller's office of the Secretary of Defense to document exactly what has been added to, to deleted from, the President's request.

These problems are further complicated by the fact that our bills are not designed to reveal the details of add-ons or pork, and our report language rarely explains the real reason for many changes.

In fact, the thousand or more pages of report language and hundreds of pages of bill language are designed to conceal such details. Many words and funding shifts are worked out at the last moment and behind closed doors. Many are hard fought compromises between the public need and private influence. Many are so vaguely worded that it can take the Department of Defense months to fully interpret what they mean.

Not every addition we make to the defense budget represents the misuse of defense funds, and many cuts are also justified. Many add-ons to the defense budget are actually requested by the Department. Many reflect the changing needs that develop during the months between the President's budget request and the time we complete action. Many are the outcome of legitimate defense debates. We are not a rubber stamp for the Executive Branch.

I have, however, reviewed the Senate version of the FY1993 Defense Appropriations Act, and I have found a number of areas that seem to turn a silk purse into a sow's ear. I have found areas that do seem to merit both searching media examination and a line item veto.

As a result, I have a list of questions for the managers of this bill. I hope that they will be able to answer these questions at this time. If not, I hope that they will be able to provide the answers for the record.

First administrative Aircraft for the National Guard. Could it be explained to me why the Appropriations Act earmarks specific expenditures for administrative aircraft for the National Guard? This whole expenditure area has been the subject of intense media scrutiny because it involves the purchase of aircraft that often are not requested or needed by the Guard.

We made at least a start in reducing the amount of pork spent on such items in the Authorization bill by not

earmarking specific buys of specific aircraft. Why was this funding retained in the Appropriations Act?

Second, National Security Education Fund. Could it be explained to me why we have added \$35 million to the National Security Education Fund? We already authorized \$150 million for this program last year. We did so although it was largely undefined and little supporting analysis and justification. We also treated it as a fully mature program.

We did not provide funds to try it out. We did not even authorize the \$4 or \$5 million needed to fully fund it for a year. Instead, we spent \$150 million at a time when countless public and private educational institutions all over the Nation need additional funds. We did it at a time when we are losing military and defense jobs all over the country—and let me note that \$150 million is enough money to generate 4,000 to 8,000 jobs. We did it at a time when we have pressing social needs throughout our society.

There still is no agreed Department of Defense directive or implementing instruction for the program. The Board that is supposed to administer the program is still not fully selected. Two basic studies that are supposed to help define the purpose and implementation of the program are not funded, much less completed. The first is a large-scale study of higher education needs in foreign languages, area studies, and international fields. The second is assessments of how international events will affect future U.S. prospects for economics, foreign affairs, and defense as part of national security.

In other words, we still do not have an implementable program, no one is really in charge, and we haven't done the research necessary to use the money effectively.

Why are we putting \$35 million more into this program?

#### UNIVERSITY SET ASIDES

The distinguished chairman of the Armed Services Committee explained how unacceptable this is. I gather that Senators made a major effort to make these set-asides competitive and were denied this by the House. Why did the other body take this position?

Does the Montana College of Science and Technology get \$10 million? Does the University of Wisconsin Center for Advanced Propulsion get \$15 million and the Medical College of Wisconsin still get \$15 million more? Has Wisconsin won some lottery we don't know about this year?

Does the University of St. Thomas in St. Paul still get \$15 million, and if so, why? What about \$15 million for Johns Hopkins? What about \$5 million for the University of New Orleans School of Naval Architecture? What about \$16.45 million for other selected universities?

I think the American people deserve an explanation of why these specific in-

stitutions deserve taxpayer money without competition, review by their academic peers, or detailed justification?

#### DOC FISHERIES GRANT PROGRAM FOR DISASTER RELIEF

I believe in disaster relief, but could it be explained to me why \$100 million for the DOC fisheries grant program for disaster relief was in the Senate version of the Defense Appropriations bill, and whether it still is in the conference report?

#### PROJECT PEACE AND STUDY OF NUCLEAR WASTE IN THE USSR ARCTIC

Is \$35 million in additional transfer authority still being provided for Project Peace and the study of nuclear waste in the U.S.S.R. Arctic? If so, how did we determine the priority for these projects?

#### MONEY FOR HOLIDAYS AND SPORTS

What is the status of the various proposals for spending money on holidays and sports? What does defense have to do with spending \$6 million on the World University games? Why is defense spending \$2 million on the Olympic games in Atlanta that will not even be held until 1996? Why should defense spend \$9 million for World Cup USA? Have we replaced the bomber and missile gaps with some new sports gap, and an athletic threat that we are not yet aware of?

#### NATIONAL PRESTO INDUSTRIES CLEANUP AT EAU CLAIRE, WI

Is \$7 million being spent on the National Presto Industries Clean Up in Eau Claire, WI? If so, what reasoning went into assigning this activity special priority?

#### EXTENDED COLD WEATHER CLOTHING SYSTEM

Is \$36 million still being spent on the Extended Cold Weather Clothing System? Once again, what is the reasoning behind this? Why does this add-on have priority?

#### AMMUNITION ADD-ONS

Are we still spending \$340 million for ammunition add-ons? If so, is there any documentation from a military service showing we need these add-ons? Is there any testimony or staff analysis?

#### TACTICAL TRAILERS AND DOLLY SETS

Are we still spending \$30 million for tactical trailers and dolly sets for the Army? Is not this an add-on for which the military services have no requirement at all?

#### NIGHT VISION DEVICES

Do we still have a \$5 million add-on for night vision devices? If so, what is the military requirement and how was it validated?

#### REAL PROPERTY MAINTENANCE AT THE PRESIDIO

Are we still going to spend \$28 million for real property maintenance at the Presidio even though we are going to close the base? If so, what defense function does this aid?

#### M-1 TANK UPGRADES

Is there some U.S. Army analysis or documentation showing that we need

to spend \$122.1 million on upgrading the M-1 tank?

**SNAKE CONTROL**

What is the sudden problem that led us to consider to spend \$1 million under O&M Health for snake control? Is this still in the act?

Mr. President, the cases I have listed are only the small tip of the iceberg. They involve comparatively small amounts, and my reason for raising them as questions is not because they are the most important problems in our defense legislation, but because they are easier to understand than the broader problems that involve billions of defense dollars.

There are far more serious reasons to fight defense pork, to reduce the burden on the taxpayer, to reduce the deficit, and to save the jobs of those who have earned them. These cases are only symbols of our need to come to grips with the fact that we simply do not have the total funds in the defense and intelligence budgets to fund anything other than necessary defense programs.

**THE OVERALL PROBLEM OF ALLOCATING DEFENSE DOLLARS IN A TIME OF DEFENSE SCARCITY**

If I may now turn to the broader issues at hand, we need to start facing a new defense facts of life. We keep talking about the base force as if we were funding it. We keep advancing plans for peace dividends and defense savings as if we had provided the money to maintain the base force levels.

The base force, however, was announced in August 1990, and we have already cut the defense budget at more than twice the rate the President planned in both fiscal years 1991 and 1992. Early this year, President Bush proposed a defense budget that was 7 percent lower in real terms than last year's defense budget—which again was an annual cut about twice the level that was planned in sizing the base force.

While it is impossible to make precise estimates because of the ongoing changes in our force structure, we will be spending about 10-12 percent less in fiscal year 1993 than defense planners counted on in sizing the base force.

Nevertheless, each key committee made major cuts in the President's fiscal year 1993 defense budget request of \$281 billion.

The budget resolution, provided \$277.4 billion, a cut of \$4.2 billion, or 1.5 percent.

The Senate passed a fiscal year 1993 Defense Authorization Act that provides \$274.2 billion. This is a cut of \$7.4 billion, or 2.6 percent.

The House Armed Services Committee passed an act that provides \$271.1 billion. This is \$10.5 billion below the President's request, and a cut of 3.7 percent.

The House Appropriations Committee passed an act that appropriates \$273.9 billion, a cut of \$7.7 billion, or 2.7 percent.

The Senate Appropriations Committee has produced a bill that appropriates \$272.5 billion, a cut of \$9.1 billion, or 3.2 percent.

We have now passed a final Authorization Act which is \$274.2 billion, or 2.4 percent, below the President's request, and the Appropriations Act funds roughly the same level.

This means that we have added cuts of 9.4 percent in real defense spending to the cuts of 12.3 percent we made in fiscal years 1991 and 1992. This is a total of 21.7 percent, and it means that we have taken actions that mean we must cut the base force by about 10-12 percent more than the level called for in the President's original plans to cut our forces by an average of 25 percent. We are talking about 35 percent force cuts, not 25 percent.

I am deeply concerned that we may be accelerating the cuts in our national security faster than problems we face justify and faster than our economy can absorb. However, the cuts we are making in defense spending are only part of the story. The specific items I have just discussed are only a small fraction of the total add-ons to the defense budget that must be funded by cutting items in the base force.

They are part of a much broader process that makes all the problems in funding effective forces far worse.

We are shifting so many dollars out of programs that the President, Secretary Cheney, and General Powell assumed we would have in planning our forces and strategy, and putting them into other areas that we are forcing additional force cuts on the military. We are pushing our entire military structure towards hollow forces.

As I have said before, we do not yet have a detailed list of the changes and add-ons included in the final conference reports on the fiscal year 1993 Defense Authorization and Defense Appropriations Acts. However, the Comptroller of the Department of Defense has provided me with a detailed list of the add-ons and cuts that the the Senate and House authorizers and appropriators have made in President Bush's original proposal for the fiscal year 1993. I ask unanimous consent that these lists, and the relevant totals, be printed in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.  
(See exhibit 1.)

Mr. McCAIN Mr. President, if we look at such add-ons and cuts in the defense budget, we see the House authorizers added \$9.8 billion in programs the President did not request, and took \$14.9 billion away from the programs he asked for. Similarly, we see that the Senate authorizers inserted \$10.4 billion and removed \$13.8 billion.

If we look at such add-ons and cuts in the defense budget, we see that the House appropriators added \$15.8 billion

in programs the President did not request, and took \$18.6 billion away from the programs he asked for. Similarly, we see that the Senate appropriators inserted \$10.5 billion and removed \$19.7 billion.

Now, let me repeat that some of these changes were valuable and necessary. We have a very real responsibility to ensure that defense dollars are spent wisely. We must recognize the fact that nearly a year elapses between the drafting of the budget and our action on that budget, and time alone requires change. Our hearings and debates often reveal a distinct need for change.

We need to remember, however, that all of these changes have an effect that is incremental to our cuts in defense budgets. Every time we make a change that is not vitally needed, we make further cuts in national security, and we take jobs and income away from the people who have earned them and we give them to people who have not.

Perhaps the best way to put this issue in perspective is to illustrate what happens in terms of jobs. And this time, let me single out the authorizers to balance out my previous comments on the appropriators.

If we take the most conservative possible assumption—and assume an average job cost of \$75,000 per job, including overhead—the Senate cuts in defense spending will take about 100,000 jobs away from people who had earned them under the President's defense budget request. If we look at the \$10.3 billion in add-ons, we will shift another 137,000 jobs.

If we use a more realistic figure of about \$35,000 per defense job, we will shift 214,000 to 293,000 jobs—including all defense industry, active and reserve military Department of Defense civilian, and defense-related jobs.

Let me stress that word shift. We are not creating jobs by moving money from one part of the defense budget, nor by cutting defense spending faster than the economy and the pace of defense conversion can absorb.

As I noted earlier, our add-ons and cuts only move jobs. In most cases, they take jobs away from companies and peoples who earned them by competing in the areas that contribute to security. Our defense cuts eliminate current jobs in the hope that the money will eventually be used to create other jobs later.

Mr. President, we must not continue to judge the budget request of the executive branch with one standard and then apply a far less demanding standard to ourselves. We cannot go on claiming to be funding good causes and to create jobs when we are actually taking money and jobs away.

The items I listed earlier are only a tiny part of this problem, and it is in some ways unfair to single out this one example. But, Mr. President, we must



9/21/92 1400

CONGRESSIONAL ACTIONS  
 FY 93 DoD AUTHORIZATION (HR 5006 / S 3114)  
 FY 93 DOD APPROPRIATIONS (HR 5504)

<u>Program</u>	<u>FY 93 Request</u>	<u>House Authorization</u>	<u>SASC Authorization</u>	<u>House Appropriation</u>	<u>SAC Appropriation</u>
<b>Budget Authority TOTAL 050</b>	\$281.0B (Congressional Budget Resolution provided \$277.4B for 050)	\$270.5B (-\$10.5B)	\$274.5B (-\$6.5B)	\$272.4B (-\$8.6B)	\$270.7B* (*Comptroller's preliminary estimate)
<b>Defense Conversion</b>	\$7.1B in FY 92 and 93 on existing programs government-wide; \$1B additional funding for new programs through FY 96	\$1B 050 funds: \$180M "Teachers from Troops" program; \$200M dual-use technologies; \$200M job training (DoD and JTPA); \$100M assistance to local governments; \$122M public and private employee benefits package; \$125M DoD-business assistance program.	\$1.2B: Establishes a Civil-Military cooperation program; 15-year military retirement, Guard & Reserve transition package; \$50M JTPA; +\$35M OEA; \$150M EDA grants; \$50M school district grants; approx. \$600M Dual-use technology and other tech and industrial base programs.	\$1B	\$2B: Earmarks \$80M for Economic Development Administration and \$50M for the Department of Labor.
<b>Operations and Maintenance Funding</b>	\$84B	\$74.3B Includes cuts to excess inventory (-\$2B); DBOF (-\$2.3B); "overhead and infrastructure" (-\$2.5B); and Host Nation Support (-\$3.5B).	\$81.7B Includes cuts based on improvements to inventory management (-\$3.2B); education and training (-\$200M); Real Property maintenance (-\$200M); telecommunications improvements (-\$150M); DBOF (-\$500M)	\$81.8B Includes cuts to inventory (-\$500M); foreign nationals (-\$1.6B); offset for Coast Guard (-\$200M); Real Property Maintenance (-\$800M); consultants (-\$200M)	\$81.1B Includes cuts to inventory (-\$2.9B); foreign nationals (-\$175M) (additional \$175M for foreign nationals fenced); anticipated savings from Residual Value Negotiations (-\$125M).
<b>SDI</b>	\$5.4B (\$576M Brilliant Pebbles)	\$4.3B (- 0- Brilliant Pebbles) Includes language establishing compliance with the ABM Treaty as a national goal. Creates a new organization for theater missile defense separate from SDIO.	\$3.8B (\$350M Brilliant Pebbles)	\$4.23B including \$135M ERINT earmark	\$3.8B

<u>Program</u>	<u>FY 93 Request</u>	<u>House Authorization</u>	<u>SASC Authorization</u>	<u>House Appropriation</u>	<u>SAC Appropriation</u>
<b>B-2</b>	\$2.7B (4 planes)	\$2.7B (4 planes) Funding fenced 1) report on effectiveness of stealthiness; 2) report on cost of fielding 20 planes; 3) GAO review of these two reports; and 4) Congressional vote to allow release of funds.	\$2.7B (4 planes) Funding fenced pending 1) submission of all reports and certifications required in FY 92 Auth; 2) report on effectiveness of stealthiness and 3) cost of fielding 20 planes.	\$2.7B (4)	\$2.7B (4)
<b>Tactical Aviation</b>					
<b>F/A 18 E-F</b>	\$1.1B	\$598.6M (prototype)	\$943.6M (AF use in future)	\$1.1B	Establishes Tactical Aviation Modernization Account at level of \$3.5B.
<b>AX</b>	\$165.6M	\$740.6M (prototype)	\$50M (prototype)	\$165.6M	
<b>F-22</b>	\$2.2B	\$2.0B	\$2.2B*	\$2.0B	
<b>F-16 C/D</b>	\$683.2M (24)	\$614.8M (24)	Terminated (\$75M)	\$614.8M (24)	
	- 0 - AP (Terminate after FY 93)	\$ 68.4M AP (continue LRP after FY 93)	- 0 - AP	\$ 68.4M AP	
			(* F-22 funds fenced pending submission of roles and missions study)		
<b>B-1B</b>	\$214.9M	\$214.9M	\$50M. Prohibits procurement of the CORE ECM system until SecDef certifies that the system has passed all required tests.	\$214.9M	\$50M
<b>Sealift</b>	Establish National Defense Sealift Fund (\$1.2B)	Denied Sealift Fund; Funded Sealift at \$1.2B (via Navy shipbuilding and conversion) Limits acquisition of foreign built vessels to 5.	Establishes Sealift Fund; Funded sealift at \$225M (via Navy shipbuilding and conversion)	Appropriates \$801M -- if authorized.	\$1.2B
<b>Carrier Replacement Program</b>	\$832.2M	\$832.2M	\$350M (delays procurement from FY 95 to FY 96)	\$832.2M	\$350M
<b>LHD-1 Amphibious Ship</b>	0	0	\$1.2B (1)	\$1.2B (1)	\$1.0B (1)
<b>MILCON</b>	\$8.27B (after R&M adjustment)	\$10.4B. Includes \$1.9B R&M and adds \$832.6M for 163 unrequested projects.	\$ 8.97B (R&M funded in O&M)	\$8.6B (R&M funded in O&M). Adds approximately \$800M for 174 unrequested projects.	\$8.19B

<u>Program</u>	<u>FY 93 Request</u>	<u>House Authorization</u>	<u>SASC Authorization</u>	<u>House Appropriation</u>	<u>SAC Appropriation</u>
<u>Guard/Reserve End Strength</u>					
ARNG	383,100	420,000 (+36,900)	425,450 (+42,350)	420,000 (+36,900)	425,450 (+42,350)
USAR	257,500	263,000 (+5,500)	296,230 (+38,730)	273,000 (+15,500)	296,230 (+38,730)
USNR	125,800	125,800	141,545 (+15,745)	136,000 (+10,200)	141,545 (+15,745)
USMCR	38,900	42,400 (+3,500)	42,230 (+ 3,330)	42,400 (+3,500)	42,230 (+ 3,330)
ANG	119,200	119,200	119,400 (+ 200)	119,200	119,400 (+ 200)
USAFR	82,200	82,200	82,400 (+ 200)	82,250 (+50)	82,400 (+ 200)
<b>Total</b>	<b>1,006,700</b>	<b>1,052,600 (+45,900)</b> <i>(Enhance combat role)</i>	<b>1,107,255 (+100,555)</b> <i>(Enhanced combat and civil-military role)</i>	<b>1,072,830 (+ 66,150)</b> <i>(Increase C3I role)</i>	<b>1,107,255 (+100,555)</b>
<i>Guard/Reserve Equipment Addn MILPERS</i>	<i>1,176</i>	<i>+ 635.8M</i>	<i>+ 630.1M</i>	<i>+ 1.13B</i>	<i>+ 630M</i>
<b>Reproductive Services</b>		Permits abortions to be performed at overseas military installations.	Permits abortions to be performed at overseas military installations.	No funds shall be available to enforce DoD policy prohibiting non-funded abortions in military facilities overseas.	Permits abortions to be performed at overseas military installations
<b>Nuclear Testing (comparison attached)</b>		Imposes one-year moratorium on nuclear testing unless the President certifies that any of the independent republics of the former Soviet Union has conducted a nuclear test during that period.	Imposes nine-month moratorium on nuclear testing and a complete test ban after September 30, 1996. Between 1993 and 1997, limits number and types of tests that may be conducted (subject to disapproval by the Congress).	Language identical to House authorization contained in Energy & Water Appropriations bill.	Imposes 9-month moratorium, subject to Joint Resolution of disapproval, and CTB by October, 1996; limits number and purposes of tests (Energy & Water Appropriations)

**FY 93 DEFENSE APPROPRIATIONS ACT**  
**EARMARKS/ADDS**  
*(Adds in Italics)*

000.00

**\$ Millions****O&M ARMY**

1992 Memorial Day	.450
Capitol Fourth Project	.450
Extended Cold Weather Clothing System	36.000
Badger Ammunition Plant Environmental Assessment and Cleanup	1.715
National Presto Industries Cleanup, Eau Clair, Wisconsin	7.000
Police Training of Marine Corps Personnel at Fort McClellan, AL (Transfer from Air Force O&M)	1.000

**O&M NAVY**

Bellows AFB EIS	1.000
Hawaii Military Land Use Plan	.900

**O&M MARINE CORPS**

Child Abuse Prevention Program	3.000
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**O&M AIR FORCE**

Kirtland AFB Theater Air Command Control and Simulation Facility	7.000
TICARRS	12.000

**O&M ARMY NATIONAL GUARD**

<i>STARBASE Youth Education Program</i>	2.000
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**O&M DEFENSE AGENCIES**

DOD Global Disaster Relief Activities	50.000
Legacy Resource Management Program	50.000
Hawaiian Volcano Observatory	.500

**ENVIRONMENTAL RESTORATION, DEFENSE**

Expedited Cleanup of Environmentally Contaminated Sites in Accordance with a Comprehensive Plan Submitted to Congress	200.000
Bioremediation Technology Development Efforts	3.500

**HUMANITARIAN ASSISTANCE**

**Humanitarian Assistance to Afghanistan refugees and worldwide Humanitarian Relief** 25.000

**WORLD UNIVERSITY GAMES** 6.000

**1996 OLYMPIC GAMES, ATLANTA, GA** 2.000

**WORLD CUP USA 1994** 9.000

**PROCUREMENT, NAVY**

**A-6E Mission Recorder/Reproducer Systems** 15.000

**NATIONAL GUARD AND RESERVE EQUIPMENT**

**8 UH-60 Helicopters** 56.000  
**Night Vision Equipment** 40.000

**RDT&E ARMY**

**Center for Prostate Disease Research at WRAIR** 2.000  
**Clinical Investigation of AIDS drug GP-160** 20.000

**Assistive Technology Center at the National Rehabilitation Hospital** 4.000  
**Breast Cancer Research** 185.000  
**Armored Systems Modernization applications** 10.000

**RDT&E NAVY**

**T-45 Training System Engine Competitive Development** 25.000

**RDT&E AIR FORCE**

**SPACETRACK Advanced Electro-Optical System Project at the Maui Optical Station** nlt 39.500  
**Continue Establishment and Operation of an Image Information Processing Center Supporting the Air Force Maui Optical Station and the Maui Optical Tracking Facilities (Grant to the Maui Economic Development Board)** nlt 5.000  
**Transfer to DOT Office of Commercial Space Development to Support Defense Space Launch Requirements** (nlt .500) nlt 10.000

**RDT&E DEFENSE AGENCIES**

Electric Vehicle Research	nlt 25.000
(State of Hawaii Electric Vehicle Technology Program	(nlt 5.000)
Synthetic Aperture Radar Digital Terrain Mapping	18.000
Laser Imaging Detection and Ranging (LIDAR)	7.000

**TITLE VI****DEFENSE HEALTH PROGRAM**

Cooperative Program Model at Madigan Medical Center	.150
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**DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES**

Five Sea-Based Aerostats	25.500
Gulf States Counter-Narcotics Initiative	nlt 7.500
Modifying up to 15 T-47 Aircraft with Improved Radars and FLIRS	35.000

**TITLE VIII****DEFENSE REINVESTMENT FOR ECONOMIC GROWTH**

Transfer to DOC EDA	80.000
Transfer to DOL	50.000
Dual-Use Critical Technology Partnerships	100.000
Commercial-Military Integration Partnerships	50.000
Regional Technology Alliances	100.000
Defense Advanced Manufacturing Technology Partnerships	25.000
Manufacturing Engineering Education Programs	30.000
Defense Manufacturing Extension Programs	100.000
Dual-Use Technology and Industrial Base Extension Programs	200.000
Agile Manufacturing and Enterprise Inegration	30.000
Advanced materials Synthesis and Processing Partnerships	30.000
U.S.-Japan Management Training	10.000

**TITLE IX****GENERAL PROVISIONS**

SEC. 9041(A) National Defense Science and Engineering Graduate Fellowships	nlt 10.000
SEC. 9055 Mental health Care Demonstration Project at Fort Bragg, N.C.	nlt 16.000
SEC. 9062 Kahoolawe Island Commission	.500
SEC. 9074 Civil Air Patrol	10.596
(O&M)	(4.471)
SEC. 9088:	
Mount Pinatubo Claims	15.000
Relocation of Air Force/Navy Unites from Clark/Subia Bay	20.000

<b>SEC. 9089:</b>	
Montana College of Science and Technology	10.000
University of Arizona	5.000
University of Connecticut	3.500
Tulane/Xavier Bioenvironmental hazards Research Center	3.000
University of New Orleans School of Naval Architecture	5.000
St. Norbert College	3.900
Johns Hopkins University	15.000
University of Wisconsin Center for Advanced Propulsion	15.000
John Carroll University	5.300
University of Northern Iowa	.750
Medical College of Wisconsin	15.000
University of St. Thomas, St. Paul, Minnesota	15.000
<b>SEC. 9091(A) Indian Financing Act Incentive Payments</b>	<b>8.000</b>
<b>SEC. 9110:</b>	
Additional Transfer Authority	400.000
Project PEACE	nl 25.000
Study of Nuclear Waste in Former USSR Arctic	nl 10.000
<b>SEC. 9116 Mitigation of Environmental Impacts on Indian lands</b>	<b>nl 8.000</b>
<b>SEC. 9180. Arms Manufacturing Support Initiative</b>	<b>200.000</b>

**MISCELLANEOUS FLOOR AMENDMENTS**

<b>CORPS Control of Nuisance Aquatic Vegetation in Lake Gaston, VA &amp; N.C.</b>	<b>200</b>
<b>C-20 Aircraft for the Marine Corps Reserve</b>	<b>25.000</b>
<b>DOC Fisheries Grant Program for Disaster Relief</b>	<b>100.000</b>

TITLE IX

GENERAL PROVISIONS

nl 10.000	SEC. 9041(A) National Defense Science and Engineering Graduate Fellowships
nl 18.000	SEC. 9055 Mental Health Care Demonstration Project at Fort Bragg, N.C.
.800	SEC. 9057 K. R. Rindley Island Commission
10.250	SEC. 9074 Civil Air Patrol
(4.477)	(Cont.)
15.000	SEC. 9088
20.000	Mount Pinatubo Climate
	Relocation of Air Support Wing Units from Clark Air Base

## FY 1993 NATIONAL DEFENSE BUDGET AUTHORITY

(\$ Billions)

	<u>Budget Request</u>	<u>HASC Mark</u>	<u>HASC Level</u>	<u>HAC Mark</u>	<u>HAC Level</u>	<u>SASC Mark</u>	<u>SASC Level</u>
Military Personnel	77.1	+0.2	77.3	-0.2	76.9	+0.2	77.3
Operation & Maintenance	86.5	-6.8	79.7	-4.8	81.7	-1.3	85.2
Burdensharing	-	-3.5	-3.5	-	-	-	-
Procurement	54.4	+0.6	55.0	-0.1	54.3	-0.8	53.6
RDT&E	38.8	-0.4	38.4	-	38.8	+0.1	38.9
Military Construction	6.2	+0.1	6.3	-1.7	4.5	-1.5	4.7
Family Housing	4.0	+0.1	4.1	-	4.0	+0.2	4.2
Revolving & Management Funds	1.6	-1.7	-0.1	-1.6	-	-3.5	-1.9
Defense Reinvestment	-	+1.0	1.0	(1.0)	(1.0)	-	-
Community Assistance	-	-	-	-	-	+0.2	+0.2
Other	-0.9	-	-0.9	-	-0.9	+0.1	-0.8
<b>Total DoD</b>	<b>267.6</b>	<b>-10.3</b>	<b>257.3</b>	<b>-8.4</b>	<b>259.3</b>	<b>-6.2</b>	<b>261.5</b>
DoE	12.1	-0.2	11.9	-0.2	11.9	-0.2	11.9
Defense Related	1.2	-	1.2	-	1.2	-0.1	1.1
<b>Total 050</b>	<b>281.0</b>	<b>-10.5</b>	<b>270.5</b>	<b>-8.6</b>	<b>272.4</b>	<b>-6.5</b>	<b>274.5</b>
<b>Budget Resolution</b>	<b>277.4</b>						

FY 1993 House Armed Services Committee Adda

HASC ADDS

DOD BILL

OPERATION AND MAINTENANCE	1,484,860
PROCUREMENT	3,356,874
RESEARCH, DEVELOP., TEST & EVAL.	3,117,184
OTHER	1,040,000

TOTAL - DOD BILL 8,978,608

MILCON BILL

MILITARY CONSTRUCTION	763,864
FAMILY HOUSING	80,120

TOTAL - MILCON BILL 843,784

TOTAL Department of the Army	1,467,330
TOTAL Department of the Navy	3,348,014
TOTAL Department of the Air Force	821,868
TOTAL Defense Agencies/OSD	4,188,193

TOTAL - Department of Defense 9,822,392

(in billions)

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FY 1993  
 Congressional Action on Authorization Requests  
 (Thousands of Dollars)

	Addrs by Both Chambers		Cuts by Both Chambers		Addrs by Indiv. Chmbrs		Cuts by Indiv. Chmbrs	
	(2)	(3)	(4)	(5)	(6)	(7)		
Department of the Army	304,386	-826,449	1,162,944	1,894,073	-1,519,815	-2,748,270		
Department of the Navy	1,138,827	-1,935,528	2,236,571	2,725,215	-3,617,010	-4,268,256		
Department of the Air Force	179,908	-1,994,172	641,947	1,740,281	-2,875,494	-4,573,108		
Defense Agencies/OSD	298,630	-957,874	4,119,959	4,018,513	-7,082,243	-2,255,712		
Defense-Wide	0	0	0	0	0	0		
<b>Total - Department of Defense</b>	<b>1,921,751</b>	<b>-5,714,023</b>	<b>8,161,421</b>	<b>10,378,082</b>	<b>-14,894,582</b>	<b>-13,845,346</b>		

  

SASC		CONFERENCE	
Addrs by both Chambers	1,921,751	Addrs	
Addrs by SASC only	10,378,082	Cuts	
<b>Total SASC Addrs</b>	<b>12,299,833</b>	<b>Total</b>	
Cuts by both Chambers	-5,714,023		
Cuts by SASC only	-13,845,346		
<b>Total SASC Cuts</b>	<b>-19,559,369</b>		
<b>GRAND TOTAL SASC</b>	<b>-7,259,536</b>		

FY 1993  
 Congressional Action on Authorization Requests  
 (Thousands of Dollars)

(1)	Adds by Both Chambers		Cuts by Both Chambers		Adds by Indiv. Chmbrs		Cuts by Indiv. Chmbrs	
	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
084 CONVENTIONAL MUNITIONS 060360								-10,000
086 MARINE CORPS ASSAULT VEHICLES 060361			-26,500					
089 MARINE CORPS GROUND COMBAT/SUPPORT SYSTEMS 060363						13,000		
096 ADVANCED MARINE BIOLOGICAL SYSTEM 060370								-4,731
103 LIGHTWEIGHT 155MM HOWIZER						13,100		
106 SHORE FIRE SUPPORT COEA						4,000		
108 LINK PLUMERIA 060374			-5,565					-720
110 RETRACT ELM 060375			-35,000					-24,000
112 SHIP SELF DEFENSE 060375						28,000		
118 IFF SYSTEM DEVELOPMENT 060421								-5,000
120 HELICOPTER DEVELOPMENT 060421			-9,702					-39,209
125 AIRBORNE ASW DEVELOPMENTS 060421					90,000			
126 P-3 MODERNIZATION PROGRAM 060422					575,000			
127 ATA/AX 060423								-115,583
130 V-22A	755,000							
131 AIR CREW SYSTEMS DEVELOPMENT 060426					3,700			
134 EW DEVELOPMENT 060427								-25,000
137 AEGIS COMBAT SYSTEM ENGINEERING 060430								-28,896
140 NATO SEA SPARROW 060436						5,000		
143 5" ROLLING AIRFRAME MISSILE						10,000		
164 UNGUIDED CONVENTIONAL AIR-LAUNCHED WEAPONS 060460								-10,291
169 JOINT DIRECT ATTACK MUNITION 060461								-15,000
171 MARINE CORPS ASSAULT VEHICLES - ENG DEV	14,700							
186 FIXED DISTRIBUTED SYSTEM - ENG 060478								-104,486
190 F/A-18 SQUADRONS 020413			-190,000					-345,000
192 ADVANCED DEPLOYABLE SYSTEM						14,000		
194 SURFACE COMBATANT ORDNANCE - TOMAHAWK 020422	5,000					10,000		
208 MARINE CORPS INTELLIGENCE/ELECTRONICS WARFARE 020662	2,000					1,000		
210 LAV-AD						9,400		
270 MARINE ENHANCEMENT PROGRAM						12,000		
271 RAAM						2,000		
<b>Total - Tactical programs</b>	<b>776,700</b>	<b>-266,767</b>			<b>672,700</b>	<b>234,900</b>		<b>-643,437</b>
<b>Intelligence and communications</b>								
All other programs								-62,045
<b>Defense-wide Mission Support</b>								
224 ENVIRONMENTAL PROTECTION 060372						20,000		
226 ELECTRONIC WARFARE SIMULATOR DEVELOPMENT 060425								-10,000
227 TARGET SYSTEMS DEVELOPMENT 060425								-10,000

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(1)	Additions		Cuts		Total		
	By Both Chambers	By Both Chambers	By Indiv. House	By Indiv. Senate	By Indiv. House	By Indiv. Senate	
(2)	(3)	(4)	(5)	(6)	(7)	(8)	
232 FLEET TACTICAL DEVELOPMENT AND EVALUATION 060515		-2,000				-1,000	
235 TECHNICAL INFORMATION SERVICES 060580						-3,000	
240 RDT&E SHIP AND AIRCRAFT SUPPORT 060586					-5,000		
241 TEST AND EVALUATION SUPPORT 060586					-18,000		
248 INDUSTRIAL PREPAREDNESS 070801		-30,384				-15,000	
249 MANUFACTURING TECHNOLOGY DEVELOPMENT			80,384				
252 MANUFACTURING TECHNOLOGY INITIATIVES				108,400			
253 PURCHASES FROM DBOF						-733	
254 TRAVEL						-1,110	
<b>Total - Defense-wide Mission Support</b>		<b>-32,384</b>	<b>80,384</b>	<b>128,400</b>	<b>-23,000</b>	<b>-40,843</b>	
<b>Total Appn - RDT&amp;E, Navy</b>	<b>776,700</b>	<b>-437,406</b>	<b>768,161</b>	<b>368,300</b>	<b>-822,937</b>	<b>-303,567</b>	
<b>RDT&amp;E, Air Force</b>							
<b>Technology base</b>							
002 DEFENSE RESEARCH SCIENCES 060110					-8,500		
003 GEOPHYSICS 060210					-5,000		
004 MATERIALS 060210		-4,125			-5,875		
005 AEROSPACE FLIGHT DYNAMICS 060220		-2,000			-3,000		
006 HUMAN SYSTEMS TECHNOLOGY 060220		-4,495			-5,505		
007 AEROSPACE PROPULSION 060220			2,000				
008 AEROSPACE AVIONICS 060220		-6,000			-4,000		
009 PERSONNEL, TRAINING AND SIMULATION 060220			15,000				
010 CIVIL ENGINEERING AND ENVIRONMENTAL QUALITY 060220				2,495			
011 ROCKET PROPULSION AND ASTRONAUTICS TECHNOLOGY 060230		-3,000			-2,000		
012 ADVANCED WEAPONS 060260					-10,000		
013 CONVENTIONAL MUNITIONS 060260		-10,000			-5,000		
014 COMMAND CONTROL AND COMMUNICATIONS 060270		-5,000			-5,000		
<b>Total - Technology base</b>		<b>-34,620</b>	<b>17,000</b>	<b>2,495</b>	<b>-53,880</b>		
<b>Advanced technology development</b>							
015 LOGISTICS SYSTEMS TECHNOLOGY 060310				2,936			
019 ADVANCED AVIONICS FOR AEROSPACE VEHICLES 060320						-10,000	
020 AEROSPACE VEHICLE TECHNOLOGY 060320						-3,000	
024 CREW SYSTEMS AND PERSONNEL PROTECTION 060323			1,100				
025 GLOBAL SURVEILLANCE/AIR DEFENSE/PRECISION 060323					-12,500		
029 NATIONAL AERO SPACE PLANE TECHNOLOGY PROGRAM 060326						-175,489	
032 ADVANCED STRATEGIC MISSILE SYSTEMS 060331					-2,000		

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(1)	Additions		Cuts		Net Change	
	By Both Chambers (2)	By Both Chambers (3)	By Indiv. House (4)	By Indiv. Senate (5)	By Indiv. House (6)	By Indiv. Senate (7)
034 ADVANCED SPACECRAFT TECHNOLOGY 060340						-10,000
038 ADVANCED WEAPONS TECHNOLOGY 060360					-21,796	
040 CIVIL AND ENVIRONMENTAL ENGINEERING TECHNOLOGY 060372				6,800		
<b>Total - Advanced technology development</b>			1,100	9,736	-36,296	-198,489
<b>Strategic programs</b>						
051 B-1B 060422						-66,400
056 B-52 SQUADRONS 010111			15,000			
057 ADVANCED CRUISE MISSILE 010112		-61,100				-21,200
075 MINIMUM ESSENTIAL EMERGENCY COMMUNICATIONS 0030313				5,000		
077 MILSTAR SATELLITE COMMUNICATIONS SYSTEM 030360						-21,500
082 IMPROVED SPACE BASED TW/AA 030590						-45,000
085 SPACEIRACK 030591				39,500	-14,900	
All other programs		-53,000	25,000		-47,000	
<b>Total - Strategic programs</b>		-114,100	40,000	44,500	-61,900	-154,100
<b>Tactical programs</b>						
100 ENGINE MODEL DERIVATIVE PROGRAM (EMDP) 060421			3,000			
103 C-17 PROGRAM 060423						-29,200
106 ADVANCED TACTICAL FIGHTER FSD 060423					-200,000	
113 EW DEVELOPMENT 060427		-49,500				-10,100
116 CHEMICAL/BIOLOGICAL DEFENSE EQUIPMENT 060460			1,300			
137 F-16 SQUADRONS 020713						-25,100
141 F-117A SQUADRONS 020714			31,000			
145 FOTARS PRIOR YEAR SAVINGS						-30,500
146 FOTARS COMPETITION				50,000		
147 FOLLOW-ON TACTICAL RECONNAISSANCE SYSTEM 020721			35,500			-40,300
150 TACIT RAINBOW			10,000			
171 CLASSIFIED PROGRAMS				3,300		
All other programs				46,000		
<b>Total - Tactical programs</b>		-49,500	80,800	99,300	-200,000	-135,200
<b>Intelligence and communications</b>						
All other programs	131,400	-2,400	78,117	8,000	-22,457	
<b>Defense-wide Mission Support</b>						
194 TRAINING SYSTEMS DEVELOPMENT 060422					-6,000	
196 ADVANCED LAUNCH SYSTEM 060440		-40,000			-5,000	

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(1)	(2)	(3)	Adds by Indiv.chmbrs		Cuts by Indiv.chmbrs	
			House	Senate	House	Senate
			(4)	(5)	(6)	(7)
199 RANGE IMPROVEMENT 060473						-10,000
207 TEST AND EVALUATION SUPPORT 060580					-25,000	
215 BASE OPERATIONS - RDT&E 060589		-20,000				-30,000
219 UPPER STAGE SPACE VEHICLES 030513		-28,552			-10,000	
225 INDUSTRIAL PREPAREDNESS 070801		-50,000				-23,370
230 MANUFACTURING TECHNOLOGY DEVELOPMENT			103,500			
231 MANUFACTURING TECHNOLOGY INITIATIVE				146,200		
232 DOMESTIC ACTIVITIES			17,500			
236 PURCHASES FROM DBOF						-7,844
237 TRAVEL						-5,100
<b>Total - Defense-wide Mission Support</b>		<b>-138,552</b>	<b>121,000</b>	<b>146,200</b>	<b>-46,000</b>	<b>-76,314</b>
<b>Total Appn - RDT&amp;E, Air Force</b>	<b>131,400</b>	<b>-339,172</b>	<b>338,017</b>	<b>310,231</b>	<b>-420,533</b>	<b>-564,103</b>
<b>RDT&amp;E, Defense Agencies</b>						
<b>Technology base</b>						
001 DEFENSE RESEARCH SCIENCES 060110					-10,000	
002 IN-HOUSE LABORATORY INDEPENDENT RESEARCH			9,275			
003 UNIVERSITY RESEARCH INITIATIVES 060110	10,000		52,000			
004 DEFENSE RESEARCH SCIENCES			49,032			
005 COMPUTER ASSISTED EDUCATION				15,000		
006 US-JAPAN MANAGEMENT TRAINING				10,000		
007 SUPERCONDUCTIVE MAGNETIC ENERGY STORAGE			50,000			
009 CONCEPT EVALUATION 060222					-14,979	
010 MEDICAL FREE ELECTRON LASER			20,000			
011 MISSION SUPPORT TECHNOLOGY	4,330					
012 STRATEGIC TECHNOLOGY 060230					-70,000	
014 PARTICLE BEAM TECHNOLOGY				6,000		
015 INTEGRATED COMMAND AND CONTROL TECHNOLOG			75,000			
016 MATERIALS AND ELECTRONICS TECHNOLOGY 060271	60,000		80,000			
017 POST LAUNCH DESTRUCT TECHNOLOGY			15,000			
018 DEFENSE NUCLEAR AGENCY 060271		-37,000			-13,000	
130 MEDICAL TECHNOLOGY			92,764			
131 PROGRAMS WITH FORMER SOVIET STATES			25,000			
137 HISTORICALLY BLACK COLLEGES AND UNIVERS				15,000		
138 ADVANCED MATERIALS PARTNERSHIPS				30,000		
<b>Total - Technology base</b>	<b>74,330</b>	<b>-37,000</b>	<b>468,071</b>	<b>76,000</b>	<b>-107,979</b>	

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(1)	Cuts by Both Chambers	Adds by Individ. Chambers	Cuts by Individ. Chambers			
			House	Senate		
(2)	(3)	(4)	(5)	(6)	(7)	
Advanced technology development						
019 SPACE BASED INTERCEPTORS 060321		-225,558				
020 LIMITED DEFENSE SYSTEM 060321				-350,000	-44,755	
021 THEATER MISSILE DEFENSES 060321			139,775			
022 OTHER FOLLOW ON SYSTEMS 060321		-321,256			-128,300	
023 RESEARCH AND SUPPORT ACTIVITIES 060321		-178,020			-176,720	
024 JOINT DOD-DOE MUNITIONS TECHNOLOGY DEVELOP 060322				3,024		
025 EXPERIMENTAL EVALUATION OF MAJOR INNOVATION 060322				16,000	-29,718	
027 STRATEGIC ENVIRONMENTAL RESEARCH PROG				200,000		
028 ADVANCED SUBMARINE TECHNOLOGY 060356					-7,900	
029 DUAL USE CRITICAL TECHNOLOGY PARTNERSHIP				100,000		
031 ADVANCED MEDICAL TECHNOLOGY			36,172			
032 HIV RESEARCH			3,247			
033 PROLIFERATION DETECTION & OTHER TECHNOLOG			15,000			
034 LOW-LEVEL NUCLEAR TESTING DETECTION			5,000			
036 EXCIMER LASER TECHNOLOGY				10,000		
037 FOCUS HOPE	20,000					
038 MEDICAL DEVELOPMENT (FLEET HOSPITAL)			12,449			
039 COMPUTER AIDED LOGISTICS SUPPORT 060373				5,000		
040 BALANCED TECHNOLOGY INITIATIVE 060373				4,000	-77,000	
041 COOPERATIVE DOD/VA MEDICAL RESEARCH			20,000			
042 MANUFACTURING TECHNOLOGY 060373		-75,000			-58,400	
043 CONSOLIDATED DOD SOFTWARE INITIATIVE 060375	7,500		17,500			
044 SEMATECH	100,000					
047 CHARGED PARTICLE BEAM PGM (DARPA)			6,000			
049 SPECIAL OPERATIONS TECHNOLOGY DEVELOPMENT 116040			1,000			
140 NATIONAL GUARD/DARPA SIMULATION				20,000		
141 NATIONAL GUARD SIMNET CENTER				10,000		
142 COMMERCIAL-MILITARY INTEGRATION PARTNERS				50,000		
143 DUAL USE EXTENSION ASST PROGRAM				200,000		
144 REGIONAL TECHNOLOGY ALLIANCES				100,000		
145 CENTER FOR INDUSTRIAL BASE ANALYSIS				5,000		
146 UUV TECHNOLOGY				5,000		
147 ADVANCED ASW TECHNOLOGY				15,000		
148 ADVANCED STOVL TECHNOLOGY				5,000		
150 ELECTRONIC MODULE TECHNOLOGY				75,000		
151 HIGH DEFINITION DISPLAY SYSTEMS				100,000		
152 ADVANCED LITHOGRAPHY				75,000		
153 HIGH PERFORMANCE COMPUTING MODERNIZATION				43,000		
154 AUTOMATIC LANDING SYSTEMS				900		
Total - Advanced technology development	127,500	-799,874	116,368	1,181,699	-464,618	-408,175

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(1)	Adds by Both Chambers		Cuts by Both Chambers		Adds by Indiv. Chmbrs		Cuts by Indiv. Chmbrs	
	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
<b>Strategic programs</b>								
053 ISLAND SUN SUPPORT	060373							-12,163
054 AIR DEFENSE INITIATIVE	060374		-34,000					
055 THEATER MISSILE DEFENSES	060422							-140,000
<b>Total - Strategic programs</b>			-34,000					-152,163
<b>Tactical programs</b>								
063 NON-ACOUSTIC ASW	060371				15,000			
066 MEDICAL SYSTEMS ADVANCED DEVELOPMENT				29,042				
067 AEROMEDICAL SYSTEMS DEVELOPMENT				2,753				
070 JCS SIMULATION CENTER/DOCTRINE DEVELOPME						10,000		
072 GENERAL SUPPORT FOR SO/LIC						2,000		
073 JOINT REMOTELY PILOTED VEHICLES PROGRAM	030514			15,000				-68,200
074 MEDICAL DEVELOPMNTS (MED/DENTAL EQP DEV)				4,113				
075 MEDICAL MATERIEL/BIOLOGICAL DEFENSE EQP				20,209				
077 SPECIAL OPERATIONS INTELLIGENCE SYSTEMS	116040		-4,000	17,000				
078 SOF OPERATIONAL ENHANCEMENTS	116040							-51,700
<b>Total - Tactical programs</b>				88,117	27,000			-68,200
<b>Intelligence and communications</b>								
087 AIRBORNE RECONNAISSANCE SUPPORT PROGRAM	030515							-23,300
All other programs		29,000			97,900			-10,000
<b>Defense-wide Mission Support</b>								
101 NATO RESEARCH AND DEVELOPMENT	060379							-10,000
102 DEFENSE MODELING/SIMULATION OFFICE						60,000		
104 TECHNICAL SUPPORT TO USD(A)	060510					5,000		-5,000
114 FOREIGN TECHNOLOGY MONITORING						2,000		
117 STUDIES AND ANALYSES				111				
118 BRANCH HAND II EPIDEMIOLOGY STUDY				9,460				
122 SCIENCE/TECHNOLOGY MGT (NAV MED MGT SPT)				7,990				
123 RDT&E INSTRUMENTATION & MATERIEL SPT				3,139				
124 MEDICAL COMMAND SUPPORT				3,495				
127 MANAGEMENT HQ COMMAND				5,452				
129 MANUFACTURING TECHNOLOGY SUPPORT				29,000				
132 DEFENSE INDUSTRIAL COOP ENDOWMENTM				10,000				
133 RAPID ACQUISITION OF MFD PARTS TEST & IN				11,500				
134 SPECIAL TECHNICAL PROJECTS				15,000				
160 MANUFACTURING TECHNOLOGY INITIATIVE						118,000		

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	Adds by Both Chambers	Cuts by Both Chambers	Adds by Individ.chmbrs		Cuts by Individ.chmbrs	
			House	Senate	House	Senate
(1)	(2)	(3)	(4)	(5)	(6)	(7)
161 MANUFACTURING EDUCATION PROGRAM				25,000		
162 MFG MANAGERS IN THE CLASSROOM				5,000		
163 MANUFACTURING EXTENSION PROGRAM				100,000		
164 LIDAR				11,600		
165 PURCHASES FROM DBOF						-802
166 TRAVEL						-1,027
<b>Total - Defense-wide Mission Support</b>			95,147	326,600	-15,000	-1,829
<b>Total Appn - RDT&amp;E, Defense Agencies</b>	230,830	-870,874	865,603	1,611,299	-649,297	-653,667
<b>Developmental Test &amp; Eval., Defense</b>						
<b>Defense-wide Mission Support</b>						
001 CENTRAL TEST AND EVALUATION INVESTMENT D060494						-8,000
002 FOREIGN COMPARATIVE TESTING 060513						-4,000
004 DEVELOPMENT TEST AND EVALUATION 060580		-8,000			-12,000	
<b>Total - Defense-wide Mission Support</b>		-8,000			-12,000	-12,000
<b>Total Appn - Developmental Test &amp; Eval., Defense</b>		-8,000			-12,000	-12,000
<b>TOTAL - RESEARCH, DEVELOP., TEST&amp;EVAL.</b>	1,229,430	-1,743,655	2,148,534	2,763,478	-2,017,161	-2,120,015

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(1)	Adds by Both	Cuts by Both	Adds by Individ.chmbrs		Cuts by Individ.chmbrs	
	Chambers	Chambers	House	Senate	House	Senate
	(2)	(3)	(4)	(5)	(6)	(7)
OTHER						
Reductions for Accelerated Withdrawal, D Undistributed						
001 BURDENSARING					-3,500,000	
Total Appn - Reductions for Accelerated Withdraw					-3,500,000	
International Nuclear Nonproliferation A Undistributed						
001 NONPROLIFERATION ACTIVITIES			40,000			
Total Appn - International Nuclear Nonproliferat			40,000			
Reinvestment for Economic Growth, Defens Undistributed						
001 DEFENSE REINVESTMENT			1,000,000			
Total Appn - Reinvestment for Economic Growth, D			1,000,000			
TOTAL - OTHER			1,040,000		-3,500,000	

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(1)	Adds by Both Chambers		Cuts by Both Chambers		Adds by Individ.chmbrs		Cuts by Individ.chmbrs	
	(2)	(3)	(4)	(5)	(6)	(7)		
REVOLVING AND MANAGEMENT FUNDS								
Defense Business Operations Fund Undistributed 005 DEFENSE COMMISSARY AGENCY								-1,107,200
Total Appn - Defense Business Operations Fund								-1,107,200
National Defense Sealift Fund Undistributed 001 PROGRAM TERMINATION			-1,201,400					
Total Appn - National Defense Sealift Fund			-1,201,400					
TOTAL - REVOLVING AND MANAGEMENT FUNDS			-1,201,400					-1,107,200

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(1)	Adds by Both Chambers	Cuts by Both Chambers	Adds by Indiv. Chmbrs		Cuts by Indiv. Chmbrs	
	(2)	(3)	House	Senate	House	Senate
Department of the Army	240,200	-725,222	877,422	1,686,736	-1,475,115	-2,188,709
Department of the Navy	1,081,700	-1,813,168	2,128,511	2,514,485	-3,607,330	-3,786,643
Department of the Air Force	150,258	-1,850,672	452,158	1,449,620	-2,626,638	-4,109,796
Defense Agencies/OSD	297,630	-913,574	4,011,509	3,989,923	-6,955,243	-2,071,150
Defense-Wide	0	0	0	0	0	0
<b>Total - DoD Appropriation</b>	<b>1,769,788</b>	<b>-5,302,636</b>	<b>7,469,600</b>	<b>9,640,764</b>	<b>-14,664,326</b>	<b>-12,156,298</b>

HASC

Adds by both Chambers	1,769,788
Adds by HASC only	7,469,600
<b>Total HASC Adds</b>	<b>9,239,388</b>
Cuts by both Chambers	-5,302,636
Cuts by HASC only	-14,664,326
<b>Total HASC Cuts</b>	<b>-19,966,962</b>
<b>GRAND TOTAL HASC</b>	<b>-10,727,574</b>

SASC

Adds by both Chambers	1,769,788
Adds by SASC only	9,640,764
<b>Total SASC Adds</b>	<b>11,410,552</b>
Cuts by both Chambers	-5,302,636
Cuts by SASC only	-12,156,298
<b>Total SASC Cuts</b>	<b>-17,458,934</b>
<b>GRAND TOTAL SASC</b>	<b>-6,048,382</b>

CONFERENCE

Adds	
Cuts	
<b>Total</b>	

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(1)	Additions		Cuts		Net Change	
	By Both Chambers	By Both Chambers	By Both Chambers	By Both Chambers	By Individ. Chambers	By Individ. Chambers
	(2)	(3)	(4)	(5)	(6)	(7)
<b>MILITARY CONSTRUCTION</b>						
Military Construction, Army						
Major construction						
005 ANNISTON ARMY DEPOT AL						
10 AMMUNITION DEMILITARIZATION FAC PHASE III						-6,000
010 FORT MCCLELLAN AL						
20 AMMO STORAGE FACILITY			2,500			
30 GENERAL INSTRUCTION BUILDING			2,050			
40 VEHICLE MAINTENANCE SHOP			1,350			
TOTAL			5,900			
012 FORT HUACHUCA AZ						
10 ROAD IMPROVEMENTS			3,350			
20 INTELLIGENCE FACILITY				5,300		
TOTAL			3,350	5,300		
017 FORT GORDON GA						
10 CONSOLIDATED MAINTENANCE FACILITY				23,000		
018 FORT MCPHERSON GA						
10 BARRACKS & DINING HALL				10,200		
022 FITZSIMONS AMC CO						
10 CENTRAL ENERGY PLANT			19,400			
20 ENGINEER FACILITY			6,000			
TOTAL			25,400			
023 FORT GILLEM GA						
10 WATER IMPROVEMENTS	2,700					
024 HUNTER ARMY AIRFIELD GA						
10 TACTICAL EQUIPMENT SHOP	5,400					
025 SCHOFIELD BARRACKS HI						
20 ADAL SEWAGE TREATMENT FACILITY				17,500		
026 FORT RILEY KS						
10 RAIL HEAD				13,200		
027 FORT KNOX KY						
10 WATER STORAGE TANKS			4,350			
20 AIRFIELD REVITALIZATION			7,100			
30 ELECTRICAL DISTRIBUTION IMPROVEMENT PROJECT			4,150			
TOTAL			15,600			
031 CAMP MCCAIN MS						
10 DEFENSE ACCESS ROADS			18,300			
032 FORT DIX NJ						
10 RANGE 65 MODS			2,000			

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(1)	Adds by Both	Cuts by Both	Adds by Indiv. Chmbrs		Cuts by Indiv. Chmbrs	
	Chambers	Chambers	House	Senate	House	Senate
	(2)	(3)	(4)	(5)	(6)	(7)
033 FORT MONMOUTH NJ						
10 CHILD CARE CENTER	3,550					
034 FORT DRUM NY						
10 MOUT			5,900			
20 GENERAL PURPOSE WAREHOUSE			8,900			
30 LIBRARY/EDUCATION CENTER			6,700			
TOTAL			21,500			
036 FORT BRAGG NC						
10 HIGHWAY EXTENSION			8,200			
037 FORT SILL OK						
10 FIRE STATION	1,500					
039 WHITE SANDS NM						
10 BARRACKS RENOVATIONS				6,000		
041 ABERDEEN PROVING GROUND MD						
10 FIRE/SECURITY STATION				3,400		
042 CORPUS CHRISTI ARMY DEPOT TX						
10 CONTROLLED-HUMIDITY WAREHOUSE			9,600			
20 METAL FINISHING & ELECTROPLATING FACILITY			11,600			
TOTAL			21,200			
043 FORT BLISS TX						
10 BARRACKS MODERNIZATION			13,800			
20 BARRACKS MODERNIZATION			11,160			
TOTAL			24,960			
060 FORT BELVOIR VA						
20 RAIL EXTENSION				1,200		
070 VARIOUS CONUS LOCATIONS XV						
10 CLASSIFIED PROJECT		-290				-10
20 CLASSIFIED PROJECT			700			
30 DEFENSE ACCESS ROADS				2,400		
TOTAL		-290	700	2,400		-10
080 KWAJALEIN KW						
20 POWER PLANT -ROI NAMUR ISLAND					-33,000	
085 VARIOUS WORLDWIDE LOCATIONS ZV						
10 CLASSIFIED PROJECT					-700	
Total - Major construction	13,150	-290	147,110	82,200	-39,700	-10
Minor construction						
090 UNSPECIFIED WORLDWIDE LOCATIONS ZU						
10 UNSPECIFIED MINOR CONSTRUCTION		-10,000				-51,003
20 REPAIR OF REAL PROPERTY		-90,000				-448,795
TOTAL		-100,000				-499,798

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(1)	Adds by Both	Cuts by Both	Adds by Individ. Chmbrs		Cuts by Individ. Chmbrs	
	Chambers	Chambers	House	Senate	House	Senate
(2)	(3)	(4)	(5)	(6)	(7)	
Total - Minor construction		-100,000				-499,798
Total Appn - Military Construction, Army	13,150	-100,290	147,110	82,200	-39,700	-499,808
Military Construction, Navy						
Major construction						
005 ADAK NAVAL AIR STATION AK						
10 BACHELOR ENLISTED QUARTERS					-8,750	
017 MARE ISLAND NAVAL SHIPYARD CA						
10 HAZARDOUS MATERIAL STORAGE FACILITY			8,000			
018 MIRAMAR NAVAL AIR STATION CA						
10 FIXED POINT UTILITY SYSTEM			9,700			
045 ALBANY MARINE CORPS LOGISTICS BGA						
20 UPGRADE HAZARDOUS STORAGE WAREHOUSE				2,700		
060 PEARL HARBOR NAVAL SUPPLY CENTEHI						
10 OIL SPILL PREVENTION-DBOF						-1,000
068 NAVAL SURFCE WARFARE CTR, CRANEIN						
10 MICROWAVE COMPONENT CENTER			6,000			
070 BETHESDA NAVAL MEDICAL RESEARCHMD						
10 APPLICATIONS LABORATORY		-5,600				
071 NAVAL ORDINANCE STN, INDIANHD MD						
10 IMPROVE CAD/PAD FACILITY	5,300			300		
20 CHILD CARE FACILITY			2,290			
TOTAL	5,300		2,290	300		
072 PATUXENT NAVAL AIR STATION MD						
10 LARGE ANECHOIC CHAMBER - PHASE I			10,000			
073 U. S. NAVAL ACADEMY MD						
10 VISITOR'S CENTER			4,500			
20 PHYSICAL THERAPY COMPLEX			6,500			
TOTAL			11,000			
074 NAS MERIDIAN MS						
10 CHILD DEVELOPMENT CENTER			1,100			
076 NAVAL UNDERSEA WARFARE CENTER RI						
10 UNDERWATER WEAPONS TECHNOLOGY R&D FACILITY			14,000			
077 GULFPORT MS						
10 SEABEE WAREHOUSE				4,650		
078 NEW RIVER NC						
10 PHYSICAL FITNESS CENTER				3,600		
079 MCAS CHERRY POINT NC						
10 OPERATIONS FACILITY				3,000		
20 WAREHOUSE				1,680		
TOTAL				4,680		

CONGRESSIONAL RECORD—SENATE

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FY 1993  
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(Thousands of Dollars)

(1)	Adds by Both	Cuts by Both	Adds by Indiv. chmbrs		Cuts by Indiv. chmbrs	
	Chambers	Chambers	House	Senate	House	Senate
	(2)	(3)	(4)	(5)	(6)	(7)
095 KINGSVILLE NAVAL AIR STATION TX						
20 ROTAR SITE PREPARATION	10,000					
096 DAMNECK VA						
10 APPLIED INSTRUCTION BLDG EXPANSION	13,727					
20 UPGRADE WATER SYSTEM	1,200			1,300		
30 LAND ACQUISITION - 181 ACRES	4,500					
TOTAL	19,427			3,700		
097 FORT STORY VA						
10 NAVY BOMB DISPOSAL TRAINING & EVALUATION FAC	5,650			11,900		
098 LITTLE CREEK VA						
10 BACHELOR ENLISTED QUARTERS FACILITY	8,000			9,300		
20 BLAST/PAINT FACILITY	5,300					
TOTAL	13,300			21,200		
099 NAVAL AIR STATION NORFOLK VA						
10 MAGAZINE AREA PHYSICAL FACILITY	1,450		8,400			
20 RELOCATION OF ORDINANCE PAD	2,000					
TOTAL	3,450					
112 QUANTICO VA						
10 COMMAND & STAFF COLLEGE FACILITY				5,000		
122 PUGET SOUND NAVAL STATION WA						
10 BACHELOR ENLISTED QUARTERS			13,300			
145 KEFLAVIK NAVAL AIR STATION IC						
10 FUEL FACILITIES (PHASE VIII)		-4,940				
Total - Major construction	57,127	-10,540	75,390	20,930	-8,750	-1,000
Minor construction						
155 UNSPECIFIED WORLDWIDE LOCATIONSZU						
10 UNSPECIFIED MINOR CONSTRUCTION		-15,000				-62,123
20 REPAIR OF REAL PROPERTY		-85,000				-389,133
TOTAL		-100,000				-451,256
Total - Minor construction		-100,000				-451,256
Planning						
157 UNSPECIFIED WORLDWIDE LOCATIONSZU						
20 PLANNING AND DESIGN			1,350			
Total Appn - Military Construction, Navy	57,127	-110,540	76,740	20,930	-8,750	-452,256
Military Construction, Air Force						
Major construction						
007 MAXWELL AFB AL						
10 EXTENSION OF RUNWAY			10,700			
20 PHYSICAL FITNESS CENTER				9,900		
TOTAL			10,700	9,900		

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 Congressional Action on Authorization Requests  
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(1)	(2) Adds by Both Chambers	(3) Cuts by Both Chambers	Adds by Indiv.chmbrs		Cuts by Indiv.chmbrs	
			(4) House	(5) Senate	(6) House	(7) Senate
015 EIELSON AFB AK						
10 HYDRANT FUEL SYSTEM						
30 AIRCRAFT SHELTERS				27,000		-11,400
TOTAL				27,000		-11,400
020 ELMENDORF AFB AK						
30 AIRCRAFT SHELTERS				16,000		
038 DAVIS MONTHAN AFB AZ						
10 DORMITORY	3,500					
042 LUKE AFB AZ						
10 BOQ				2,950		
050 BEALE AFB CA						
20 SECURITY POLICE OPS FACILITY			4,350			
055 EDWARDS AFB CA						
20 UNDERGROUND FUEL STORAGE TANKS						-5,000
065 MCCLELLAN AFB CA						
30 PLATING SHOP				7,000		
070 TRAVIS AFB CA						
20 DORM RENOVATION			10,800			
080 US AIR FORCE ACADEMY CO						
10 BASE OPERATIONS FACILITY						-1,650
090 DOVER AFB DE						
10 DORMITORY					3,900	
092 BOLLING AFB DC						
10 CIVIL ENGINEER COMPLEX			9,400			
115 MOODY AFB GA						
20 FUEL CELL/NOSE DOCK (C-130)					3,600	
117 ROBINS AFB GA						
10 JSTARS RAMP AND HYDRANT SYSTEM					9,700	
20 JSTARS SECURITY IMPROVEMENT					1,800	
TOTAL					11,500	
130 BARKSDALE AFB LA						
30 REPLACE APRON & HYDRANT SYSTEM					25,800	
137 HANSCOM AFB MA						
10 CHILD DEVELOPMENT CENTER					4,200	
140 KEESLER AFB MS						
20 ADD/ALTER CHILD CARE CENTER			2,650			
145 WHITEMAN AFB MO						
10 B-2 ADD/ALTER COMMUNICATIONS CENTER						-2,700
70 B-2 AIRCRAFT MAINTENANCE DOCKS						-14,000
93 GENERAL REDUCTION						-20,000
TOTAL						-16,700

FY 1993  
 Congressional Action on Authorization Requests  
 (Thousands of Dollars)

(1)	Additions		Cuts		Totals	
	By Both Chambers	By Both Chambers	By Indiv. Chambers House	By Indiv. Chambers Senate	By House	By Senate
	(2)	(3)	(4)	(5)	(6)	(7)
160 NELLIS AFB NV						
30 AIRCRAFT LOADING APRON			7,950			
40 ARMING PAD, PHASE I				4,000		
TOTAL			7,950	4,000		
168 CANNON AFB NM						
10 DORMITORY			2,800			
175 POPE AFB NC						
10 ADD/ALTER AIRCRAFT OPS & LOGISTICS COMP				500		
40 ADD/ALTER AIRCRAFT OPS AND LOGISTICS COMP				700		
80 AIRCRAFT CORROSION CONTROL FAC						-5,500
90 ALTER ECM SHOP AND POD STORAGE FACILITY						-620
94 AIRCRAFT PARTS WAREHOUSES				900		
96 BRIDGE/ROAD/UTILITIES				4,000		
TOTAL				6,100		-6,120
185 CAVALIER ND						
10 UNDERGROUND FUEL STORAGE TANKS						-1,450
195 MINOT AFB ND						
30 WATER SYSTEM				2,050		
202 ALTUS AFB OK						
10 CONSOLIDATED SUPPORT FACILITY			7,300			
207 VANCE AFB OK						
10 AIRFIELD REPAIR	2,350					
210 CHARLESTON AFB SC						
40 ADD/ALTER PHYSICAL FITNESS CENTER	3,300					
223 BROOKS AFB TX						
10 ACADEMIC COMPLEX				9,000		
228 GOODFELLOW AFB TX						
10 PHYSICAL FITNESS CENTER				3,250		
235 LACKLAND AFB TX						
20 HIGH SCHOOL/GRADE SCHOOL FACILITIES			8,000			
255 HILL AFB UT						
10 ACM ADD/ALTER NDI FACILITY						-1,450
30 ENGINE TEST CELL SUPPORT FACILITY			850			
40 POWER UPGRADE			4,300			
TOTAL			5,150			-1,450
260 LANGLEY AFB VA						
30 CONSTRUCTION PROJECTS	5,300					
280 CLASSIFIED LOCATION XC						
10 AIRCRAFT MAINT DOCK						-4,050
20 AEROMEDICAL STAGING FACILITY						-1,250
30 COMBAT CONTROL TEAM SQUADRON FACILITY						-2,150
40 SPECIAL OPERATIONS FACILITY						-950
50 HYDRANT FUELING DISTRIBUTION SYSTEM						-10,400
60 SPECIAL OPERATIONS FACILITY						-950
TOTAL						-5,300

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 Congressional Action on Authorization Requests  
 (Thousands of Dollars)

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(1)	Adds by Both	Cuts by Both	Adds by Individ.chmbrs		Cuts by Individ.chmbrs	
	Chambers	Chambers	House	Senate	House	Senate
(2)	(3)	(4)	(5)	(6)	(7)	
285 CONUS VARIOUS XV						
20 UNDERGROUND FUEL STORAGE TANKS					-3,300	
288 ASCENSION ISLAND AI						
10 POWER/DESALINIZATION PLANT				22,000		
290 VARIOUS LOCATIONS-CANADA CD						
10 FWD OPERATING LOC/DISPRSD OPERATING BASES		-19,500				
305 ANDERSEN AFB GU						
30 UNDERGROUND FUEL STORAGE TANKS			4,550			
40 LANDFILL			10,000			
50 HAZARDOUS WASTE FACILITY			1,500			
60 UNDERGROUND FUEL STORAGE TANK			4,100			
TOTAL			20,150			
Total - Major construction	14,450	-33,950	96,250	151,250	-41,700	-30,670
Minor construction						
315 UNSPECIFIED WORLDWIDE LOCATIONSZU						
10 UNSPECIFIED MINOR CONSTRUCTION		-8,948				-70,000
20 REPAIR OF REAL PROPERTY		-96,352				-271,094
TOTAL		-105,300				-341,094
Total - Minor construction		-105,300				-341,094
Total Appn - Military Construction, Air Force	14,450	-139,250	96,250	151,250	-41,700	-371,764
Military Construction, Defense Agencies						
Major construction						
002 ELMENDORF AFB AK						
10 HOSPITAL REPLACEMENT				25,000		
007 BEALE AFB CA						
10 HOSPITAL LIFE SAFETY UPGRADE			3,500			
012 FITZSIMONS AMC CO						
10 SITE WORK			2,000			
015 WALTER REED ARMY MEDICAL CENTERDC						
10 ARMY INSTITUTE OF RESEARCH PHASE I						-13,300
027 HOMESTEAD AFB FL						
10 PHASE II HOSPITAL CONSTRUCTION			10,000			
030 BARKING SANDS HI						
10 LAND EASEMENT						-2,900
045 FORT BRAGG NC						
20 ADD/ALTER SEC. 6 SCHOOLS			3,950			

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 Congressional Action on Authorization Requests  
 (Thousands of Dollars)

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CONGRESSIONAL RECORD—SENATE

	(1)	Adds by Both Chambers	Cuts by Both Chambers	Adds by Individ.chmbrs		Cuts by Individ.chmbrs	
				House	Senate	House	Senate
	(2)	(3)	(4)	(5)	(6)	(7)	
055 GRAND FORKS ABM SITE ND							
10 BARRACKS & DINNING FACILITY						-12,800	
085 GRAFENWOEHR GY							
10 ADDN REN GRAFENWOEHR ELEM SCHOOL						-7,400	
090 HOHENFELS GY							
10 ADDN REN HOHENFELS ELEM SCHOOL						-13,500	
095 ON-SITE INSPECTION AGENCY JI							
10 CHEMICAL DEMILITARIZATION HOUSING						-4,600	
105 MISSILE RANGE KW							
10 GROUND SURVEIL & TRACKING SYSTEM COMPLEX						-22,000	
117 CLASSIFIED LOCATION							
10 SOUTHWESTER/NSA					3,590		
<b>Total - Major construction</b>			<b>-38,300</b>	<b>19,450</b>	<b>28,590</b>	<b>-22,000</b>	<b>16,200</b>
<b>Minor construction</b>							
130 UNSPECIFIED WORLDWIDE LOCATIONSZU							
10 UNSPECIFIED MINOR CONSTRUCTIO (DMA)							-2,400
20 UNSPECIFIED MINOR CONSTRUCTION (OSIS)			-1,000				
30 UNSPECIFIED MINOR CONSTRUCTION (SOC)							-3,800
40 UNSPECIFIED MINOR CONSTRUCTION (DODDS)							-11,656
50 UNSPECIFIED MINOR CONSTRUCTION (DMSA)							-3,490
70 UNSPECIFIED MINOR CONSTRUCTION (NSA)							-3,307
80 UNSPECIFIED MINOR CONSTRUCTION (DNA)							-800
92 UNSPECIFIED MINOR CONSTRUCTION (DISA)							-1,261
94 UNSPECIFIED MINOR CONSTRUCTION (DIA)							-892
<b>TOTAL</b>			<b>-1,000</b>				<b>-27,606</b>
140 UNSPECIFIED							
10 ENERGY CONSERVATION				60,000			
150 UNSPECIFIED WORLDWIDE LOCATIONS							
10 REPAIR OF REAL PROPERTY (DMA)							-6,100
20 REPAIR OF REAL PROPERTY (DISA)							-1,539
30 REPAIR OF REAL PROPERTY (DNA)							-3,500
40 REPAIR OF REAL PROPERTY (NSA)							-14,118
50 REPAIR OF REAL PROPERTY (DODDS)							-25,400
60 REPAIR OF REAL PROPERTY (DMSA)							-88,761
70 REPAIR OF REAL PROPERTY (DIA)							-1,338
<b>TOTAL</b>							<b>-140,756</b>
<b>Total - Minor construction</b>			<b>-1,000</b>	<b>60,000</b>			<b>-168,362</b>

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(1)	Additions		Cuts		Total	
	By Both Chambers	By Both Chambers	By Indiv. House	By Indiv. Senate	By Indiv. House	By Indiv. Senate
	(2)	(3)	(4)	(5)	(6)	(7)
<b>Planning</b>						
160 UNSPECIFIED WORLDWIDE LOCATIONSZU						
30 PLANNING AND DESIGN (DMSA)	1,000		29,000			
40 PLANNING AND DESIGN (SDIO)		-5,000			-5,000	
TOTAL	1,000	-5,000	29,000		-5,000	
<b>Total - Planning</b>	1,000	-5,000	29,000		-5,000	
<b>Total Appn - Military Construction, Defense Agen</b>						
	1,000	-44,300	108,450	28,590	-27,000	-184,562
<b>Mil. Con., Army National Guard</b>						
<b>Major construction</b>						
003 CULLMAN AL						
10 PURCHASE BLDG FOR DAS-3 CLASS IX SUP			400			
004 FORT RUCKER AL						
10 UTE SITE ADD			1,090			
007 ONEONTA AL						
10 ORGANIZATIONAL MAINTENANCE SHOP			461			
008 TUSCALOOSA AL						
10 ARMORY	2,273					
009 UNION SPRINGS AL						
10 ARMORY			813			
010 FORT WAINWRIGHT AK						
10 HANGAR				3,950		
012 W. ARNG AVIATN TNG SITE, MARANAAZ						
10 DORMITORY/DINING FACILITY			2,900			
20 PICACHO PEAK STAGEFIELD			3,041			
TOTAL			5,941			
014 FRESNO AVIATION DEPOT CA						
10 REPAIR & CONSTRUCTION OF HELICOPTER PADS	901					
016 LAKEPORT CA						
10 ARMORY			1,580			
018 LOS ALIMATOS AFRC CA						
10 JP-4 FUEL TANK REPLACEMENTS	1,553					
020 STOCKTON CA						
10 ADD/ALTER CSMS			1,613			
022 CAMP BLANDING FL						
10 MOUT RANGE	2,400			52		
20 BACHELOR OFFICER/ENLISTED QUARTERS	958					
TOTAL	3,358			52		

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(1)	Additions		Cuts	
	By Both Chambers	By Individ. Chambers	By Both Chambers	By Individ. Chambers
	(2)	(3)	(4)	(5)
024 CEDAR HILLS FL				
10 ARMORY EXPANSION			1,457	
040 CRAIG FIELD FL				
10 ARMORY EXPANSION			1,682	
20 ORGANIZATIONAL MAINTENANCE SHOP EXPANSION			368	
TOTAL			2,050	
045 BARNESVILLE GA				
10 ARMORY ACQUISITION				350
050 FORT WAYNE IN				
10 OMS		862		30
20 ARMORY		3,393		
TOTAL		4,255		30
055 GREAT BEND KS				
10 ARMORY				1,570
056 OTTAWA KS				
10 ARMORY				397
060 CAMP DODGE IA				
10 EQUIPMENT MAINTENANCE SHOP			2,687	
20 BU COMPLEX I			4,600	
TOTAL			7,287	
063 INDEPENDENCE LA				
10 ARMORY				1,300
064 LAFEYETTE LA				
10 OMS				1,000
065 CAMP RIPLEY MN				
10 COMBINED SUPPORT MAINTENANCE SHOP			7,100	
20 UTILITY SYSTEMS REPAIR			5,800	
TOTAL			12,900	
066 BALL LA				
10 RENOVATE BARRACKS				400
067 CAMP MCCAIN MS				
10 DEFENSE ACCESS ROAD				21,800
068 CAMP SHELBY MS				
10 MULTIPURPOSE RANGE				4,000
20 MODIFY RANGE #1				675
30 MODIFY RANGE #2				675
40 COMBINED SUPPORT FACILITY				5,400
TOTAL				10,750
070 MERIDIAN MS				
10 ADD/ALTER AVIATION SUPPORT FACILITY			1,900	
080 WHITMAN AFB MO				
10 ARMORY				
TOTAL	2,879		21	

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 Congressional Action on Authorization Requests  
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	(1)	Additions by Both Chambers		Cuts by Both Chambers		Additions by Individual Chambers		Cuts by Individual Chambers	
		(2)	(3)	(4)	(5)	(6)	(7)		
081 CAMP CROWDER	MO								
10 ADMINISTRATION/CLASSROOM							421		
083 FAYETTEVILLE	NC								
10 ARMORY							1,284		
084 BISMARCK	ND								
10 ADAL ARMORY/AVIATION FACILITY							5,450		
085 CLARKE COUNTY	NV								
10 ARMORY			5,530						
20 ORGANIZATIONAL MAINTENANCE SHOP			1,358						
30 COMBINED MAINTENANCE SHOP			1,854						
40 USPFO WAREHOUSE							178		
TOTAL			8,742				178		
087 FORT DIX	NJ								
20 STATE HEADQUARTERS							4,750		
090 CLAYTON	NM								
10 ARMORY			1,400						
093 ROSWELL	NM								
10 TRAINING FACILITY							3,000		
095 SPRINGER	NM								
10 ARMORY			1,209						
100 MEDINA	OH								
10 ARMORY RENOVATION			400						
105 RAVENNA ARSENAL	OH								
10 TANK RANGE			1,000						
110 CAMP GRUBER	OK								
10 MOUT FACILITIES							1,954		
115 NORMAN	OK								
10 VEHICLE MAINTENANCE COMPLEX PHASE I							8,629		
117 LA GRANDE	OR								
10 ARMORY									
120 FORT INDIANTOWN GAP	PA								
10 AVIATION BRIGADE ARMORY (800 PM)							7,500		
20 ACADEMIC TRAINING CENTER							9,100		
TOTAL							16,600		
125 INDIANA	PA								
10 ARMORY							1,700		
128 N. KINGSTON	RI								
10 ADAL ARMORY/AVIATION									
130 FOUNTAIN INN	SC								
10 HAWK TRAINING PARK			748						
135 WARE SHOALS	SC								
10 HAWK TRAINING PARK			578						

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CONGRESSIONAL RECORD—SENATE

(1)			Adds by Both		Cuts by Both		Adds by Individ.chmbrs		Cuts by Individ.chmbrs	
			Chambers	Chambers	House	Senate	House	Senate		
			(2)	(3)	(4)	(5)	(6)	(7)		
140	PICKENS	SC								
	10 HAWK TRAINING PARK		775							
142	GAFFNEY	SC								
	10 ARMORY					1,510				
145	FORT MEADE	SD								
	10 RENOVATE ADMIN. FACILITY		805							
150	MONTEAGLE	TN								
	10 ARMORY					950				
155	SMYRNA	TN								
	10 ADD/ALTER OPS. FACILITY		3,500							
	20 CSM SHOP		5,500							
	TOTAL		9,000							
156	DUNLAP	TN								
	10 ARMORY						818			
157	ERIN	TN								
	10 ARMORY						1,088			
160	CAMP BOWIE, BROWNWOOD	TX								
	10 UNIT TRAINING AND EQUIPMENT SITE					1,319				
165	GREENVILLE	TX								
	10 ARMORY					1,339				
170	KILGORE	TX								
	10 ARMORY					615				
175	LUBBOCK	TX								
	10 JOINT ARMED FORCES RESERVE CENTER					7,937				
	20 ORGANIZATION MAINTENANCE FACILITY					696				
	TOTAL					8,633				
180	MEXIA	TX								
	10 ARMORY RENOVATION					566				
185	SAN ANGELO	TX								
	10 ARMORY					1,767				
190	STEPHENVILLE	TX								
	10 ADD/ALTER ARMORY					591				
195	ST. GEORGE	UT								
	10 ARMORY		2,898							
	20 ORGANIZATIONAL MAINTENANCE SHOP/SUBSHOP		701							
	TOTAL		3,599							
197	COMMUNITY COLLEGE, RICHLANDS	VA								
	10 ARMORY		2,137							
200	GRANDVIEW	WA								
	10 ARMORY		1,602							
205	BUCKLEY	WA								
	10 ARMORY		1,728							

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(1)	Add by Both Chambers		Cuts by Both Chambers		Add by Indiv. Chmbrs		Cuts by Indiv. Chmbrs	
	(2)	(3)	(4)	(5)	(6)	(7)		
210 MOSES LAKE WA								
10 ARMORY	1,804							
215 MARSHFIELD WI								
10 ARMORY			2,030					
20 VEHICLE STORAGE FACILITY			226					
TOTAL			2,256					
220 FORT MCCOY WI								
10 TRAINING/EDUCATION FACILITY			15,000					
222 CLARKSBURG WV								
10 HANGAR				5,500				
223 CAMP GUERNSEY WY								
10 BARRACKS UPGRADE				4,447				
225 BARRIGADA GU								
10 USPFD AND WAREHOUSE			1,927					
Total - Major construction	50,746		101,537	75,287				
Minor construction								
250 UNSPECIFIED WORLDWIDE LOCATIONSZU								
10 UNSPECIFIED MINOR CONSTRUCTION								-5,100
20 REPAIR OF REAL PROPERTY				-937				-28,363
30 GENERAL REDUCTION								-1,845
TOTAL				-937				-35,308
Total - Minor construction				-937				-35,308
Planning								
260 UNSPECIFIED WORLDWIDE LOCATIONSZU								
20 PLANNING AND DESIGN	290		1,075					
Total Appn - Mil. Con., Army National Guard	51,036		102,612	75,287				-35,308
Mil. Con., Air National Guard								
Major construction								
003 BIRMINGHAM AL								
10 FIRE STATION			2,100					
20 VEHICLE MAINTENANCE SHOP			2,300					
30 ROAD RELOCATION				6,200				
TOTAL			4,400	6,200				
011 EIELSON AFB AK								
10 VEHICLE MAINTENANCE FACILITY				4,500				

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 (Thousands of Dollars)

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(1)	Adds by Both Cuts by Both		Adds by Individ.chmbrs		Cuts by Individ.chmbrs	
	Chambers	Chambers	House	Senate	House	Senate
	(2)	(3)	(4)	(5)	(6)	(7)
012 TUSCON INTERNATIONAL AIRPORT AZ						
10 JET FUEL STORAGE COMPLEX			7,200			
015 BUCKLEY ANGB CO						
20 UPGRADE UTILITIES/INFRASTRUCTURE			12,000			
035 BOISE AIRPORT ID						
20 ARM/DISARM PADS				1,550		
039 O'HARE AIRPORT IL						
10 REPAIR AIRCRAFT RAMP				5,200		
041 GREATER PEORIA IL						
10 VEHICLE MAINTENANCE FACILITY			2,200			
20 CIVIL ENGINEERING SHOP			2,200			
30 SITE PREPARATION			1,550			
TOTAL			5,950			
042 FORT WAYNE IN						
10 RUNWAY IMPROVEMENTS			6,039			
043 DES MOINES IA						
10 ADD/ALTER OPS FACILITY			5,150			
044 SIOUX GATEWAY AIRPORT IA						
10 ADD/ALT FUEL CELL/CORROSION HANGAR BAY	1,850					
20 ADD/ALT SQUADRON OPERATIONS FACILITY	920					
30 ALT COMPOSITE DINING HALL/MEDICAL TRNG FAC			1,200			
TOTAL	2,770		1,200			
052 STANDIFORD AIRPORT KY						
10 RELOCATION, PHASE III				5,000		
054 BANGOR INTERNATIONAL AIRPORT ME						
10 AIRFIELD IMPROVEMENTS			17,300			
20 AIRCRAFT PARKING & HYDRANTS				13,000		
30 FUEL SYSTEMS MAINTENANCE DOCK				4,300		
TOTAL			17,300	17,300		
055 BARNES MAP MA						
20 ADAL FUEL CELL/CORROSION CONTROL				1,400		
30 AVIONICS/WEAPONS SHOP				1,500		
40 ENGINE SHOP				800		
50 SQUADRON OPERATIONS				900		
60 MUNITIONS STORAGE/MAINTENANCE				3,650		
TOTAL				8,250		
060 OTIS ANGB MA						
20 CLINIC				1,600		
069 PHELPS COLLINS APT MI						
10 ALTER BARRACKS				3,800		
083 GULFPORT MS						
10 RAMP UPGRADE				10,800		

October 5, 1992

CONGRESSIONAL RECORD—SENATE

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FY 1993  
Congressional Action on Authorization Requests  
(Thousands of Dollars)

(1)	Additions by Both Chambers		Cuts by Both Chambers		Additions by Individual Chambers		Cuts by Individual Chambers	
	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
087 THOMPSON FIELD MS								
10 ADD/ALTER VEHICLE MAINTENANCE SHOP				1,300				
090 GREAT FALLS IAP MT								
20 ADD TO AND ALTER MAINTENANCE HANGAR SHOP								-2,800
40 ADD/ALTER WEAPONS RELEASE SHOP							800	
50 ARM/DEARM PADS							1,000	
60 FIRE SUPPRESSION SYSTEM							1,000	
TOTAL							2,800	-2,800
093 FARGO ND								
10 VEHICLE MAINTENANCE FACILITY							2,600	
095 LINCOLN MAP NE								
20 FUEL SYSTEMS MAINTENANCE DOCK							4,675	
30 SQUADRON OPERATIONS							3,100	
40 ALTER SUPPLY & COMMUNICATIONS							2,400	
TOTAL							10,175	
117 BADIN NC								
10 COMMUNICATION ELECTRONICS TRAINING FACILITY				3,000				
119 SPRINGFIELD OH								
10 ADAL ENGINE SHOP							1,700	
125 TOLEDO EXPRESS AIRPORT OH								
30 AIRCRAFT ENGINE SHOP								1,700
40 ADD/ALTER AVIONICS SHOP/ECM WEAPONS RELEASE								880
50 ADD/ALTER FUEL SYSTEMS & CORROSION CNTRL DOCK								1,300
60 ADD/ALTER SQUADRON OPERATIONS FACILITY								1,300
TOTAL								5,180
128 TULSA AIRPORT OK								
10 ADAL SQUADRON OPS							1,350	
20 ADAL OMS							430	
30 ADAL ENGINE SHOP							400	
TOTAL							2,180	
130 KINGSLEY FIELD OR								
20 SUPPLY WAREHOUSE							2,575	
135 PORTLAND IAP OR								
30 HANGAR UPGRADE							5,051	
137 STATE COLLEGE PA								
10 STORAGE FACILITY							9,700	
142 JOE FOSS FIELD, SIOUX FALLS SD								
10 MUNITIONS MAINTENANCE COMPLEX				3,000				
146 ELLINGTON ANGB TX								
10 HANGAR MODIFICATION							1,700	
147 NEDERLAND TX								
10 VEHICLE MAINTENANCE SHOP							1,200	

FY 1993  
 Congressional Action on Authorization Requests  
 (Thousands of Dollars)

October 5, 1992

CONGRESSIONAL RECORD—SENATE

(1)	Additions		Cuts	
	(2) Additions by Both Chambers	(3) Cuts by Both Chambers	(4) Additions by Indiv. House	(5) Cuts by Indiv. Senate
148 HENSLEY TX				
10 WAREHOUSE				4,250
149 KELLY AFB TX				
10 CIVIL ENGINEERING FACILITY				2,050
152 TRUAX FIELD WI				
10 HANGER ALTERATION	2,250			
20 FUEL CELL MAINTENANCE DOCK	2,000			
TOTAL	4,250			
155 VOLK FIELD WI				
20 COMPOSITE RAPCOM CENTER/COMMUNICATION FAC			2,600	
165 GENERAL REDUCTION				
30 GENERAL REDUCTION				-19,841
Total - Major construction	15,200		77,039	99,281
Minor construction				
165 UNSPECIFIED WORLDWIDE LOCATIONSZU				
10 UNSPECIFIED MINOR CONSTRUCTION				-18,000
20 REPAIR OF REAL PROPERTY		-4,250		-18,750
TOTAL		-4,250		-36,750
Total - Minor construction		-4,250		-36,750
Total Appn - Mil. Con., Air National Guard	15,200	-4,250	77,039	99,281
Mil. Con., Army Reserve				
Major construction				
005 REPROGRAMMING ALLOWANCE				
30 REPROGRAMMING ALLOWANCE				-1,245
40 PRIOR YEAR COST INCREASES				5,300
TOTAL				5,300
008 CLARKSBURG WV				
10 ARMY RESERVE CENTER				5,358
009 WHEELING WV				
10 ARMY RESERVE CENTER				6,808
010 WEIRTON WV				
10 ARMY RESERVE CENTER				3,481
011 BLUEFIELD WV				
10 ARMY RESERVE CENTER				1,921
012 JANE LEW WV				
10 ARMY RESERVE CENTER				1,566

FY 1993  
 Congressional Action on Authorization Requests  
 (Thousands of Dollars)

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(1)	Additions		Cuts	
	(2) Additions by Both Chambers	(3) Cuts by Both Chambers	(4) Additions by Indiv. House	(5) Cuts by Indiv. Senate
013 LEWISBURG WV				
10 ARMY RESERVE CENTER			1,631	
014 GRANTSVILLE WV				
10 ARMY RESERVE CENTER			2,785	
Total - Major construction			28,850	-1,245
Minor construction				
005 UNSPECIFIED WORLDWIDE LOCATIONSZU				
10 UNSPECIFIED MINOR CONSTRUCTION				-3,300
20 REPAIR OF REAL PROPERTY				-19,900
TOTAL				-23,200
Total - Minor construction				-23,200
Planning				
007 UNSPECIFIED WORLDWIDE LOCATIONSZU				
20 PLANNING AND DESIGN			600	
Total Appn - Mil. Con., Army Reserve			29,450	-24,445
Mil. Con., Naval Reserve				
Major construction				
003 DOBBINS AFB GA				
10 MAR CORPS RESERVE CENTER			5,500	
005 NAS GLENVIEW IL				
20 CHILD DEVELOPMENT CENTER			1,800	
010 GENERAL REDUCTION				
30 GENERAL REDUCTION				-1,485
Total - Major construction			7,300	-1,485
Minor construction				
010 UNSPECIFIED WORLDWIDE LOCATIONSZU				
10 UNSPECIFIED MINOR CONSTRUCTION				-1,800
20 REPAIR OF REAL PROPERTY				-26,072
TOTAL				-27,872
Total - Minor construction				-27,872
Total Appn - Mil. Con., Naval Reserve			7,300	-29,357

CONGRESSIONAL RECORD—SENATE

October 5, 1992

FY 1993  
 Congressional Action on Authorization Requests  
 (Thousands of Dollars)

October 5, 1992

CONGRESSIONAL RECORD—SENATE

(1)	Add by Both Cuts by Both		Add by Indiv.chmbrs		Cuts by Indiv.chmbrs	
	Chambers	Chambers	House	Senate	House	Senate
	(2)	(3)	(4)	(5)	(6)	(7)
Mil. Con., Air Force Reserve						
Major construction						
006 DAVIS-MONTHAN AZ						
10 ADAL AIRCRAFT MAINTENANCE FACILITY				1,500		
20 MUNITIONS MAINTENANCE & STORAGE				930		
TOTAL				2,430		
011 PETERSON AFB CO						
10 AVIONICS FACILITY				1,300		
017 O'HARE IAP IL						
10 AGE SHOP/STORAGE				1,700		
020 NEW ORLEANS NAS LA						
50 AVIONICS				2,300		
030 SELFRIDGE ANGB MI						
20 ADAL FUEL SYSTEMS MAINTENANCE HANGAR				2,400		
30 ADAL FACILITIES FOR CONVERSION				1,500		
TOTAL				3,900		
036 YOUNGSTOWN APT OH						
10 AERIAL SPRAY MAINTENANCE FACILITY				2,000		
047 HILL AFB UT						
10 AIRCRAFT CORROS CNTRL & FUEL SYS MAINT FAC			1,000			
048 MITCHELL FIELD WI						
10 HANGAR ACQ			2,500			
050 GENERAL REDUCTION						
30 GENERAL REDUCTION						-3,657
Total - Major construction			3,500	13,630		-3,657
Minor construction						
050 UNSPECIFIED WORLDWIDE LOCATIONSZU						
10 UNSPECIFIED MINOR CONSTRUCTION						-4,000
20 REPAIR OF REAL PROPERTY						-24,500
TOTAL						-28,500
Total - Minor construction						-28,500
Total Appn - Mil. Con., Air Force Reserve			3,500	13,630		-32,157
NATO Infrastructure						
NATO infrastructure						
005 OSD MILCON ZU						
10 NATO INFRASTRUCTURE						-100,000

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FY 1993  
 Congressional Action on Authorization Requests  
 (Thousands of Dollars)

(1)	Adds by Both	Cuts by Both	Adds by Indiv.chmbrs		Cuts by Indiv.chmbrs	
	Chambers	Chambers	House	Senate	House	Senate
	(2)	(3)	(4)	(5)	(6)	(7)
Total Appn - NATO Infrastructure					-100,000	
<b>TOTAL - MILITARY CONSTRUCTION</b>	151,963	-399,567	611,701	507,918	-217,150	-1,689,048

FY 1993  
 Congressional Action on Authorization Requests  
 (Thousands of Dollars)

October 5, 1992

CONGRESSIONAL RECORD—SENATE

(1)	Adds by Both Chambers		Cuts by Both Chambers		Adds by Individ.chmbrs		Cuts by Individ.chmbrs	
	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
FAMILY HOUSING								
Family Housing Construction, Army								
Construction of new housing								
001 FORT MCCLELLAN AL								
10 FAMILY HOUSING IMPROVEMENTS			5,500					
006 FORT CAMPBELL KY								
10 NEW CONSTRUCTION (96)					8,200			
007 FORT HOOD TX								
10 FAMILY HOUSING (227 UNITS)			28,000					
008 FORT PICKETT VA								
10 FAMILY HOUSING UNITS (26 UNITS)			2,300					
Total - Construction of new housing			35,800		8,200			
Post-Acquisition Construction								
010 UNSPECIFIED WORLDWIDE LOCATIONSZU								
10 CONSTRUCTION IMPROVEMENTS					12,200			
Total Appn - Family Housing Construction, Army			35,800		20,400			
Family Housing Operations & Debt, Army								
Operating expenses								
006 UNSPECIFIED WORLDWIDE LOCATIONSZU								
40 FURNISHINGS ACCOUNT							-5,000	
Total Appn - Family Housing Operations & Debt, A							-5,000	
Family Housing Construction, Navy & Mar								
Construction of new housing								
005 ADAK NAVAL AIR STATION AK								
10 NEW CONSTRUCTION (46)				-11,820				
021 MILLER PARK HI								
10 FAMILY HOUSING (114)					18,400			
022 LYNCH PARK HI								
10 FAMILY HOUSING (42)					7,000			
023 MCAS KANEOHE HI								
10 FAMILY HOUSING (220)					69,900			
20 FAMILY HOUSING (80)					26,900			
TOTAL					96,800			

FY 1993  
Congressional Action on Authorization Requests  
(Thousands of Dollars)

(1)	Additions		Cuts	
	By Both Chambers	By Both Chambers	By Indiv. Chmbrs House	By Indiv. Chmbrs Senate
	(2)	(3)	(4)	(5)
024 MOANA LUA HI				
10 NEW CONSTRUCTION (100)				11,800
026 PEARL CITY PENINSULA HI				
10 NEW CONSTRUCTION (132)				30,000
027 NAVAL COMPLEX OAHU HI				
10 NEW CONSTRUCTION (100 UNITS)			11,820	
028 NAS BARBERS POINT HI				
10 NEW CONSTRUCTION (70)				18,500
037 KITSAP COUNTY WA				
10 FAMILY HOUSING (200 UNITS)			19,500	
040 SUGAR GROVE NAVAL RADIO STATIONWV				
10 NEW CONSTRUCTION (8)				-930
<b>Total - Construction of new housing</b>		-11,820	31,320	182,500
<b>Total Appn - Family Housing Construction, Navy &amp;</b>		-11,820	31,320	182,500
<b>Family Housing Construction, Air Force</b>				
<b>Construction of new housing</b>				
005 BEALE AFB CA				
10 HOUSING OFFICE				-306
010 MARCH AFB CA				
20 ADDITIONAL FUNDS FOR 320 HOUSING UNITS			13,000	
015 PATRICK AFB FL				
10 FAMILY HOUSING (250 UNITS)				6,500
020 MOODY AFB GA				
10 HOUSING MAINTENANCE FACILITY				-290
028 SCOTT AFB IL				
10 FAMILY HOUSING PHASE I (300)				20,000
030 BARKSDALE AFB LA				
10 HOUSING MAINTENANCE & STORAGE FACILITY				-443
035 CANNON AFB NM				
10 HOUSING OFFICE				-480
040 MINOT AFB ND				
10 HOUSING MAINTENANCE & STORAGE FACILITY				-286
045 SHAW AFB SC				
10 HOUSING OFFICE				-351
<b>Total - Construction of new housing</b>			13,000	26,500

FY 1993  
 Congressional Action on Authorization Requests  
 (Thousands of Dollars)

(1)	Adds by Both	Cuts by Both	Adds by Indiv.chmbrs		Cuts by Indiv.chmbrs	
	Chambers	Chambers	House	Senate	House	Senate
(2)	(3)	(4)	(5)	(6)	(7)	
Total Appn - Family Housing Construction, Air Fo			13,000	26,500	-2,156	
Family Housing Operations & Debt, AF Operating expenses 006 UNSPECIFIED WORLDWIDE LOCATIONSZU 40 FURNISHINGS ACCOUNT					-5,000	
Total Appn - Family Housing Operations & Debt, A					-5,000	
<b>TOTAL - FAMILY HOUSING</b>		-11,820	80,120	229,400	-13,086	

October 5, 1992

CONGRESSIONAL RECORD—SENATE

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FY 1993  
 Congressional Action on Appropriation Requests  
 (Thousands of Dollars)

(1)	Adds by Both	Cuts by Both	Adds by Indiv.chmbrs		Cuts by Indiv.chmbrs	
	Chambers	Chambers	House	Senate	House	Senate
	(2)	(3)	(4)	(5)	(6)	(7)
Department of the Army	62,227	-694,688	4,234,665	219,954	-5,115,372	-169,760
Department of the Navy	51,287	-601,488	7,725,737	225,890	-8,093,069	-159,940
Department of the Air Force	54,100	-571,144	1,599,019	262,900	-6,990,943	-169,184
Defense Agencies/OSD	0	-313,762	11,368,761	87,690	-8,651,936	-280,500
Defense-Wide	0	0	0	0	0	0
<b>Total - Department of Defense</b>	<b>167,614</b>	<b>-2,181,382</b>	<b>24,928,182</b>	<b>796,434</b>	<b>-28,851,320</b>	<b>-779,384</b>

HAC

Adds by both Chambers	167,614
Adds by HAC only	24,928,182
<b>Total HAC Adds</b>	<b>25,095,796</b>
Cuts by both Chambers	-2,181,382
Cuts by HAC only	-28,851,320
<b>Total HAC Cuts</b>	<b>-31,032,702</b>
<b>GRAND TOTAL HAC</b>	<b>-5,936,906</b>

SAC

Adds by both Chambers	167,614
Adds by SAC only	796,434
<b>Total SAC Adds</b>	<b>964,048</b>
Cuts by both Chambers	-2,181,382
Cuts by SAC only	-779,384
<b>Total SAC Cuts</b>	<b>-2,960,766</b>
<b>GRAND TOTAL SAC</b>	<b>-1,996,718</b>

CONFERENCE

Adds	
Cuts	
<b>Total</b>	

FY 1993  
 Congressional Action on Appropriation Requests  
 (Thousands of Dollars)

October 5, 1992

(1)	Adds by Both Chambers	Cuts by Both Chambers	Adds by Indiv.chmbrs		Cuts by Indiv.chmbrs	
	(2)	(3)	House	Senate	House	Senate
Department of the Army	0	0	3,932,480	0	-5,068,591	0
Department of the Navy	0	0	7,616,947	0	-8,061,712	0
Department of the Air Force	0	0	1,420,280	0	-6,921,949	0
Defense Agencies/OSD	0	0	11,316,311	0	-8,463,955	0
Defense-Wide	0	0	0	0	0	0
<b>Total - DoD Appropriation</b>	<b>0</b>	<b>0</b>	<b>24,286,018</b>	<b>0</b>	<b>-28,516,207</b>	<b>0</b>

HAC

Adds by both Chambers	0
Adds by HAC only	24,286,018
<b>Total HAC Adds</b>	<b>24,286,018</b>
Cuts by both Chambers	0
Cuts by HAC only	-28,516,207
<b>Total HAC Cuts</b>	<b>-28,516,207</b>
<b>GRAND TOTAL HAC</b>	<b>-4,230,189</b>

SAC

Adds by both Chambers	0
Adds by SAC only	0
<b>Total SAC Adds</b>	<b>0</b>
Cuts by both Chambers	0
Cuts by SAC only	0
<b>Total SAC Cuts</b>	<b>0</b>
<b>GRAND TOTAL SAC</b>	<b>0</b>

CONFERENCE

Adds	
Cuts	
<b>Total</b>	

CONGRESSIONAL RECORD—SENATE

FY 1993  
 Congressional Action on Appropriation Requests  
 (Thousands of Dollars)

(1)	Adds by Both	Cuts by Both	Adds by Indiv.chmbrs		Cuts by Indiv.chmbrs	
	Chambers	Chambers	House	Senate	House	Senate
	(2)	(3)	(4)	(5)	(6)	(7)
Department of the Army	1,037,290	-1,497,839	3,259,602	2,181,915	-4,326,221	-4,247,967
Department of the Navy	1,781,753	-2,021,333	5,995,271	686,502	-6,673,224	-5,572,407
Department of the Air Force	222,387	-3,168,869	1,430,732	1,426,004	-4,393,518	-7,016,297
Defense Agencies/OSD	6,215,727	-5,728,347	5,153,034	6,172,593	-3,237,351	-2,870,394
Defense-Wide	0	0	0	0	0	0
<b>Total - Department of Defense</b>	<b>9,257,157</b>	<b>-12,416,388</b>	<b>15,838,639</b>	<b>10,467,014</b>	<b>-18,630,314</b>	<b>-19,707,065</b>

HAC

Adds by both Chambers	9,257,157
Adds by HAC only	15,838,639
<b>Total HAC Adds</b>	<b>25,095,796</b>
Cuts by both Chambers	-12,416,388
Cuts by HAC only	-18,630,314
<b>Total HAC Cuts</b>	<b>-31,046,702</b>
<b>GRAND TOTAL HAC</b>	<b>-5,950,906</b>

SAC

Adds by both Chambers	9,257,157
Adds by SAC only	10,467,014
<b>Total SAC Adds</b>	<b>19,724,171</b>
Cuts by both Chambers	-12,416,388
Cuts by SAC only	-19,707,065
<b>Total SAC Cuts</b>	<b>-32,123,453</b>
<b>GRAND TOTAL SAC</b>	<b>-12,399,282</b>

CONFERENCE

Adds	
Cuts	
<b>Total</b>	<b>-----</b>

FY 1993  
 Congressional Action on Appropriation Requests  
 (Thousands of Dollars)

(1)	Adds by Both Chambers		Cuts by Both Chambers		Adds by Indiv.chmbrs House		Cuts by Indiv.chmbrs Senate	
	(2)	(3)	(4)	(5)	(6)	(7)		
Department of the Army	965,963	-803,151	2,966,517	1,971,061	-4,265,440	-4,078,207		
Department of the Navy	1,730,466	-1,419,845	5,886,481	460,612	-6,641,867	-5,412,467		
Department of the Air Force	168,287	-2,597,425	1,251,993	1,163,104	-4,324,524	-6,847,113		
Defense Agencies/OSD	6,215,727	-5,414,585	5,100,584	6,049,903	-3,049,370	-2,589,894		
Defense-Wide	0	0	0	0	0	0		
<b>Total - DoD Appropriation</b>	<b>9,080,443</b>	<b>-10,235,006</b>	<b>15,205,575</b>	<b>9,644,680</b>	<b>-18,281,201</b>	<b>-18,927,681</b>		

**HAC**

Adds by both Chambers	9,080,443
Adds by HAC only	15,205,575
<b>Total HAC Adds</b>	<b>24,286,018</b>
Cuts by both Chambers	-10,235,006
Cuts by HAC only	-18,281,201
<b>Total HAC Cuts</b>	<b>-28,516,207</b>
<b>GRAND TOTAL HAC</b>	<b>-4,230,189</b>

**SAC**

Adds by both Chambers	9,080,443
Adds by SAC only	9,644,680
<b>Total SAC Adds</b>	<b>18,725,123</b>
Cuts by both Chambers	-10,235,006
Cuts by SAC only	-18,927,681
<b>Total SAC Cuts</b>	<b>-29,162,687</b>
<b>GRAND TOTAL SAC</b>	<b>-10,437,564</b>

**CONFERENCE**

Adds	
Cuts	
<b>Total</b>	

FY 1993  
 Congressional Action on Appropriation Requests  
 (Thousands of Dollars)

(1)	Adds by Both Chambers		Cuts by Both Chambers		Adds by Indiv. Chmbrs		Cuts by Indiv. Chmbrs	
	(2)	(3)	(4)	(5)	(6)	(7)		
Department of the Army	71,327	-694,688	293,085	210,854	-60,781	-169,760		
Department of the Navy	51,287	-601,488	108,790	225,890	-31,357	-159,940		
Department of the Air Force	54,100	-571,444	178,739	262,900	-68,994	-169,184		
Defense Agencies/OSD	0	-313,762	52,450	122,690	-187,981	-280,500		
Defense-Wide	0	0	0	0	0	0		
<b>Total - MilCon Appropriation</b>	<b>176,714</b>	<b>-2,181,382</b>	<b>633,064</b>	<b>822,334</b>	<b>-349,113</b>	<b>-779,384</b>		

HAC	
Adds by both Chambers	176,714
Adds by HAC only	633,064
<b>Total HAC Adds</b>	<b>809,778</b>
Cuts by both Chambers	-2,181,382
Cuts by HAC only	-349,113
<b>Total HAC Cuts</b>	<b>-2,530,495</b>
<b>GRAND TOTAL HAC</b>	<b>-1,720,717</b>

SAC	
Adds by both Chambers	176,714
Adds by SAC only	822,334
<b>Total SAC Adds</b>	<b>999,048</b>
Cuts by both Chambers	-2,181,382
Cuts by SAC only	-779,384
<b>Total SAC Cuts</b>	<b>-2,960,766</b>
<b>GRAND TOTAL SAC</b>	<b>-1,961,718</b>

CONFERENCE	
Adds	
Cuts	
<b>Total</b>	

FY 1993  
 Congressional Action on Appropriation Requests  
 (Thousands of Dollars)

(1)	Congressional Action		House		Senate	
	(2)	(3)	(4)	(5)	(6)	(7)
<b>MILITARY PERSONNEL</b>						
Military Personnel, Army	4,500	-225,000	1,800	231,600		-147,000
Military Personnel, Navy	2,800			3,200	-232,000	-532,630
Military Personnel, Marine Corps	300		8,000	700		-132,200
Military Personnel, Air Force	13,500		2,100			-140,400
Reserve Personnel, Army	44,500			74,780		-43,600
Reserve Personnel, Navy	51,700			29,927		-36,600
Reserve Personnel, Marine Corps	12,200			3,232		-6,500
Reserve Personnel, Air Force	1,000		1,800	5,719		-11,900
National Guard Personnel, Army	126,300			44,673		-65,500
National Guard Personnel, Air Force			2,500	5,322		-26,200
<b>TOTAL - MILITARY PERSONNEL</b>	<b>256,800</b>	<b>-225,000</b>	<b>16,200</b>	<b>399,153</b>	<b>-232,000</b>	<b>-1,142,530</b>
<b>OPERATION AND MAINTENANCE</b>						
Oper. & Maint., Army	23,230	-370,500	1,594,820	753,696	-3,757,484	-2,402,328
Oper. & Maint., Navy	100	-626,900	387,975	49,824	-1,269,126	-860,866
Oper. & Maint., Marine Corps			39,000	21,978	-214,800	-176,690
Oper. & Maint., Air Force	1,331	-252,500	753,100	254,005	-1,941,741	-1,379,620
Oper. & Maint., Defensewide	58,700	-265,800	1,082,300	259,725	-434,890	-289,300
Office of the Inspector General			93,700			
Oper. & Maint., Army Reserve	28,300		44,400	17,700	-29,158	-19,434
Oper. & Maint., Navy Reserve	17,000		6,000	19,200	-31,651	-24,939
Oper. & Maint., Marine Corps Reserve	2,000		3,100		-3,208	-1,880
Oper. & Maint., Air Force Reserve	3,100			1,000	-9,511	-27,949
Oper. & Maint., Army Nat'l Guard	69,100		69,100	45,399	-53,720	-56,922
Oper. & Maint., Air Nat'l Guard			900	9,300	-18,274	-68,885
Court of Military Appeals, Defense						-7
Summer Olympics	2,000					
Environmental Restoration Fund, Defense	612,000				-612,000	-1,500
Humanitarian Assistance	2,000			10,000		
Drug Interdiction & Counter-Drug Act., D	7,500	-26,000	127,300	41,400	-110,300	-27,100
World University Games	6,000					
World Cup - 1994	9,000					
Defense Health Program	40,000	-319,295	173,251	35,064	-98,738	
Real Property Maintenance, Defense	1,720,029		1,902,733	612,000		-612,000
<b>TOTAL - OPERATION AND MAINTENANCE</b>	<b>2,601,390</b>	<b>-1,860,995</b>	<b>6,277,679</b>	<b>2,130,291</b>	<b>-8,584,601</b>	<b>-5,949,420</b>

FY 1993  
Congressional Action on Appropriation Requests  
(Thousands of Dollars)

(1)	Adds by Both Chambers		Cuts by Both Chambers		Adds by Individ.chmbrs House Senate		Cuts by Individ.chmbrs House Senate	
	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
<b>PROCUREMENT</b>								
Aircraft Procurement, Army			225,000	42,700	-101,600	-77,117		
Missile Procurement, Army	96,276		70,730	16,598	-10,300	-73,046		
Procurement of W&TCV, Army	150,000	-14,487	50,000	147,400	-965	-27,802		
Procurement of Ammunition, Army	22,500	-10,220	359,123		-19,570	-128,700		
Other Procurement, Army	2,000	-110,851	170,338	64,500	-132,328	-70,839		
Aircraft Procurement, Navy	175,000	-169,462	51,310	20,000	-72,400	-945,008		
Weapons Procurement, Navy	107,500	-82,450	39,083	84,500	-445,601	-234,585		
Shipbuilding & Conversion, Navy	1,050,000	-126,133	3,741,400		-2,571,508	-717,017		
Other Procurement, Navy	5,030	-61,124	99,200		-137,473	-183,567		
Procurement, Marine Corps	20,000	-14,131	228,389	43,500	-30,676	-9,238		
Aircraft Procurement, Air Force	25,716	-858,200	68,400	400,958	-737,612	-1,236,392		
Missile Procurement, Air Force	36,000	-899,668		154,600	-187,138	-544,050		
Other Procurement, Air Force	9,425	-179,608	39,193	64,100	-574,710	-313,856		
Procurement, Defensewide		-255,863	146,500	256,762	-462,394	-79,082		
National Guard & Reserve Equipment	301,100		831,050	450,000				
Defense Production Act Purchases			25,000					
Chem Agents & Munitions Destruction, Def		-2,000	4,000		-34,300			
<b>TOTAL - PROCUREMENT</b>	<b>2,000,547</b>	<b>-2,784,197</b>	<b>6,148,716</b>	<b>1,745,618</b>	<b>-5,518,575</b>	<b>-4,640,299</b>		
<b>RESEARCH, DEVELOP., TEST&amp;EVAL.</b>								
RDT&E, Army	399,257	-72,093	381,206	532,015	-160,315	-965,919		
RDT&E, Navy	286,836	-339,645	1,283,024	184,551	-432,024	-1,550,747		
RDT&E, Air Force	78,215	-407,449	384,000	268,100	-855,538	-3,097,861		
RDT&E, Defensewide	3,457,398	-4,537,627	714,750	895,975	-177,548	-1,567,905		
Developmental Test & Eval., Defense		-8,000			-12,000	-13,000		
Advanced Tactical Aviation, Defense				3,488,977				
<b>TOTAL - RESEARCH, DEVELOP., TEST&amp;EVA</b>	<b>4,221,706</b>	<b>-5,364,814</b>	<b>2,762,980</b>	<b>5,369,618</b>	<b>-1,637,425</b>	<b>-7,195,432</b>		
<b>REVOLVING AND MANAGEMENT FUNDS</b>								
Defense Business Operations Fund					-1,107,200			
National Defense Sealift Fund					-1,201,400			
<b>TOTAL - REVOLVING AND MANAGEMENT F</b>					<b>-2,308,600</b>			

FY 1993  
Congressional Action on Appropriation Requests  
(Thousands of Dollars)

(1)	Adds by Both	Cuts by Both	Adds by Individ.chmbrs		Cuts by Individ.chmbrs	
	Chambers	Chambers	House	Senate	House	Senate
	(2)	(3)	(4)	(5)	(6)	(7)
Department of the Army						
Department of the Navy						
Department of the Air Force						
Defense Agencies/OSD						
Defense-Wide						
Total - Other Legislation						

FY 1993  
Congressional Action on Appropriation Requests  
(Thousands of Dollars)

(1)	Adds by Both Chambers	Cuts by Both Chambers	Adds by Individ.chmbrs House	Indiv.chmbrs Senate	Cuts by Individ.chmbrs House	Indiv.chmbrs Senate
	(2)	(3)	(4)	(5)	(6)	(7)

FY 1993  
 Congressional Action on Appropriation Requests  
 (Thousands of Dollars)

(1)	Additions by Both Chambers		Additions by Individual Chambers		Cuts by Individual Chambers	
	(2)	(3)	(4)	(5)	(6)	(7)
<b>MILITARY CONSTRUCTION</b>						
Military Construction, Army	19,150	-639,088	158,910	77,750	-19,345	-101,100
Military Construction, Navy	51,287	-561,796	77,470	26,090	-13,711	-17,600
Military Construction, Air Force	14,450	-500,344	94,700	147,500	-36,037	-75,760
Military Construction, Defensewide		-213,762	52,450	28,590	-13,482	-100,200
Mil. Con., Army National Guard	52,177	-34,400	101,393	80,854	-6,812	
Mil. Con., Air National Guard	38,000	-42,600	62,739	71,720	-3,502	-6,600
Mil. Con., Army Reserve		-21,200		31,850	-2,083	
Mil. Con., Naval Reserve		-27,872		7,300	-99	
Mil. Con., Air Force Reserve	1,650	-28,500	8,300	17,180	-343	
Base Realignment & Closure Acct, Part I					-29,157	
Base Realignment & Closure Acct, Part II					-141,186	
NATO Infrastructure		-100,000		59,100	-1,212	-180,300
<b>TOTAL - MILITARY CONSTRUCTION</b>	<b>176,714</b>	<b>-2,169,562</b>	<b>555,962</b>	<b>547,934</b>	<b>-266,969</b>	<b>-481,560</b>
<b>FAMILY HOUSING</b>						
Family Housing Construction, Army			32,782	20,400	-2,084	-68,660
Family Housing Operations & Debt, Army					-30,457	
Family Housing Construction, Navy & Mari		-11,820	31,320	192,500	-4,326	-142,340
Family Housing Operations & Debt, Navy &					-13,221	
Family Housing Construction, Air Force			13,000	26,500	-5,486	-86,824
Family Housing Operations & Debt, AF					-23,626	
Family Housing Operations & Debt, Defens					-284	
Homeowners Asst Fund, Def.					-1,330	
<b>TOTAL - FAMILY HOUSING</b>		<b>-11,820</b>	<b>77,102</b>	<b>239,400</b>	<b>-80,814</b>	<b>-297,824</b>

FY 1993  
 Congressional Action on Appropriation Requests  
 (Thousands of Dollars)

(1)	Additions by Both Chambers		Cuts by Both Chambers		Additions by Individual Chambers		Cuts by Individual Chambers	
	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
Department of the Army								
Department of the Navy								
Department of the Air Force								
Defense Agencies/OSD						35,000		-1,330
Defense-Wide								
<b>Total - Non-Action</b>						<b>35,000</b>		<b>-1,330</b>

FY 1993  
 Congressional Action on Appropriation Requests  
 (Thousands of Dollars)

(1)	Adds by Both Chambers		Cuts by Both Chambers		Adds by Individ. Chmbrs		Cuts by Individ. Chmbrs	
	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
DEFENSEWISE CONTINGENCIES								
Savings from Reform of Davis-Bacon					-1,330			
<b>TOTAL - DEFENSEWISE CONTINGENCIES</b>					<b>-1,330</b>			
TRUST FUNDS								
National Security Education Trust Fund				35,000				
<b>TOTAL - TRUST FUNDS</b>				<b>35,000</b>				

FY 1993  
Congressional Action on Appropriation Requests  
(Thousands of Dollars)

(1)	Additions by Both Chambers		Cuts by Both Chambers		Additions by Individual Chambers		Cuts by Individual Chambers	
	(2)	(3)	(4)	(5)	(6)	(7)		
<b>MILITARY PERSONNEL</b>								
Military Personnel, Army								
Other military personnel costs								
014 TEMPORARY LODGING EXPENSE	4,500		1,800					
016 FORCE STRUCTURE ADJUSTMENT		-225,000						-147,000
Total - Other military personnel costs	4,500	-225,000	1,800					-147,000
Undistributed								
018 REPRICING					231,600			
Total Appn - Military Personnel, Army	4,500	-225,000	1,800		231,600			-147,000
Military Personnel, Navy								
Other military personnel costs								
014 TEMPORARY LODGING EXPENSE	2,800				3,200			
016 FORCE STRUCTURE ADJUSTMENT								-232,000
Total - Other military personnel costs	2,800				3,200			-232,000
Undistributed								
018 REPRICING								-415,800
020 BUDGET AMENDMENT ADJUSTMENT								-116,830
Total - Undistributed								-532,630
Total Appn - Military Personnel, Navy	2,800				3,200			-532,630
Military Personnel, Marine Corps								
Other military personnel costs								
012 RESERVE SUPPORT			8,000					
014 TEMPORARY LODGING EXPENSE	300				700			
Total - Other military personnel costs	300		8,000		700			
Undistributed								
016 FORCE STRUCTURE								-7,000

FY 1993  
 Congressional Action on Appropriation Requests  
 (Thousands of Dollars)

(1)	Add by Both		Cuts by Both		Add by Individ.chmbrs		Cuts by Individ.chmbrs	
	Chambers	Chambers	House	Senate	House	Senate	House	Senate
	(2)	(3)	(4)	(5)	(6)	(7)		
018 REPRICING								-125,200
Total - Undistributed								-132,200
Total Appn - Military Personnel, Marine Corps	300		8,000	700				-132,200
Military Personnel, Air Force								
Other military personnel costs								
014 TEMPORARY LODGING EXPENSE	13,500		2,100					
Undistributed								
016 FORCE STRUCTURE								-70,000
018 REPRICING								-70,400
Total - Undistributed								-140,400
Total Appn - Military Personnel, Air Force	13,500		2,100					-140,400
Reserve Personnel, Army								
Other training and support								
014 FORCE STRUCTURE ADJUSTMENT	44,500			70,500				
Undistributed								
016 REPRICING								-43,600
018 BUDGET AMENDMENT ADJUSTMENT								4,280
Total - Undistributed								-43,600
Total Appn - Reserve Personnel, Army	44,500			74,780				-43,600
Reserve Personnel, Navy								
Other training and support								
014 FORCE STRUCTURE ADJUSTMENT	45,700			22,300				
016 C-130 SQUADRON	6,000			400				
Total - Other training and support	51,700			22,700				
Undistributed								
018 REPRICING								-36,600
020 BUDGET AMENDMENT ADJUSTMENT								7,227

FY 1993  
Congressional Action on Appropriation Requests  
(Thousands of Dollars)

(1)	Additions		Cuts		
	By Both Chambers (2)	By Both Chambers (3)	By Individ. House (4)	By Individ. Senate (5)	
Total - Undistributed				7,227	-36,600
Total Appn - Reserve Personnel, Navy	51,700			29,927	-36,600
Reserve Personnel, Marine Corps					
Other training and support					
014 FORCE STRUCTURE ADJUSTMENT	12,200			800	
Undistributed					
016 REPRICING					-6,500
018 BUDGET AMENDMENT ADJUSTMENT				2,432	
Total - Undistributed				2,432	-6,500
Total Appn - Reserve Personnel, Marine Corps	12,200			3,232	-6,500
Reserve Personnel, Air Force					
Other training and support					
014 WC-130 WEATHER RECONNAISSANCE MISSION	1,000				
016 NEW UNIFORM			1,800		
Total - Other training and support	1,000		1,800		
Undistributed					
018 FORCE STRUCTURE				1,000	
020 REPRICING					-11,900
022 BUDGET AMENDMENT ADJUSTMENT				4,719	
Total - Undistributed				5,719	-11,900
Total Appn - Reserve Personnel, Air Force	1,000		1,800	5,719	-11,900
National Guard Personnel, Army					
Other training and support					
014 FORCE STRUCTURE ADJUSTMENT	126,300			34,700	
Undistributed					
018 REPRICING					-65,500
020 DRUG INTERDICTION				7,819	

FY 1993  
 Congressional Action on Appropriation Requests  
 (Thousands of Dollars)

(1)	Adds by Both	Cuts by Both	Adds by Indiv.chmbrs		Cuts by Indiv.chmbrs	
	Chambers	Chambers	House	Senate	House	Senate
(2)	(3)	(4)	(5)	(6)	(7)	
022 DRUG DEMAND REDUCTION				2,154		
Total - Undistributed				9,973		-65,500
Total Appn - National Guard Personnel, Army	126,300			44,673		-65,500
National Guard Personnel, Air Force						
Other training and support						
014 NEW UNIFORM			2,500			
Undistributed						
016 DRUG INTERDICTION				2,922		
018 DRUG DEMAND REDUCTION				1,400		
020 KC-135 SQUADRON				1,000		
022 REPRICING						-26,200
Total - Undistributed				5,322		-26,200
Total Appn - National Guard Personnel, Air Force			2,500	5,322		-26,200
TOTAL - MILITARY PERSONNEL	256,800	-225,000	16,200	399,153	-232,000	-1,142,530

FY 1993  
Congressional Action on Appropriation Requests  
(Thousands of Dollars)

(1)	Adds by Both Chambers		Cuts by Both Chambers		Adds by Individ.chmbrs House		Cuts by Individ.chmbrs Senate	
	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
OPERATION AND MAINTENANCE								
Oper. & Maint., Army								
Undistributed								
002 GENERAL PURPOSE FORCES								-30,500
003 INTELLIGENCE & COMMUNICATIONS PROGRAM								-25,600
004 CENTRAL SUPPLY & MAINTENANCE								-85,193
006 MILITARY POLICE TRAINING TRANSFER FROM AF						1,000		
007 ADMINISTRATION & ASSOCIATED ACTIVITIES						5,471		
012 EXCESS INVENTORIES								-743,000
015 FOREIGN NATIONALS				-120,000				-1,050,000
020 WAGE GRADE PAY ADJUSTMENT								-5,900
025 HEADQUARTERS AND ADMINISTRATION				-5,600				-5,400
027 SOUTHCOM HQ MANAGEMENT								-2,400
028 INTERNATIONAL HQS AND AGENCIES								-2,000
030 CONSULTANTS				-9,600				-3,400
035 AUDITS AND MONETARY BENEFITS								-25,000
040 AUTOMATED DATA PROCESSING				-10,000				-65,000
050 INTELLIGENCE/CLASSIFIED PROGRAMS				-132,800				-22,341
052 SPECIAL TECHNICAL PROJECT								-2,500
055 RECRUITING, ADVERTISING AND EXAMINING				-12,500				-22,100
060 CLASSROOM TRAINING				-80,000				-4,000
070 DBOF TECHNICAL ADJUSTMENTS								-96,700
080 PENTAGON RESERVATION MAINTENANCE FUND								-32,500
090 NURSING DEMONSTRATION PROGRAM						2,000		
100 MEMORIAL DAY & JULY 4TH CELEBRATIONS		900						
105 PRESIDIO OF SAN FRANCISCO REAL PROP MNT		22,330				27,670		
110 FOREIGN CURRENCY REPRICING								-53,600
115 RENT PAYMENTS TO GSA								-72,958
120 CRIMINAL INVEST FUNCTIONS CONSOLIDATION								-28,500
125 CIVILIAN TRAINING, EDUC & DEVEL								-28,000
130 COMMUNICATIONS & ELEC DEPOT MAINT BACKLOG						51,000		
135 ROTC DEMONSTRATION PROJECT						750		
140 SES MANPOWER								-7,085
150 REAL PROPERTY MAINTENANCE								-748,000
160 INTERIM CONTRACTOR SUPPORT TRANSFER						27,400		
170 REDUCE PURCHASES FROM DBOF								-110,982
175 EXCESS ON-ORDER PURCHASES								-250,000
185 TRAVEL								-32,500

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1 Oct 1992

FY 1993  
 Congressional Action on Appropriation Requests  
 (Thousands of Dollars)

(1)	Add by Both Cuts by Both		Add by Individ.chmbrs		Cuts by Individ.chmbrs	
	Chambers	Chambers	House	Senate	House	Senate
(2)	(3)	(4)	(5)	(6)	(7)	
205 REVISED INFLATION						-17,200
230 O&M PURCHASE THRESHOLD				1,725		
242 FY 1993 OBS-TO-SALES						-121,614
244 PRIOR OBS-TO-SALES						-85,074
245 SUPPLY OPERATIONS						-14,700
248 NEW ACQUISITION STRATEGY						-700
255 RESIDUAL VALUE						-100,000
257 ENV LAB CONSOLIDATION						-5,000
260 POHAKULOA TRAINING				1,000		
265 ARMY ENV POLICY INSTITUTE				1,500		
290 BUDGET AMENDMENT ADJUSTMENT						-31,365
295 TRANSFER FROM DBOF				743,000		
500 TRANSFER DENIED - COVERED BY FREE ISSUE						-1,486,000
<b>Total - Undistributed</b>	<b>23,230</b>	<b>-370,500</b>	<b>108,820</b>	<b>753,696</b>	<b>-3,757,484</b>	<b>-1,659,328</b>
700 TRANSFER FROM DBOF			1,486,000			-743,000
<b>Total Appn - Oper. &amp; Maint., Army</b>	<b>23,230</b>	<b>-370,500</b>	<b>1,594,820</b>	<b>753,696</b>	<b>-3,757,484</b>	<b>-2,402,328</b>
<b>Oper. &amp; Maint., Navy</b>						
<b>Undistributed</b>						
010 FOREIGN NATIONALS		-25,000			-166,300	
025 HEADQUARTERS AND ADMINISTRATION		-7,600			-400	
030 CONSULTANTS		-1,000				-23,600
035 AUDITS AND MONETARY BENEFITS					-25,000	
040 AUTOMATED DATA PROCESSING		-10,000			-65,000	
050 INTELLIGENCE/CLASSIFIED PROGRAMS		-36,200			-8,792	
055 RECRUITING, ADVERTISING AND EXAMINING		-2,000				-2,700
060 CLASSROOM TRAINING		-62,000			-9,000	
080 DBOF TECHNICAL ADJUSTMENTS		-280,000			-247,000	
082 REDUCE PURCHASES FROM DBOF						-160,640
085 PENTAGON RESERVATION MAINTENANCE FUND					-22,400	
090 CRIMINAL INVESTIGATION TRANSFER					-54,200	
100 STRATEGIC FORCES						-14,600
105 GENERAL PURPOSE FORCES						-186,165
110 INTELLIGENCE & COMMUNICATIONS PROGRAMS						-5,800
117 DISTRIBUTION COSTS FOR PEARL HARBOR MEDAL	100					
118 CONTINUING EDUCATION ASSISTANCE				175		
120 CENTRAL SUPPLY & MAINTENANCE						-45,200

FY 1993  
Congressional Action on Appropriation Requests  
(Thousands of Dollars)

(1)	Add by Both Chambers		Cuts by Both Chambers		Add by Indiv.chmbrs House Senate		Cuts by Indiv.chmbrs House Senate	
	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
130 ADMINISTRATION AND ASSOCIATED ACTIVITIES								-4,691
145 U.S. COAST GUARD TRANSFER			3,500					
150 SPECIAL TECHNICAL PROJECT							-20,000	
155 FOREIGN CURRENCY REPRICING							-4,300	
165 RENTAL PAYMENTS TO GSA							-51,313	
170 SES MANPOWER							-2,721	
175 REAL PROPERTY MAINTENANCE							-477,700	
180 INTERIM CONTRACTOR SUPPORT TRANSFER			118,200					
200 FOREIGN NATIONALS SEVERANCE PAY IN PHILIPPINES							-52,000	
210 TRAVEL								-8,000
230 REVISED INFLATION								-20,900
240 O&M PURCHASE THRESHOLD						10,250		
275 RETURN EXCESS SUPPLIES								-32,500
280 FY 1993 OBS-TO-SALES								-175,028
285 PRIOR OBS-TO-SALES								-123,139
290 SUPPLY OPERATIONS								-2,900
295 NEW ACQUISITION STRATEGY								-7,400
305 ENV LAB CONSOLIDATION								-5,000
310 BASE OPERATIONS								-11,097
315 NAVAL OBSERVATORY						1,600		
320 BUDGET AMENDMENT ADJUSTMENT						6,474		
330 TRANSFER FROM DBOF						31,500		
500 TRANSFER DENIED - COVERED BY FREE ISSUE							-63,000	
510 TRANSFER TO OTHER ACCOUNTS			203,100					
Total - Undistributed	100	-423,800	324,975	49,824	-1,269,126		-829,366	
700 TRANSFER FROM DBOF			63,000					-31,500
710 TRANSFER TO COAST GUARD								
Total -		-203,100	63,000					-31,500
Total Appn - Oper. & Maint., Navy	100	-626,900	387,975	49,824	-1,269,126		-860,866	
Oper. & Maint., Marine Corps Undistributed								
005 EXCESS INVENTORIES								-19,500
010 RECRUITING, ADVERTISING AND EXAMINING								-2,600
025 TRAINING & OTH GEN PERS ACTIVITIES								-6,000

FY 1993  
 Congressional Action on Appropriation Requests  
 (Thousands of Dollars)

(1)	Adds by Both Cuts by Both		Adds by Indiv.chmbrs		Cuts by Indiv.chmbrs	
	Chambers	Chambers	House	Senate	House	Senate
	(2)	(3)	(4)	(5)	(6)	(7)
050 FOREIGN CURRENCY REPRICING					-100	
053 REAL PROPERTY MAINTENANCE					-133,900	
060 FOREIGN NATIONAL EMPLOYEES					-41,800	
070 REDUCE PURCHASES FROM DBOF						-10,980
080 WAGE GRADE PAY RAISE						-1,200
090 PRINTING						-1,224
095 REVISED INFLATION						-1,700
110 O&M PURCHASE THRESHOLD				250		
125 DBOF ADJUSTMENT						-50,800
130 FY 1993 OBS-TO-SALES						-12,031
135 PRIOR OBS-TO-SALES						-8,417
140 OPERATING FORCES						-30,000
145 BASE OPERATIONS						-4,710
150 DBOF TRANSFER				19,500		
155 BUDGET AMENDMENT ADJUSTMENT				2,228		
160 FIELD LOGISTICS SUPPORT						-8,028
500 TRANSFER DENIED - COVERED BY FREE ISSUE					-39,000	
<b>Total - Undistributed</b>				<b>21,978</b>	<b>-214,800</b>	<b>-157,190</b>
700 TRANSFER FROM DBOF			39,000			-19,500
<b>Total Appn - Oper. &amp; Maint., Marine Corps</b>			<b>39,000</b>	<b>21,978</b>	<b>-214,800</b>	<b>-176,690</b>
Oper. & Maint., Air Force						
Undistributed						
010 FOREIGN NATIONALS					-75,000	
020 WAGE GRADE PAY ADJUSTMENT						-11,600
025 HEADQUARTERS AND ADMINISTRATION					-17,000	
030 CONSULTANTS					-7,000	
035 AUDITS AND MONETARY BENEFITS					-25,000	
040 AUTOMATED DATA PROCESSING					-58,500	
050 RECRUITING, ADVERTISING AND EXAMINING						-1,600
055 CLASSROOM TRAINING					-2,000	
070 DBOF TECHNICAL ADJUSTMENTS					-140,800	
072 REDUCE PURCHASES FROM DBOF						-135,570
073 EXCESS ON-ORDER PURCHASES						-150,000
080 PENTAGON RESERVATION MAINTENANCE FUND					-24,200	
085 INTELLIGENCE/CLASSIFIED PROGRAMS					-54,241	
090 CRIMINAL INVESTIGATION TRANSFER					-41,000	

FY 1993  
Congressional Action on Appropriation Requests  
(Thousands of Dollars)

(1)	Adds by Both Chambers		Cuts by Both Chambers		Adds by Individ.chmbrs House Senate		Cuts by Individ.chmbrs House Senate	
	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
095 CIVIL AIR PATROL	1,331							
100 JUNIOR ROTC					2,500			
105 COMPUTER-AIDED ACQUIS & LOGISTICS SYS					13,000			
110 STRATEGIC FORCES								-91,061
115 GENERAL PURPOSE FORCES								-6,800
121 COMMAND, CONTROL, COMMUNICATION								-49,200
131 MILITARY POLICE TRAINING TRANSFER TO ARMY								-1,000
135 CENTRAL SUPPLY								-95,900
140 ADMINISTRATION & ASSOCIATED ACTIVITIES								-8,310
155 WINDSOR SCHOOL RENOVATION					1,500			
160 SPECIAL TECHNICAL PROJECT								-30,000
165 JCS EXERCISES					9,000			
170 FOREIGN CURRENCY REPRICING								-25,600
175 TURKISH BASE MAINTENANCE CONTRACT								-68,000
180 MILITARY FAMILY SERVICES					3,000			
185 RENT PAYMENTS TO GSA								-18,185
187 MANUAL DESALINATORS					2,000			
190 SES MANPOWER								-2,931
195 REAL PROPERTY MAINTENANCE								-904,284
200 INTERIM CONTRACTOR SUPPORT TRANSFER					274,100			
225 REVISED INFLATION								-18,300
240 O&M PURCHASE THRESHOLD							9,000	
255 FY 1993 OBS-TO-SALES								-148,557
260 PRIOR OBS-TO-SALES								-103,922
265 SUPPLY OPERATIONS								-3,600
270 RETURN EXCESS SUPPLIES								-224,000
280 RESIDUAL VALUE								-25,000
285 ENV LAB CONSOLIDATION								-5,000
290 MILITARY TO CIVILIAN CONVERSION								-21,000
295 NOAA							17,000	
300 CLS FOR TR-1								-25,200
305 JP4-B								-30,000
310 BUDGET AMENDMENT ADJUSTMENT							4,005	
315 DBOF TRANSFER							224,000	
500 TRANSFER DENIED - COVERED BY FULL ISSUE								-448,000
<b>Total - Undistributed</b>	<b>1,331</b>	<b>-252,500</b>	<b>305,100</b>	<b>254,005</b>	<b>-1,941,741</b>	<b>-1,155,620</b>		
700 TRANSFER FROM DBOF					448,000			-224,000
<b>Total Appn - Oper. &amp; Maint., Air Force</b>	<b>1,331</b>	<b>-252,500</b>	<b>753,100</b>	<b>254,005</b>	<b>-1,941,741</b>	<b>-1,379,620</b>		

FY 1993  
 Congressional Action on Appropriation Requests  
 (Thousands of Dollars)

(1)	Adds by Both	Cuts by Both	Adds by Indiv.chmbrs		Cuts by Indiv.chmbrs	
	Chambers	Chambers	House	Senate	House	Senate
(2)	(3)	(4)	(5)	(6)	(7)	
Oper. & Maint., Defensewide						
Undistributed -						
010 FOREIGN NATIONALS					-42,100	
020 WAGE GRADE PAY ADJUSTMENT						-9,200
025 HEADQUARTERS AND ADMINISTRATION					-17,000	
030 CONSULTANTS		-15,000				-1,800
035 AUDITS AND MONETARY BENEFITS					-25,000	
040 AUTOMATED DATA PROCESSING					-75,000	
045 LEASES					-11,000	
050 RECRUITING, ADVERTISING AND EXAMINING						-400
055 CLASSROOM TRAINING					-6,000	
060 DBOF TECHNICAL ADJUSTMENTS		-11,300				
062 REDUCE PURCHASES FROM DBOF						-16,129
070 PENTAGON RESERVATION MAINTENANCE FUND					-33,600	
080 INTELLIGENCE/CLASSIFIED PROGRAMS		-189,500			-70,516	
085 DEFENSE CONTRACT AUDIT AGENCY	8,700					
090 DEFENSE COMMISSARY AGENCY			1,051,700			
095 PHYSICIAN ASSISTANT DEMO PROGRAM			1,000			
100 GD & RESERVE MEDICAL CARE PILOT PROGRAM			1,500			
115 SPECIAL TECHNICAL PROJECT					-30,000	
125 DISA - NATIONAL COMMUNICATIONS SYSTEM					-20,000	
130 DEFENSE LOGISTICS AGENCY (DLA)			15,000			-33,000
160 DEFENSE TECHNOLOGY SECURITY ADMINISTRATION					-2,000	
180 US SPECIAL OPERATIONS COMMAND			13,100			-84,894
190 RENT PAYMENTS TO GSA					-47,598	
195 FOREIGN CURRENCY REPRICING					-4,600	
200 SES MANPOWER					-1,549	
210 REAL PROPERTY MAINTENANCE					-48,927	
225 PRINTING						-5,151
235 REVISED INFLATION						-9,200
240 OFFICE OF ECONOMIC ADJUSTMENT				25,000		
255 LEGACY RES. MANAGE PROG				40,000		
260 O&M PURCHASE THRESHOLD				32,375		
295 FY 1993 OBS-TO-SALES						-17,675
300 PRIOR OBS-TO-SALES						-12,364
305 MOBILITY ENHANCEMENTS				70,000		
315 OSIA/ARMS CONTROL						-25,000
320 DEFENSE MAPPING AGENCY						-10,500
325 DEFENSE CONVERSION COMMISSION				5,000		
330 AVERAGE SALARY REDUCTION						-63,621
335 OSD ENVIRONMENTAL OFFICE MANAGEMENT						-366

October 5, 1992

CONGRESSIONAL RECORD—SENATE

FY 1993  
Congressional Action on Appropriation Requests  
(Thousands of Dollars)

(1)	Additions by Both Chambers		Additions by Individual Chambers		Cuts by Individual Chambers	
	(2)	(3)	House (4)	Senate (5)	House (6)	Senate (7)
340 ACADEMY ATHLETIC PROGRAMS				350		
345 DISASTER RELIEF PLANNING				10,000		
350 DISASTER RELIEF EFFORTS				50,000		
355 PROJECT PEACE				25,000		
360 NUCLEAR WASTE RESPONSE				1,000		
365 ABUSED DEPENDENTS				1,000		
500 AVAILABLE FOR TRANSFERS/REPROGRAMMING		-50,000				
<b>Total - Undistributed</b>	<b>8,700</b>	<b>-265,800</b>	<b>1,082,300</b>	<b>259,725</b>	<b>-434,890</b>	<b>-289,300</b>
700 FINANCING ADJUSTMENTS	50,000					
<b>Total Appn - Oper. &amp; Maint., Defensewide</b>	<b>58,700</b>	<b>-265,800</b>	<b>1,082,300</b>	<b>259,725</b>	<b>-434,890</b>	<b>-289,300</b>
Office of the Inspector General Undistributed						
001 CONSOLIDATE FRAUD INVESTIGATIONS			93,700			
<b>Total Appn - Office of the Inspector General</b>			<b>93,700</b>			
Oper. & Maint., Army Reserve Undistributed						
005 RECRUITING, ADVERTISING AND EXAMINING						-1,900
015 END STRENGTH RESTORATION	28,300			17,700		
020 MISSION FORCES - RESTRUCTURED TRAINING			25,000			
035 ARMY RESERVE CENTER - UNIV OF MIAMI			400			
055 EQUIPMENT MODERNIZATION			19,000			
065 REAL PROPERTY MAINTENANCE					-29,158	
075 WAGE GRADE PAY RAISE						-600
085 PRINTING						-1,422
090 REVISED INFLATION						-1,000
100 REDUCE PURCHASES FROM DBOF						-5,070
105 OBLIG LIMITATIONS, 1993						-5,556
110 PRIOR YEAR						-3,886
<b>Total - Undistributed</b>	<b>28,300</b>		<b>44,400</b>	<b>17,700</b>	<b>-29,158</b>	<b>-19,434</b>
<b>Total Appn - Oper. &amp; Maint., Army Reserve</b>	<b>28,300</b>		<b>44,400</b>	<b>17,700</b>	<b>-29,158</b>	<b>-19,434</b>

FY 1993  
 Congressional Action on Appropriation Requests  
 (Thousands of Dollars)

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	Adds by Both Chambers	Cuts by Both Chambers	Adds by Indiv.chmbrs House	Senate	Cuts by Indiv.chmbrs House	Senate
(1)	(2)	(3)	(4)	(5)	(6)	(7)
<b>Oper. &amp; Maint., Navy Reserve</b>						
<b>Undistributed</b>						
005 RECRUITING, ADVERTISING AND EXAMINING						-800
010 CRAFT OF OPPORTUNITY PROGRAM				3,200		
040 FORCE STRUCTURE ADJUSTMENT	17,000			16,000		
050 C-130 SQUADRONS			6,000			
060 REAL PROPERTY MAINTENANCE					-31,651	
070 REDUCE PURCHASES FROM DBOF						-8,014
090 PRINTING						-301
095 REVISED INFLATION						-900
100 OBLIG. LIMITATIONS, 1993						-8,781
105 OBLIG. LIMITATIONS, PRIOR YEAR						-6,143
<b>Total - Undistributed</b>	<b>17,000</b>		<b>6,000</b>	<b>19,200</b>	<b>-31,651</b>	<b>-24,939</b>
<b>Total Appn - Oper. &amp; Maint., Navy Reserve</b>	<b>17,000</b>		<b>6,000</b>	<b>19,200</b>	<b>-31,651</b>	<b>-24,939</b>
<b>Oper. &amp; Maint., Marine Corps Reserve</b>						
<b>Undistributed</b>						
005 RECRUITING, ADVERTISING AND EXAMINING						-100
030 FORCE STRUCTURE ADJUSTMENT	2,000		3,100			
035 REAL PROPERTY MAINTENANCE					-3,208	
045 REDUCE PURCHASES FROM DBOF						-405
065 OBLIG. LIMITATIONS, 1993						-444
070 OBLIG. LIMITATIONS, PRIOR YEAR						-310
075 INFLATION						-621
<b>Total - Undistributed</b>	<b>2,000</b>		<b>3,100</b>		<b>-3,208</b>	<b>-1,880</b>
<b>Total Appn - Oper. &amp; Maint., Marine Corps Reserv</b>	<b>2,000</b>		<b>3,100</b>		<b>-3,208</b>	<b>-1,880</b>
<b>Oper. &amp; Maint., Air Force Reserve</b>						
<b>Undistributed</b>						
005 RECRUITING, ADVERTISING AND EXAMINING						-300
045 WC-130 WEATHER RECONNAISSANCE	3,100					
055 REAL PROPERTY MAINTENANCE					-9,511	
065 REDUCE PURCHASES FROM DBOF						-8,508
070 GUARD/RESERVE STRENGTH				1,000		
075 WAGE GRADE PAY RAISE						-1,900

FY 1993  
Congressional Action on Appropriation Requests  
(Thousands of Dollars)

(1)	Adds by Both	Cuts by Both	Adds by Indiv.chmbrs		Cuts by Indiv.chmbrs	
	Chambers	Chambers	House	Senate	House	Senate
(1)	(2)	(3)	(4)	(5)	(6)	(7)
085 PRINTING						-197
095 oblig. limitations, 1993						-9,323
100 OBLIG. LIMITATIONS, PRIOR YEAR						-6,521
105 OBLIG LIMITATIONS, 1993						-1,200
Total - Undistributed	3,100			1,000	-9,511	-27,949
Total Appn - Oper. & Maint., Air Force Reserve	3,100			1,000	-9,511	-27,949
Oper. & Maint., Army Nat'l Guard						
126 STARBASE YOUTH PROGRAM				2,000		
Undistributed						
005 RECRUITING, ADVERTISING AND EXAMINING						-1,600
010 END STRENGTH RESTORATION	69,100			27,900		
015 MISSION FORCES - RESTRUCTURED TRAINING			25,000			
060 EQUIPMENT MODERNIZATION			42,000			
070 REAL PROPERTY MAINTENANCE					-53,720	
075 URBAN YOUTH PROG & YOUTH CONSERV CORPS CAMP			2,100			
085 REDUCE PURCHASES FROM DBOF						-16,810
095 WAGE GRADE PAY RAISE						-3,600
110 PRINTING						-1,405
115 REVISED INFLATION						-2,200
125 NG CIVILIAN YOUTH OPPORTUNITIES				10,800		
130 USFPO				845		
135 DRUG DEMAND REDUCTION				3,854		
140 OBLIG. LIMITATIONS, 1993						-18,421
145 OBLIG. LIMITATIONS, PRIOR YEAR						-12,886
Total - Undistributed	69,100		69,100	43,399	-53,720	-56,922
Total Appn - Oper. & Maint., Army Nat'l Guard	69,100		69,100	45,399	-53,720	-56,922
Oper. & Maint., Air Nat'l Guard						
Undistributed						
005 RECRUITING, ADVERTISING AND EXAMINING						-300
055 REAL PROPERTY MAINTENANCE					-18,274	
060 URBAN YOUTH PROG & YOUTH CONSERV CORPS CAMP			900			
070 REDUCE PURCHASES FROM DBOF						-21,387

FY 1993  
 Congressional Action on Appropriation Requests  
 (Thousands of Dollars)

(1)	Additions		Cuts		Total	
	By Both Chambers	By Both Chambers	By Indiv. Chmbrs House	By Indiv. Chmbrs Senate	By House	By Senate
(1)	(2)	(3)	(4)	(5)	(6)	(7)
075 GUARD/RESERVE STRENGTH				1,000		
080 WAGE GRADE PAY RAISE						-4,400
095 PRINTING						-368
100 REVISED INFLATION						-2,600
110 168TH REFUELING SQUADRON				2,500		
115 DRUG DEMAND REDUCTION				2,600		
120 NG CIVILIAN YOUTH PROGRAM				3,200		
125 OBLIG. LIMITATIONS, 1993						-23,436
130 OBLIG. LIMITATION, PRIOR YEAR						-16,394
<b>Total - Undistributed</b>			900	9,300	-18,274	-68,885
<b>Total Appn - Oper. &amp; Maint., Air Nat'l Guard</b>			900	9,300	-18,274	-68,885
<b>Court of Military Appeals, Defense Undistributed</b>						
015 TRAVEL						-7
<b>Total Appn - Court of Military Appeals, Defense</b>						-7
<b>Summer Olympics</b>						
Operation and maintenance support						
001 1996 SUMMER OLYMPICS	2,000					
<b>Total Appn - Summer Olympics</b>	2,000					
<b>Environmental Restoration Fund, Defense</b>						
001 ENVIRONMENTAL RESTORATION, DEFENSE PROGRAMS						-1,500
500 TRANSFER DENIED - COVERED BY FREE ISSUE					-612,000	
<b>Total - Environmental Restoration Fund, Defense</b>					-612,000	-1,500
700 TRANSFER FROM NATIONAL DEFENSE STOCKPILE	612,000					
<b>Total Appn - Environmental Restoration Fund, Def</b>	612,000				-612,000	-1,500
<b>Humanitarian Assistance Undistributed</b>						
001 HUMANITARIAN ASSISTANCE PROGRAMS	2,000			10,000		

FY 1993  
Congressional Action on Appropriation Requests  
(Thousands of Dollars)

(1)	Adds by Both	Cuts by Both	Adds by Individ.chmbrs		Cuts by Individ.chmbrs	
	Chambers	Chambers	House	Senate	House	Senate
	(2)	(3)	(4)	(5)	(6)	(7)
Total Appn - Humanitarian Assistance	2,000			10,000		
Drug Interdiction & Counter-Drug Act., D Undistributed						
005 RIVERINE CRAFT (PROCUREMENT)					-3,500	
010 SOCOM RIVERINE SUPPORT (PROCUREMENT)					-1,485	
020 NAVAL RESERVE (PROCUREMENT)					-1,300	
025 OFFICE OF SECRETARY OF DEFENSE					-2,000	
030 HYDROFOIL PATROL BOAT					-2,000	
035 COUNTER-DRUG RESEARCH & DEVELOPMENT					-10,715	
040 DEMAND REDUCTION		-6,000				-9,000
045 OPTEMPO		-20,000				-10,000
050 CLASSIFIED PROGRAMS					-89,300	
055 SUPPORT TO LAW ENFORCEMENT			30,000			
060 CIVIL AIR PATROL			2,000			
065 COUNTER-DRUG SURVEILLANCE PLAN			5,000			
070 CONSOLIDATED SURVEILLANCE ACCOUNT			89,300			
075 GULF STATES INITIATIVE	7,500					
076 NATIONAL GUARD/RESERVE			1,000			
100 O & M DEFENSE AGENCIES						-8,100
102 CIVIL AIR PATROL				1,000		
106 NATIONAL GUARD LAV SUPPORT				2,000		
108 SEA-BASED AEROSTATS				25,400		
110 REGIONAL POLICE INFO SYSTEM				1,000		
112 NATIONAL LAV'S				12,000		
Total - Undistributed	7,500	-26,000	127,300	41,400	-110,300	-27,100
Total Appn - Drug Interdiction & Counter-Drug Ac	7,500	-26,000	127,300	41,400	-110,300	-27,100
World University Games O&M support						
001 1993 WORLD UNIVERSITY GAMES	6,000					
Total Appn - World University Games	6,000					
World Cup - 1994 O&M support						
001 WORLD CUP USA 1994	9,000					

FY 1993  
 Congressional Action on Appropriation Requests  
 (Thousands of Dollars)

(1)	Add by Both Chambers		Cuts by Both Chambers		Add by Individ.chmbrs House Senate		Cuts by Individ.chmbrs House Senate	
	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
Total Appn - World Cup - 1994	9,000							
Defense Health Program								
Operation and maintenance								
012 EXCESS INVENTORIES								
013 DENTAL BENEFIT	40,000			10,000			-98,738	
014 HEAD INJURY PROJECT				6,000				
015 HOME HEALTH CARE BENEFIT				25,000				
016 USTF TO HCFA REIMBURSEMENT				40,000				
017 TOTAL REAL PROPERTY MAINTENANCE				92,251				
060 UNDISTRIBUTED						3,614		
065 PEDIATRIC EMS						450		
070 PEST CONTROL, SNAKES						1,000		
075 PORTABLE VENTILATORS						5,000		
Total - Operation and maintenance	40,000			173,251		10,064		-98,738
Research, development, test, and evaluat								
003 RESEARCH AND DEVELOPMENT								-319,295
Undistributed								
055 CHAMPUS						25,000		
Total Appn - Defense Health Program	40,000			173,251		35,064		-98,738
Real Property Maintenance, Defense								
Undistributed								
001 REAL PROPERTY MAINTENANCE	1,720,029			1,902,733				
500 TRANSFER FROM NATIONAL DEFENSE STOCKPILE						612,000		
Total - Undistributed	1,720,029			1,902,733		612,000		
700 TRANSFER FROM NATIONAL DEFENSE STOCKPILE								-612,000
Total Appn - Real Property Maintenance, Defense	1,720,029			1,902,733		612,000		-612,000
TOTAL - OPERATION AND MAINTENANCE	2,601,390			6,277,679		2,130,291		-8,584,601
								-5,949,420

FY 1993  
 Congressional Action on Appropriation Requests  
 (Thousands of Dollars)

(1)	Additions		Cuts			
	By Both Chambers	By Individ. Chmbrs House	By Both Chambers	By Individ. Chmbrs Senate		
(2)	(3)	(4)	(5)	(6)	(7)	
<b>PROCUREMENT</b>						
<b>Aircraft Procurement, Army</b>						
<b>Aircraft</b>						
005 AH-64 ATTACK HELICOPTER (APACHE) (MYP)					-40,000	
<b>Modification of aircraft</b>						
015 AH-64 MODS			42,700		-40,000	
020 FLIGHT DATA RECORDER					-4,500	
024 ARMED OH-58D			225,000			
028 GPS MODS						-28,600
<b>Total - Modification of aircraft</b>			<b>225,000</b>	<b>42,700</b>	<b>-44,500</b>	<b>-28,600</b>
<b>Spares and repair parts</b>						
030 SPARES AND REPAIR PARTS						-2,525
<b>Support equipment and facilities</b>						
031 AIRCRAFT SURVIVABILITY EQUIPMENT						-45,992
039 GENERAL REDUCTION, INT. CONTR. SUPT					-17,100	
<b>Total - Support equipment and facilities</b>					<b>-17,100</b>	<b>-45,992</b>
<b>Total Appn - Aircraft Procurement, Army</b>			<b>225,000</b>	<b>42,700</b>	<b>-101,600</b>	<b>-77,117</b>
<b>Missile Procurement, Army</b>						
<b>Other missiles</b>						
005 STINGER SYSTEM SUMMARY			55,000			
008 LASER HELLFIRE SYS SUMMARY						-20,000
011 MLRS ROCKET	92,131			16,598		
013 MLRS LAUNCHER			5,730			-50,941
015 ARMY TACTICAL MSL SYS (ATACMS) - SYS SUM	4,145					
<b>Total - Other missiles</b>	<b>96,276</b>		<b>60,730</b>	<b>16,598</b>		<b>-70,941</b>
<b>Modification of missiles</b>						
021 TOW MODS			10,000			
<b>Spares and repair parts</b>						
025 SPARES AND REPAIR PARTS						-2,105
<b>Support equipment and facilities</b>						
029 GENERAL REDUCTION, INT. CONTR. SUPT					-10,300	

FY 1993  
 Congressional Action on Appropriation Requests  
 (Thousands of Dollars)

(1)	Adds by Both Cuts by Both		Adds by Individ.chmbrs		Cuts by Individ.chmbrs	
	Chambers	Chambers	House	Senate	House	Senate
(2)	(3)	(4)	(5)	(6)	(7)	
Total Appn - Missile Procurement, Army	96,276		70,730	16,598	-10,300	-73,046
Procurement of W&TCV, Army						
Tracked combat vehicles						
003 M1 ABRAMS TANK TRAINING DEVICES					-965	
011 M1 ABRAMS TANK (MOD)						-25,202
013 SPARES AND REPAIR PARTS						-2,600
015 PRODUCTION BASE SUPPORT (TCV-WTCV)		-14,487				
020 BRADLEY BASE SUSTAINMENT PROGRAM	150,000		50,000			
022 M-1 UPGRADE PROGRAM				122,400		
Total - Tracked combat vehicles	150,000	-14,487	50,000	122,400	-965	-27,802
Weapons and other combat vehicles						
025 GRENADE LAUNCHER, AUTO, 40MM MK19-3				25,000		
Total Appn - Procurement of W&TCV, Army	150,000	-14,487	50,000	147,400	-965	-27,802
Procurement of Ammunition, Army						
Ammunition						
002 CTG, 5.56MM, ALL TYPES			19,600			
003 CTG, 7.62MM, ALL TYPES			4,800			
006 CTG, .50 CAL, ALL TYPES	5,000					
007 CTG, 20MM, ALL TYPES			11,300			
008 CTG, 25MM, ALL TYPES					-4,663	
010 CTG, 40MM, ALL TYPES					-850	
013 CTG, MORTAR, 120MM, HE/MO, XM934					-13,377	
014 CTG, MORTAR, 120MM, HE/PD, XM933		-3,020				
015 CTG, MORTAR, 60MM, 1/10 PRACTICE			3,200			
018 CTG, TANK, 105MM, TP-T, M490A1			29,300			
019 CTG, TANK, 105MM, DS-TP, M724A1			29,500			
028 PROJ, ARTY, 155MM, BASEBURNER M864						-81,200
029 PROJ, ARTY, 155MM, SADARM, XM898						-35,486
030 PROJ, ARTY, 155MM, HE, M107	17,500		17,500			
032 PROP CHG, 155MM, RED BAG, M203			112,300			
040 MINE, VOLCANO, AT/AP, M87			60,000			
044 ROCKET, HYDRA 70, ALL TYPES			26,400			
047 GRENADES, ALL TYPES		-1,400				
049 SIMULATORS, ALL TYPES					-680	
050 AMMO COMPONENTS, ALL TYPES		-4,100				

FY 1993  
Congressional Action on Appropriation Requests  
(Thousands of Dollars)

(1)	Adds by Both Chambers	Cuts by Both Chambers	Adds by Indiv.chmbrs House	Senate	Cuts by Indiv.chmbrs House	Senate
(1)	(2)	(3)	(4)	(5)	(6)	(7)
All other programs			27,000			-2,000
Total - Ammunition	22,500	-8,520	340,900		-19,570	-118,686
Ammunition production base support						
059 LAYAWAY OF INDUSTRIAL FACILITIES		-1,700				-3,114
061 MAINTENANCE OF INACTIVE FACILITIES			6,823			-6,900
062 CONVENTIONAL AMMO DEMILITARIZATION			11,400			
Total - Ammunition production base support		-1,700	18,223			-10,014
Total Appn - Procurement of Ammunition, Army	22,500	-10,220	359,123		-19,570	-128,700
Other Procurement, Army						
Tactical and support vehicles						
001 TACTICAL TRAILERS/DOLLY SETS				30,000		
003 SEMITRAILER, TANK, 5000G			25,000			
005 FAMILY OF MEDIUM TACTICAL VEH (MYP)					-21,000	
006 HEAVY EQUIPMENT TRANSPORTER SYS			40,000			
013 GENERAL PURPOSE VEHICLES					-900	
019 SPARES AND REPAIR PARTS						-500
Total - Tactical and support vehicles			65,000	30,000	-21,900	-500
Communications and electronics equipment						
022 DEFENSE SATELLITE COMMUNICATIONS SYSTEM		-8,150			-6,850	
025 NAVSTAR GLOBAL POSITIONING SYSTEM		-1,386				-106
027 SINGLE CHANNEL OBJECT TACT TERM (SCOTT)		-24,412			-5,588	
033 WWMCCS INFORMATION SYSTEM (WIS)						-1,000
034 ARMY DATA DISTRIBUTION SYSTEM (ADDS)			32,000			-3,000
035 MOBILE SUBSCRIBER EQUIP (MSE)						-5,100
036 SINGGARS FAMILY					-65,700	
038 EAC COMMUNICATIONS				34,500		
041 C-E CONTINGENCY/FIELDING EQUIP					-2,370	
051 DEFENSE DATA NETWORK (DDN)						-1,850
054 INFORMATION SYSTEMS						-8,600
056 LOCAL AREA NETWORK (LAN)		-10,000				-13,800
057 PENTAGON TELECOM CTR (PTC)					-1,000	
059 GENERAL DEFENSE INTELL PROG (GDIP)			3,238			
061 ALL SOURCE ANALYSIS SYS (ASAS) (TIARA)		-6,600			-3,400	

FY 1993  
 Congressional Action on Appropriation Requests  
 (Thousands of Dollars)

(1)	Adds by Both Chambers		Cuts by Both Chambers		Adds by Indiv.chmbrs House Senate		Cuts by Indiv.chmbrs House Senate	
	(2)	(3)	(4)	(5)	(6)	(7)		
078 ARTILLERY ACCURACY EQUIP					-2,773			
084 FORWARD ENTRY DEVICE (FED)						-1,158		
087 MANEUVER CONTROL SYSTEM (MCS)			-24,753		-247			
089 AUTOMATED DATA PROCESSING EQUIP				9,000		-6,000		
090 RESERVE COMPONENT AUTOMATION SYS (RCAS)				15,000				
094 INTEGRATED FAMILY OF TEST EQUIP (IFTE)				12,000		-6,000		
097 INITIAL SPARES						-6,000		
101 PRODUCTION BASE SUPPORT (C-E)				8,100				
103 SPECIAL PROGRAMS			-33,782				-14,000	
<b>Total - Communications and electronics equipment</b>			-109,083		79,338	34,500	-87,928	-66,614
<b>Other support equipment</b>								
113 TOWED ASSAULT BRIDGE	2,000							
149 NATURAL GAS UTILIZATION EQUIPMENT				8,000				
155 COMBAT TRAINING CENTERS SUPPORT						-16,600		
156 TRAINING DEVICES, NONSYSTEM			-1,768			-5,900		
159 SPARES AND REPAIR PARTS							-2,000	
174 LSV LANDING CRAFT				18,000				
175 RAISE O&M PURCHASE THRESHOLD							-1,725	
<b>Total - Other support equipment</b>	2,000		-1,768		26,000		-22,500	-3,725
<b>Total Appn - Other Procurement, Army</b>	2,000		-110,851		170,338	64,500	-132,328	-70,839
<b>Aircraft Procurement, Navy</b>								
<b>Combat aircraft</b>								
002 EA-6B/REMFG (ELECTRONIC WARFARE) PROWLER					11,310			
007 F/A-18 (FIGHTER) HORNET							-492,300	
009 CH/MH-53E (HELICOPTER) SUPER STALLION								
012 SH-60B (ASW HELICOPTER) SEAHAWK							-101,194	
013 SH-60B (ASW HELICOPTER) SEAHAWK ADV PROC (CY)							-25,000	
014 SH-60F CV (ASW HELICOPTER)							-81,087	
015 SH-60F CV (ASW HELICOPTER) ADV PROC (CY)							-15,151	
017 AV-8B HARRIER					25,000			
<b>Total - Combat aircraft</b>								-714,732
<b>Trainer aircraft</b>								
019 T-45TS (TRAINER) GOSHAWK ADV PROC (CY)								-22,000

FY 1993  
 Congressional Action on Appropriation Requests  
 (Thousands of Dollars)

(1)	Additions		Cuts		Total	
	Both Chambers	Indiv. Chambers	Both Chambers	Indiv. Chambers	Both Chambers	Indiv. Chambers
	(2)	(3)	(4)	(5)	(6)	(7)
Other aircraft						
070 GLOBAL POSITIONING SATELLITE EQUIPMENT						-49,609
072 AIRBORNE SELF-PROTECTION JAMMER						-55,887
Total - Other aircraft						-105,496
Modification of aircraft						
025 A-6 SERIES			10,000			
031 F-14 SERIES	175,000					
035 F-18 SERIES				20,000		
043 EP-3 SERIES		-32,962				
046 E-2 SERIES						-25,108
Total - Modification of aircraft	175,000	-32,962	10,000	20,000		-25,108
Aircraft spares and repair parts						
058 SPARES AND REPAIR PARTS		-5,200				-77,672
Aircraft support equipment and facilities			5,000			
066 NIGHT VISION DEVICES FOR AVIATORS			5,000			
Undistributed						
065 GENERAL REDUCTION, INT. CONTR. SUPT					-72,400	
Total Appn - Aircraft Procurement, Navy	175,000	-169,462	51,310	20,000	-72,400	-945,008
Weapons Procurement, Navy						
Ballistic missiles						
002 TRIDENT II					-100,000	
003 TRIDENT II ADV PROC (CY)Y					-100,000	
Total - Ballistic missiles					-200,000	
Other missiles						
005 TOMAHAWK						-175,000
006 AMRAAM						-14,700
007 HARPOON/SLAM	90,000		10,000			
015 AERIAL TARGETS					-8,000	
016 DRONES AND DECOYS	17,500					
025 WEAPONS INDUSTRIAL FACILITIES				12,500		
026 FLEET SATELLITE COMMUNICATIONS (MYP)		-62,100			-222,900	
027 ARCTIC SATELLITE COMMUNICATIONS		-8,007			-9,500	
028 ORDNANCE SUPPORT EQUIPMENT				72,000		

FY 1993  
 Congressional Action on Appropriation Requests  
 (Thousands of Dollars)

(1)	Adds by Both Chambers	Cuts by Both Chambers	Adds by Indiv. House	chmbrs Senate	Cuts by Indiv. House	chmbrs Senate
(2)	(3)	(4)	(5)	(6)	(7)	(7)
Total - Other missiles	107,500	-70,107	10,000	84,500	-240,400	-189,700
Torpedoes and related equipment						
030 VERTICAL LAUNCHED ASROC (AP)			10,000			
036 QUICKSTRIKE MINE		-6,000			-2,801	
Total - Torpedoes and related equipment		-6,000	10,000		-2,801	
Other Ordnance						
054 PRACTICE BOMBS			10,000			
056 GENERAL PURPOSE PY SAVINGS						-10,600
059 CIWS AMMUNITION			9,083			
060 76MM GUN AMMUNITION		-1,972				
061 OTHER SHIP GUN AMMUNITION		-4,371				
Total - Other Ordnance		-6,343	19,083			-10,600
Spares and repair parts						
064 SPARES AND REPAIR PARTS						-4,285
065 SPECIAL TECHNICAL PROJECTS					-1,500	
067 GENERAL REDUCTION, INT. CONTR. SUPT					-900	
Total - Spares and repair parts					-2,400	-4,285
Undistributed						
068 CLASSIFIED PROGRAM						-30,000
Total Appn - Weapons Procurement, Navy	107,500	-82,450	39,083	84,500	-445,601	-234,585
Shipbuilding & Conversion, Navy						
Other warships						
002 CARRIER REPLACEMENT PROGRAM						-482,200
008 DDG-51		-92,873			-2,571,508	
009 DDG-51 ADV PROC (CY)						-11,000
Total - Other warships		-92,873			-2,571,508	-493,200
Amphibious ships						
011 LHD-1	1,050,000		155,000			
012 LSD-41 ADVANCE PROCUREMENT (CY)			300,000			

FY 1993  
Congressional Action on Appropriation Requests  
(Thousands of Dollars)

(1)	Adds by Both	Cuts by Both	Adds by Indiv.chmbrs	Cuts by Indiv.chmbrs	(6)	(7)
	Chambers	Chambers	House	Senate		
	(2)	(3)	(4)	(5)		
Total - Amphibious ships	1,050,000		455,000			
Mine warfare and patrol ships						
013 MHC MINE HUNTER COASTAL						-24,065
Auxiliaries, craft, and prior-year progr						
014 AOE			300,000			
015 SEALIFT			801,400			
017 OCEANOGRAPHIC SHIPS			90,000			
018 SERVICE CRAFT						-171,958
022 OUTFITTING		-33,260				-4,794
023 POST DELIVERY						-23,000
027 COST GROWTH ON PY PROGRAM			195,000			
Total - Auxiliaries, craft, and prior-year progr		-33,260	1,386,400			-199,752
030 TRANSFER FROM DBOF			1,900,000			
Total Appn - Shipbuilding & Conversion, Navy	1,050,000	-126,133	3,741,400		-2,571,508	-717,017
Other Procurement, Navy						
Ships support equipment						
037 STANDARD BOATS	5,030					
Communications and electronics equipment						
044 AN/SPS-48			51,500			
045 AN/SPS-49					-2,400	
049 SURFACE SONAR SUPPORT EQUIPMENT					-3,400	
051 AN/BQQ-5						-3,852
052 SURFACE SONAR WINDOWS AND DOME						-2,505
054 SONAR SWITCHES AND TRANSDUCERS						-2,000
059 SUBMARINE ADVANCED COMBAT SYSTEM						-2,000
060 SOSUS						-10,900
067 AN/SLQ-32					-1,800	
070 AN/WLR-8					-2,500	
073 C-3 COUNTERMEASURES						-12,000
076 NAVAL INTELL PROCESSING SYSTEM						-1,600
077 AN/WLQ-4 DEPOT					-2,000	
081 NAVY TACTICAL DATA SYSTEM			12,700			-3,315
083 LINK 16 HARDWARE						-42,984
084 MINESWEEPING SYSTEM REPLACEMENT		-2,400				-5,669

FY 1993  
 Congressional Action on Appropriation Requests  
 (Thousands of Dollars)

(1)	Additions		Cuts		Net Change	
	By Both Chambers (2)	By Both Chambers (3)	By Individ. Chmbrs House (4)	By Individ. Chmbrs Senate (5)	By House (6)	By Senate (7)
086 NAVSTAR GPS RECEIVERS						-4,015
101 SPACE SYSTEM PROCESSING					-4,387	
108 EMI CONTROL INSTRUMENTATION						-1,400
117 SUBMARINE COMMUNICATION EQUIPMENT						-1,000
118 SATCOM SHIP TERMINALS						-13,500
129 SECURE VOICE SYSTEM					-400	
<b>Total - Communications and electronics equipment</b>		-2,400	64,200		-16,887	-106,740
<b>Aviation support equipment</b>						
151 SONOBUOYS					-2,778	
155 SIGNAL, UNDERWATER SOUND (SUS)					-1,792	
156 CARTRIDGES & CART ACTUATED DEVELOP		-813				
158 AIR EXPENDABLE COUNTERMEASURES		-2,633				
161 JATOS		-5,942				
169 AIRBORNE MINE COUNTERMEASURES					-10,000	
<b>Total - Aviation support equipment</b>		-9,388			-14,570	
<b>Ordnance support equipment</b>						
181 AEGIS SUPPORT EQUIPMENT			5,000			
184 VERTICAL LAUNCH SYSTEMS						-35,000
189 SURFACE ASW SUPPORT EQUIPMENT					-2,905	
200 SHIP EXPENDABLE COUNTERMEASURE					-1,600	
<b>Total - Ordnance support equipment</b>			5,000		-4,505	-35,000
<b>Civil engineering support equipment</b>						
210 AMPHIBIOUS EQUIPMENT			22,000			
220 NATURAL GAS UTILIZATION EQUIPMENT			8,000			
<b>Total - Civil engineering support equipment</b>			30,000			
<b>Supply support equipment</b>						
224 SPECIAL PURPOSE SUPPLY SYSTEMS		-15,000				-22,083
<b>Personnel and command support equipment</b>						
229 SHIP SYSTEM TRAINERS					-5,100	
235 INTELLIGENCE SUPPORT EQUIPMENT		-5,306				-9,494
<b>Total - Personnel and command support equipment</b>		-5,306			-5,100	-9,494

FY 1993  
Congressional Action on Appropriation Requests  
(Thousands of Dollars)

(1)	Adds by Both	Cuts by Both	Adds by Indiv.chmbrs		Cuts by Indiv.chmbrs	
	Chambers	Chambers	House	Senate	House	Senate
(2)	(3)	(4)	(5)	(6)	(7)	
Spares and repair parts						
245 SPARES AND REPAIR PARTS		-29,030			-51,511	
Undistributed						
247 GENERAL REDUCTION, INT. CONTR. SUPT					-44,900	
248 RAISE O&M PURCHASE THRESHOLD						-10,250
Total - Undistributed					-44,900	-10,250
Total Appn - Other Procurement, Navy	5,030	-61,124	99,200		-137,473	-183,567
Procurement, Marine Corps						
Ammunition						
001 5.56 MM, ALL TYPES						-1,600
002 7.62 MM, ALL TYPES			7,000			
003 LINEAR CHARGES, ALL TYPES		-5,454				
005 40 MM, ALL TYPES		-7,060				
006 60 MM ILLUM M721		-1,617				
030 83 MM ROCKET HEAA (SMAW)					-24,352	
038 RKT MOTOR 5 IN						-6,018
040 AMMO MODERNIZATION					-3,000	
Total - Ammunition		-14,131	7,000		-27,352	-7,618
Weapons and combat vehicles						
043 AMLRS			152,200			
044 MODIFICATION KITS (TRKD VEH)				15,000		
048 LIGHT ARMORED VEHICLE				10,000		
Total - Weapons and combat vehicles			152,200	25,000		
Communications and electronics equipment						
065 HANDPACK RADIOS AND EQUIPMENT				3,000		
080 INTELLIGENCE SUPPORT EQUIPMENT	10,000		13,000			
087 NIGHT VISION EQUIPMENT	10,000					
Total - Communications and electronics equipment	20,000		13,000	3,000		
Support vehicles						
096 LOGISTICS VEHICLE SYSTEM			18,000			
Engineer and other equipment						
101 ARMORED COMBAT EXCAVATOR (ACE)			35,689			

FY 1993  
 Congressional Action on Appropriation Requests  
 (Thousands of Dollars)

(1)	Adds by Both	Cuts by Both	Adds by Indiv.chmbrs		Cuts by Indiv.chmbrs	
	Chambers	Chambers	House	Senate	House	Senate
(2)	(3)	(4)	(5)	(6)	(7)	
106 TRAY RATION HEATING SYSTEM					-3,324	
117 TRAINING DEVICES				4,000		
124 AUTOMATIC BUILDING MACHINES			2,500			
125 MARINE ENHANCEMENT PROGRAM				11,500		
<b>Total - Engineer and other equipment</b>			<b>38,189</b>	<b>15,500</b>	<b>-3,324</b>	
Spares and repair parts						
126 SPARES AND REPAIR PARTS						-1,370
Undistributed						
127 RAISE O&M PURCHASE THRESHOLD						-250
<b>Total Appn - Procurement, Marine Corps</b>	<b>20,000</b>	<b>-14,131</b>	<b>228,389</b>	<b>43,500</b>	<b>-30,676</b>	<b>-9,238</b>
Aircraft Procurement, Air Force						
Combat aircraft						
001 B-1B (MYP)						-164,897
005 F-16 C/D (MYP)		-68,400				-614,830
006 F-16 C/D ADV PROC (CY)			68,400			
<b>Total - Combat aircraft</b>		<b>-68,400</b>	<b>68,400</b>			<b>-779,727</b>
Airlift aircraft						
007 C-17 (MYP)		-608,000				-50,000
008 C-17 ADV PROC (CY)				45,300	-50,000	
010 C-130H					-300,358	
011 HC-130H				100,000		
<b>Total - Airlift aircraft</b>		<b>-608,000</b>		<b>145,300</b>	<b>-350,358</b>	<b>-50,000</b>
Other aircraft						
015 CIVIL AIR PATROL A/C	716					
016 E-8B				201,200		
017 E-8B ADV PROC (CY)				28,458	-12,600	
<b>Total - Other aircraft</b>	<b>716</b>			<b>229,658</b>	<b>-12,600</b>	
Modification of inservice aircraft						
020 B-1B						-4,500
026 F-16		-36,400			-63,600	
027 EF-111						-8,975

FY 1993  
Congressional Action on Appropriation Requests  
(Thousands of Dollars)

(1)	Adds by Both Chambers		Cuts by Both Chambers		Adds by Individ.chmbrs		Cuts by Individ.chmbrs	
	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
034 C-22							-4,697	
037 C-141				26,000				
038 T-38	25,000							
042 C-12							-5,500	
047 C-135								-133,700
048 E-3								-38,600
052 OTHER AIRCRAFT			-22,100				-10,000	
Total - Modification of inservice aircraft	25,000	-58,500		26,000	-83,797	-185,775		
Aircraft spares and repair parts								
055 SPARES AND REPAIR PARTS			-52,000					-148,590
Aircraft support equipment and facilities								
059 OTHER PRODUCTION CHARGES			-71,300				-46,957	
Undistributed								
062 SPECIAL TECHNICAL PROJECTS							-21,600	
063 GENERAL REDUCTION, INT. CONTR. SUPT							-222,300	
064 GLOBAL POSITIONING SYSTEM EQUIPMENT								-72,300
Total - Undistributed							-243,900	-72,300
Total Appn - Aircraft Procurement, Air Force	25,716	-858,200	68,400	400,958	-737,612	-1,236,392		
Missile Procurement, Air Force								
Ballistic missiles								
004 PEACEKEEPER (M-X)				27,500				
Other missiles								
003 HAVE NAP	24,000							
005 ADVANCED CRUISE MISSILE				127,100				
008 AMRAAM								-98,700
012 AGM-88A HARM								-113,700
013 TARGET DRONES	12,000							
Total - Other missiles	36,000			127,100				-212,400
Modification of inservice missiles								
021 MM II/III MODIFICATIONS			-14,700					
025 ADVANCED CRUISE MISSILE							-4,907	
Total - Modification of inservice missiles			-14,700				-4,907	

FY 1993  
 Congressional Action on Appropriation Requests  
 (Thousands of Dollars)

(1)	Adds by Both Cuts by Both		Adds by Indiv.chmbrs		Cuts by Indiv.chmbrs	
	Chambers	Chambers	House	Senate	House	Senate
(2)	(3)	(4)	(5)	(6)	(7)	
Spares and repair parts						
026 SPARES AND REPAIR PARTS						-2,750
Other support						
027 SPACEBORNE EQUIP (COMSEC)		-4,200				
030 SPACE SHUTTLE OPERATIONS					-55,000	
038 DEFENSE SUPPORT PROGRAM ADV PROC (CY)					-62,000	
039 DEFENSE SATELLITE COMM SYSTEM (MYP)					-10,000	
043 SPECIAL UPDATE PROGRAMS		-84,700			-18,231	
044 SPECIAL PROGRAMS		-646,200				-76,000
045 CLASSIFIED PROGRAMS		-87,968				
All other programs		-61,900			-15,300	-14,666
<b>Total - Other support</b>		<b>-884,968</b>			<b>-160,531</b>	<b>-90,666</b>
Undistributed						
048 SPECIAL TECHNICAL PROJECTS					-10,000	
049 GENERAL REDUCTION, INT. CONTR. SUPT					-11,700	
050 GENERAL REDUCTION						-238,234
<b>Total - Undistributed</b>					<b>-21,700</b>	<b>-238,234</b>
<b>Total Appn - Missile Procurement, Air Force</b>	<b>36,000</b>	<b>-899,668</b>		<b>154,600</b>	<b>-187,138</b>	<b>-544,050</b>
Other Procurement, Air Force						
Munitions and associated equipment						
005 20MM COMBAT	8,000					
006 20MM TRAINING			13,193			
007 30 MM TRAINING		-9,629				
010 CART IMP 3000 FT/LBS		-3,200				
011 ITEMS LESS THAN \$2,000,000		-1,785				
012 CBU-87 (COMBINED EFFECTS MUNITIONS)				60,000		
017 BSU-85/93 INFLATABLE RETARDER		-10,858				
027 ITEMS LESS THAN \$2,000,000					-866	
036 SPECIAL PROGRAMS					-13,061	
<b>Total - Munitions and associated equipment</b>	<b>8,000</b>	<b>-25,472</b>	<b>13,193</b>	<b>60,000</b>	<b>-13,927</b>	
Vehicular equipment						
049 BUS, 28 PASSENGER		-2,714				
050 BUS, 44 PASSENGER		-3,127				

FY 1993  
 Congressional Action on Appropriation Requests  
 (Thousands of Dollars)

CONGRESSIONAL RECORD—SENATE

October 5, 1992

(1)	Additions by Both Chambers		Additions by Individual Chambers		Cuts by Individual Chambers	
	(2)	(3)	House (4)	Senate (5)	House (6)	Senate (7)
052 MODULAR AMBULANCE		-1,300				
053 14-23 PASSENGER BUS		-533				
055 ARMORED SEDAN					-354	
063 TRUCK CARRYALL		-400				
069 CAP VEHICLES	825					
070 ITEMS LESS THAN \$2,000,000					-8,581	
079 TRUCK CRASH P-23					-22,116	
081 HEAVY RESCUE VEHICLE					-4,346	
095 SPARES AND REPAIR PARTS						-130
<b>Total - Vehicular equipment</b>	<b>825</b>	<b>-8,074</b>			<b>-35,397</b>	<b>-130</b>
<b>Electronics and telecommunications equip</b>						
106 TACTICAL AIR CONTROL SYS IMPROVE						-53,314
107 WEATHER OBSERV/FORCAST		-1,367			-8,633	
108 DEFENSE SUPPORT PROGRAM		-3,200				-16,800
110 SAC COMMAND AND CONTROL						-4,000
112 BMEWS MODERNIZATION						-3,000
115 DEFENSE METEOROLOGICAL SAT PROG		-2,600			-1,300	
121 AIR BASE OPERABILITY					-9,504	
122 IMAGERY TRANS						-2,000
125 AUTOMATIC DATA PROCESSING EQUIP						-4,000
128 MAC COMMAND AND CONTROL SUPPORT		-1,200				-800
129 AIR FORCE PHYSICAL SECURITY SYSTEM		-5,238			-762	
133 BASE LEVEL DATA AUTO PROGRAM						-2,000
137 ESMC/WSMC I&M						-3,660
138 AFMC CALS			18,000			
140 TELEPHONE EXCHANGE		-2,557			-4,543	
141 JOINT TACTICAL COMM PROGRAM(MYP)					-6,100	
145 MILSTAR						-190,580
149 TACTICAL C-E EQUIPMENT					-3,100	
150 RADIO EQUIPMENT						-14,072
154 SPARES AND REPAIR PARTS		-20,000				-10,000
155 CAP COM & ELECT	600					
157 COMM ELECT MODS		-2,500				-500
<b>Total - Electronics and telecommunications equip</b>	<b>600</b>	<b>-38,662</b>	<b>18,000</b>		<b>-33,942</b>	<b>-304,726</b>
<b>Other base maintenance and support equip</b>						
176 AIR BASE OPERABILITY					-800	
186 ITEMS LESS THAN \$2,000,000					-2,500	

FY 1993  
 Congressional Action on Appropriation Requests  
 (Thousands of Dollars)

(1)	Additions and Cuts by Both Chambers		Additions and Cuts by Individual Chambers			
	(2)	(3)	(4)	(5)		
187 INTELLIGENCE PRODUCTION ACTIVITY				4,100	-2,798	
190 SELECTED ACTIVITIES		-107,400			-472,746	
192 NATURAL GAS UTILIZATION EQUIPMENT			8,000			
<b>Total - Other base maintenance and support equip</b>		-107,400	8,000	4,100	-478,844	
<b>Undistributed</b>						
198 RAISE O&M PURCHASE THRESHOLD						-9,000
200 GENERAL REDUCTION, INT. CONTR. SUPT					-12,600	
<b>Total - Undistributed</b>					-12,600	-9,000
<b>Total Appn - Other Procurement, Air Force</b>	9,425	-179,608	39,193	64,100	-574,710	-313,856
<b>Procurement, Defensewide</b>						
<b>Major equipment</b>						
002 MOTOR VEHICLES						-155
004 REMOTELY PILOTED VEHICLES		-10,000			-109,000	
007 SUPERCOMPUTERS			50,000			
035 MAJOR EQUIPMENT		-224,300			-202,607	
036 MAJOR EQUIPMENT, OJCS						-7,824
039 PATRIOT				12,700		
<b>Total - Major equipment</b>		-234,300	50,000	12,700	-311,607	-7,979
<b>Special Operations Command</b>						
040 MC-130H COMBAT TALON II						-18,748
043 C-130 MODIFICATIONS			81,000			
044 HH-53 MODIFICATIONS			326			
045 OTHER AIRCRAFT MODIFICATIONS			7,674			
048 AIRCRAFT SUPPORT					-19,100	
049 PATROL BOAT, COASTAL		-5,300				
051 SOF PYRO/DEMO		-10,000				-2,000
059 COMM EQUIPMENT & ELECTRONICS			7,500			
060 SOF INTELLIGENCE SYSTEMS		-1,650				-13,350
064 MISCELLANEOUS EQUIPMENT		-4,613				-4,630
065 CLASSIFIED PROGRAMS					-500	
<b>Total - Special Operations Command</b>		-21,563	96,500		-19,600	-38,728

FY 1993  
 Congressional Action on Appropriation Requests  
 (Thousands of Dollars)

(1)	Adds by Both	Cuts by Both	Adds by Individ.chmbrs		Cuts by Individ.chmbrs	
	Chambers	Chambers	House	Senate	House	Senate
	(2)	(3)	(4)	(5)	(6)	(7)
Undistributed						
067 GENERAL REDUCTION, INT. CONTR. SUPT					-27,500	
075 CLASSIFIED PROGRAMS					-101,687	
077 SPECIAL TECHNICAL PROJECTS					-2,000	
080 CLASSIFIED PROGRAMS				12,400		
082 MENTOR-PROTEGE PROGRAM				55,000		
084 DEFENSE MODELING/SIMULATION OFFICE				10,000		
088 TACTICAL SIGINT/ELINT FUND				166,662		
090 RAISE O&M PROCUREMENT THRESHOLD						-32,375
Total - Undistributed				244,062	-131,187	-32,375
Total Appn - Procurement, Defensewide		-255,863	146,500	256,762	-462,394	-79,082
National Guard & Reserve Equipment						
Reserve Equipment						
001 ARMY RESERVE						
03 HEMTT TRUCK			7,500			
04 MISCELLANEOUS EQUIPMENT			15,000			
05 EXTERNAL AUX. FUEL TANKS	3,000					
06 C-12J				42,300		
76 NIGHT VISION GOGGLES				40,000		
TOTAL	3,000		22,500	82,300		
002 NAVY RESERVE						
10 C-130H AIRCRAFT	34,100		15,900			
13 P-3 UPGRADES			25,000			
14 MH-53 HELICOPTERS			10,000			
15 LAMPS MK-1 ASW UPGRADE			68,000			
16 MIUW VANS			15,000			
17 FFG-7 DISPLAY SYSTEMS			8,750			
TOTAL	34,100		142,650			
003 MARINE CORPS RESERVE						
18 KC-130T AIRCRAFT			70,000			
19 AH-1W COBRA AIRCRAFT			126,000			
20 NIGHT VISION			9,000			
69 C-20 AIRCRAFT				25,000		
70 MISCELLANEOUS EQUIPMENT				10,000		
TOTAL			205,000	35,000		
004 AIR FORCE RESERVE						
21 MISCELLANEOUS EQUIPMENT				14,750		
22 C-130 AIRCRAFT			100,000			
TOTAL			100,000	14,750		

FY 1993  
 Congressional Action on Appropriation Requests  
 (Thousands of Dollars)

(1)	Adds by Both	Cuts by Both	Adds by Individ.chmbrs		Cuts by Individ.chmbrs	
	Chambers	Chambers	House	Senate	House	Senate
	(2)	(3)	(4)	(5)	(6)	(7)
Total - Reserve Equipment	37,100		470,150	132,050		
National Guard Equipment						
005 ARMY NATIONAL GUARD						
26 M9 ACE			35,000			
28 MEDIUM TACTICAL TRUCK SLEP			50,000			
30 FIVE TON TRUCKS			50,000			
31 C-23 AIRCRAFT	60,000					
32 C-23 SIMULATOR				2,000		
33 FAMILY OF M113 VEHICLES			15,000			
34 UV-18 REPLACEMENT				57,900		
35 CH-47D HELICOPTER				78,000		
38 COMMUNICATIONS ELECTRONICS			5,000			
41 AH-1 MODS C-NITE			15,000			
42 EXTERNAL AUX. FUEL TANKS	4,000					
43 M-915/916 TRUCKS			10,000			
44 C-212 AIRCRAFT			57,900			
45 C-26 AIRCRAFT			23,000			
70 FIRE ARMS TRAINING SYSTEM				700		
72 ELECTRONIC TANDEM NETWORK				750		
73 UH-60 HELICOPTER				56,000		
TOTAL	64,000		260,900	195,350		
006 AIR NATIONAL GUARD						
52 F-15 ALE-40			1,200			
54 MCE/TASCI			71,000			
56 C-130 AIRCRAFT	200,000			106,600		
57 MH-60G HELICOPTER			4,800			
58 C-26 AIRCRAFT			23,000			
59 P-180				16,000		
TOTAL	200,000		100,000	122,600		
Total - National Guard Equipment	264,000		360,900	317,950		
Total Appn - National Guard & Reserve Equipment	301,100		831,050	450,000		
Defense Production Act Purchases						
001 DEFENSE PRODUCTION ACT PURCHASES			25,000			
Total Appn - Defense Production Act Purchases			25,000			

FY 1993  
Congressional Action on Appropriation Requests  
(Thousands of Dollars)

(1)	Adds by Both	Cuts by Both	Adds by Individ.chmbrs		Cuts by Individ.chmbrs	
	Chambers	Chambers	House	Senate	House	Senate
	(2)	(3)	(4)	(5)	(6)	(7)
Chem Agents & Munitions Destruction, Def						
Chem Agents & Munitions Destruct-RDT&E						
001 CHEM DEMILITARIZATION - RDTE			4,000			
Chem Agents & Munitions Destruct-Proc						
003 CHEM DEMILITARIZATION - PROC					-13,300	
Chem Agents & Munitions Destruct-O&M						
005 CHEM DEMILITARIZATION - O&M		-2,000			-21,000	
<b>Total Appn - Chem Agents &amp; Munitions Destruction</b>		<b>-2,000</b>	<b>4,000</b>		<b>-34,300</b>	
<b>TOTAL - PROCUREMENT</b>	<b>2,000,547</b>	<b>-2,784,197</b>	<b>6,148,716</b>	<b>1,745,618</b>	<b>-5,518,575</b>	<b>-4,640,299</b>

FY 1993  
 Congressional Action on Appropriation Requests  
 (Thousands of Dollars)

(1)	Adds by Both	Cuts by Both	Adds by Individ.chmbrs		Cuts by Individ.chmbrs	
	Chambers	Chambers	House	Senate	House	Senate
(1)	(2)	(3)	(4)	(5)	(6)	(7)
<b>RESEARCH, DEVELOP., TEST&amp;EVAL.</b>						
<b>RDT&amp;E, Army</b>						
<b>Technology base</b>						
001 IN-HOUSE LABORATORY INDEPENDENT RESEARCH	5,707					
002 DEFENSE RESEARCH SCIENCES	46,838		5,066			
005 MATERIALS TECHNOLOGY				4,000		
006 ELECTRONIC SURVIVABILITY AND FUZING TECH			10,000			
007 SURVIVABILITY ENHANCEMENT				10,000		
009 AVIATION TECHNOLOGY				1,000		
013 MODELING AND SIMULATION	3,000		2,000			
014 COMBAT VEHICLE AND AUTOMOTIVE TECHNOLOGY			43,000			
018 WEAPONS AND MUNITIONS TECHNOLOGY			2,800			
019 ELECTRONICS AND ELECTRONIC DEVICES	3,350		1,600			
020 NIGHT VISION TECHNOLOGY			7,000			-6,000
022 ENVIRONMENTAL QUALITY TECHNOLOGY	5,500		43,500			
024 COMMAND, CONTROL, COMMUNICATIONS TECHNOLOGY		-2,457				-4,043
025 COMPUTER AND SOFTWARE TECHNOLOGY			15,000			
026 MILITARY ENGINEERING TECHNOLOGY						-4,000
028 LOGISTICS TECHNOLOGY			7,000			
029 MEDICAL TECHNOLOGY	96,455		13,365			
192 MPIM TECHNOLOGY			8,600			
197 AKAMAI				7,000		
<b>Total - Technology base</b>	<b>160,850</b>	<b>-2,457</b>	<b>158,931</b>	<b>22,000</b>		<b>-14,043</b>
<b>Advanced technology development</b>						
032 TRACTOR PULL		-9,000				
034 MEDICAL ADVANCED TECHNOLOGY	55,462			195,460		
035 AVIATION ADVANCED TECHNOLOGY	2,000					
036 WEAPONS AND MUNITIONS ADVANCED TECHNOLOGY	18,400		14,500			
038 COMMAND, CONTROL, COMMUNICATIONS ADVANCE		-2,500			-2,500	
043 TRACTOR RED	1,100					
044 MATERIALS AND STRUCTURES ADVANCED TECHNOLOGY				3,500		
045 AIDS RESEARCH	36,247			20,644		
046 GLOBAL SURVEILLANCE/AIR DEFENSE/PRECISION						-27,000
055 NIGHT VISION ADVANCED TECHNOLOGY	4,000			14,000		
059 ADVANCED TACTICAL COMPUTER SCIENCE AND T			5,000			-14,768
<b>Total - Advanced technology development</b>	<b>117,209</b>	<b>-11,500</b>	<b>19,500</b>	<b>233,604</b>	<b>-2,500</b>	<b>-41,768</b>

FY 1993  
Congressional Action on Appropriation Requests  
(Thousands of Dollars)

(1)	Additions and Cuts by Both Chambers		Additions and Cuts by Individual Chambers		Cuts by Individual Chambers	
	(2)	(3)	(4)	(5)	(6)	(7)
<b>Strategic programs</b>						
060 ANTI-SATELLITE WEAPON (ASAT)					-24,768	
All other programs		-4,274				-4,000
<b>Tactical programs</b>						
065 TRACTOR TREAD	3,000					
075 ARTILLERY PROPELLANT DEVELOPMENT				10,000		
076 ARMORED SYSTEM MODERNIZATION - ADV DEV		-35,000				
081 SINGLE CHANNEL GROUND AND AIRBORNE RADIO				5,000		
082 SOLDIER SUPPORT AND SURVIVABILITY				6,000		
083 ADV AUTOMOTIVE DEVELOPMENT FOR ASM				10,000		
087 AVIATION - ADV DEV			3,200			
092 MEDICAL SYSTEMS - ADV DEV	29,042		3,047			
098 ARMED, DEPLOYABLE OH-58D			8,100			
099 LIGHT ARMED SCOUT HELICOPTER						-443,007
101 ALL SOURCE ANALYSIS SYSTEM					-10,000	
105 JAVELIN (AAWS-M)	10,000					
107 HEAVY TACTICAL VEHICLES			1,000			
108 ADVANCED TANK CANNON (ATAC)		-10,000				-4,500
111 ENGINEERING MOBILITY EQUIPMENT			6,200			
114 COMBAT FEEDING, CLOTHING, AND EQUIPMENT				18,000		
120 AUTOMATIC TEST EQUIPMENT DEVELOPMENT			9,000			
123 TRACTOR JEWEL				22,000	-74,206	
126 JOINT SURVEILLANCE/TARGET ATTACK RADAR				35,000		
132 MEDICAL MATERIAL/MED BIOLOGICAL DEF EQUI	20,209		5,728			
136 SENSE AND DESTROY ARMAMENT MISSILE - ENG				34,963		
137 LONGBOW - ENG DEV			25,000			-281,802
140 LOSAT						-122,848
144 COMBAT VEHICLE IMPROVEMENT PROGRAMS			58,600			-9,276
146 ROCKET SYSTEMS					-20,000	
147 AIRCRAFT MODIFICATIONS/PRODUCT IMPROVEME	3,000					
149 CLASSIFIED PROGRAMS			29,000			
150 MISSILE/AIR DEFENSE PRODUCT IMPROVEMENT	10,000			1,000		
151 OTHER MISSILE PRODUCT IMPROVEMENT PROGRA	2,000			11,600		
198 LOSAT				122,848		
<b>Total - Tactical programs</b>	<b>77,251</b>	<b>-45,000</b>	<b>148,875</b>	<b>276,411</b>	<b>-104,206</b>	<b>-861,433</b>
<b>Intelligence and communications</b>						
160 SATCOM GROUND ENVIRONMENT						-18,400
Defensewide Mission Support						
164 ARMY KWAJALEIN ATOLL					-25,000	

FY 1993  
 Congressional Action on Appropriation Requests  
 (Thousands of Dollars)

(1)			Adds by Both	Cuts by Both	Adds by Indiv. Chmbrs		Cuts by Indiv. Chmbrs	
			Chambers	Chambers	House	Senate	House	Senate
(2)	(3)	(4)	(5)	(6)	(7)			
170	DOD HIGH ENERGY LASER TEST FACILITY	060560	10,000					
175	PROGRAMWIDE ACTIVITIES	060580	3,495					
181	PRODUCTIVITY INVESTMENTS	060587			4,200			
186	MANAGEMENT HEADQUARTERS (RESEARCH AND DE	060589	5,452		418			
187	INDUSTRIAL PREPAREDNESS	070801		-8,862				-3,841
188	MANUFACTURING TECHNOLOGY DEVELOPMENT				49,282			
191	REAL PROPERTY MAINTENANCE		25,000					
194	TRAVEL							-14,057
195	EXCESS INVENTORY							-4,218
196	INFLATION							-8,000
Total - Defensewide Mission Support			43,947	-8,862	53,900		-28,841	-26,275
Total Appn - RDT&E, Army			399,257	-72,093	381,206	532,015	-160,315	-965,919
RDT&E, Navy								
Technology base								
001	IN-HOUSE INDEPENDENT LABORATORY RESEARCH	060115	1,245					
002	DEFENSE RESEARCH SCIENCES	060115		-27,557				-12,779
003	ANTI-AIR WARFARE/ANTI-SURFACE WARFARE	TE060211		-15,000				-5,841
004	SURFACE SHIP TECHNOLOGY	060212	4,000		20,000			
005	AIRCRAFT TECHNOLOGY	060212		-514				-4,486
006	MARINE CORPS LANDING FORCE TECHNOLOGY	060213						-2,000
007	COMMAND, CONTROL, AND COMMUNICATIONS	TEC060223		-2,147				-2,853
008	MISSION SUPPORT TECHNOLOGY	060223			8,966			-1,833
009	SYSTEMS SUPPORT TECHNOLOGY	060223			8,500			-13,097
010	ELECTRONIC WARFARE TECHNOLOGY	060227						-1,111
011	UNDERSEA SURVEILLANCE & WEAPONS	TECHNO060231		-15,000				-8,825
012	MINE AND SPECIAL WARFARE TECHNOLOGY	060231						-10,791
013	SUBMARINE TECHNOLOGY	060232		-4,297				-703
014	NUCLEAR PROPULSION	060232						-5,000
015	OCEAN AND ATMOSPHERIC SUPPORT TECHNOLOGY	060243						-5,812
016	INDEPENDENT EXPLORATORY DEVELOPMENT	060293		-5,000				
Total - Technology base			5,245	-69,515	37,466		-25,821	-49,310
Advanced technology development								
017	AIR SYSTEMS ADVANCED TECHNOLOGY DEVELOPM	060321			10,077			
018	GLOBAL SURVEILLANCE/AIR DEFENSE/PRECISIO	060323		-25,000				-25,000
019	ADVANCED ELECTRONIC WARFARE TECHNOLOGY	060327		-15,000				-10,000

FY 1993  
Congressional Action on Appropriation Requests  
(Thousands of Dollars)

(1)	Adds by Both	Cuts by Both	Adds by Indiv.chmbrs		Cuts by Indiv.chmbrs	
	Chambers	Chambers	House	Senate	House	Senate
(1)	(2)	(3)	(4)	(5)	(6)	(7)
021 UNDERSEA SUPERIORITY TECHNOLOGY DEMONSTR060355		-35,000			-15,000	
023 MARINE CORPS ADVANCED TECHNOLOGY DEMONST060364					-5,000	
024 MEDICAL DEVELOPMENT 060370	12,449		26,751			
025 MANPOWER, PERSONNEL AND TRAINING ADV TEC060370					-10,000	
026 GENERIC LOGISTICS R&D TECHNOLOGY DEMONST060371	11,500		12,500			
028 ADVANCED ANTI-SUBMARINE WARFARE TECHNOLO060374			18,000			
029 SHALLOW WATER MCM DEMOS 060378				4,200		
030 ADVANCED TECHNOLOGY TRANSITION 060379				4,600	-15,000	
031 C3 ADVANCED TECHNOLOGY 060379			23,700			
<b>Total - Advanced technology development</b>	<b>23,949</b>	<b>-75,000</b>	<b>91,028</b>	<b>8,800</b>	<b>-45,000</b>	<b>-35,000</b>
<b>Strategic programs</b>						
032 TACTICAL SPACE OPERATIONS 060345					-2,015	
035 TRIDENT II 060436						-16,500
038 SSBN SECURITY TECHNOLOGY PROGRAM 010122						-9,000
<b>Total - Strategic programs</b>					<b>-2,015</b>	<b>-25,500</b>
<b>Tactical programs</b>						
048 T-45 TRAINING SYSTEM 060320				25,000		
049 AIR CREW SYSTEMS TECHNOLOGY 060321			10,000			
070 NON-ACOUSTIC ANTI-SUBMARINE WARFARE (ASW)060352					-12,983	
071 ADVANCED ASW TARGET 060352					-8,000	
072 RETRACT JUNIPER 060353				15,000		
074 SURFACE ASW 060355						-19,100
075 ADVANCED SUBMARINE SYSTEM DEVELOPMENT 060356		-22,200			-35,800	
077 SHIP DEVELOPMENT 060356						-3,200
079 ELECTRIC DRIVE 060357		-15,393			-40,607	
082 JOINT ADVANCED SYSTEMS 060359				46,000	-106,783	
084 CONVENTIONAL MUNITIONS 060360					-10,000	
086 MARINE CORPS ASSAULT VEHICLES 060361		-26,500				-13,600
092 MK 48 ADCAP - ADV DEV 060369						
098 OCEAN ENGINEERING TECHNOLOGY DEVELOPMENT060371			1,000			
103 LIGHTWEIGHT 155MM HOWIZER				13,100		
108 LINK PLUMERIA 060374						-5,600
110 RETRACT ELM 060375		-35,000				-25,480
112 SHIP SELF DEFENSE 060375	33,000			13,651		
117 STANDARD AVIONICS DEVELOPMENT 060420						-6,704
119 LAMPS 060421			4,500			
120 HELICOPTER DEVELOPMENT 060421					-4,702	

FY 1993  
 Congressional Action on Appropriation Requests  
 (Thousands of Dollars)

(1)			Adds by Both	Cuts by Both	Adds by Indiv.chmbrs		Cuts by Indiv.chmbrs	
			Chambers	Chambers	House	Senate	House	Senate
			(2)	(3)	(4)	(5)	(6)	(7)
121	AV-BB AIRCRAFT - ENG DEV	060421			1,500			
126	P-3 MODERNIZATION PROGRAM	060422			127,000			-27,215
127	ATA/AX	060423						-165,583
129	ACOUSTIC SEARCH SENSORS	060426		-13,800				
130	V-22A				755,000			
131	AIR CREW SYSTEMS DEVELOPMENT	060426			3,700			
134	EW DEVELOPMENT	060427		-10,676			-14,324	
137	AEGIS COMBAT SYSTEM ENGINEERING	060430			10,000			-19,496
139	CLOSE-IN WEAPON SYSTEM (PHALANX)	060435				5,000		
146	NON-ACOUSTIC MINE DETECTION				27,000			
155	COMBAT INFORMATION CENTER CONVERSION	060451					-8,719	
156	SUBMARINE COMBAT SYSTEM		55,200					
157	DEEP SUBMERGENCE TECHNOLOGY	060455						-21,085
158	SSN-21 DEVELOPMENTS		95,200					
164	UNGUIDED CONVENTIONAL AIR-LAUNCHED WEAPON	060460					-10,291	
169	JOINT DIRECT ATTACK MUNITION	060461					-15,000	
171	MARINE CORPS ASSAULT VEHICLES - ENG DEV				14,700			
178	SURFACE WARFARE TRAINING DEVICES	060471			5,000			
184	MEDICAL DEVELOPMENTS		4,113		47			
186	FIXED DISTRIBUTED SYSTEM - ENG	060478				14,000		
188	C2 SURVEILLANCE/RECONNAISSANCE SUPPORT	060586					-6,000	
190	F/A-18 SQUADRONS	020413			3,000			-1,079,900
194	SURFACE COMBATANT ORDNANCE - TOMAHAWK	020422			5,000			
196	SHIP-TOWED ARRAY SURVEILLANCE SYSTEMS	020431				2,200		
202	F-14 UPGRADE	020566			50,000			
206	MARINE CORPS GROUND COMBAT/SUPPORTING	AR020662				28,400		
208	MARINE CORPS INTELLIGENCE/ELECTRONICS	WA020662	3,000					
272	SEALIFT SHIP TECH PROGRAM					13,400		
Total - Tactical programs			190,513	-123,569	1,017,447	175,751	-273,209	-1,386,963
Intelligence and communications								
218	NAVY COMMAND AND CONTROL PLANNING AND	DE060586						-1,517
260	LASER COMMUNICATIONS		15,000					
262	CLASSIFIED PROGRAMS			-30,800			-45,156	
Total - Intelligence and communications			15,000	-30,800			-45,156	-1,517
Defensewide Mission Support								
226	ELECTRONIC WARFARE SIMULATOR DEVELOPMENT	060425					-8,000	
227	TARGET SYSTEMS DEVELOPMENT	060425		-6,800			-3,200	

FY 1993  
Congressional Action on Appropriation Requests  
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(1)			Additions		Cuts			
			By Both Chambers	By Both Chambers	By Individ. Chambers	By Individ. Chambers		
			(2)	(3)	House	Senate	House	Senate
229	STUDIES AND ANALYSIS SUPPORT - MC	060515						-979
230	STUDIES AND ANALYSIS SUPPORT - NAVY	060515			113			-2,729
232	FLEET TACTICAL DEVELOPMENT AND EVALUATION	060515						-3,899
235	TECHNICAL INFORMATION SERVICES	060580					-5,000	
236	MANAGEMENT AND TECHNICAL SUPPORT	060585						-6,374
238	RD&E SCIENCE AND TECHNOLOGY MANAGEMENT	060586	7,990					
239	RD&E INSTRUMENTATION MODERNIZATION	060586	3,139		720			
240	RD&E SHIP AND AIRCRAFT SUPPORT	060586					-10,200	
241	TEST AND EVALUATION SUPPORT	060586		-7,526			-10,474	
248	INDUSTRIAL PREPAREDNESS	070801		-26,435			-3,949	
249	MANUFACTURING TECHNOLOGY DEVELOPMENT				136,250			
250	REAL PROPERTY MAINTENANCE		41,000					
254	TRAVEL							-22,114
273	INFLATION DIVIDEND							-16,000
274	EXCESS INVENTORY							-362
Total - Defensewide Mission Support			52,129	-40,761	137,083		-40,823	-52,457
Total Appn - RD&E, Navy			286,836	-339,645	1,283,024	184,551	-432,024	-1,550,747
RD&E, Air Force								
Technology base								
001	IN-HOUSE LABORATORY INDEPENDENT RESEARCH	060110						-7,806
002	DEFENSE RESEARCH SCIENCES	060110			4,500			-13,218
003	GEOPHYSICS	060210		-900				-2,500
004	MATERIALS	060210			3,000			-9,700
005	AEROSPACE FLIGHT DYNAMICS	060220						-7,511
006	HUMAN SYSTEMS TECHNOLOGY	060220						-2,165
007	AEROSPACE PROPULSION	060220		-11,000				-4,610
008	AEROSPACE AVIONICS	060220						-31,100
009	PERSONNEL, TRAINING AND SIMULATION	060220			15,000			
011	ROCKET PROPULSION AND ASTRONAUTICS TECHNOLOGY	060230		-1,700			-8,300	
012	ADVANCED WEAPONS	060260				5,000		
013	CONVENTIONAL MUNITIONS	060260						-29,540
014	COMMAND CONTROL AND COMMUNICATIONS	060270		-22,800				-6,000
240	NATURAL GAS VEHICLES				5,000			
242	GENERAL REDUCTION						-95,000	
Total - Technology base				-36,400	27,500	5,000	-103,300	-114,150

FY 1993  
 Congressional Action on Appropriation Requests  
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(1)	Adds by Both Chambers		Cuts by Both Chambers		Adds by Individ.chmbrs House Senate		Cuts by Individ.chmbrs House Senate	
	(2)	(3)	(4)	(5)	(6)	(7)		
<b>Advanced technology development</b>								
019								-10,400
024			1,100					
025								-25,000
026								-2,000
028								-6,350
029								-175,489
031								-2,000
032								-3,295
034				-3,000			-8,000	
036				-20,301				-99
037								-16,942
038							-21,796	
041				-4,000				
045							-20,000	
<b>Total - Advanced technology development</b>								
				-27,301		1,100		-49,796
								-241,575
<b>Strategic programs</b>								
051	B-1B	060422						-66,400
054	ICBM MODERNIZATION	060431						-16,183
056	B-52 SQUADRONS	010111			15,000			
057	ADVANCED CRUISE MISSILE	010112		-61,100				
058	KC-135 SQUADRONS	010114						-13,000
059	MINUTEMAN SQUADRONS	010121						-5,959
077	MILSTAR SATELLITE COMMUNICATIONS SYSTEM	030360						-66,400
085	SPACETRACK	030591				40,700	-42,900	
089	AIRLIFT MISSION ACTIVITIES (NON-IF)	040121					-6,800	
090	CLASSIFIED PROGRAMS				25,000			-2,200
<b>Total - Strategic programs</b>								
				-61,100		40,000	40,700	-49,700
								-170,142
<b>Tactical programs</b>								
103	C-17 PROGRAM	060423						-29,200
106	ADVANCED TACTICAL FIGHTER FSD	060423		-200,000				-2,024,268
113	EW DEVELOPMENT	060427						-59,600
116	CHEMICAL/BIOLOGICAL DEFENSE EQUIPMENT	060460			1,300			
121	JOINT DIRECT ATTACK MUNITION	060461						-3,200
122	AEROMEDICAL SYSTEMS DEVELOPMENT	060470	2,753					
128	COMPUTER RESOURCES MANAGEMENT TECHNOLOGY	060474	3,500		9,000			
132	JOINT SURVEILLANCE/TARGET ATTACK RADAR	060477						-22,500

FY 1993  
 Congressional Action on Appropriation Requests  
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	(1)	Adds by Both	Cuts by Both	Adds by Individ.chmbrs		Cuts by Individ.chmbrs	
		Chambers	Chambers	House	Senate	House	Senate
	(1)	(2)	(3)	(4)	(5)	(6)	(7)
135 F-15A/B/C/D SQUADRONS	020713				30,000		
138 F-15E SQUADRONS	020713						-3,000
142 TACTICAL AIM MISSILES	020716		-34,600				
147 FOLLOW-ON TACTICAL RECONNAISSANCE SYSTEM	020721			16,600			
153 AIRBORNE WARNING AND CONTROL SYSTEM (AWA)	020741						-63,900
171 CLASSIFIED PROGRAMS					22,000	-249,800	
173 SPECIAL OPERATIONS FORCES	040401						-2,000
<b>Total - Tactical programs</b>		<b>6,253</b>	<b>-234,600</b>	<b>26,900</b>	<b>52,000</b>	<b>-249,800</b>	<b>-2,207,668</b>
<b>Intelligence and communications</b>							
182 DEFENSE SATELLITE COMMUNICATIONS SYSTEM	030311					-5,300	
187 TRAFFIC CONTROL, APPROACH, AND LANDING	S030511						-7,200
188 CLASSIFIED PROGRAMS					160,400		
All other programs						-360,087	
<b>Total - Intelligence and communications</b>					<b>160,400</b>	<b>-365,387</b>	<b>-7,200</b>
<b>Defensewide Mission Support</b>							
191 SPACE TEST PROGRAM	060340					-14,000	
196 ADVANCED LAUNCH SYSTEM	060440			43,000			-125,000
199 RANGE IMPROVEMENT	060473						-14,434
203 RANCH HAND II EPIDEMIOLOGY STUDY		9,460					
207 TEST AND EVALUATION SUPPORT	060580		-12,500				-9,813
208 DEVELOPMENT PLANNING	060580		-6,603				-5,874
211 RDT&E AIRCRAFT SUPPORT	060586						-1,800
217 MEDIUM LAUNCH VEHICLES	030511				10,000		
219 UPPER STAGE SPACE VEHICLES	030513			83,000			-28,852
220 TITAN SPACE LAUNCH VEHICLES	030514						-43,400
222 AFMC CALS				20,000			
225 INDUSTRIAL PREPAREDNESS	070801		-28,945			-21,055	
230 MANUFACTURING TECHNOLOGY DEVELOPMENT				115,000			
232 DOMESTIC ACTIVITIES				17,500			
233 EXCIMER LASER		20,000		10,000			
234 SPECIAL TECHNICAL PROJECTS						-2,500	
235 REAL PROPERTY MAINTENANCE		42,502					
237 TRAVEL							-37,729
243 EXCESS INVENTORY							-3,878
244 INFLATION							-27,000
245 EXCESSIVE PERSONNEL COSTS							-59,346
<b>Total - Defensewide Mission Support</b>		<b>71,962</b>	<b>-48,048</b>	<b>288,500</b>	<b>10,000</b>	<b>-37,555</b>	<b>-357,126</b>

FY 1993  
 Congressional Action on Appropriation Requests  
 (Thousands of Dollars)

(1)	Additions		Cuts		Total		
	By Both Chambers	By Both Chambers	By Indiv. House	By Indiv. Senate	By Indiv. House	By Indiv. Senate	
(2)	(3)	(4)	(5)	(6)	(7)	(8)	
Total Appn - RDT&E, Air Force	78,215	-407,449	384,000	268,100	-855,538	-3,097,861	
RDT&E, Defensewide							
Technology base							
001 DEFENSE RESEARCH SCIENCES 060110		-5,700				-11,800	
002 IN-HOUSE LABORATORY INDEPENDENT RESEARCH	2,323			2,000			
003 UNIVERSITY RESEARCH INITIATIVES 060110	62,000			46,450			
007 SUPERCONDUCTIVE MAGNETIC ENERGY STORAGE			50,000				
008 COUNTERTERROR TECHNICAL SUPPORT 060222				3,000			
009 CONCEPT EVALUATION 060222		-14,979					
010 MEDICAL FREE ELECTRON LASER	20,000						
012 STRATEGIC TECHNOLOGY 060230			20,000			-115,073	
013 TACTICAL TECHNOLOGY 060270		-9,108			-5,892		
014 PARTICLE BEAM TECHNOLOGY			6,000				
015 INTEGRATED COMMAND AND CONTROL TECHNOLOG			100,000				
016 MATERIALS AND ELECTRONICS TECHNOLOGY 060271	51,000		128,800				
017 POST LAUNCH DESTRUCT TECHNOLOGY			15,000				
018 DEFENSE NUCLEAR AGENCY 060271		-27,153			-19,847		
137 HISTORICALLY BLACK COLLEGES AND UNIVERS				15,000			
Total - Technology base	135,323	-56,940	319,800	66,450	-25,739	-126,873	
Advanced technology development							
019 SPACE BASED INTERCEPTORS 060321		-575,558					
020 LIMITED DEFENSE SYSTEM 060321		-2,134,755					
021 THEATER MISSILE DEFENSES 060321						-857,725	
022 OTHER FOLLOW ON SYSTEMS 060321		-849,596					
023 RESEARCH AND SUPPORT ACTIVITIES 060321		-754,740					
025 EXPERIMENTAL EVALUATION OF MAJOR INNOVAT060322		-20,338				-18,442	
026 STRATEGIC DEFENSE INITIATIVE (SDI)	3,239,775			485,025			
028 ADVANCED SUBMARINE TECHNOLOGY 060356						-18,203	
035 STRATEGIC ENVIRONMENTAL RESEARCH PROGRAM	15,500			184,500			
037 FOCUS HOPE	20,000						
039 COMPUTER AIDED LOGISTICS SUPPORT 060373			5,000				
040 BALANCED TECHNOLOGY INITIATIVE 060373		-9,800			-97,540		
041 COOPERATIVE DOD/VA MEDICAL RESERACH			30,000				
042 MANUFACTURING TECHNOLOGY 060373		-75,000				-58,600	
043 CONSOLIDATED DOD SOFTWARE INITIATIVE 060375			25,000				
044 SEMATECH			100,000				
049 SPECIAL OPERATIONS TECHNOLOGY DEVELOPME116040			1,000				

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(1)	Adds by Both Chambers	Cuts by Both Chambers	Adds by Indiv. House	Cuts by Indiv. Senate	Adds by Indiv. chmbrs House	Cuts by Indiv. chmbrs Senate
(2)	(3)	(4)	(5)	(6)	(7)	(8)
050 SPECIAL OPERATIONS ADVANCED TECHNOLOGY D116040						-1,100
140 NATIONAL GUARD/DARPA SIMULATION				20,000		
141 NATIONAL GUARD SIMNET CENTER				10,000		
153 HIGH PERFORMANCE COMPUTING MODERNIZATION				43,000		
<b>Total - Advanced technology development</b>	<b>3,275,275</b>	<b>-4,419,787</b>	<b>161,000</b>	<b>742,525</b>	<b>-97,540</b>	<b>-954,070</b>
<b>Strategic programs</b>						
053 ISLAND SUN SUPPORT 060373						-12,163
054 AIR DEFENSE INITIATIVE 060374		-34,000				-30,700
055 THEATER MISSILE DEFENSES 060422						-140,000
057 WWMCCS SYSTEMS ENGINEER 030201					-4,772	
<b>Total - Strategic programs</b>		<b>-34,000</b>			<b>-4,772</b>	<b>-182,863</b>
<b>Tactical programs</b>						
063 NON-ACOUSTIC ASW 060371			25,000			
064 AIM-9 CONSOLIDATED PROGRAM 060371			34,620			-13,143
065 MOBILE OFFSHORE BASE ANALYSIS			7,000			
068 JOINT TACTICAL INFORMATION DISTRIBUTION 060477						-6,702
073 JOINT REMOTELY PILOTED VEHICLES PROGRAM 030514	10,200		7,800			
076 SPECIAL OPERATIONS TACTICAL SYSTEMS DEVE116040		-5,900				-35,656
077 SPECIAL OPERATIONS INTELLIGENCE SYSTEMS 116040			17,000			
078 SOF OPERATIONAL ENHANCEMENTS 116040					-500	
<b>Total - Tactical programs</b>	<b>10,200</b>	<b>-5,900</b>	<b>91,420</b>		<b>-500</b>	<b>-55,501</b>
<b>Intelligence and communications</b>						
082 LONG-HAUL COMMUNICATIONS (DCS) 030312					-5,000	
083 SUPPORT OF THE NATIONAL COMMUNICATIONS S030312					-1,527	
093 CENTER FOR INFORMATION MANAGEMENT 030583					-3,470	
097 CLASSIFIED PROGRAMS	36,600		17,530			
<b>Total - Intelligence and communications</b>	<b>36,600</b>		<b>17,530</b>		<b>-9,997</b>	
<b>Defensewide Mission Support</b>						
101 NATO RESEARCH AND DEVELOPMENT 060379		-16,000			-34,000	
102 DEFENSE MODELING/SIMULATION OFFICE				60,000		
104 TECHNICAL SUPPORT TO USD(A) 060510		-5,000				-3,101
116 DTS - JOINT PROJECT OFFICE			15,000			
121 DEFENSE SUPPORT ACTIVITIES 060579			16,000			

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(1)	Adds by Both Chambers		Cuts by Both Chambers		Adds by Indiv. Chmbrs		Cuts by Indiv. Chmbrs	
	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
126 MANAGEMENT HEADQUARTERS (RESEARCH AND DE060589						2,000		
129 MANUFACTURING TECHNOLOGY SUPPORT			29,000					
134 SPECIAL TECHNICAL PROJECTS							-5,000	
135 INTERNATIONAL NUCLEAR NONPROLIFERATION			40,000					
136 JOINT US/CIS R&D PROGRAM			25,000					
166 TRAVEL								-26,100
167 ELECTRIC VEHICLE TECHNOLOGY						25,000		
168 EXCESS INVENTORY								-397
169 INFLATION DIVIDEND								-19,000
Total - Defensewide Mission Support				-21,000	125,000	87,000	-39,000	-48,598
Undistributed								
170 UNDISTRIBUTED REDUCTION								-200,000
Total Appn - RDT&E, Defensewide	3,457,398	-4,537,627	714,750	895,975	-177,548	-1,567,905		
Developmental Test & Eval., Defense								
Defensewide Mission Support								
001 CENTRAL TEST AND EVALUATION INVESTMENT D060494								-8,000
002 FOREIGN COMPARATIVE TESTING 060513								-4,000
004 DEVELOPMENT TEST AND EVALUATION 060580				-8,000			-12,000	
005 INFLATION DIVIDEND								-1,000
Total - Defensewide Mission Support				-8,000			-12,000	-13,000
Total Appn - Developmental Test & Eval., Defense				-8,000			-12,000	-13,000
Advanced Tactical Aviation, Defense								
Defensewide Mission Support								
001 MODERNIZATION 060511						3,488,977		
Total Appn - Advanced Tactical Aviation, Defense						3,488,977		
TOTAL - RESEARCH, DEVELOP., TEST&EVAL.	4,221,706	-5,364,814	2,762,980	5,369,618	-1,637,425	-7,195,432		

FY 1993  
 Congressional Action on Appropriation Requests  
 (Thousands of Dollars)

(1)	Additions and Cuts by Both Chambers		Additions by Individual Chambers		Cuts by Individual Chambers	
	(2)	(3)	(4)	(5)	(6)	(7)
<b>REVOLVING AND MANAGEMENT FUNDS</b>						
Defense Business Operations Fund Undistributed						
005 DEFENSE COMMISSARY AGENCY						-1,107,200
Total Appn - Defense Business Operations Fund						-1,107,200
National Defense Sealift Fund Undistributed						
001 PROGRAM TERMINATION						-1,201,400
Total Appn - National Defense Sealift Fund						-1,201,400
<b>TOTAL - REVOLVING AND MANAGEMENT FUNDS</b>						<b>-2,308,600</b>

FY 1993  
 Congressional Action on Appropriation Requests  
 (Thousands of Dollars)

(1)	Adds by Both	Cuts by Both	Adds by Individ.chmbrs		Cuts by Individ.chmbrs	
	Chambers	Chambers	House	Senate	House	Senate
	(2)	(3)	(4)	(5)	(6)	(7)
Department of the Army	965,963	-803,151	2,966,517	1,971,061	-4,265,440	-4,078,207
Department of the Navy	1,730,466	-1,419,845	5,886,481	460,612	-6,641,867	-5,412,467
Department of the Air Force	168,287	-2,597,425	1,251,993	1,163,104	-4,324,524	-6,847,113
Defense Agencies/OSD	6,215,727	-5,414,585	5,100,584	6,049,903	-3,049,370	-2,589,894
Defense-Wide	0	0	0	0	0	0
<b>Total - DoD Appropriation</b>	<b>9,080,443</b>	<b>-10,235,006</b>	<b>15,205,575</b>	<b>9,644,680</b>	<b>-18,281,201</b>	<b>-18,927,681</b>

HAC

Adds by both Chambers	9,080,443
Adds by HAC only	15,205,575
<b>Total HAC Adds</b>	<b>24,286,018</b>
Cuts by both Chambers	-10,235,006
Cuts by HAC only	-18,281,201
<b>Total HAC Cuts</b>	<b>-28,516,207</b>
<b>GRAND TOTAL HAC</b>	<b>-4,230,189</b>

SAC

Adds by both Chambers	9,080,443
Adds by SAC only	9,644,680
<b>Total SAC Adds</b>	<b>18,725,123</b>
Cuts by both Chambers	-10,235,006
Cuts by SAC only	-18,927,681
<b>Total SAC Cuts</b>	<b>-29,162,687</b>
<b>GRAND TOTAL SAC</b>	<b>-10,437,564</b>

CONFERENCE

Adds	
Cuts	
<b>Total</b>	<b>-----</b>

FY 1993  
Congressional Action on Appropriation Requests  
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(1)	Additions		Cuts		Net Change	
	(2) Additions by Both Chambers	(3) Cuts by Both Chambers	(4) Additions by Indiv. House	(5) Cuts by Indiv. Senate	(6) Net Change by House	(7) Net Change by Senate
<b>MILITARY CONSTRUCTION</b>						
Military Construction, Army						
Major construction						
003	FORT WAINWRIGHT	AK				
10	HANGAR			3,950		
005	ANNISTON ARMY DEPOT	AL				
10	AMMUNITION DEMILITARIZATION FAC PHASE III				-6,000	-44,000
010	FORT MCCLELLAN	AL				
20	AMMO STORAGE FACILITY		2,500			
30	GENERAL INSTRUCTION BUILDING		2,050			
40	VEHICLE MAINTENANCE SHOP		1,350			
	TOTAL		5,900			
012	FORT HUACHUCA	AZ				
20	INTELLIGENCE FACILITY			5,300		
017	FORT GORDON	GA				
10	CONSOLIDATED MAINTENANCE FACILITY			23,000		
018	FORT MCPHERSON	GA				
10	BARRACKS & DINING HALL			10,200		
022	FITZSIMONS AMC	CO				
10	CENTRAL ENERGY PLANT		19,400			
20	ENGINEER FACILITY		6,000			
	TOTAL		25,400			
023	FORT GILLEM	GA				
10	WATER IMPROVEMENTS		2,700			
024	HUNTER ARMY AIRFIELD	GA				
10	TACTICAL EQUIPMENT SHOP		5,400			
025	SCHOFIELD BARRACKS	HI				
20	ADAL SEWAGE TREATMENT FACILITY			17,500		
026	FORT RILEY	KS				
10	RAIL HEAD			13,200		
027	FORT KNOX	KY				
10	WATER STORAGE TANKS		4,350			
20	AIRFIELD REVITALIZATION		7,100			
30	ELECTRICAL DISTRIBUTION IMPROVEMENT PROJECT		4,150			
	TOTAL		15,600			
031	CAMP MCCAIN	MS				
10	DEFENSE ACCESS ROADS			19,000		
033	FORT MONMOUTH	NJ				
10	CHILD CARE CENTER		3,550			

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 Congressional Action on Appropriation Requests  
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(1)	Additions		Cuts		Total	
	(2) Add by Both Chambers	(3) Cuts by Both Chambers	(4) Add by Indiv. Chambers House	(5) Add by Indiv. Chambers Senate	(6) Cuts by House	(7) Cuts by Senate
034 FORT DRUM NY						
10 MOUT			5,900			
20 GENERAL PURPOSE WAREHOUSE			8,900			
TOTAL			14,800			
036 FORT BRAGG NC						
10 HIGHWAY EXTENSION			8,700			
037 FORT SILL OK						
10 FIRE STATION	1,500					
038 PICATINNY ARSENAL NJ						
10 ELECTRICAL DISTRIBUTION SYSTEM			3,800			
20 PROPELLANT SURVEILLANCE LAB			2,250			
TOTAL			6,050			
039 WHITE SANDS NM						
10 BARRACKS RENOVATIONS	6,000					
041 ABERDEEN PROVING GROUND MD						
10 FIRE/SECURITY STATION				3,400		
042 CORPUS CHRISTI ARMY DEPOT TX						
10 CONTROLLED-HUMIDITY WAREHOUSE			9,600			
20 METAL FINISHING & ELECTROPLATING FACILITY			11,600			
TOTAL			21,200			
043 FORT BLISS TX						
10 BARRACKS MODERNIZATION			13,800			
20 BARRACKS MODERNIZATION			11,160			
TOTAL			24,960			
060 FORT BELVOIR VA						
10 INFORMATION SYSTEMS FACILITY					-14,000	
20 RAIL EXTENSION				1,200		
TOTAL				1,200	-14,000	
066 FT LEE VA						
10 PERSONNEL SUPPORT CENTER (PHASE I)			5,300			
070 VARIOUS CONUS LOCATIONS XV						
10 CLASSIFIED PROJECT		-290				
075 GRAFENWOEHR GY						
10 SANITARY LANDFILL EXPANSION						-11,600
080 KWAJALEIN KW						
10 HAZARDOUS MATERIAL FACILITIES						-8,600
20 POWER PLANT -ROI NAMUR ISLAND		-33,000				
30 FUEL CONTAINMENT FACILITY UPGRADE						-1,200
40 UNACCOMPANIED PERSONNEL HOUSING						-10,000
TOTAL		-33,000				-19,800
085 VARIOUS WORLDWIDE LOCATIONS ZV						
10 CLASSIFIED PROJECT		-1,700				

FY 1993  
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(1)	Additions and Cuts by Both Chambers		Additions and Cuts by Individual Chambers	
	(2)	(3)	(4)	(5)
Total - Major construction	19,150	-40,990	146,910	77,750
Minor construction				
090 UNSPECIFIED WORLDWIDE LOCATIONSZU				
10 UNSPECIFIED MINOR CONSTRUCTION		-59,303		
20 REPAIR OF REAL PROPERTY		-538,795		
TOTAL		-598,098		
Total - Minor construction		-598,098		
Planning				
092 UNSPECIFIED WORLDWIDE LOCATIONSZU				
20 PLANNING AND DESIGN			12,000	
Undistributed				
320 REDUCTION				
20 ACROSS THE BOARD 1% REDUCTION				-5,345
Total Appn - Military Construction, Army	19,150	-639,088	158,910	77,750
Military Construction, Navy				
Major construction				
005 ADAK NAVAL AIR STATION AK				
10 BACHELOR ENLISTED QUARTERS				-8,750
017 MARE ISLAND NAVAL SHIPYARD CA				
10 HAZARDOUS MATERIAL STORAGE FACILITY			8,000	
018 MIRAMAR NAVAL AIR STATION CA				
10 FIXED POINT UTILITY SYSTEM			9,700	
045 ALBANY MARINE CORPS LOGISTICS BGA				
20 UPGRADE HAZARDOUS STORAGE WAREHOUSE				2,700
060 PEARL HARBOR NAVAL SUPPLY CENTEHI				
10 OIL SPILL PREVENTION-DBOF				-1,000
067 GREAT LAKES NAVAL TRNG CNTR IL				
10 WASTEWATER TREATMENT FACILITIES EXPANSION			730	
068 NAVAL SURFCE WARFARE CTR, CRANEIN				
10 MICROWAVE COMPONENT CENTER			6,000	
070 BETHESDA NAVAL MEDICAL RESEARCHMD				
10 APPLICATIONS LABORATORY		-5,600		
071 NAVAL ORDINANCE STN, INDIANHD MD				
10 IMPROVE CAD/PAD FACILITY	5,300			300
20 CHILD CARE FACILITY			2,290	
TOTAL	5,300		2,290	300

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 (Thousands of Dollars)

(1)	Additions		Cuts	
	House	Senate	House	Senate
(2)	(3)	(4)	(5)	(6)
072 PATUXENT NAVAL AIR STATION MD				
10 LARGE ANECHOIC CHAMBER - PHASE I		10,000		
073 U. S. NAVAL ACADEMY MD				
20 PHYSICAL THERAPY COMPLEX		6,500		
074 NAS MERIDIAN MS				
10 CHILD DEVELOPMENT CENTER		1,100		
076 NAVAL UNDERSEA WARFARE CENTER RI				
10 UNDERWATER WEAPONS TECHNOLOGY R&D FACILITY		13,500		
077 GULFPORT MS				
10 SEABEE WAREHOUSE			4,650	
078 NEW RIVER NC				
10 PHYSICAL FITNESS CENTER			3,600	
079 MCAS CHERRY POINT NC				
10 OPERATIONS FACILITY			3,000	
20 WAREHOUSE			1,000	
TOTAL			4,000	
095 KINGSVILLE NAVAL AIR STATION TX				
20 ROTAR SITE PREPARATION	10,000			
096 DAMNECK VA				
10 APPLIED INSTRUCTION BLDG EXPANSION	13,727			
20 UPGRADE WATER SYSTEM	1,200			
30 LAND ACQUISITION - 181 ACRES	4,500			
TOTAL	19,427			
097 FORT STORY VA				
10 NAVY BOMB DISPOSAL TRAINING & EVALUATION FAC	5,460		190	
098 LITTLE CREEK VA				
10 BACHELOR ENLISTED QUARTERS FACILITY	8,000			
20 BLAST/PAINT FACILITY			5,300	
TOTAL	8,000		5,300	
099 NAVAL AIR STATION NORFOLK VA				
10 MAGAZINE AREA PHYSICAL FACILITY	1,100		350	
20 RELOCATION OF ORDINANCE PAD	2,000			
TOTAL	3,100		350	
112 QUANTICO VA				
10 COMMAND & STAFF COLLEGE FACILITY			5,000	
122 PUGET SOUND NAVAL STATION WA				
10 BACHELOR ENLISTED QUARTERS		13,300		
140 SOUDA BAY CRETE NAVAL SUPPORT AGR				
10 BACHELOR ENLISTED QUARTERS				7,600
145 KEFLAVIK NAVAL AIR STATION IC				
10 FUEL FACILITIES (PHASE VIII)		-4,940		

FY 1993  
 Congressional Action on Appropriation Requests  
 (Thousands of Dollars)

(1)	Additions by Both Chambers		Additions by Individual Chambers		Cuts by Individual Chambers	
	(2)	(3)	(4)	(5)	(6)	(7)
Total - Major construction	51,287	-10,540	71,120	26,090	-9,750	-7,600
Minor construction						
155 UNSPECIFIED WORLDWIDE LOCATIONSZU						
10 UNSPECIFIED MINOR CONSTRUCTION		-77,123				
20 REPAIR OF REAL PROPERTY		-474,133				
TOTAL		-551,256				
Total - Minor construction		-551,256				
Planning						
157 UNSPECIFIED WORLDWIDE LOCATIONSZU						
20 PLANNING AND DESIGN			6,350			-10,000
Undistributed						
320 REDUCTION						
20 ACROSS THE BOARD 1% REDUCTION					-3,961	
Total Appn - Military Construction, Navy	51,287	-561,796	77,470	26,090	-13,711	-17,600
Military Construction, Air Force						
Major construction						
007 MAXWELL AFB AL						
10 EXTENSION OF RUNWAY			10,700			
015 EIELSON AFB AK						
10 HYDRANT FUEL SYSTEM					-11,400	
30 AIRCRAFT SHELTERS				27,000		
TOTAL				27,000	-11,400	
020 ELMENDORF AFB AK						
30 AIRCRAFT SHELTERS				16,000		
038 DAVIS MONTHAN AFB AZ						
10 DORMITORY	3,500					
042 LUKE AFB AZ						
10 BOQ				2,950		
050 BEALE AFB CA						
20 SECURITY POLICE OPS FACILITY			4,350			
055 EDWARDS AFB CA						
20 UNDERGROUND FUEL STORAGE TANKS					-5,000	
065 MCCLELLAN AFB CA						
30 PLATING SHOP			7,000			
070 TRAVIS AFB CA						
20 DORM RENOVATION			10,800			

FY 1993  
 Congressional Action on Appropriation Requests  
 (Thousands of Dollars)

(1)	Additions		Cuts		Net Change	
	By Both Chambers	By Both Chambers	By Indiv. House	By Indiv. Senate	By House	By Senate
	(2)	(3)	(4)	(5)	(6)	(7)
080 US AIR FORCE ACADEMY CO						
10 BASE OPERATIONS FACILITY						-1,650
092 BOLLING AFB DC			9,400			
10 CIVIL ENGINEER COMPLEX						
100 EGLIN AFB FL				32,000		
30 CLIMATIC TEST CHAMBER (PHASE I)						
115 MOODY AFB GA				3,600		
20 FUEL CELL/NOSE DOCK (C-130)						
117 ROBINS AFB GA				9,700		
10 JSTARS RAMP AND HYDRANT SYSTEM				1,800		
20 JSTARS SECURITY IMPROVEMENT				11,500		
TOTAL						
130 BARKSDALE AFB LA				25,800		
30 REPLACE APRON & HYDRANT SYSTEM						
137 HANSCOM AFB MA				4,200		
10 CHILD DEVELOPMENT CENTER						
140 KEESLER AFB MS			2,650			
20 ADD/ALTER CHILD CARE CENTER						
145 WHITEMAN AFB MO						
93 GENERAL REDUCTION						-4,051
160 NELLIS AFB NV						
30 AIRCRAFT LOADING APRON			4,000			
40 ARMING PAD, PHASE I				4,000		
TOTAL			4,000	4,000		
168 CANNON AFB NM						
10 DORMITORY			2,800			
172 KIRTLAND AFB NM						
10 PHILLIPS LABORATORY CONSOLIDATION				5,200		
175 POPE AFB NC						
80 AIRCRAFT CORROSION CONTROL FAC						-5,500
90 ALTER ECM SHOP AND POD STORAGE FACILITY						-620
TOTAL						-6,120
195 MINOT AFB ND						
30 WATER SYSTEM				2,050		
202 ALTUS AFB OK						
10 CONSOLIDATED SUPPORT FACILITY			7,300			
207 VANCE AFB OK						
10 AIRFIELD REPAIR	2,350				950	
210 CHARLESTON AFB SC						
40 ADD/ALTER PHYSICAL FITNESS CENTER	3,300					
223 BROOKS AFB TX						
10 ACADEMIC COMPLEX				9,000		

FY 1993  
Congressional Action on Appropriation Requests  
(Thousands of Dollars)

(1)	Adds by Both Chambers	Cuts by Both Chambers	Adds by Indiv.chmbrs House	Senate	Cuts by Indiv.chmbrs House	Senate	(7)
(1)	(2)	(3)	(4)	(5)	(6)		(7)
228 GOODFELLOW AFB TX							
10 PHYSICAL FITNESS CENTER				3,250			
235 LACKLAND AFB TX							
20 HIGH SCHOOL/GRADE SCHOOL FACILITIES			8,000				
255 HILL AFB UT							
10 ACM ADD/ALTER NDI FACILITY							-1,450
30 ENGINE TEST CELL SUPPORT FACILITY			850				
40 POWER UPGRADE			2,300				
TOTAL			3,150				-1,450
260 LANGLEY AFB VA							
30 CONSTRUCTION PROJECTS	5,300						
280 CLASSIFIED LOCATION XC							
10 AIRCRAFT MAINT DOCK		-4,050					
20 AEROMEDICAL STAGING FACILITY							-1,250
30 COMBAT CONTROL TEAM SQUADRON FACILITY							-2,150
40 SPECIAL OPERATIONS FACILITY							-950
50 HYDRANT FUELING DISTRIBUTION SYSTEM		-10,400					
60 SPECIAL OPERATIONS FACILITY							-950
TOTAL		-14,450					-5,300
285 CONUS VARIOUS XV							
20 UNDERGROUND FUEL STORAGE TANKS							-3,300
290 VARIOUS LOCATIONS-CANADA CD							
10 FWD OPERATING LOC/DISPRSD OPERATING BASES		-19,500					
295 RHEIN-MAIN AB GY							
10 UPGRADE WASTEWATER TREATMENT PLANT							-3,100
300 THULE AB GL							
10 ALTER DORMITORY							-5,000
20 DORMITORY							-11,000
30 UPGRADE AIRFIELD PAVEMENT PH III							-8,900
TOTAL							-24,900
305 ANDERSEN AFB GU							
10 FIRE TRAINING FACILITY							-2,300
20 HAZARDOUS WASTE MANAGEMENT FACILITY							-790
30 UNDERGROUND FUEL STORAGE TANKS			4,550				
40 LANDFILL			10,000				
50 HAZARDOUS WASTE FACILITY			900				
60 UNDERGROUND FUEL STORAGE TANK			4,100				
TOTAL			19,550				-3,090
310 LAJES FIELD PO							
10 FIRE TRAINING FACILITY							-950
20 WASTEWATER TREATMENT AND DISPOSAL SYSTEM							-7,500
TOTAL							-8,450

FY 1993  
 Congressional Action on Appropriation Requests  
 (Thousands of Dollars)

(1)	Adds by Both Chambers	Cuts by Both Chambers	Adds by Indiv.chmbrs House	Senate	Cuts by Indiv.chmbrs House	Senate
	(2)	(3)	(4)	(5)	(6)	(7)
Total - Major construction	14,450	-53,950	89,700	147,500	-29,051	-48,760
Minor construction						
315 UNSPECIFIED WORLDWIDE LOCATIONSZU						
10 UNSPECIFIED MINOR CONSTRUCTION		-78,948				-7,000
20 REPAIR OF REAL PROPERTY		-367,446				
TOTAL		-446,394				-7,000
Total - Minor construction		-446,394				-7,000
Planning						
317 UNSPECIFIED WORLDWIDE LOCATIONSZU						
20 PLANNING AND DESIGN			5,000			-20,000
Undistributed						
320 REDUCTION						
20 ACROSS THE BOARD 1% REDUCTION					-6,986	
Total Appn - Military Construction, Air Force	14,450	-500,344	94,700	147,500	-36,037	-75,760
Military Construction, Defensewide						
Major construction						
002 ELMENDORF AFB AK						
10 HOSPITAL REPLACEMENT				25,000		
007 BEALE AFB CA						
10 HOSPITAL LIFE SAFETY UPGRADE			3,500			
012 FITZSIMONS AMC CO						
10 SITE WORK			2,000			
015 WALTER REED ARMY MEDICAL CENTERDC						
10 ARMY INSTITUTE OF RESEARCH PHASE I						-13,300
025 EGLIN AFB FL						
10 CLIMATIC TEST CHAMBER PHASE I						-32,000
027 HOMESTEAD AFB FL						
10 PHASE II HOSPITAL CONSTRUCTION			10,000			
030 BARKING SANDS HI						
10 LAND EASEMENT					-5,400	
045 FORT BRAGG NC						
20 ADD/ALTER SEC. 6 SCHOOLS			3,950			
055 GRAND FORKS ABM SITE ND						
10 BARRACKS & DINNING FACILITY		-12,800				
076 NATIONAL CAPITAL AREA VA						
10 RELOCATION OF WATER MAINS			3,000			

FY 1993  
 Congressional Action on Appropriation Requests  
 (Thousands of Dollars)

(1)	Additions by Both Chambers		Cuts by Both Chambers		Additions by Individual Chambers		Cuts by Individual Chambers		
	(2)	(3)	(4)	(5)	(6)	(7)			
085 GRAFENWOEHR GY									
10 ADDN REN GRAFENWOEHR ELEM SCHOOL								-7,400	
090 HOHENFELS GY									
10 ADDN REN HOHENFELS ELEM SCHOOL								-13,500	
095 ON-SITE INSPECTION AGENCY JI									
10 CHEMICAL DEMILITARIZATION HOUSING				-4,600					
100 DNA HDQTRS FIELD COMMAND JI									
10 GARBAGE AND REFUSE INCENERATOR JA								-1,500	
105 MISSILE RANGE KW									
10 GROUND SURVEIL & TRACKING SYSTEM COMPLEX				-22,000					
110 CLASSIFIED LOCATION UK									
10 OPS SYSTEM UNINTERRUPTIBLE POWER SOURCE								-6,000	
115 CLASSIFIED LOCATION YC									
10 STRATEGIC MEDICAL STORAGE FACILITY								-8,000	
117 CLASSIFIED LOCATION									
10 SOUTHWESTER/NSA							3,590		
<b>Total - Major construction</b>				<b>-39,400</b>		<b>22,450</b>	<b>28,590</b>	<b>-5,400</b>	<b>-81,700</b>
Minor construction									
130 UNSPECIFIED WORLDWIDE LOCATIONS									
10 UNSPECIFIED MINOR CONSTRUCTION (DMA)				-2,400					
20 UNSPECIFIED MINOR CONSTRUCTION (OSIS)				-1,000					
30 UNSPECIFIED MINOR CONSTRUCTION (SOC)				-3,800					
40 UNSPECIFIED MINOR CONSTRUCTION (DODDS)				-11,656					
50 UNSPECIFIED MINOR CONSTRUCTION (DMSA)				-3,490					
70 UNSPECIFIED MINOR CONSTRUCTION (NSA)				-3,307					
80 UNSPECIFIED MINOR CONSTRUCTION (DNA)				-800					
92 UNSPECIFIED MINOR CONSTRUCTION (DISA)				-1,261					
94 UNSPECIFIED MINOR CONSTRUCTION (DIA)				-892					
<b>TOTAL</b>				<b>-28,606</b>					
135 UNSPECIFIED WORLDWIDE LOCATIONS									
10 CONTINGENCY CONSTRUCTION (OSD)									-5,000
20 GENERAL REDUCTION									-9,500
<b>TOTAL</b>									<b>-14,500</b>
150 UNSPECIFIED WORLDWIDE LOCATIONS									
10 REPAIR OF REAL PROPERTY (DMA)				-6,100					
20 REPAIR OF REAL PROPERTY (DISA)				-1,539					
30 REPAIR OF REAL PROPERTY (DNA)				-3,500					
40 REPAIR OF REAL PROPERTY (NSA)				-14,118					
50 REPAIR OF REAL PROPERTY (DODDS)				-25,400					
60 REPAIR OF REAL PROPERTY (DMSA)				-88,761					
70 REPAIR OF REAL PROPERTY (DIA)				-1,338					
<b>TOTAL</b>				<b>-140,756</b>					

FY 1993  
 Congressional Action on Appropriation Requests  
 (Thousands of Dollars)

(1)	Adds by Both	Cuts by Both	Adds by Individ.chmbrs		Cuts by Individ.chmbrs	
	Chambers	Chambers	House	Senate	House	Senate
(2)	(3)	(4)	(5)	(6)	(7)	
Total - Minor construction		-169,362				-14,500
Planning						
160 UNSPECIFIED WORLDWIDE LOCATIONSZU						
30 PLANNING AND DESIGN (DMSA)			30,000			-2,000
40 PLANNING AND DESIGN (SDIO)		-5,000			-5,000	
60 PLANNING AND DESIGN (OSD)						-2,000
TOTAL		-5,000	30,000		-5,000	-4,000
Total - Planning		-5,000	30,000		-5,000	-4,000
Undistributed						
320 REDUCTION						
20 ACROSS THE BOARD 1% REDUCTION					-3,082	
Total Appn - Military Construction, Defensewide		-213,762	52,450	28,590	-13,482	-100,200
Mil. Con., Army National Guard						
Major construction						
003 CULLMAN AL						
10 PURCHASE BLDG FOR DAS-3 CLASS IX SUP			400			
004 FORT RUCKER AL						
10 UTE SITE ADD			487			
007 ONEONTA AL						
10 ORGANIZATIONAL MAINTENANCE SHOP			461			
008 TUSCALOOSA AL						
10 ARMORY	1,836			437		
009 UNION SPRINGS AL						
10 ARMORY			813			
012 W. ARNG AVIATN TNG SITE, MARANAAZ						
20 PICACHO PEAK STAGEFIELD			3,041			
014 FRESNO AVIATION DEPOT CA						
10 REPAIR & CONSTRUCTION OF HELICOPTER PADS	901					
016 LAKEPORT CA						
10 ARMORY			1,580			
018 LOS ALIMATOS AFRC CA						
10 JP-4 FUEL TANK REPLACEMENTS	1,553					
022 CAMP BLANDING FL						
10 MOUT RANGE	2,400				52	
20 BACHELOR OFFICER/ENLISTED QUARTERS	958					
TOTAL	3,358				52	

FY 1993  
Congressional Action on Appropriation Requests  
(Thousands of Dollars)

(1)	Additions by Both Chambers		Cuts by Both Chambers		Additions by Individual Chambers		Cuts by Individual Chambers	
	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
024 CEDAR HILLS FL								
10 ARMORY EXPANSION					1,457			
040 CRAIG FIELD FL								
10 ARMORY EXPANSION					1,682			
20 ORGANIZATIONAL MAINTENANCE SHOP EXPANSION					368			
TOTAL					2,050			
045 BARNESVILLE GA								
10 ARMORY ACQUISITION						350		
050 FORT WAYNE IN								
10 OMS		862				30		
20 ARMORY		2,732				1,207		
TOTAL		3,594				1,237		
055 GREAT BEND KS								
10 ARMORY						1,570		
056 OTTAWA KS								
10 ARMORY						397		
060 CAMP DODGE IA								
10 EQUIPMENT MAINTENANCE SHOP					2,687			
20 BU COMPLEX I					4,600			
TOTAL					7,287			
061 AMITE LA								
10 ARMORY		1,000				300		
064 LAFEYETTE LA								
10 OMS						1,000		
065 CAMP RIPLEY MN								
10 COMBINED SUPPORT MAINTENANCE SHOP					7,100			
20 UTILITY SYSTEMS REPAIR					5,800			
TOTAL					12,900			
066 BALL LA								
10 RENOVATE BARRACKS						400		
067 CAMP MCCAIN MS								
10 DEFENSE ACCESS ROAD						19,000		
068 CAMP SHELBY MS								
10 MULTIPURPOSE RANGE						4,000		
20 MODIFY RANGE #1						675		
30 MODIFY RANGE #2						675		
40 COMBINED SUPPORT FACILITY						5,400		
TOTAL						10,750		
070 MERIDIAN MS								
10 ADD/ALTER AVIATION SUPPORT FACILITY					1,900			
071 ROSEMOUNT MN								
10 OMS						2,800		

FY 1993  
 Congressional Action on Appropriation Requests  
 (Thousands of Dollars)

(1)	Additions		Cuts		Indiv. Chambers	
	Both Chambers	Both Chambers	House	Senate	House	Senate
	(2)	(3)	(4)	(5)	(6)	(7)
072 PHELPS COLLINS AIRPORT MI						
10 ALTER BARRACKS				3,800		
080 WHITMAN AFB MO						
10 ARMORY	2,900					
081 CAMP CROWDER MO						
10 ADMINISTRATION/CLASSROOM				421		
083 FAYETTEVILLE NC						
10 ARMORY				1,284		
084 BISMARCK ND						
10 ADAL ARMORY/AVIATION FACILITY				5,450		
085 CLARKE COUNTY NV						
10 ARMORY	4,589			941		
20 ORGANIZATIONAL MAINTENANCE SHOP	1,358		496			
30 COMBINED MAINTENANCE SHOP	1,358			496		
40 USPFO WAREHOUSE			178			
TOTAL	7,305		674	1,437		
086 FARGO ND						
10 VEHICLE MAINTENANCE FACILITY				2,600		
087 FORT DIX NJ						
10 ARMORY			5,205			
20 STATE HEADQUARTERS				5,205		
TOTAL			5,205	5,205		
090 CLAYTON NM						
10 ARMORY	1,400					
093 ROSWELL NM						
10 TRAINING FACILITY	3,000					
095 SPRINGER NM						
10 ARMORY	1,209					
100 MEDINA OH						
10 ARMORY RENOVATION	1,000					
105 RAVENNA ARSENAL OH						
10 TANK RANGE	400					
110 CAMP GRUBER OK						
10 MOUT FACILITIES			1,954			
115 NORMAN OK						
10 VEHICLE MAINTENANCE COMPLEX PHASE I			7,629			
117 LA GRANDE OR						
10 ARMORY	750			2,299		
20 OMS				1,220		
TOTAL	750			3,519		
118 SALEM OR						
10 AVIATION TAXIWAY			1,200			

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FY 1993  
Congressional Action on Appropriation Requests  
(Thousands of Dollars)

(1)	OR	(2)	(3)	Adds by Individ.chmbrs		Cuts by Individ.chmbrs	
				House	Senate	House	Senate
				(4)	(5)	(6)	(7)
119	CLACKAMAS						
	10 RANGE			1,500			
120	FORT INDIANTOWN GAP						
	10 AVIATION BRIGADE ARMORY (800 PM)			7,500			
	20 ACADEMIC TRAINING CENTER			9,100			
	TOTAL			16,600			
125	INDIANA						
	10 ARMORY			1,700			
128	N. KINGSTON						
	10 ADAL ARMORY/AVIATION				4,200		
130	FOUNTAIN INN						
	10 HAWK TRAINING PARK	748					
135	WARE SHOALS						
	10 HAWK TRAINING PARK	578					
140	PICKENS						
	10 HAWK TRAINING PARK	775					
142	GAFFNEY						
	10 ARMORY				1,510		
145	FORT MEADE						
	10 RENOVATE ADMIN. FACILITY			805			
150	MONTEAGLE						
	10 ARMORY			950			
155	SMYRNA						
	10 ADD/ALTER OPS. FACILITY	3,500					
	20 CSM SHOP	5,500					
	TOTAL	9,000					
156	DUNLAP						
	10 ARMORY					818	
157	ERIN						
	10 ARMORY					1,080	
160	CAMP BOWIE, BROWNWOOD						
	10 UNIT TRAINING AND EQUIPMENT SITE			1,319			
165	GREENVILLE						
	10 ARMORY			1,339			
170	KILGORE						
	10 ARMORY			615			
175	LUBBOCK						
	10 JOINT ARMED FORCES RESERVE CENTER			7,937			
	20 ORGANIZATION MAINTENANCE FACILITY			696			
	TOTAL			8,633			
180	MEXIA						
	10 ARMORY RENOVATION			566			

FY 1993  
 Congressional Action on Appropriation Requests  
 (Thousands of Dollars)

(1)	Additions		Cuts	
	By Both Chambers	By Both Chambers	By Indiv. Chambers House	By Indiv. Chambers Senate
	(2)	(3)	(4)	(5)
185 SAN ANGELO TX			1,767	
10 ARMORY				
190 STEPHENVILLE TX			591	
10 ADD/ALTER ARMORY				
195 ST. GEORGE UT				
10 ARMORY	2,898			
20 ORGANIZATIONAL MAINTENANCE SHOP/SUBSHOP	701			
TOTAL	3,599			
196 BLANDING UT				
10 ARMORY				1,290
197 COMMUNITY COLLEGE, RICHLANDS VA				
10 ARMORY	2,137			
200 GRANDVIEW WA				
10 ARMORY	1,602			
205 BUCKLEY WA				
10 ARMORY	1,728			
210 MOSES LAKE WA				
10 ARMORY	1,804			
215 MARSHFIELD WI				
10 ARMORY			2,030	
20 VEHICLE STORAGE FACILITY			226	
TOTAL			2,256	
220 FORT MCCOY WI				
10 TRAINING/EDUCATION FACILITY			10,712	
222 CLARKSBURG WV				
10 HANGAR				5,500
223 CAMP GUERNSEY WY				
10 BARRACKS UPGRADE				4,447
225 BARRIGADA GU				
10 USPFO AND WAREHOUSE			1,927	
<b>Total - Major construction</b>	<b>52,177</b>		<b>100,318</b>	<b>80,854</b>
Minor construction				
250 UNSPECIFIED WORLDWIDE LOCATIONS				
10 UNSPECIFIED MINOR CONSTRUCTION		-5,100		
20 REPAIR OF REAL PROPERTY		-29,300		
30 GENERAL REDUCTION				-5,205
TOTAL		-34,400		-5,205
<b>Total - Minor construction</b>		<b>-34,400</b>		<b>-5,205</b>

FY 1993  
Congressional Action on Appropriation Requests  
(Thousands of Dollars)

(1)	Adds by Both	Cuts by Both	Adds by Indiv. Chmbrs		Cuts by Indiv. Chmbrs	
	Chambers	Chambers	House	Senate	House	Senate
	(2)	(3)	(4)	(5)	(6)	(7)
Planning						
260 UNSPECIFIED WORLDWIDE LOCATIONSZU						
20 PLANNING AND DESIGN			1,075			
Undistributed						
320 REDUCTION						
20 ACROSS THE BOARD 1% REDUCTION					-1,607	
Total Appn - Mil. Con., Army National Guard	52,177	-34,400	101,393	80,854	-6,812	
Mil. Con., Air National Guard						
Major construction						
003 BIRMINGHAM AL						
10 FIRE STATION			2,100			
20 VEHICLE MAINTENANCE SHOP			2,300			
TOTAL			4,400			
011 EIELSON AFB AK						
10 VEHICLE MAINTENANCE FACILITY				4,500		
012 TUSCON INTERNATIONAL AIRPORT AZ						
10 JET FUEL STORAGE COMPLEX			7,200			
015 BUCKLEY ANGB CO						
20 UPGRADE UTILITIES/INFRASTRUCTURE			12,000			
035 BOISE AIRPORT ID						
20 ARM/DISARM PADS				1,550		
041 GREATER PEORIA IL						
10 VEHICLE MAINTENANCE FACILITY			2,200			
20 CIVIL ENGINEERING SHOP			2,200			
30 SITE PREPARATION			1,550			
TOTAL			5,950			
042 FORT WAYNE IN						
10 RUNWAY IMPROVEMENTS			6,039			
043 DES MOINES IA						
10 ADD/ALTER OPS FACILITY			5,150			
044 SIOUX GATEWAY AIRPORT IA						
10 ADD/ALT FUEL CELL/CORROSION HANGAR BAY		1,850				
20 ADD/ALT SQUADRON OPERATIONS FACILITY		920				
30 ALT COMPOSITE DINING HALL/MEDICAL TRNG FAC			1,200			
TOTAL		2,770	1,200			
052 STANDIFORD AIRPORT KY						
10 RELOCATION, PHASE III				5,000		
054 BANGOR INTERNATIONAL AIRPORT ME						
10 AIRFIELD IMPROVEMENTS	17,300					

FY 1993  
 Congressional Action on Appropriation Requests  
 (Thousands of Dollars)

(1)	Adds by Both Chambers		Cuts by Both Chambers		Adds by Individ.chmbrs House Senate		Cuts by Individ.chmbrs House Senate	
	(2)	(3)	(4)	(5)	(6)	(7)		
055 BARNES MAP MA								
20 ADAL FUEL CELL/CORROSION CONTROL						1,400		
30 AVIONICS/WEAPONS SHOP						1,500		
40 ENGINE SHOP						800		
50 SQUADRON OPERATIONS						900		
60 MUNITIONS STORAGE/MAINTENANCE						3,650		
TOTAL						8,250		
060 OTIS ANGB MA								
20 CLINIC						1,600		
083 GULFPORT MS								
10 RAMP UPGRADE						10,800		
087 THOMPSON FIELD MS								
10 ADD/ALTER VEHICLE MAINTENANCE SHOP					1,300			
090 GREAT FALLS IAP MT								
20 ADD TO AND ALTER MAINTENANCE HANGAR SHOP				-2,800				
40 ADD/ALTER WEAPONS RELEASE SHOP		800						
50 ARM/DEARM PADS		1,000						
60 FIRE SUPPRESSION SYSTEM		1,000						
TOTAL		2,800		-2,800				
095 LINCOLN MAP NE								
20 FUEL SYSTEMS MAINTENANCE DOCK						4,675		
30 SQUADRON OPERATIONS						3,100		
40 ALTER SUPPLY & COMMUNICATIONS						2,400		
TOTAL						10,175		
117 BADIN NC								
10 COMMUNICATION ELECTRONICS TRAINING FACILITY					3,000			
119 SPRINGFIELD OH								
10 ADAL ENGINE SHOP						1,700		
125 TOLEDO EXPRESS AIRPORT OH								
30 AIRCRAFT ENGINE SHOP		1,700						
40 ADD/ALTER AVIONICS SHOP/ECM WEAPONS RELEASE		880						
50 ADD/ALTER FUEL SYSTEMS & CORROSION CNTRL DOCK		1,300						
60 ADD/ALTER SQUADRON OPERATIONS FACILITY		1,300						
TOTAL		5,180						
128 TULSA AIRPORT OK								
10 ADAL SQUADRON OPS						1,350		
20 ADAL OMS						430		
30 ADAL ENGINE SHOP						400		
TOTAL						2,180		
129 CAMP WITHYCOMBE OR								
10 RIFLE RANGE						2,600		

FY 1993  
Congressional Action on Appropriation Requests  
(Thousands of Dollars)

(1)	Additions and Cuts		Additions by Individual Chambers		Cuts by Individual Chambers	
	(2)	(3)	(4)	(5)	(6)	(7)
130 KINGSLEY FIELD OR						
20 SUPPLY WAREHOUSE				2,575		
30 FIRE STATION				1,230		
TOTAL				3,805		
135 PORTLAND IAP OR						
20 ADD/ALTER BASE CIVIL ENGINEER FACILITY	700			689		
30 HANGAR UPGRADE				5,051		
TOTAL	700			5,740		
137 STATE COLLEGE PA						
10 STORAGE FACILITY			9,700			
142 JOE FOSS FIELD, SIOUX FALLS SD						
10 MUNITIONS MAINTENANCE COMPLEX			3,000			
143 SIOUX CITY SD						
10 FUEL CELL				1,850		
20 SQUADRON OPERATIONS				920		
30 REPLACE TANKS				1,200		
TOTAL				3,970		
146 ELLINGTON ANGB TX						
10 HANGAR MODIFICATION				1,700		
147 NEDERLAND TX						
10 VEHICLE MAINTENANCE SHOP			1,200			
148 HENSLEY TX						
10 WAREHOUSE				4,250		
149 KELLY AFB TX						
10 CIVIL ENGINEERING FACILITY				2,050		
151 SALT LAKE CITY UT						
10 BASE CIVIL ENGINEERING COMPLEX				1,850		
152 TRUAX FIELD WI						
10 HANGER ALTERATION	2,250					
20 FUEL CELL MAINTENANCE DOCK	2,000					
TOTAL	4,250					
155 VOLK FIELD WI						
20 COMPOSITE RAPCOM CENTER/COMMUNICATION FAC			2,600			
160 PUERTO RICO IAP PR						
10 ADD TO AIRCRAFT PARKING APRON						-3,800
20 COMPOSITE SQUADRON OPERATIONS FACILITY						-2,800
TOTAL						-6,600
Total - Major construction	33,000	-2,800	62,739	71,720		-6,600
Minor construction						
165 UNSPECIFIED WORLDWIDE LOCATIONSZU						
10 UNSPECIFIED MINOR CONSTRUCTION		-16,800			-1,200	
20 REPAIR OF REAL PROPERTY		-23,000				
TOTAL		-39,800			-1,200	

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1 Oct 1992

FY 1993  
 Congressional Action on Appropriation Requests  
 (Thousands of Dollars)

(1)	Adds by Both	Cuts by Both	Adds by Individ.chmbrs		Cuts by Individ.chmbrs	
	Chambers	Chambers	House	Senate	House	Senate
(2)	(3)	(4)	(5)	(6)	(7)	
Total - Minor construction		-39,800			-1,200	
Planning						
167 UNSPECIFIED WORLDWIDE LOCATIONSZU						
20 PLANNING AND DESIGN	5,000					
Undistributed						
320 REDUCTION						
20 ACROSS THE BOARD 1% REDUCTION		-2,302				
Total Appn - Mil. Con., Air National Guard	38,000	-42,600	62,739	71,720	-3,502	-6,600
Mil. Con., Army Reserve						
Major construction						
005 REPROGRAMMING ALLOWANCE						
30 REPROGRAMMING ALLOWANCE				5,300		
008 CLARKSBURG WV						
10 ARMY RESERVE CENTER				5,358		
009 WHEELING WV						
10 ARMY RESERVE CENTER				6,808		
010 WEIRTON WV						
10 ARMY RESERVE CENTER				3,481		
011 BLUEFIELD WV						
10 ARMY RESERVE CENTER				1,921		
012 JANE LEW WV						
10 ARMY RESERVE CENTER				1,566		
013 LEWISBURG WV						
10 ARMY RESERVE CENTER				1,631		
014 GRANTSVILLE WV						
10 ARMY RESERVE CENTER				2,785		
Total - Major construction				28,850		
Minor construction						
005 UNSPECIFIED WORLDWIDE LOCATIONSZU						
10 UNSPECIFIED MINOR CONSTRUCTION		-1,300			-2,000	
20 REPAIR OF REAL PROPERTY		-19,900				
TOTAL		-21,200			-2,000	
Total - Minor construction		-21,200			-2,000	

FY 1993  
 Congressional Action on Appropriation Requests  
 (Thousands of Dollars)

(1)	Adds by Both	Cuts by Both	Adds by Individ.chmbrs		Cuts by Individ.chmbrs	
	Chambers	Chambers	House	Senate	House	Senate
	(2)	(3)	(4)	(5)	(6)	(7)
Planning						
007 UNSPECIFIED WORLDWIDE LOCATIONSZU						
20 PLANNING AND DESIGN				3,000		
Undistributed						
320 REDUCTION						
20 ACROSS THE BOARD 1% REDUCTION					-83	
Total Appn - Mil. Con., Army Reserve		-21,200		31,850	-2,083	
Mil. Con., Naval Reserve						
Major construction						
003 DOBBINS AFB GA						
10 MAR CORPS RESERVE CENTER				5,500		
005 NAS GLENVIEW IL						
20 CHILD DEVELOPMENT CENTER				1,800		
Total - Major construction				7,300		
Minor construction						
010 UNSPECIFIED WORLDWIDE LOCATIONSZU						
10 UNSPECIFIED MINOR CONSTRUCTION					-1,800	
20 REPAIR OF REAL PROPERTY					-26,072	
TOTAL					-27,872	
Total - Minor construction		-27,872				
Undistributed						
320 REDUCTION						
20 ACROSS THE BOARD 1% REDUCTION					-99	
Total Appn - Mil. Con., Naval Reserve		-27,872		7,300	-99	
Mil. Con., Air Force Reserve						
Major construction						
006 DAVIS-MONTHAN AZ						
10 ADAL AIRCRAFT MAINTENANCE FACILITY				1,500		
20 MUNITIONS MAINTENANCE & STORAGE				930		
TOTAL				2,430		
011 PETERSON AFB CO						
10 AVIONICS FACILITY				1,300		
017 O'HARE IAP IL						
10 AGE SHOP/STORAGE	1,650			50		
20 REPAIR AIRCRAFT RAMP				5,200		
TOTAL	1,650			5,250		

FY 1993  
 Congressional Action on Appropriation Requests  
 (Thousands of Dollars)

(1)	Adds by Both Chambers		Cuts by Both Chambers		Adds by Individ.chmbrs		Cuts by Individ.chmbrs	
	(2)	(3)	(4)	(5)	(6)	(7)		
020 NEW ORLEANS NAS LA								
50 AVIONICS					2,300			
030 SELFRIDGE ANGB MI								
20 ADAL FUEL SYSTEMS MAINTENANCE HANGAR					2,400			
30 ADAL FACILITIES FOR CONVERSION					1,500			
TOTAL					3,900			
036 YOUNGSTOWN APT OH								
10 AERIAL SPRAY MAINTENANCE FACILITY					2,000			
20 MAINTENANCE DOCK					4,500			
TOTAL					4,500			2,000
047 HILL AFB UT								
10 AIRCRAFT CORROS CNTRL & FUEL SYS MAINT FAC					1,000			
048 MITCHELL FIELD WI								
10 HANGAR ACQ					2,500			
Total - Major construction	1,650				8,000			17,180
Minor construction								
050 UNSPECIFIED WORLDWIDE LOCATIONSZU								
10 UNSPECIFIED MINOR CONSTRUCTION								-4,000
20 REPAIR OF REAL PROPERTY								-24,500
TOTAL								-28,500
Total - Minor construction								-28,500
Planning								
052 UNSPECIFIED WORLDWIDE LOCATIONSZU								
20 PLANNING AND DESIGN					300			
Undistributed								
320 REDUCTION								
20 ACROSS THE BOARD 1% REDUCTION								-343
Total Appn - Mil. Con., Air Force Reserve	1,650				8,300			17,180
-343								
Base Realignment & Closure Acct, Part I								
Base Closure								
005 BASE REALIGNMENT & CLOSURE ACCTZU								
10 BASE REALIGNMENT & CLOSURE ACCT PART I								-25,000
Undistributed								
320 REDUCTION								
20 ACROSS THE BOARD 1% REDUCTION								-4,157

FY 1993  
 Congressional Action on Appropriation Requests  
 (Thousands of Dollars)

(1)	Add by Both Chambers		Cuts by Both Chambers		Add by Individ.chmbrs House Senate		Cuts by Individ.chmbrs House Senate		
	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	
Total Appn - Base Realignment & Closure Acct, Pa								-29,157	
Base Realignment & Closure Acct, Part II									
Base Closure									
005 BASE REALIGNMENT & CLOSURE ACCTZU									
10 BASE REALIGNMENT & CLOSURE ACCT, PART II								-125,000	
UNDISTRIBUTED									
320 REDUCTION									
20 ACROSS THE BOARD 1% REDUCTION								-16,186	
Total Appn - Base Realignment & Closure Acct, Pa								-141,186	
NATO Infrastructure									
NATO infrastructure									
005 OSD MILCON									
10 NATO INFRASTRUCTURE									
Undistributed									
320 REDUCTION									
20 ACROSS THE BOARD 1% REDUCTION								-1,212	
100 RECOUPMENTS									59,100
Total Appn - NATO Infrastructure								-1,212	-180,300
TOTAL - MILITARY CONSTRUCTION	176,714	-2,169,562	555,962	547,934	-266,969	-481,560			

FY 1993  
 Congressional Action on Appropriation Requests  
 (Thousands of Dollars)

October 5, 1992

CONGRESSIONAL RECORD—SENATE

(1)	Adds by Both	Cuts by Both	Adds by Individ.chmbrs		Cuts by Individ.chmbrs	
	Chambers	Chambers	House	Senate	House	Senate
	(2)	(3)	(4)	(5)	(6)	(7)
<b>FAMILY HOUSING</b>						
Family Housing Construction, Army						
Construction of new housing						
002 FORT RICHARDSON AK						
10 IMPROVEMENT PROJECT				6,500		
003 HUNTER ARMY AIRFIELD GA			82			
10 REPROGRAMMING ALLOWANCE						
004 FORT WAINWRIGHT AK						
10 IMPROVEMENT PROJECT				5,700		
006 FORT CAMPBELL KY						
10 NEW CONSTRUCTION (96)				8,200		
007 FORT HOOD TX						
10 FAMILY HOUSING (227 UNITS)			25,000			
008 FORT PICKETT VA						
10 FAMILY HOUSING UNITS (26 UNITS)			2,300			
			-----	-----	-----	-----
Total - Construction of new housing			27,382	20,400		
Post-Acquisition Construction						
010 UNSPECIFIED WORLDWIDE LOCATIONSZU						
10 CONSTRUCTION IMPROVEMENTS			5,400			-68,660
Undistributed						
320 REDUCTION						
20 ACROSS THE BOARD 1% REDUCTION					-2,084	
			-----	-----	-----	-----
Total Appn - Family Housing Construction, Army			32,782	20,400	-2,084	-68,660
Family Housing Operations & Debt, Army						
Operating expenses						
006 UNSPECIFIED WORLDWIDE LOCATIONSZU						
40 FURNISHINGS ACCOUNT					-5,000	
Maintenance of real property						
008 UNSPECIFIED WORLDWIDE LOCATIONSZU						
70 MAINTENANCE OF REAL PROPERTY					-11,820	
Undistributed						
320 REDUCTION						
20 ACROSS THE BOARD 1% REDUCTION					-13,637	
			-----	-----	-----	-----
Total Appn - Family Housing Operations & Debt, A					-30,457	

FY 1993  
Congressional Action on Appropriation Requests  
(Thousands of Dollars)

(1)	Adds by Both Chambers		Cuts by Both Chambers		Adds by Individ.chmbrs House Senate		Cuts by Individ.chmbrs House Senate	
	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
Family Housing Construction, Navy & Mari								
Construction of new housing								
005 ADAK NAVAL AIR STATION AK								
10 NEW CONSTRUCTION (46)			-11,820					
021 MILLER PARK HI						18,400		
10 FAMILY HOUSING (114)								
022 LYNCH PARK HI						7,000		
10 FAMILY HOUSING (42)								
023 MCAS KANE OHE HI						69,900		
10 FAMILY HOUSING (220)						26,900		
20 FAMILY HOUSING (80)						10,000		
30 SITE PREPARATION						106,800		
TOTAL								
024 MOANA LUA HI						11,800		
10 NEW CONSTRUCTION (100)								
026 PEARL CITY PENINSULA HI						30,000		
10 NEW CONSTRUCTION (132)								
027 NAVAL COMPLEX OAHU HI					11,820			
10 NEW CONSTRUCTION (100 UNITS)								
028 NAS BARBERS POINT HI						18,500		
10 NEW CONSTRUCTION (70)								
037 KITSAP COUNTY WA					19,500			
10 FAMILY HOUSING (200 UNITS)								
040 SUGAR GROVE NAVAL RADIO STATION WV								-930
10 NEW CONSTRUCTION (8)								
Total - Construction of new housing			-11,820		31,320	192,500		-930
Post-Acquisition Construction								
045 UNSPECIFIED WORLDWIDE LOCATIONS SZU								
10 CONSTRUCTION IMPROVEMENTS								-142,340
Undistributed								
320 REDUCTION								
20 ACROSS THE BOARD 1% REDUCTION								-3,396
Total Appn - Family Housing Construction, Navy &			-11,820		31,320	192,500		-4,326
-142,340								
Family Housing Operations & Debt, Navy &								
Maintenance of real property								
008 MAINTENANCE OF REAL PROPERTY								
70 MAINTENANCE OF REAL PROPERTY								-6,322

FY 1993  
 Congressional Action on Appropriation Requests  
 (Thousands of Dollars)

(1)	Additions and Cuts by Both Chambers		Additions and Cuts by Individual Chambers		Total Additions and Cuts	
	(2)	(3)	(4)	(5)	(6)	(7)
Undistributed						
320 REDUCTION						
20 ACROSS THE BOARD 1% REDUCTION					-6,899	
Total Appn - Family Housing Operations & Debt, N					-13,221	
Family Housing Construction, Air Force						
Construction of new housing						
005 BEALE AFB CA						
10 HOUSING OFFICE					-306	
010 MARCH AFB CA						
20 ADDITIONAL FUNDS FOR 320 HOUSING UNITS			13,000			
015 PATRICK AFB FL						
10 FAMILY HOUSING (250 UNITS)				6,500		
020 MOODY AFB GA						
10 HOUSING MAINTENANCE FACILITY					-290	
028 SCOTT AFB IL						
10 FAMILY HOUSING PHASE I (300)				20,000		
030 BARKSDALE AFB LA						
10 HOUSING MAINTENANCE & STORAGE FACILITY					-443	
035 CANNON AFB NM						
10 HOUSING OFFICE					-480	
040 MINOT AFB ND						
10 HOUSING MAINTENANCE & STORAGE FACILITY					-286	
045 SHAW AFB SC						
10 HOUSING OFFICE					-351	
Total - Construction of new housing			13,000	26,500	-2,156	
Post Acquisition Construction						
060 UNSPECIFIED WORLDWIDE LOCATIONSZU						
10 CONSTRUCTION IMPROVEMENTS						-86,824
Undistributed						
320 REDUCTION						
20 ACROSS THE BOARD 1% REDUCTION					-3,330	
Total Appn - Family Housing Construction, Air Fo			13,000	26,500	-5,486	-86,824
Family Housing Operations & Debt, AF						
Operating expenses						
006 UNSPECIFIED WORLDWIDE LOCATIONSZU						
40 FURNISHINGS ACCOUNT					-5,000	

FY 1993  
 Congressional Action on Appropriation Requests  
 (Thousands of Dollars)

(1)	Adds by Both	Cuts by Both	Adds by Individ.chmbrs		Cuts by Individ.chmbrs	
	Chambers	Chambers	House	Senate	House	Senate
	(2)	(3)	(4)	(5)	(6)	(7)
Maintenance of real property						
008 UNSPECIFIED WORLDWIDE LOCATIONSZU						
70 MAINTENANCE OF REAL PROPERTY					-9,347	
Undistributed						
320 REDUCTION						
20 ACROSS THE BOARD 1% REDUCTION					-9,279	
Total Appn - Family Housing Operations & Debt, A					-23,626	
Family Housing Operations & Debt, Defens						
Undistributed						
320 REDUCTION						
20 ACROSS THE BOARD 1% REDUCTION					-284	
Total Appn - Family Housing Operations & Debt, D					-284	
Homeowners Asst Fund, Def.						
Undistributed						
320 REDUCTION						
20 ACROSS THE BOARD 1% REDUCTION					-1,330	
Total Appn - Homeowners Asst Fund, Def.					-1,330	
TOTAL - FAMILY HOUSING		-11,820	77,102	239,400	-80,814	-297,824

FY 1993  
Congressional Action on Appropriation Requests  
(Thousands of Dollars)

(1)	Adds by Both Chambers		Cuts by Both Chambers		Adds by Individ.chmbrs House		Cuts by Individ.chmbrs Senate	
	(2)	(3)	(4)	(5)	(6)	(7)		
Department of the Army	71,327	-694,688	293,085	210,854	-60,781	-169,760		
Department of the Navy	51,287	-601,488	108,790	225,890	-31,357	-159,940		
Department of the Air Force	54,100	-571,444	178,739	262,900	-68,994	-169,184		
Defense Agencies/OSD	0	-313,762	52,450	122,690	-187,981	-280,500		
Defense-Wide	0	0	0	0	0	0		
<b>Total - MilCon Appropriation</b>	<b>176,714</b>	<b>-2,181,382</b>	<b>633,064</b>	<b>822,334</b>	<b>-349,113</b>	<b>-779,384</b>		

HAC

Adds by both Chambers	176,714
Adds by HAC only	633,064
<b>Total HAC Adds</b>	<b>809,778</b>
Cuts by both Chambers	-2,181,382
Cuts by HAC only	-349,113
<b>Total HAC Cuts</b>	<b>-2,530,495</b>
<b>GRAND TOTAL HAC</b>	<b>-1,720,717</b>

SAC

Adds by both Chambers	176,714
Adds by SAC only	822,334
<b>Total SAC Adds</b>	<b>999,048</b>
Cuts by both Chambers	-2,181,382
Cuts by SAC only	-779,384
<b>Total SAC Cuts</b>	<b>-2,960,766</b>
<b>GRAND TOTAL SAC</b>	<b>-1,961,718</b>

CONFERENCE

Adds Cuts	
<b>Total</b>	

The PRESIDING OFFICER. The Senator's time has expired.

The Chair recognizes the Senator from Alaska.

Mr. STEVENS. I thank the Chair.

Mr. President, I shall attempt to answer some of the questions of the Senator from Arizona at the end of my remarks.

Mr. President, in 1988, as we reviewed the defense plan for 5 years, we saw that the year we are dealing with in this bill, 1993, would have requested somewhat in excess of \$350 billion for defense. This bill is slightly over \$250 billion for defense. If we really look at it, the end of the cold war has brought about a reduction in the planned expenditures for the Department of Defense of over \$100 billion. I think there are some Members of this body who have come to the floor and suggest that the priorities of the Bush administration are mired in the past, "with a cold war mentality" I think someone said.

Mr. President, I join the distinguished chairman of the Defense Appropriations Subcommittee, Senator INOUE, in recommending passage of this conference report to the Senate. He has discussed many of the details and programs contained in this report, and I will not take the Senate's time on this busy day to repeat his account.

I do wish to explain to the Senate why I believe this is an important bill, and one which every Member can support as a significant step in the continued downsizing of our military establishment. I will state at the outset that I remain concerned we may be lowering our defense program at too fast a rate, and losing some capabilities that will be very difficult to replace quickly in time of need. I do share the fervent commitment of the chairman that at whatever rate we cut defense, we do so in a manner that does not repeat the mistakes of previous postwar drawdowns.

Some Members have come to the floor of this body and suggested that the defense priorities of this administration are mired in the past, with a cold war mentality. I think it might be useful to look at the changes we have witnessed during the 4 years of the first Bush administration.

When this President took office in January 1989, the world was a very different place. Hardline Communists held power in Moscow, in Prague, and in Berlin. We saw some hope for change, the result of the 8 years of the Reagan-Bush administration, but the full fruits of that national commitment to reject and turn back communism had yet to be realized.

This President, aided by Secretary of Defense Dick Cheney, Chairman of the Joint Chiefs Colin Powell, and Secretary of State Jim Baker labored to advance the gains made during the Reagan-Bush years, and truly change

the world. A key to accomplishing that change was the maintenance of our military strength.

Even while working to bring to a close the chapter of Communist totalitarianism that had so dominated world affairs in the second half of the 20th century, this administration was already looking to the future. In August of 1990, not even 1 year after the fall of the Berlin Wall, and before the coup attempt in Moscow that was the dying gasp of the old guard in the Politburo, this administration came forward with a blueprint for the future of our military.

The new priorities announced in the President's speech in Aspen, CO, and the base force plan presented by Gen. Colin Powell provide a framework for a U.S. military force that can address the challenges of the next century. Within that plan was a drawdown in defense spending unparalleled since the end of the Second World War. The President, Secretary Cheney, and General Powell asked one thing of us, the Congress, in presenting this plan. That we afford them the time and flexibility to not repeat the mistakes of the past, and to take care of our people.

Mr. President, I am most proud that this bill fulfills the request they made of us, and I am grateful to the chairman for his unflagging determination that we not be distracted from this task.

Let me say parenthetically, Mr. President, I do not think I have ever had the privilege to work with so great a gentleman as the Senator from Hawaii. He is not only the chairman of this subcommittee that I had the honor to chair for 6 years, and he now has chaired it for 6 years, but we have worked together as a team without regard to partisan differences. We have none in the operation of this subcommittee. But we have had the privilege of working with the gentleman from Pennsylvania [Mr. MURTHA], and the gentleman from Pennsylvania [Mr. MCDADE]. And I call attention to the fact Senator INOUE, a distinguished Army veteran; Mr. MURTHA, a distinguished Marine veteran; Mr. MCDADE, a veteran of the Navy, equally distinguished, and I had the privilege and honor of being in the Air Force, the four of us really have worked as a team in trying to work out the difficult problems of the authorization-appropriations process, and I do believe that this bill will show that that work has been successful.

In this bill we have sustained the rate of drawdown for active component military requested by DOD. We have continued the necessary separation benefits to avoid involuntary RIFs and cutbacks against the dedicated men and women who serve in the military. We have worked to mitigate the impact on the civilian workers at the Department of Defense, by funding addi-

tional conversion and transition benefits to recognize their needs and dedicated service to our country.

This bill does make deep cuts in defense procurement, slashing the total for acquisition by more than \$9 billion from the level appropriated for 1992. The bill continues reductions in key R&D efforts, cutting more than \$1.2 billion from the level approved by the Congress for 1992. Even that figure is deceiving, because many of the high-technology defense conversion initiatives are funded within the R&D appropriations—the real cut against purely defense priorities amounts to almost another billion dollars from the 1992 level.

For 1993 and the coming years, we will face many more defense program terminations. This year we have ended production of the B-2 bomber, the *Seawolf* submarine, the F-15 fighter, the advanced cruise missile, the Apache Helicopter, and new production of the M1-A2 tank. Instead, we see coming initiatives to upgrade and modernize existing military equipment, such as the conversion of older tanks to the M1-A2 configuration. We cannot permit the defense industrial base to simply wither away, while expecting that capability to remain for the future. I commend the chairman and the committee for its work in these areas, which I know mean so much to the men and women who produce the equipment vital to our military forces.

The extraordinary capabilities that exist in the Department of Defense are directed in this bill to many of the challenges facing this Nation, that have not traditionally been the primary mission of our military forces. We include in this bill over \$1 billion for the military's role in the war on drugs. The leadership of the Army's Walter Reed research facilities will again be tapped to fight AIDS, prostate cancer, and in an initiative which this body established by an overwhelming bipartisan vote, harness the expertise of the military research community to fight breast cancer. Senator SPECTER, and Senator D'AMATO, particularly Senator HARKIN—it was his initiative—deserve special praise for this effort, and I commend the chairman for his work in maintaining the commitments that we made to the Senate with regard to military research to fight breast cancer.

Mr. President, this bill in total is nearly \$8 billion less than the amount requested by the President for 1993, and is less than the total amount authorized for defense in the armed services conference report that passed the Senate on Saturday. Again this year, the committee did not have the results of the armed services conference until after work had been completed on this bill. He did work to track as closely as possible with the product of the authorization conference, and on all

major defense items, I believe this bill comports with the Authorization Act. Because that bill was not available to us in a completed form, there may be some small discrepancies, but under the guidance of the chairman of the committee, the President pro tempore, we have worked to reflect the key policy issue resolved in their bill.

Mr. President, despite the looming presence of the upcoming election, which has increasingly affected the work of this body, I believe this bill represents the partisan work of both the Senate and House Appropriations Committees. Political posturing had no place in our conference sessions, only the best interests of the men and women who serve our Nation in the military, and the concerns and interests of the Members of this body who have worked with us to present this bill to the floor.

I appreciate the consideration and courtesies extended by the Senator from Hawaii to me, and the other Republican members of the committee and the Senate. We worked together to accommodate the interests of all Senators, and this bill is a fair compromise of all the competing demands that were placed on the committee.

Mr. President, I again wish to recommend this bill to all Members of the Senate, and I urge the speedy adoption of this conference report.

Mr. President, let me turn now just briefly to the comments made by the Senator from Arizona. It is difficult for us in the appropriations process to track the authorization process. I point out that we received a copy of the defense authorization bill on Sunday. I saw it for the first time this morning. We through our staffers tried to keep in touch with what was going on.

For instance, the National Guard aircraft that the Senator from Arizona mentioned in his first point, those aircraft were authorized in the Senate version of the authorization bill but dropped in the conference just prior to the time they wound up but we had already decided to fund the Senate version of the authorization bill. This causes a difficulty.

Incidentally, I agree with the National Guard aircraft acquisition. I agreed with them in the Senate, and I continue to support it now.

The Senator from Arizona mentioned the National Security Education Trust Fund which was authorized by the Intelligence Committee Authorization Act. It is not funded in this bill. We dropped it in conference.

The Senator mentioned the problem of the university grants, the university awards. We reached a compromise which I think is sensible. Those initiated in the House are governed by the House authorization and House procedures that were sought by Members of the House. The Senate set for this subcommittee a new peer review process,

and a process of competition. We have made those provisions still apply to these university grants and matters for the universities initiated by the Senate.

The disaster relief measure for the fisheries grant that was mentioned by the Senator from Arizona was also authorized by an amendment adopted by the Senate on the floor.

As far as the nuclear waste provision, it was one that I sponsored. Mr. Gates from CIA was in Alaska and testified concerning the problem of an increased evidence that Soviets have disposed of nuclear waste in the Arctic in a manner that may well contaminate the Arctic and the North Pacific. So this funding, incidentally, was authorized through the authorization process.

I could continue through with regard to comments about the night vision, the M-1 tank upgrade. All of those were in the authorization bill that passed here Saturday without debate and without comment.

I respect my friend for disagreeing with some of those provisions. But this year we have tried to track the military funding through the authorization process. We tried to avoid controversy, and we have received some criticism because we did track the authorization process apparently.

I believe this bill represents a bipartisan work of both the Senate and House appropriations committees. As I pointed out, although we are partisans, and I certainly defend the Bush administration for the planning it has done, and their bill funds, I think the Senate should realize that political posturing had no place in our conference. We had long sessions. And I join my colleague from Hawaii in commending the staff. The staff has been not only extremely diligent but they have worked much longer hours than the Members did, and we thought we had long sessions.

There is no question. This is a very dedicated staff. They all have been listed by the Senator from Hawaii, and I join in commending them and appreciate the work of my good friend, and associate here, Mr. Cortese.

Mr. President, in closing, the only thing I would say is I did not intend to make this long statement this year. But I do think that under the circumstances the comments were raised concerning the bill, and it is necessary for us to point out that we have in this bill to the best extent, the greatest extent possible, and more so than any year that I have been working on the Defense Appropriations Subcommittee, keyed our efforts to those in the authorization process.

I find it interesting that some of the comments that we have received that are critical come from those who worked on that bill. But I believe this bill is a fair compromise of all the competing demands placed on the committee, and placed on us in terms of de-

mands for assistance. I would point out that of the \$254 billion a considerable portion of it represents the transition from our cold war status. It represents the moneys that are necessary for the conversion of our industrial base, for assistance to our military, to our uniformed and our civilians who are working with both the industry and the Department of Defense.

Mr. President, if I have any time left, I yield the remainder of my time.

Mr. BOND. Mr. President, I rise today to address a provision of the fiscal 1993 Defense authorization bill affecting the private sector defense industrial base. This provision singles out a specific depot for an increase in Army aviation maintenance and repair work that heretofore was performed by private sector firms. The provision not only increases the level of this work for the coming fiscal year, but calls for additional increases in the work to be sent to this Government facility in each of the two succeeding fiscal years.

I have several concerns with this provision, Mr. President. First, it pulls more work away from the defense industry which is already suffering from the decrease in defense spending; a situation which is likely to get worse in the coming years.

Second, this provision targets a single Government facility, not on the basis of what is most cost effective or in the best interest of defense preparedness, but purely on the basis of the political leverage of the Member in whose district the depot facility resides.

Third and finally, this provision reflects a preference for the assignment of defense maintenance and repair work to public sector facilities instead of to private sector firms which are the keystone of our free enterprise system and the backbone of our economy.

The Department of Defense has vigorously opposed restrictions and special targeting in proposals such as this provision, and I think properly so.

There is no question that defense spending will decline in the coming years, and it should in light of the dramatically changing nature of the global threats we face as a nation. I believe that even most defense contractors agree with this and are taking their fair share of the reductions. But they should not experience an inordinate share of the lost business opportunities due to the shift of business to public sector facilities in order to needlessly support or maintain public sector jobs. This is not fair, it is not right and it is not in the Government's best interest.

In my view, Mr. President, except for those core capabilities that Government must retain as its own, the presumption should be that defense related maintenance support work be performed by private firms after full and open competition. This is a cost-effective way of sustaining the private sector defense industrial base during this

period of defense downsizing. If we are to have the defense base to rely on when we need it in the future in terms of technological and production capability we must shift the support work at issue to private firms during the current downturn in defense spending.

I believe the Senate Armed Services Committee and its Readiness Subcommittee share this view. Moreover, the proposal seems to contradict the policy direction taken in the extensive report on the defense industrial base issued by the House Armed Services Committee earlier this year, as well as the thrust of both the Republican and Democratic Defense Industrial Base Task Forces. The provision in the conference agreement we consider today moves us in a direction contrary to that suggested by all of these efforts, further placing at risk the defense industrial base.

While it is too late to amend this provision of the conference report before us, I want to state my opposition to it and that I will remain vigilant in the new Congress and oppose sweeping proposals of this nature. This is not the legislation we need to help transition to a smaller defense structure or ensure the health of the private sector defense industrial base.

Mr. COCHRAN. Mr. President, this conference report provides \$305 million to initiate the purchase of an LHD-1 class amphibious assault ship. As I understand it, the total amount of \$1.205 billion is estimated to be required to complete the purchase. In the bill, the Secretary of the Navy is authorized to contract on an incremental basis for the purchase of this ship. Is my understanding consistent with the intent of the bill managers that this will enable the Navy Secretary to exercise the existing option that expires on December 31, 1992, and contract for the purchase of the ship with funds that are provided in this bill and that will be requested in next year's budget, or later, as may be required to meet the construction schedule under the contract if the Secretary exercises this authority?

Mr. INOUE. I thank the senior Senator from Mississippi for raising this issue so that it can be clarified. The language in the bill is intended to permit the option to be exercised before the end of this calendar year, which will result in significant savings to the Navy over a later procurement. This will protect the option price and scheduled delivery of the ship. The language enables the contract price to be funded in increments over the period of the scheduled construction. That is the express intent of the conferees.

Mr. COCHRAN. For further clarification, as I understand the meaning of this, if the Secretary of the Navy exercises this authority, it would be under the tacit assumption that the Administration will request the remaining \$900 million at some time in the future. Is this correct?

Mr. STEVENS. The Senator's understanding is correct. The Navy could either fully fund the remainder, or fund that amount which would allow the construction to remain uninterrupted and on schedule. That last is critical. While it appears that the total required funds have not been provided for this ship, this approach was taken by the conferees to enable the Navy to comply with the terms of the existing contract option, both as to price and schedule, and to obtain the funds, incrementally over time as needed to satisfy the terms of the construction contract.

Mr. COCHRAN. I thank both managers. I appreciate the Senator's efforts on this bill in general, and on the LHD in particular, and I thank him for helping me to clarify this matter for the RECORD.

Mr. DOMENICI. Mr. President, I rise in support of the conference report to accompany H.R. 5504, the Department of Defense appropriations bill for fiscal year 1993.

This bill provides \$253.8 billion in budget authority and \$166.0 billion in new outlays for the Department of Defense in fiscal year 1993. When outlays from prior-year budget authority are taken into account the bill provides a total of \$264.9 billion in outlays in 1993.

These totals are \$7.5 billion in budget authority and \$6.8 billion in outlays below the President's request for defense discretionary spending.

While the chairman and ranking member have worked very hard on this bill I question whether the overall total will be acceptable to the administration.

Nonetheless, I expect it is the best we can do given the time constraints we face.

I do note that the final outcome is below the subcommittee's 602(b) allocation, and that the resulting reductions in spending will go toward reducing the deficit as required in the 1990 bipartisan budget agreement.

I greatly appreciate the consideration the distinguished chairman and ranking member have given to several important defense matters that I raised with the subcommittee, and for the courtesies they have extended to me and my staff.

Given the short time remaining in this congressional session, I urge my colleagues to adopt this conference report.

Mr. BINGAMAN. Mr. President, I want to commend the chairman of the Defense Appropriations Subcommittee, the Senator from Hawaii, for his effort in conference to keep the defense conversion initiative in the appropriations bill consistent with the authorization bill. In particular, I appreciate his retaining the programs which were included in the amendment Senator PRYOR and I offered on September 22.

I had a great interest in the technology and industry provisions in the

conversion package, which total \$575 million in the appropriations bill. I also note that, as the Senator from Hawaii committed when this bill was debated in the Senate September 22, the conference committee has fully funded at the authorized level a series of ongoing industry-driven technology programs, namely Sematech, high resolution displays, advanced lithography, multichip modules, and high performance computing. I know these are all programs which the Senator from Hawaii strongly supports and I look forward to his support in future years.

Mr. President, I note that the appropriations conference report in its discussion of the technology component of the conversion initiative makes several suggestions as to how money within these programs might be spent. The authorization bill, H.R. 5006, which we adopted on Saturday, requires cost-sharing from industry and/or the states and use of competitive procedures in each of the programs in question: the dual-use technology partnerships, the commercial-military integration partnerships, the Defense Manufacturing Extension Program, the Regional Technology Alliance Program, and the Dual-Use Extension Program.

Mr. President, the projects mentioned in the appropriations conference report may be very worthy ones. But my view is that they need to compete on an equal basis with other projects which will be submitted to the Department of Defense to implement these programs and they will need to meet the statutory cost-sharing requirements even to be considered. Frankly, many other projects were brought to the attention of the Armed Services Committee during our development of these programs. Our decision was to put in place fair and equitable procedures under which all of these ideas could be considered by the Department of Defense. I am grateful that the appropriations conferees have supported the principle that these conversion programs should be implemented on the basis of merit and that cost-sharing should be required.

Mr. President, let me conclude by again commending the Senator from Hawaii for his tremendous assistance in getting all of the authorization initiatives funded, in all but one case at the full authorization level. I believe that in the authorization and appropriations bills we have truly taken an enormous step toward helping reorient defense-dependent firms, especially small firms at the lower tiers, toward the commercial marketplace. We have put teeth in the notion of commercial-military integration in our Defense R&D enterprise. As the Senator from Hawaii knows, I have been urging the approach we are adopting here tonight for several years. I am grateful to the chairman as I finally see these ideas reach fruition and I look forward to his

help in insuring the conversion technologies programs are vigorously implemented by the Department of Defense.

Mr. DOLE. Mr. President, I want to take just a few minutes to commend the managers of this important bill, Senator INOUE and Senator STEVENS, for their hard work and sustained commitment to a strong national defense. I believe that through their efforts, we have struck the right balance.

As we draw down our force structure—in a world that appears more peaceful—Senators INOUE and STEVENS have interjected the right amount of caution. This bill recognizes that the world remains a dangerous place and protects our ability to respond to any contingency.

Tough compromises have been struck on SDI, the B-2 bomber, manpower, armor modernization, and a myriad of controversial issues. Throughout the process, the managers have stood steadfast to their commitment to a strong America. This has not been easy.

Many of my colleagues have sought to gut our national defenses. They would burn down rather than build down our force structure. This might be politically popular, but it would surely result in disaster. There is no question that deeper cuts demanded by some would cost an estimated 2 million jobs—at a time when our economy is already weak. But the real danger would be to our future security. Returning to a hollow army, as the demands to slash more would cause, means that America might, once again, find itself unable to defend our vital interests. The lessons of history on this matter are written in blood—weakness begs aggression and war. So I commend senators INOUE and STEVENS for their prudent approach.

Let me also extend a special thank you to Steve Cortese, Jim Morhard, and the other staff members for their tireless effort on this important bill. Their dedication and commitment have made a difference. The Senate and the Nation owes each of you a debt of gratitude.

Also, I wish to thank the managers for their strong bipartisan support for a number of programs important to our national security and to Kansas. The Congress has, once again, joined me in giving Kansas manufacturers a strong vote of confidence for their quality and value.

The KC-135R tanker program of Boeing Wichita—the C-12 and T-1A Jayhawk by Beechcraft—Cessna's T-47—the P-180D by Piaggio—the sensor fused weapon—and the combined effects munition assembled in Parsons—major assemblies for the M1A2 main battle tank from Atchison Castings—and scores of other Kansas subcontractors who received a strong vote of confidence in this bill are proud of their contribution to our security and proud

of the value they give the taxpayer. I thank Senators INOUE and STEVENS for their support for my requests on behalf of these programs and for their recognition of Kansas quality and value.

Let me also extend my appreciation to the managers for the bipartisan endorsement for my requests to modernize the Kansas National Guard. By adding funds for modern communications equipment, a state-of-the-art fire arms training simulator, and for the Blackhawk helicopters, they have greatly assisted my efforts to see that the Kansas guard is able to meet its mission and sustain its proud history and service to Kansas and to the Nation. Without these additional funds, many of these upgrades would come way down the road or not at all.

Lastly, let me thank my colleagues for their overwhelming support for my armament retooling and manufacturing initiative so generously supported in this bill. The arms initiative will break new ground in defense conversion, keeping jobs in communities like Parsons, KS. This innovative program will provide loan guarantees, grants, and other incentives that will begin the transition of excess ammunition plants once slated for closure, to vibrant commercial operations. Converting from the load, assembly, and pack of tank rounds to the load, assembly and pack of automobile airbags is just one example of the possibilities of this initiative. As my colleagues know, I have been working this project for over a year. I am gratified by the strong support and funding provided by this bill. We can build our defenses down without callously displacing workers and their families if we apply new thinking and innovative approaches such as these.

Again, I thank the managers for their hard work, for their dedication, and for their support and vote of confidence they have extended to Kansas.

The PRESIDING OFFICER. The only time remaining is that of the Senator from Hawaii.

Mr. INOUE. Mr. President, I yield the remainder of my time. I urge that the Senate adopt the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. INOUE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL addressed the Chair. The PRESIDING OFFICER. The Chair recognizes the majority leader.

Mr. MITCHELL. Mr. President, I commend the Senators from Hawaii and Alaska for their diligence and perseverance in the adoption of this conference report.

And I am pleased to advise the Senate that this completes action on all 13 of the appropriations bills for this year. We have been advised that they will be signed.

I thank all of my colleagues for their cooperation in making this possible.

#### MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak therein. And I will have an announcement regarding the schedule for the remainder of the evening in the very near future.

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

#### THE BRADY BILL

Mr. LAUTENBERG. Mr. President, I rise in strong support of the Brady bill, to require a waiting period for handgun purchases. This is a vitally important and entirely reasonable bill. It is not a cure-all, nothing is. But it will make a real difference in the fight against violent crime.

Mr. President, waiting periods can reduce violence in two primary ways. First, they help prevent the purchase of guns by people acting in the heat of passion or in the depths of depression. That is important, because so many crimes are caused by a temporary loss of emotional control. A cooling-off period can make an enormous difference.

In addition, Mr. President, the Brady bill can help ensure that handguns are kept away from convicted felons, and others who, in general, are prohibited from possessing firearms. In New Jersey, a similar law has helped stop more than 10,000 convicted felons from buying handguns. Unfortunately, the effectiveness of New Jersey's law is undermined if criminals can go into other States, buy a carload of handguns, and bring them back to New Jersey. That is one reason why Federal legislation is so important.

As I see it, Mr. President, the bottom line is this. The Brady bill will save lives. A lot of lives.

Mr. President, it is not every day that we can save human lives at so little cost. If we fail to do so, make no mistake about it: the blood of many innocent Americans will be on our hands.

Mr. President, the reluctance of President Bush and many of my colleagues to support the Brady bill is particularly disturbing when one considers that this proposal enjoys overwhelming public support. And that includes the support of many legitimate firearm owners. Even former President Reagan supports this bill, and strongly.

Mr. President, as important as the Brady bill is, we need to do even more to reduce gun-related crime. For example, we should promptly close loopholes in the law that are allowing convicted felons to own guns.

Many of my colleagues may be shocked to know that taxpayers have

been paying over \$4 million annually so that even violent felons can legally get access to firearms. It is a perverse situation that would be corrected under legislation Senator SIMON and I have introduced, the Stop Arming Felons Act, S. 2304.

Mr. President, this Nation is facing an epidemic of gun violence. It is a national tragedy.

Consider these figures.

In 1990, handguns killed 22 people in Great Britain; 13 in Sweden; 87 in Japan; 10 in Australia; 68 in Canada; and 10,567 in the United States.

Mr. President, that is more than tragic. It is sick. Handgun violence is a deadly cancer in our society. And the longer we let that cancer spread, the more innocent Americans will die.

Handgun violence is a central part of a larger problem of crime in our society. On average, there is a violent crime in America every 17 seconds. There is one murder every 21 seconds, a forcible rape every 5 minutes, and a robbery every 46 seconds.

The problem of violent crime infects every region of our country, and all social and economic groups. Fear pervades our inner cities, our suburbs and even many of our rural areas. It is a national disgrace, and addressing it must be a top national priority.

Mr. President, there are other steps to take to fight crime. We need to get tougher with criminals. Those who violate basic social norms must be held accountable for their actions, and pay a severe price for their behavior. Too many criminals today are escaping meaningful punishment, even after they're convicted. That has to change.

We also need to provide additional support to the law enforcement community, particularly at the local and State levels. In 1950, the Nation had more than three police officers to respond to every one violent crime committed. In 1990, the Nation had fewer than one police officer for every three violent crimes. This trend must be reversed.

We also have to do more to prevent crime from happening in the first place. By getting citizens involved, educating them about ways to prevent crime, and devising new and innovative methods of deterring criminals, we can make an enormous difference.

We also need to crack down on assault weapons. These weapons of war are designed primarily to kill human beings. And they are good at it. They should be banned outright. In fact, I am proud to note that my State of New Jersey has been a leader in this area, and has enacted a prohibition on assault weapons.

In sum, Mr. President, firearm violence has reached epidemic proportions. And we have a responsibility to the victims and prospective victims to take all reasonable steps to keep this violence to a minimum. I strongly urge

my colleagues to support the Brady bill.

It is a matter of life and death, Mr. President. Nothing less.

TRIBUTE TO CHARLES B. SAUNDERS, JR.

Mr. KENNEDY. Mr. President, I would like to take this opportunity to pay tribute upon his retirement to a man who, for the past 35 years, has embodied the highest standard in service to the public interest. Charles B. Saunders, Jr. retired at the end of August as Senior Vice President and Director of Governmental Relations at the American Council on Education, the umbrella organization that represents the Nation's colleges and universities here in Washington, DC. During his distinguished career, Mr. Saunders, or Charlie, as he is known to everyone, left an indelible mark on this Nation's system of higher education, and on the programs of Federal aid on which millions of students depend to pursue their educational objectives.

Charlie Saunders' career has a long and close association with education. A native of Boston in my home State of Massachusetts and a graduate of St. Mark's School in Southboro, Charlie graduated from Princeton University in 1950. Charlie was a promising athlete and had a tryout with the Boston Red Sox. An injury forced him to give up that career, but it led him in another direction, a direction that would have a great deal to do with expanding access to education. Charlie first came to Washington in 1957 as a Legislative Assistant to the late Senator H. Alexander Smith of New Jersey.

Since then he has served in a number of crucial positions that enhanced education for all Americans including various positions at the Department of Health, Education, and Welfare. While at the Department of HEW he played a central role in developing the Elementary and Secondary Education Amendments of 1970, the Emergency School Aid Act of 1972, and the Higher Education Amendments of 1972. In 1973, Charlie served for 7 months as acting Assistant Secretary of Education, and then as principal deputy to Assistant Secretary Virginia Y. Trotter. From 1971 to 1975, he was acting chairman of the Federal Interagency Committee on Education, and the principal Federal representative with the Education Commission of the States.

Charlie joined the American Council on Education in 1975, and between then and now represented the views and concerns of higher education to the Congress and the Executive Branch. During the last 18 years, he served on various other commissions and chairmanships including the Committee for Education Funding, Coalition for Coordination of Student Financial Aid, Veterans Administration's Advisory Committee on Education and Rehabilitation, and the National Advisory Commission on Higher Education for Police Officers

Charlie Saunders' selfless service on behalf of the Nation's youth has extended well beyond his paid employment. From 1966 to 1970, he was an elected member of the Montgomery County, MD, Board of Education, and he was a member of the first independent board of trustees of Montgomery Junior College serving in 1969 and 1970. He recently was appointed by Governor William Donald Schaefer to a second four-year term on the Maryland Higher Education Commission—so his service on behalf of higher education will continue even after he retires.

Among the numerous honors Charlie has received are leadership awards from the Association of Community College Trustees, the National Association of Student Financial Aid Administrators, and the National Association for Equal Opportunity in Higher Education. In 1972, he received the Service Award of the National Association of State Boards of Education, for distinguished service to public education.

Mr. President, it has been my privilege and pleasure to work with Charlie Saunders over the years on many issues that have come before the Committee on Labor and Human Resources. He enjoys a well deserved reputation for absolute honesty and unimpeachable integrity. His encyclopedic knowledge of higher education legislation and the legislative history surrounding it have made him an invaluable resource and a formidable proponent of educational opportunity. He has been passionate in his conviction that the Federal Government should help guarantee access to higher education for all qualified students and their ability to choose the institution that best suits their needs and interests. He will be sorely missed.

Too rarely do we honor those who, laboring out of the public spotlight, attend to the important work of making our Government more effective and our society more equitable. For this reason, it was gratifying to see the Washington Post run a long and laudatory profile of Charlie Saunders on the occasion of his retirement. With your permission, Mr. President, I ask unanimous consent that the article be printed in the CONGRESSIONAL RECORD.

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

[From the Washington Post, Aug. 11, 1992]

CLOSING A CAREER OF "MAKING A DIFFERENCE" FOR COLLEGES

(By Mary Jordan)

He's the guy in the bow tie, the gentleman crusader on Capitol Hill.

Charles B. Saunders Jr., the dean of higher education lobbyists, next week concludes a career that is a story of the anonymous powerhouses in Washington who change American life.

"He has had a great influence on education opportunity and education equality," said Thomas Wolanin, staff director of the House Education and Labor subcommittee on post-secondary education.

For the past three decades, Saunders has been at or near the negotiating table for virtually every major piece of legislation concerning college students. He retires a month after President Bush signed the 1992 Higher Education Amendments, which authorize more than \$100 billion over the next five years for student aid and college programs.

Saunders, 63, can recite that book-size bill item by item. As each line was haggled over, he was in the hallways of the Hill. Sometimes he wore white shoes and a straw hat. Always, it seemed, he had the air of an English patrician out for an afternoon stroll.

"It's been rewarding," he said, sitting in his office of the last 18 years, the Dupont Circle headquarters of the American Council on Education (ACE). "I felt I was making a difference, helping higher education make its case to Congress."

As chief lobbyist for a group that represents 1,800 colleges and universities, much of Saunders' time has been spent persuading contentious factions—the private and public colleges, the Jesuit and Methodist, the historically black and brand new—to march in lock step.

A descendant of Pocahontas, the Indian princess who made peace between the English settlers and Native Americans, Saunders is said to have inherited her knack for consensus. (He even named one of his five children after Pocahontas's husband, English settler John Rolfe.)

"The ACE is sort of the United Nations of higher education and Charlie is the Dag Hammarskjöld," said William A. "Buddy" Blakey, partner in the education law firm of Clohan & Dean. "He gets them organized to express a unified position before Congress and the executive branch."

"We fall apart quite easily into special interest groups," acknowledged Robert Atwell, ACE president. Saunders, he said, is a master at uniting the education community to magnify its voice.

"There are very few people in Washington who do what Charlie does and who have the moral compass, absolute integrity, that he does," said Atwell. "Here's a guy who doesn't even gossip."

"He's a Princetonian, reserved, right out of the '50s," Atwell added—though sometimes, he said Saunders dresses as they did in the '40s.

When Saunders first arrived in Washington, he was not long out of Princeton, and had spent a few years covering education for two small New England newspapers. In 1957, he landed his first job in the capital, as an aide to then-Sen. H. Alexander Smith (R-N.J.).

Immediately, he dived into the area that would be his mission for the next 35 years. Sputnik had just been launched, and he and others were corralled into drafting the legislation that was America's response: the National Defense Education Act of 1958. That bill, for the first time, made the federal government—not just state governments—responsible for funding education. Basically, Saunders has been arguing ever since that the federal government owes even more when it comes to education.

"I think one of the biggest problems [in higher education] is still the funding of student aid," he said, surrounded in his office by volumes of congressional bills and budget books, some dating back decades.

"I was lucky," Saunders explained. "I went to college because I got a scholarship and I always thought everybody should have the same opportunity."

One of the endangered Washington species known as liberal Republicans, Saunders held

a variety of education jobs before assuming his post at ACE, including acting assistant secretary of health, education and welfare under President Richard M. Nixon. In the tumultuous 1960s, he was elected to the Montgomery County School Board, arguing against dress codes and for underground newspapers.

Bob Hochstein, assistant to the president of the Carnegie Foundation for the Advancement of Teaching, said part of the reason Saunders is so well-respected on both sides of the political aisle is he has never been an extremist. "Charlie is the top-flight professional who was always above politics," he said.

Elliot L. Richardson, who was secretary of health, education and welfare in 1971 when Saunders worked there, agreed: "Charlie came across as straight, direct. He wouldn't try to con you."

Blakey said he argued often with Saunders because he did not believe ACE was "pushing hard enough" in behalf of historically black colleges or minorities. "We have had some god-awful dogfights," Blakey said. "But he's always been straight, always been honest."

The son of a poorly paid New England preparatory school teacher, Saunders was accepted to Harvard, Yale and Princeton after graduating from St. Mark's school in Southboro, Mass. He chose Princeton because it wasn't in a big city or too near his Boston home.

At 17, the red-hot high school pitcher won a tryout with the Boston Red Sox, but an injury cast aside his dreams of the major leagues.

He thought about teaching, as his father and uncle had done, but said he never had the patience. Instead, he chose a different path in education. Looking back now, he recalls the bigger moments: working for the passage of Pell grants, which give college money to low-income students; writing the Emergency School Aid bill under Nixon to give millions to southern schools that were desegregating; and flying around the country after Congress passed the Title IX amendment in 1972 that prohibited discrimination against women, even in sports. "Some high school administrators were very upset," he recalled of the trip to inform officials of the law. "Of course, it turned out to be a great thing."

"Charlie is synonymous with education," said Blakey. "He's to education what Tom Landry was to the Cowboys."

In all his time in Washington, Saunders said, the biggest disappointment was the Reagan years.

"The Nixon administration had a very strong education program. It was the Reagan administration that derailed a long bipartisan history of support for federal aid in education," he said. It also decimated federal funding for schools and led to an exodus of good people from government, he said.

Saunders said that Bush dashed early hopes that he would follow through on his promise to be the "education president." Saunders said all he's seen is "rhetoric, lip service."

He said he wants more details of Democratic presidential nominee Bill Clinton's plans, but believes that the governor already "demonstrated his commitment to education" in Arkansas.

Now at the end of 35 years of work in Washington, Saunders is retiring from negotiating and numbers crunching to tennis and travel.

"It wasn't as if I was intending to devote my life to education," he said. "It's just the way it worked out."

Mr. KENNEDY. Mr. President, permit me one final observation on this occasion. Some who enjoy success in this world try to pull the ladder of opportunity up behind them. Others reach back and lend a helping hand so that more may follow. In his career, Charlie Saunders helped build thousands of ladders up which millions of Americans have climbed to a better life. We are a better Nation for his efforts. I ask all my colleagues to join me in wishing him and his wife, Marnie, both dedicated bird watchers, a long, happy and healthy retirement.

#### GOVERNOR CLINTON SETS FORTH HIS VISION FOR "AMERICAN FOREIGN POLICY AND THE DEMOCRATIC IDEAL"

Mr. PELL. Mr. President, on October 1, in Milwaukee, Gov. Bill Clinton spoke eloquently about the need to restore the democratic ideal to its proper place at the center of American foreign policy. He described this as "an idea that it is at the heart of this campaign, and at the center of my vision for the country and the world," and noted "A pro-democracy foreign policy is neither liberal nor conservative; neither Democrat nor Republican; it is a deep American tradition."

Governor Clinton rightly stated that "No American foreign policy can succeed if it neglects our domestic needs. And no American foreign policy can succeed if it slightes our commitment to democracy."

I ask that the full text of Governor Clinton's speech "American Foreign Policy and the Democratic Ideal" delivered October 1, 1992, at the Pabst Theater in Milwaukee, WI, be printed in the RECORD at this point.

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

#### AMERICAN FOREIGN POLICY AND THE DEMOCRATIC IDEAL

(Remarks by Gov. Bill Clinton)

Thank you very, very much. Thank you very much. I want to thank Carol Bauman and the Institute of World Affairs for hosting us here. I want to say how delighted I am to be in this magnificent theater and this wonderful city. I want to say a special word of thanks to the mayor of Milwaukee, John Norquist for this outstanding work to bring together representatives of all racial and ethnic groups, and to promote the preservation of the cultures of this great American city.

I also want to say a special word of homage to George Kennan, a native of this city, for the work that he did, and has done, over the entire 20th century to support freedom and democracy.

And finally, I would just like to thank all of you who have come here. I'm not exactly sure what the number is, but I am sure there are representatives of at least 35 different racial and ethnic groups in this audience today, representing not only the future of democracy in America, but the future of democracy in the world.

I want to talk about an idea that is at the heart of this campaign, and at the center of my vision for our country and the world, an idea that generations of people around the world have fought and died for, and lived by—an American idea called democracy.

I know we may have more immediate problems on our minds. But even at a time when America's needs here at home are crying for attention, we cannot forget that the person we elect to lead America will also be the protector of our interests, and the champions of our values around the world.

Democracy has always been our nation's perfecting impulse. It transformed us from a nation of slavery to a land of civil rights; from a land of male suffrage to a land of universal suffrage. And now it is transforming the entire world.

Many of you here in this audience have taken part in this democratic revolution. Your contributions to the nation have been matched by your devotion to the cause of freedom abroad. Here at home you have built schools, research institutions, and libraries that have preserved your cultures, your values, and your faith.

You have raised your children to be proud of their heritage. As the freedom movements in your homelands have gained strength, you have marched and organized. And as the voice of John Paul II gave that movement inspiration, so you gave your moral and your financial support to Solidarnosc in Poland. You helped keep RUKH alive in Ukraine, Sajudis in Lithuania, and the pro-democracy movement in China, as the freedom-loving people in each of those nations rose up to challenge communist orthodoxy.

You stood behind those in this hemisphere and in Africa who fought to gain and preserve their freedom. You have been stalwart in your support for our democratic ally, Israel.

Your passionate commitment to democracy has helped carry the torch of freedom both here and abroad.

Many factors contributed to the downfall of the Soviet empire. But the decisive blow was clearly delivered by the peoples imprisoned within it.

Some Americans, especially within this election season, are tempted to overstate their role in ending the Cold War. But still it would be wrong, and dangerous, for Americans to underestimate the part that our country did play in the victory that was won. It would be wrong, because there is still great work to be done.

The Cold War is won, but democracy's victory is far from assured. It could be dangerous, for the world is still full of perils and of nations that could easily drift toward violence.

If this work is left half-finished, then we, our children, and multitudes abroad who now stand at the threshold of a new life, will suffer a crushing disappointment, and live in a more dangerous world.

One of the reasons that I'm running for president is that I believe Americans must help see that this work continues. We cannot turn away now and rest on our laurels. Our national interests oblige us to join in building a just, enduring and ever-more democratic peace in the world.

This is not the first time that our nation, victorious in a foreign struggle, has faced such challenges. In the aftermath of World War I, Woodrow Wilson argued that we had to make the world a safer place, and that it should be made more democratic.

But the isolationists prevailed. And it took the leadership of Franklin Roosevelt, and

the sacrifices of the American people in the Second World War to protect the world's democracies from the aggression that followed from our isolationism after World War I.

After World War II, it fell to Harry Truman to shape a postwar world. He led in the creation of the United Nations, and aid to Greece and Turkey; in the Marshall Plan, and the policy of containment. And this time America joined behind a pro-democracy foreign policy.

Throughout the Cold War our nation's leaders carried on this tradition of supporting democracy around the world. From the gates of the Berlin Wall, John Kennedy reaffirmed America's commitment to liberty around the world. Senator Henry Jackson gave strength and hope to those seeking to escape tyranny behind the Iron Curtain. President Jimmy Carter challenged dictators of the left and the right when finally he put human rights on America's and the world's agenda.

But to be fair, Republicans also played a very important part in sustaining a bipartisan pro-democracy policy. From Senator Arthur Vandenberg, who was such a model of putting country ahead of party, that tradition spanned the decades after World War II, from President Eisenhower, who sustained the NATO alliance through some of the darkest days of the Cold War, to President Reagan who spoke out against communist aggression.

A pro-democracy foreign policy is neither liberal nor conservative; neither Democrat nor Republican; it is a deep American tradition.

And this is so for good reason. For no foreign policy can long succeed if it does not reflect the enduring values of the American people. We do not stand behind the cause of democracy simply because of the goodness of our hearts. The fact is, democracy abroad also protects our own concrete economic and security interests here at home.

Democratic countries do not go to war with one another. They don't sponsor terrorism, or threaten one another with weapons of mass destruction.

Precisely because they are more likely to respect civil liberties, property rights, and the rule of law within their own borders, democracies provide the best foundations on which to build international order. Democracies make more reliable partners in diplomacy and trade, and in protecting the global environment, something we must do more of in the years ahead.

It is no accident that in those countries where the environment has been most devastated, human suffering is the most severe; where there is freedom of expression and economic pursuit, there is also determination to use natural resources more wisely.

Our task then is to stand up for democracy as it remakes the world. That challenge will have its costs and its burdens. But it need not divert us from the pressing need for economic, educational and social reconstruction here at home.

Indeed, I have argued repeatedly from the beginning of this campaign that America cannot be strong abroad unless we rebuild our strength here at home.

As Admiral William Crowe, the chairman of the Joint Chiefs of Staff under Presidents Reagan and Bush, said recently, in endorsing my candidacy, the world needs a strong America, but American strength must begin here at home, facing our problems here at home, making progress on those problems here at home.

But we cannot choose between international engagement and domestic recon-

struction. They are two sides of the same coin. Our economy is increasingly tied to the global economy. Our access to energy supplies, export markets, new scientific developments, and even our ability to create a healthier planet, all of these things require our active engagement in the world.

And there are still other reasons why we cannot retreat to a fortress America. The collapse of Soviet communism has not only brought new democratic forces onto the world stage, it has also unleashed some darker undercurrents: civil war, ethnic hatred, intolerance, and the spread of dangerous military technologies. There is the risk that the pendulum could swing back against democracy, freedom and the hope for peace in many places in this world.

In the face of these opportunities and these dangers, we must have a President who can conduct both a domestic policy and a foreign policy.

Franklin Roosevelt fought the great depression, when 25 percent of our people were out of work, and in places like my home state, one-half the people were in abject poverty. But he fought the great depression and the rise of fascism at the same time.

Harry Truman carried out the fair deal at home, the GI bill, a new housing program, and economic reconstruction, and at the same time moved to contain communist aggression in Eastern Europe and Korea.

They would have laughed, these presidents, at the idea of conducting foreign affairs in the first term, and then switching to domestic affairs in the second.

In saying this, I do not in any way belittle President Bush's accomplishments abroad, from putting together the international coalition and war effort against Iraq, after Saddam Hussein invaded Kuwait, to his success in getting the Middle East peace talks moving. Indeed, I have supported those efforts.

But no American foreign policy can succeed if it neglects our domestic needs. And no American foreign policy can succeed if it shifts our commitment to democracy.

The president often takes a lot of credit for communism's downfall, but fails to recognize that the global democratic revolution actually gave freedom its birth. He simply does not seem at home in the mainstream pro-democracy tradition of American foreign policy. He shows little regard for the idea that we must have a principled and coherent American purpose in international affairs—something he calls "the vision thing."

Instead, President Bush seems too often to prefer a foreign policy that embraces stability at the expense of freedom; a foreign policy built more on personal relationships with foreign leaders than on consideration of how those leaders acquired and maintained their power.

It is almost as if this administration were nostalgic for a world of times past, when foreign policy was the exclusive preserve of a few aristocrats.

This approach to foreign policy is sometimes described as "power politics," to distinguish it from what some contend is sentimentalism and idealism of a pro-democracy foreign policy.

But in a world where freedom, not tyranny, is on the march, the cynical calculus of pure power politics simply does not compute. It is ill-suited to a new era in which ideas and information are broadcast around the globe before ambassadors can read their cables.

Simple reliance on old balance-of-power strategies cannot bring the same practical success as a foreign policy that draws more generously from American democratic expe-

rience and ideals, and lights fires in the hearts of millions of freedom-loving people around the world.

Let there be no mistake, this world is still a dangerous place. Military power still matters. And I am committed to maintaining a strong and ready defense. I will use that strength where necessary to defend our vital interests. But power must be accompanied by clear purpose.

Mr. Bush's ambivalence about supporting democracy, his eagerness to defend potentates and dictators, has shown itself time and again. It has been a disservice not only to our democratic values, but also to our national interest. For in the long run, I believe that Mr. Bush's neglect of our democratic ideals abroad could do as much harm as our neglect of our economic needs at home.

Let us look at the record. It reflects an unmistakable pattern in the Bush administration's foreign policy.

Fearing attacks by isolationists in his own party, President Bush was reluctant to offer Boris Yeltsin, Russia's freely-elected president, a helping hand. It took a chorus of complaints, culminating with the prodding of another Republican, Richard Nixon, to move him into action on the Russian aid package.

Just weeks before the attempted coup in Moscow, President Bush travelled to Ukraine. There he lectured a people subjected to genocidal starvation in the Stalin era, warning that their aspirations for independence constituted, and I quote, a suicidal nationalism. A few months later the people of Ukraine voted by a huge margin for the immediate and total dissolution of the Soviet Union.

For over 40 years, the United States refused to recognize Soviet claims to the Baltic nations—Lithuania, Latvia, and Estonia. But when at long last, the moment of Baltic independence came, President Bush suddenly became a reluctant bridegroom.

The United States was 37th among the world's nations to extend diplomatic recognition to these countries. We should have been first.

A year ago last June, Mr. Bush sent his secretary of state to Belgrade, where in the name of stability, he urged the members of the dying Yugoslav federation to resist dissolution. This would have required the peoples of Bosnia, Croatia and Slovenia, to knuckle under to Europe's last communist strongman.

When, instead, these new republics asserted their independence, the emboldened Milosevic regime launched the bloodiest war in Europe in over 40 years.

When I argued that the United States, in cooperation with international community efforts, should be prepared to use military force to help the U.S. relief effort in Bosnia, Mr. Bush's spokesman quickly denounced me as reckless. Yet a few days later the administration adopted the very same position.

While the administration goes back and forth, more lives are being lost and the situation grows more desperate by the day.

In the Middle East, I supported the President when it became necessary to evict Saddam Hussein from Kuwait, and I support his decision now to provide air cover to Saddam's Kurdish and Shiite opponents in the north and the south of Iraq.

But I am angered by the administration's appeasement of Saddam Hussein before the war, and disappointed by its callous disregard for democratic principles after the war. Just this week another friend of freedom, my running mate, Senator Gore, laid

out in precise and devastating detail the errors of this administration in dealing with Saddam Hussein.

President Bush showered government-backed grain credits and high technology on a regime that had used poison gas on its own people. After the war, Mr. Bush encouraged the Iraqi people to revolt against Saddam Hussein but then abandoned them.

The administration has sometimes treated the conflict between Israel and the Arab states as just another quarrel between religions and nations rather than one in which the survival of a democratic ally, Israel, has been at stake.

I support strongly the peace talks that are underway, and if elected, I will continue, without interruption, America's role in them. I also believe that America's policy in the Middle East should be guided by a vision of the region in which Israel and our Arab partners are secure in their peace, and where the practices and principles of personal liberty and governmental accountability are spreading.

For example, I believe we can and must work with others to build a more democratic and more free Lebanon.

This pattern continues in other parts of the world. In South Africa, Republican administrations had to be prodded by a bipartisan coalition in the Congress to abandon their failed policy of constructive engagement, and to impose sanctions on the apartheid regime in Pretoria.

President Bush has been slow to place America's support behind the fledgling democratic movements in other democratic nations, or to distance ourselves from corrupt and dictatorial leaders elsewhere in Africa. We should encourage and nurture the stirrings for democratic reform that are surfacing all across Africa, from the birth of an independent Namibia, to the pressure for democratic reforms in Kenya.

In Central and South America, the democratic revolution has won the first round, but our efforts to strengthen the fragile democracies in this hemisphere are still directed too much toward the central government and the wealthy.

We should do more to support those struggling to establish grassroots democracy in South America and to strengthen the courageous small entrepreneurs who are burdened by corruption and bloated bureaucracy.

We have a particular democratic responsibility in our own hemisphere to help end the cycle of violence in Haiti; to help restore democracy to Peru, even as it struggles to end the murderous violence of the Shining Path. And to help Cuba's repressive regime join its communist cousins, to borrow a phrase, in the dustbin of history.

There is no more striking example of Mr. Bush's indifference toward democracy than this policy toward China. None of us will ever forget the images of the millions of Chinese people demonstrating peacefully for democracy; the solitary young man staring down a tank; or the students raising a model of our Statute of Liberty in Tiananmen Square.

Neither will we ever forget the horror of seeing hundreds of innocent people mowed down for their belief in freedom.

But instead of allying himself with the democratic movement in China, Mr. Bush sent secret emissaries to raise a toast to those who crushed it.

The stakes in China's future are very high—for the course taken by that great nation will help shape the future of Asia and the world. Three years after the Tiananmen

Square tragedy, the tremors of change continue to shake China. We do not want China to fall apart, to descend into chaos or go back into isolation. But rather, we want to use our relationship and influence to work with the Chinese for a peaceful transition to democracy and the spread of free markets.

Today, however, we must ask ourselves, what has the president's China policy really achieved? The Chinese leadership still sells missiles and nuclear technology to Middle Eastern dictators who threaten us and our friends.

They still arrest and hold in prison leaders of the pro-democracy movement. They restrict American access to their markets, while our trade deficit with China will reach \$15 billion this year. The Chinese now have the second biggest trade surplus of any nation in the World.

Just a few days ago, President Bush vetoed legislation, passed with bipartisan congressional majorities, that would have placed conditions on Most Favored Nation trade status for China's state-owned enterprises. And just today the Senate failed, by a vote of 59 to 40, to override that veto.

But 59 senators, Republicans and Democrats, believe that we have a right to ask a country that has a \$15 billion trade surplus with us not only not to export goods made with prison labor, but to observe basic human rights while building market strength.

I will say again, I do not want to isolate China. There is much to admire in the phenomenal progress that has been made there. But I do believe our nation has a higher purpose than to coddle dictators and to stand aside from the global movement toward democracy.

For the greatest strength that America can count on in today's world is not our personal relationship with foreign leaders. Individual leaders come and go—even in the United States, I hope. It is the powerful appeal of our democratic values and our enduring political institutions for people around the world that make us special.

This does not mean we can embark on reckless crusades, or that we can force every ideal, including the promotion of democracy, on other people.

Our actions must be tempered with prudence and common sense. We know that ballot boxes alone do not solve every world problem, and that some countries and cultures are many steps away from democratic institutions.

We know there may be times when other security needs or economic interests, even in the aftermath of the bipolar Cold War world, will diverge from our commitment to democracy and human rights.

We know we cannot support every group's hopes for self determination. We know that the dissolution of old and repressive empires will often be complex, and contentious.

Moreover, we know there will always be those in the world who pursue their goals through force and violence. But they should know that a Clinton administration will maintain the military strength we need to defend our people, our vital interests, and our values.

They should also know that the danger that we will get carried away with our ideals does not loom large. That has not been our problem in the last four years.

The real danger is that in this time of wrenching, sweeping change, under President Bush, we will cling to tired and outdated notions that do not work, and cannot inspire.

Even within our budgetary constraints, we can contribute a great deal to help democ-

racy take root around the world. But while the new democracies will need financial assistance from the international community, they also need our help in learning how democracy and free institutions work; about freedom's institutions, its culture, its values; and yes, about its problems.

As president, I will reorganize and redirect our foreign assistance programs. I believe we should stress not only sustainable development but also the development of skills, of values, and the institutions of free society. But I do not believe in this difficult time we should spend American foreign aid dollars, as the Bush administration has done, to subsidize American companies to shut down plants in the United States and move them overseas.

I do not believe we should use taxpayer dollars, as this administration has done, to pay for advertisements to entice people to shut down their plants in America, and take advantage of 57-cent-an-hour labor in other countries.

I do not believe we should have one more year in which we spend more federal tax dollars training workers in another region of the world than we train people who lose their jobs here at home. I do not believe that. That not only does not make sense; it is absolutely wrong.

But I will support the establishment of a Democracy Corps, which could provide teams of experienced Americans in local centers throughout the former Soviet Union, to help grassroots leaders overcome bottlenecks to democratic development. We will renew our support for institutions like the bipartisan National Endowment for Democracy, and its partners in business, labor, and political leadership.

We will revive the spirit of the Peace Corps, offering young people the opportunity to take part in the central political experience of their time. We will rely on America's voluntary organizations to help in the development of independent, civic and service sectors in the new democracies.

My administration will work in partnership with business and professional leaders, trade unionists, environmentalists, representatives of state and local government and other skilled practitioners of our own democratic life. We will enlist the untapped skills of the many immigrants and their descendants in cities like Milwaukee, Chicago and Cleveland, who came to our shores to escape oppression and to build America—to help build democracies in the countries from which they came.

One of the most effective things we can do in international affairs is what is called public diplomacy. This covers a multitude of our government's activities such as radio broadcasting that allows us to speak to peoples of foreign lands directly. When Lech Walesa was asked if Radio Free Europe gave birth to the Solidarity movement he said, "Would there be an earth without the sun."

We should build on the success of Radio Free Europe and Radio Liberty and expand our successful surrogate broadcasting by bringing news and information to the despotisms that remain in Asia, in China, in Vietnam, Laos, North Korea and Burma.

The President's opposition to Asian Democracy Radio is further evidence that he still thinks it's more important to talk to dictators than to their oppressed subjects.

Finally, building democracy is not a job for America alone. We will strengthen the United Nations and seek more support from our democratic allies in Europe and Japan in strengthening the world's new democracies.

We all have a stake in the democratic revolution.

America's purpose in the world is not simply to be another great power in history. As the flow of resources and information and people's causes and people cause this old world to shrink, we have a particular contribution to make to the march of human progress. I call on us to set an example of how a nation of many peoples can harvest strength from diversity.

It calls on us to give back to a contentious world some of the lessons we have learned during our own democratic voyage. It calls on us, also my fellow Americans, to deal with the increasingly racial and ethnic tensions here at home in a spirit of humility and generosity—reaching out to one another and binding up our own nation's wounds.

For we have learned here in America, and we relearn every day that democracy is not always easy and tidy. We have learned that it is a process of trial and error—that it suffers from all the imperfections known to humankind. But it is also the only system we know that can produce wisdom out of disagreement, and peace out of our warring hours. America's power, prosperity and sense of justice may be providential. But they are not accidental. For those blessings flow from the world's greatest peaceful experiment in making one out of many, our motto, *E Pluribus Unum*.

The force of democracy's magnetism is reflected in the stories still told around holiday dinner tables today. The story of the young couple who abandoned Havana for the promise and safety and opportunity in the United States. The stories sprinkled with Yiddish of the family from Minsk who fled to the land of religious freedom. The story hardly known of forced exodus from Africa, and a slow exodus from slavery and hardship to liberty. The stories still told in Polish of the farmers who left the old country for the rich and limitless land of our own Midwest.

In this election, let us join together to ensure that our American epic can offer meaning and guidance to freedom loving people around the world. Let us seize this historic moment to help expand democracy's embrace. And let us act toward the world in a manner worthy of our heritage, our ideals and our name.

Thank you very much.

#### BURST OF ENERGY

Mr. JOHNSTON. Mr. President, I wish to call to the attention of my colleagues an excellent editorial in the *New Republic* about the Energy Policy Act of 1992. Under the headline "Burst of Energy" the editors note the bill's provisions for decontrol of electric generation stating:

Society's total cost of electricity should be driven down by competition among generators, while entrepreneurs will be freed to attack the power monopoly with energy-saving new ideas."

The editors also note that:

To the dismay of the left, the energy bill provides for simpler licensing of new nuclear power stations. No new plant will be commissioned in the coming decade. But a decade from now that may change, and by then a new category of reactors, incorporating passive-safety and waste-reducing features, should be ready.

The *New Republic* concludes that:

The energy bill is the perfect opportunity for liberals to drop their irrational fear of

nuclear energy. Power reactors emit no greenhouse gases or other air pollution. Worker fatalities in the nuclear power business have been nearly nonexistent for twenty years. The coal industry, by contrast, reliably kills 200-300 workers annually, mainly in mining accidents. Another consideration: power reactors are the best place in which to destroy the radioactive cores being removed from nuclear warheads by the United States and the old USSR.

I ask unanimous consent that the full text of the editorial be printed in the RECORD.

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

[From the *New Republic*, Oct. 19, 1992]

#### BURST OF ENERGY

Some eighteen months ago, when George Bush unveiled his National Energy Strategy, most people were able to restrain their enthusiasm. (See "Waste of Energy" by Gregg Easterbrook, *TNR*, March 18, 1991.) The proposal was long on favors to oil and coal interests, short on market logic and conservation. But in recent months the energy strategy has mutated into a progressive bill worth passing. Democrats will be tempted to put off a final vote with Congress about to recess, to deny President Bush a domestic policy achievement so close to the election. They should not succumb to the temptation. The bill represents something of a breakthrough.

Gone from the bill are higher mileage standards for cars and oil exploration in Alaska's National Arctic Wildlife Refuge, hand-grenade issues for the right and left respectively. Included now are real energy conservation plans; electric utility deregulation; equalization between mass transit allowances and the tax breaks that subsidize parking; global warming provisions; simplified nuclear licensing; and other advances.

On energy conservation—a central aim of any serious energy strategy—the bill extends to the rest of the country California's energy-efficiency standards for appliances and buildings. Through the 1980s California reduced its net energy consumption even as its numbers of cars and people rose. By adopting this model, national electricity demand will decline, conserving fossil fuels and holding down the world oil price as U.S. economic output expands. The bill also helps utilities promote energy efficiency, and encourages the public commissions that control them to put conservation before new production. And then there are new national water-flow standards for plumbing, which will lower the power needed for pumping, treating, and heating water. (At this writing, conferees had yet to agree on the issue of which plumbing fixtures would be covered. "The Senate will go along with showerheads but is opposed to urinals," one negotiator noted.)

The bill also marks a blow to electric power monopolies. In the future utility deregulation may have greater impact than airline and telephone decontrol combined. Society's total cost for electricity should be driven down by competition among generators, while entrepreneurs will be freed to attack the power monopoly with energy-saving new ideas. Jesse Helms has threatened to filibuster the bill to protect his inefficient home-state Carolina Power & Light—as good an indication as any that the bill is worth passing.

On measures to combat global warming, the bill also represents a milestone. Since the Earth Summit in Rio, many large cor-

porations have been leery of cutting greenhouse emissions voluntarily, fearing they could end up in a worse position if mandatory controls come later. Their later cuts would come from a smaller base, in the same way that a law to end obesity by requiring everyone to lose twenty pounds would be harder on the slender than the well-padded. The bill removes this excuse by allowing corporation to register current output of greenhouse gases and, in the event of mandatory controls, receive credits for voluntary cuts. This measure could allow the United States to meet Rio's first-round greenhouse goals more quickly than first thought—and with scant dislocation.

To the dismay of the left, the energy bill provides for simpler licensing of new nuclear power stations. No new plant will be commissioned in the coming decade, if only because conservation investments are currently much less expensive than reactor construction. But a decade from now that may change, and by then a new category of reactors, incorporating passing-safety and waste-reducing features, should be ready. (See "Safe Nuclear Power" by Lawrence M. Lidsky, *TNR*, December 28, 1987.) It is in everyone's interest to let them be licensed in a rational manner, if only to replace old, coal-fired power stations.

The energy bill is the perfect opportunity for liberals to drop their irrational fear of nuclear energy. Power reactors emit no greenhouse gases or other air pollution. Worker fatalities in the nuclear power business have been nearly nonexistent for twenty years. The coal industry, by contrast, reliably kills 200-300 workers annually, mainly in mining accidents. Another consideration: power reactors are the best place in which to destroy the radioactive cores being removed from nuclear warheads by the United States and the old USSR.

In this year of Capitol Hill embarrassment and White House excuses, the energy bill provides the many departing congressmen and the perhaps departing president a rare chance to enact a law that will create many general benefits at no one's expense. It will be a deep indictment of the system if politics as usual prevents this from happening.

#### FETAL TISSUE RESEARCH BAN

Mr. ROCKEFELLER. I am extremely disappointed that the Senate will not be able to complete action of S. 2899, the National Institutes of Health Revitalization Amendments of 1992 this year. While it is the clear view of the majority of the Senate that we move forward with this legislation, a few in the minority have thwarted our efforts. For that, I am deeply sorry, and I share the frustration of my colleagues in the Senate, including Senator KENNEDY, who has labored long and hard on this legislation and our majority leader, Senator MITCHELL. I commend the Majority Leader for identifying this issue as a top priority when Congress reconvenes in January.

Mr. President, many of my colleagues are aware of the enormous cost and human tragedy that our families and constituents experience with such chronic conditions as Parkinson's disease, diabetes mellitus and Alzheimer's disease. All too often these illnesses lead to premature death and deprive in-

dividuals from realizing their full potential.

But today there is new hope. Scientists tell us that experiments with transplanted fetal tissue may save lives and eliminate pain and suffering. For years, people with these maladies have wished for such medical breakthroughs. What a cruel hoax it is for them when the Bush administration says no to this promising research. Why? We're told that to permit medical experimentation with fetal tissue will encourage women to undergo abortions to provide human material for research. Never mind that a panel of experts recommend to Secretary Sullivan to lift the moratorium on fetal tissue research and reassured him that appropriate safeguards could be established to prevent this possibility.

The NIH Reauthorization Act that the President vetoed several weeks ago included all the safeguards called for by the Commission. It was carefully crafted to address the Administration's concerns. Yet, it was still vetoed. Now the Bush administration tells us that it's all right to use fetal tissue from spontaneous abortions, but not from induced abortions. Never mind that scientists tell us that this tissue will be inadequate, and that the end result will be to abandon such research and to take away hope.

It seems clear that the Bush administration continues to rationalize its actions, when the real reason for the moratorium is opposition to abortion at any time. I am revitalized by the efforts of those individuals in the medical and scientific community who have not given up and who helped craft a compromise proposal that met new concerns raised by the President in his veto message. The compromise calls for the use of fetal tissue from all sources only if insufficient spontaneously aborted fetal tissue was available from the President's NIH tissue bank. And, it includes all of the safeguards for fetal tissue transplantation research from the earlier vetoed bill.

At a time when scientists are on the verge of ameliorating the terrible burden of otherwise incurable diseases, it seems to me that it is a pro-life decision to allow fetal tissue research. I think of our former colleague Mo Udall, who might be here today, had he not been ravaged by Parkinson's disease. I think of STROM THURMOND, who like all parents, wants desperately to find a cure for his daughter's diabetes.

And, I think about the last 7 years, as I have watched my mother transformed from a vivacious, loving woman, into a shell of a confused human being. Nothing I have ever done, or seen, or attempted, has been as sad or frustrating as watching Alzheimer's disease claim my mother's life. In my entire life, I have never felt so helpless and useless.

I am committed to fostering promising, life-saving research. In my mind,

it is criminal to discard fetal tissue when it might conceivably provide a cure for so many sick American citizens.

Again, Mr. President, I regret that the Senate will not be able to act on this legislation this year. But I look forward to an opportunity early next year to move forward on this very important legislation.

#### TRIBUTE TO SENATOR ALAN CRANSTON

Mr. ROCKEFELLER. Mr. President, since 1985, I have had the honor of serving on the Veterans' Affairs Committee under the superb chairmanship of Senator ALAN CRANSTON. I would like to take a moment to pay tribute to our colleague's endless dedication to the veterans of this country, and his extraordinary record of leadership and dedication to our country during his 24 years of public service in the United States Senate.

Senator CRANSTON has been an integral part of the Senate Veterans' Affairs Committee since coming to the Senate in 1969. Throughout this time, he has demonstrated his commitment to those men and women who have risked their lives for the safety and welfare of our Nation.

His vision, that this country uphold its obligation to ensure that the needs of veterans and their families are taken care of, has been the inspiration for much of the legislation that has passed in favor of veterans. He has supported increases in compensation that were necessary for the veterans to keep pace with the cost of living. The Senator has shown his concern for disabled veterans and their families by authorizing support programs that provide for more grants, increased allowances, adaptive equipment, rehabilitation, and other such services. Senator CRANSTON'S record on issues related to the employment and education of veterans is unequalled. In 1970, the Veterans' Education and Training Amendments Act was passed, which displayed the Senator's heartfelt concern for Vietnam-era veterans and has been the foundation for other key initiatives.

As a strong advocate of health care reform myself, I applaud Senator CRANSTON'S efforts to improve veterans' health care through affirmative legislation. He has brought national attention to the many needs of VA health care facilities, which has resulted in the improvement of the quality of their staffs, facilities and services. Without the steadfast efforts of Senator CRANSTON, these VA facilities would not be as readily accessible as they are today.

Senator CRANSTON introduced legislation in 1971, which would ultimately lead to the establishment of a VA readjustment counseling program for Vietnam veterans. Never giving up on his vision, the Senator introduced the leg-

islation for four consecutive Congresses before it was passed by the House of Representatives. The VA's Vet Center Program was established in 1979, which helped many veterans returning to civilian life after the Vietnam war cope with such obstacles as post traumatic stress disorder. Since its establishment, the Senator has fought to make this service permanent, enabling the centers to survive proposed cuts by the Reagan administration and extend the eligibility period for veterans. In 1991, Senator CRANSTON authored legislation which allows the veterans of the Persian Gulf war, Panama, Grenada, and Lebanon to take advantage of the services of the vet centers as well.

As a result of Senator CRANSTON'S hard work and dedication, the list of his accomplishments in veterans' affairs is almost endless. He has indeed fulfilled his vision and has provided the veterans of this country with a voice in Congress.

Senator CRANSTON'S commitment and leadership have had a long reach, way beyond the concerns of veterans. He has reached out to help all Americans in one way or another, and his efforts on international affairs have made our world safer and stronger. For nearly a quarter of a century, ALAN CRANSTON has been a true fighter for the less fortunate among our society.

The list of Senator CRANSTON'S achievements are vast—for veterans, his home State of California, our country and the world. From housing policy to education to civil rights, Senator CRANSTON has fought to do the right thing, with energy and passion. His legacy is immense, and I know that his leadership in this Chamber will be missed. Personally, I consider myself fortunate to have had the opportunity to work side-by-side with him over the years. I pledge to do my part in honoring his service by continuing his fight for the people we represent and the ideals we were elected to uphold.

#### SAVING THE U.S. SPACE LAUNCH INDUSTRY

Mr. ROCKEFELLER. Mr. President, today I want to bring the Senators' attention to recent actions taken by the Bush administration which could jeopardize the U.S. space launch industry—an industry which is essential to our national security and employs 6,000 Americans—and destroy the credibility of important elements of our trade policy.

There should not be any question that the space launch industry embodies critical technology; indeed the entire aeronautics sector is generally put on that list, not to mention the many electronics-related technologies that are key parts of the launch process. The establishment of the U.S. commercial space launch industry was en-

couraged and fostered by administration and congressional actions over a long period of time.

Beyond its economic and technological importance, it is also an industry with a very special set of economics, characterized by very high costs and very low sales. Launching satellites is expensive, and with less than a dozen launches per year worldwide, it is difficult for individual companies to survive if they cannot do a reasonable number of launches each year and recover their costs on each launch.

Therefore, to maximize its viability, the U.S. launch industry must be able to compete effectively in the international market and not limit itself to domestic launches. But this requires a system of trade rules which must be negotiated and subsequently enforced by the United States Government because of the dumping of launch services that is rampant in this industry, largely by the Chinese and the Russians. Unfortunately, actions of the Bush administration have allowed our trading partners to violate their international obligations and thereby undermine the U.S. industry.

For example, in 1989 China entered into an agreement with the United States regarding international trade in commercial launch services. China, however, has consistently violated its commitment under that agreement to price its launch services on a par with those of Western launch providers, and the administration has just as consistently failed to enforce the agreement. In 1989, China offered to launch, for one-half of Western prices, a communications satellite to be procured by the member countries of the Arab League. Last year the Chinese made similar unfair offers when bidding to launch two satellites for Mexico, and in Indonesia and Korea, the Chinese offered to launch certain satellites for one-third of Western prices.

Earlier this year, 22 Senators, including myself, wrote Secretary of State Baker urging the administration to closely monitor and strictly enforce the Agreement. Mr. President, I ask unanimous consent that the text of that letter be printed in the RECORD at the conclusion of my remarks. It would be nice to think, Mr. President, that the Secretary of State pays some attention to letters from a group of Members of Congress. Unfortunately, that seems not to be the case. Instead, the administration has shown little interest in any enforcement action at all.

In fact, on September 14, the administration approved waivers necessary to grant export licenses for six satellites to China. One of the administration's justifications for this action was that it sends a message to China that its renewed promise to observe proliferation guidelines has yielded concrete results. Yet 4 days later, the Chinese refused to attend a U.N. Security

Council meeting on arms control. A sequence of events like this makes a mockery of our credibility in trying to maintain some semblance of control over transfers of missile technology and the dumping of launch services.

We know the Chinese are laughing at us—part of the larger laugh over George Bush's China policy, but in recent weeks the audience has gotten larger. Adding to the difficult situation the U.S. launch industry faces internationally is the fact that member nations of the Commonwealth of Independent States [CIS] are also attempting to enter the space launch market, once again with the unfair advantage of government subsidization.

On June 17, 1992, our long-standing policy of prohibiting export of United States satellites for launch from the former Soviet Union was waived as a one-time exception for the Inmarsat communications organization if it selected Proton for a planned launch. While encouraging economic reform and growth in the emerging Russian democracy is good for us and good for them, I have serious concerns about this recent action by the administration.

First, there are reports that KB Salyut—the Russian bureau responsible for the design and development of the Proton—is also the group providing technology to India in violation of its obligations under the Missile Technology Control Regime. While the State Department found the Indian rocket deal to be an MTCR violation, it has apparently attributed it to a Russian entity other than KB Salyut, despite mounting evidence that it is, in fact, the latter that is responsible.

Second, the administration's repeated willingness to ignore these violations only serves to further injure the U.S. launch industry by impeding its ability to compete internationally. The continuation of dumped launch services that undercut market pricing will seriously disadvantage our companies' ability to compete and survive. If they do not survive, then the U.S. Government will become dependent on foreign launch providers. That very dependence, along with the fact that our actions are helping to keep in business Russian missile production capacity, threaten our national security.

The administration must recognize now that an industry of great importance to our national security and economy is in grave jeopardy. Two actions are needed:

First, the United States should strictly enforce the existing agreement with China.

Second, the administration should seriously examine whether United States trade and foreign policy interests are being adequately protected by its recent failures. Not only are such actions seriously endangering the U.S. launch industry, but, by assisting the

Russian commercial launch industry, the United States is also ensuring that Russia's ballistic missile production and operations establishment will continue to function.

It is past time for the administration to reevaluate its actions and do a better job of balancing U.S. national security and economic interests with our desire to cooperate with international partners and assist developing countries. The free world will not benefit if, in the long run, U.S. national security and economic strength are undermined. I urge the administration to stop using the U.S. launch industry as a pawn and to start recognizing it for what it is—an essential U.S. industry which is vital to U.S. national security and which provides thousands of quality jobs to Americans.

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

U.S. SENATE,

Washington, DC, March 13, 1992.

Hon. JAMES A. BAKER III,  
Secretary, U.S. Department of State, Main State  
Department Building, Washington, DC.

DEAR MR. SECRETARY: Recently, the U.S. lifted certain sanctions against the People's Republic of China in return for China's written commitment to follow the guidelines established by the Missile Technology Control Regime (MTCR). The sanctions had essentially prohibited the export of U.S. satellites to China for launching from Chinese "Long March" rockets.

Since these sanctions have been lifted, it is extremely important that the Administration closely monitor and strictly enforce the People's Republic of China's compliance with the Memorandum of Agreement (MOA) on Commercial Launch Services.

The U.S. entered into the 1989 U.S.-China Memorandum of Agreement Regarding International Trade in Commercial Launch Services in an attempt to end China's predatory pricing practices. Unfortunately, however, China has consistently violated the MOA.

In 1989, for example, China offered to launch for one-half the then-prevailing Western price a communications satellite to be procured by the member countries of the Arab League. Last year, China made similar below-cost offers when bidding to launch two Mexican satellites. China also offered to launch certain Indonesian satellites for one-third of Western prices. China has reportedly repeated this offer to Korea.

On several occasions, Congress has expressed its concern regarding the failure of China to abide by the MOA and the failure of the U.S. to enforce the agreement. We are gravely concerned that not only is the U.S. space launch industry being significantly harmed by the lack of enforcement of the MOA, but that China is using its commercial launch service to gain foreign aerospace technology that would otherwise be unavailable to it.

Congress has clearly expressed its position on the enforcement of the Commercial Launch Services MOA. The Export Administration Act reauthorization legislation prohibits the export of U.S. satellites to China for launching unless the U.S. Trade Representative can certify that China is in full compliance with the Commercial Launch Services MOA.

We urge the Administration's strict enforcement of the Commercial Launch Serv-

ices MOA. In addition, we urge you to closely monitor and to enforce, with sanctions if necessary, China's compliance with the MTCR. Finally, we urge you to promptly implement the policy guidance contained in the pending Export Administration Act reauthorization legislation. We appreciate your consideration of this important request.

Sincerely,

ALAN J. DIXON.  
PAUL SIMON.  
MAX BAUCUS.  
EDWARD KENNEDY.  
WENDELL FORD.  
GEORGE MITCHELL.  
JAY ROCKEFELLER.  
DENNIS DECONCINI.  
RICHARD BRYAN.  
QUENTIN BURDICK.  
DANIEL INOUE.  
ALFONSE D'AMATO.  
JEFF BINGAMAN.  
AL GORE.  
TIM WIRTH.  
FRITZ HOLLINGS.  
BROCK ADAMS.  
ALAN CRANSTON.  
JESSE HELMS.  
CLAIBORNE PELL.  
DONALD RIEGLE.  
CHRIS DODD.

#### DEDICATION OF HOOD COLLEGE'S NEW LIBRARY

Mr. SARBANES. Mr. President, On September 1, 1992, Hood College in Frederick, MD dedicated the Beneficial-Hodson Library and Information Technology Center, a superb new facility designed to meet the needs of its students well into the next century. On this bright, sunny day, Dr. James E. Billington, Librarian of Congress, gave the principal address; and I was honored to assist Hood's president, Martha E. Church, and her college marshals and trustees in conferring on him the degree of doctor of humane letters. Also honored on this splendid day was Finn M. W. Caspersen, chairman of the Beneficial-Hodson Trust, which played such a key role in funding the construction of the new library and has been a generous benefactor of higher education in Maryland for many years.

Founded in 1893, Hood College is in the forefront of America's small residential liberal arts colleges for women and has earned a well-deserved national reputation for academic excellence. It has been consistently ranked by the annual U.S. News & World Report survey as one of America's best colleges. Hood also plays a central role in the educational and economic life of the Frederick region. The graduate school offers master's degrees in afternoon and evening programs designed for those who work and live in the region. In addition, Hood contributes more than \$40 million to the area economy annually, as well as serving as a cultural center for the community, offering drama, concerts, lectures, workshops, and seminars.

Hood's 1,100 undergraduates may choose from among 31 majors in the

traditional liberal arts and sciences and other career-oriented study areas. Although most classes are offered on its 50-acre campus in Frederick, Hood also has an academic center in Montgomery County. Hood's program for adult learners, based on streamlined admissions, pre-enrollment advising, credit for life experience, and special support services, is now recognized as a national model. Classes are small—averaging 15-18 students—and are taught by outstanding faculty. Hood has one of the most advanced intern placement programs in the country and encourages students to take internships at one of many sites throughout the U.S. and abroad.

In 1975, Dr. Martha Church was selected as the first woman president of Hood, and has been chosen by her peers as one of the 100 most effective college presidents in the United States. In her years at the college, she has concentrated on improving its academic reputation by upgrading the curriculum, stressing faculty development, and instituting an honors program. She has also recognized that the future of the school demands a comprehensive plan for its physical plant, especially the building of a modern, state-of-the-art library. She and her dedicated and able board of trustees, chaired by Lois Harrison, set out to achieve this in an imaginative and determined manner. In addition to the Beneficial-Hodson Trust, the library was funded by private donations and the State of Maryland.

Located near the main entrance to the college, the library is designed in an architectural style compatible with that of the existing campus. It is a beautiful building, admirably suited to its purpose. Benjamin Forgey, the well-respected architecture critic of the Washington Post praised it by saying,

\*\*\* this is a good building in the right place. To settle in it for an afternoon's work would be a privilege. Its principal spaces are commodious and handsomely fitted out. \*\*\* places to study are inventively varied and are pushed toward the natural light of the exterior walls.

The library is designed to house 200,000 volumes and 1,000 periodicals. One of its most notable, functional, and beautiful feature is the lobby with its cherry wood trim, custom-made tables, and a call desk offering easy access to the library's extensive collections. The building is also adapted to the needs of the modern electronic information systems so important to today's library systems. Hood's new Beneficial-Hodson Library and Information Technology Center gives students, alumnae, faculty, staff, and community members access to collections all over the world and is a model for small colleges as they prepare for the 21st century. The career center, thanks to recent gifts, has obtained state-of-the-art computer equipment and software

that will give students and alumnae the same job market advantages offered at far larger colleges and universities.

Hood College is now beginning the celebration of its 100th anniversary. The centennial kickoff included the library dedication and other academic and social activities. Alumnae across the country are hosting centennial events in 60 cities, and the celebration will culminate in Frederick in September 1993.

The dedication of this library fulfills the commitment of Martha Church, Finn Caspersen, the other donors, the trustees, faculty, staff, and alumnae to provide Hood one of the best library facilities of its size in the country. Dr. Billington, in his address, spoke of the changing nature of library science and the fundamental importance of education and an informed population to maintaining democracy in a complex age. He described the importance of our Nation's libraries by saying,

You are celebrating today not just a building but an idea—a wonderful, deeply American idea—that people want and need knowledge; that the pursuit of truth is the highest form of Jefferson's pursuit of happiness \* \* \*

I congratulate all those involved in making this splendid building a reality. I would like to share with all my colleagues in the Senate Dr. Billington's eloquent address dedicating Hood College's Beneficial-Hodson Library and ask unanimous consent that it be printed in the RECORD.

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

REMARKS BY JAMES H. BILLINGTON, HOOD COLLEGE LIBRARY DEDICATION, SEPTEMBER 11, 1992

Thank you, President Church, Mrs. Harrison, Mr. Caspersen, and distinguished guests. It really is a pleasure and honor to think of joining the company of honorary degree recipients from this fine institution, the company populated by people as wonderful as your benefactor Mr. Caspersen and others whom I see from Washington, like the mighty Kay Shouse, down in the front row, that wonderful first lady of culture in our city who I know is a friend of this college as well.

It is a further honor to be here today with Senator Sarbanes who is surely one of the most faithfully supportive and deeply appreciative friends of libraries and of learning in the Congress. He is, moreover, one of the most skilled and honorable practitioners of that most difficult and democratic of all the verbal arts—genuine dialogue on matters of real substance. He is a man of strong views and deep convictions who is one of the fairest and most ecumenically probing lawmakers in congressional hearings and in questioning foreign leaders that I have ever heard or appeared before. It's always a challenging experience to appear before him in a hearing. The enquiring scholarly spirit surely has rarely had a better friend or more skilled practitioner in the public arena than your senator. And it is a pleasure to be in Frederick, the home of one of the Library of Congress' most essential and most admired figures, my strong right arm, Janet Chase,

and with many alumnae of this wonderful institution such as Sandra Newing, who also happens to be the wife of our director of communications at the Library.

So, it is, in all kinds of respects, a pleasure. But of course, we are here today to not so much to talk about individuals as to celebrate this lively centennial of Hood College, the dedication of its new library and information technology center, an event that lifts the spirits of anyone concerned about libraries, about the promise of quality of American education, about the health of our knowledge-based democracy and, indeed, about hope for our economic productivity in a harshly competitive new world.

Hood's commitment-supported by the State of Maryland, the Beneficial Hodson Trust, and other private donors—to the centrality of a library to learning will hearten educators and librarians far beyond the boundaries of this lovely country in this state. Because you are celebrating here today not just a building but an idea—a wonderful, deeply American idea—that people want and need knowledge; that the pursuit of truth is the highest form of Jefferson's pursuit of happiness; and that wherever the old presume to teach the young, it is important to have a place that is central to the community in which the vast world of information out there intersects with the defined human community of learning right here. That special, even magical, kind of a place where those worlds intersect is what you have built and what we are celebrating here today.

I want to say something today about both the world of information out there and the community of learning here. I am pleased that the two main contributions the Library of Congress will make to the celebrations later this afternoon will illustrate each of these two aspects of the library of tomorrow which you have built and are dedicating today.

The Library of Congress' American Memory project, which will be demonstrated here this afternoon, is today's vehicle for electronically sharing with the nation the primary documents of America's many yesterday's in a form that everyone everywhere will be able to use tomorrow. LC's John Cole will participate in your seminars this afternoon. He is the director of one the Library's smallest yet most important units, the Center for the Book, a human-scale, low-tech unit in which we celebrate and perpetuate the culture of the book in collaboration with 100 other national organizations and 26 state centers for the book throughout the country.

Now that big world of information out there is frightening, sometimes overwhelming—it is essentially now a rapidly growing electronic network of increasingly instantaneously available raw material for the inquiring mind. Much is mere data—continuously changing, becoming outmoded as soon as it is frozen in hard copy. Some of it has undergone the minimal ordering by the human mind which makes data into information that can be printed out on sheets of paper. Some of it has been further processed and refined beyond that by the critical human intellect into knowledge that can be packaged into coherent units—some of it even into that old-fashioned unit we call a book. But, in principle, the emerging electronic world of information exists no place in particular and is becoming available everywhere in general.

That is what makes the community of learning that you have here so terribly important. It is only in human communities

that all of this can be reduced into manageable human dimensions and converted into creative human uses. Humanism and democracy were created by the culture of the book. Humanism and democracy, to be sustainable on a continental scale and to be competitive in the global market place, must have the dynamism that comes from constant renewal through an ever-expanding base of knowledge. Humanism and democracy, if they are to flourish and perhaps even survive in a multicultural context, must have both some shared common values and, at the same time a tolerance for variety and difference. And that is precisely what the openly accessible American library represents. My predecessor Archibald MacLeish described librarians as the sentinels of liberty, and we might describe the libraries that librarians tend to as temples of pluralism, if you like. Because in a library and variety of opinions sit next to each other on shelves—as you add new books, you don't burn the old ones, just as when you add new immigrants, you don't destroy the values and the ideals of the old ones. America is a country which adds without subtracting, and that's what a library does. And yet it shares the certain common values of all those who enter in and partake of its life. The value of the pursuit of truth keeps us from the pursuit of one another and is the only kind of pursuit, in the arena of the mind and spirit, where the horizons can remain infinite for our cherished ideal of freedom in a time of increasing physical constraints.

The ultimate human payoff of all this accumulated information and knowledge especially occurs in and around libraries where the human qualities of wisdom and creativity are fostered and promoted. Remember Santayana's great quote, "It is not wisdom to be only wise, but it is wisdom to believe the heart, act well your part, there all the honor lies. \* \* \*". Wisdom is a quality, a cohering human quality, and has practical consequences. It is the practical wisdom of judgment, knowledge that is convertible into a definable human uses in a wise and humane way. And this is a quality that develops in people who grow up with books around them and who cultivate the active mind and expand their range of knowledge and perception. And then there is creativity, that special gift that comes to a few to make the leaps of perception imagination that bring things together rather than just take them apart, that result in the creative leaps forward that make new possibilities for the human adventure.

What we see here today, it seems to me, is an excellent model for small colleges entering the Age of Information across the country—a place of human scale for turning information and knowledge into wisdom and creativity for real people in a concrete place. Students can use the new technology to find books in a remarkably inviting, reader-friendly building. Faculty and students can hook up to the Colorado Alliance of Research Libraries, including the University of Maryland system, for journal indexes and bibliographic data. They can order materials from other libraries. The Hood library will get involved in computer imaging technology. As time goes on, it will be connected to more and more sources of information, including perhaps, even the unique collections of the Library of Congress.

The Hood library is more than a high-tech model for small college libraries. In its services to the local community, in its hospitality to diversity, in its practical yet progressive approach to education, Hood College

is a community of learning and its library is a kind of base camp for the broader horizons of learning that will have to come with the 21st Century. As distances shrink and human abrasions tend to heighten in the increasingly overpopulated, interconnected world as we are already seeing in surprising and disturbing ways in places like Yugoslavia, libraries and educators, to keep the indispensable democratic values of their enterprise going, will have to depend in the future on more cooperation, more networking, more joint public-private ventures, more openness to cultural diversity, more ingenious uses of technology to organize, share, preserve, and disseminate knowledge and information.

It will have to involve more of us in the enterprise; not just professional scholars are going to have to be involved in more ways with the common unifying and ennobling task to which libraries, like colleges, are dedicated: the pursuit of truth, the unifying adventure in which all benefit from the discoveries of each in which there is not really competition but mutual benefit from one another's discoveries.

What are we doing at the Library of Congress as we near our 200th birthday, with almost 100 million items in our collections? Much of what we are doing, alone and with others, should benefit Hood's library and the entire library and educational community in the 21st Century.

Some efforts are simply new variations on old themes. We are developing new technology to do what we have done since 1902—producing and distributing most of the book cataloging for the nation's libraries, a very practical service that saves America's libraries about \$370 million a year—considerably more than the Library of Congress' annual appropriation. Once we printed and distributed the paper catalog cards; for 20 years now we have been producing and distributing the same kind of information on electronic tapes and CD-ROM disks. Now we are working on ways to make our great cumulative bibliographic data base available electronically on-line to libraries and other institutions—possibly via the National Research and Education Network, which is now being developed with Federal support as a successor to Internet, the nation's "electronic highway" of the future.

None of this is uncomplicated. But new technology offers the Library of Congress and the country an unprecedented opportunity to make available to Americans everywhere the unique collections of its national library—accumulated, of course, through the copyright deposit, the official record of the American creative spirit. An unprecedented opportunity to make these collections available everywhere, not just in Washington, going beyond making simple references to the books, to the text and the content themselves. Moving beyond people who live in the nation's capital or can afford to visit it to scholars, teachers, public officials, industry researchers, students, and other citizens with any kind of curiosity in all the 50 states and eventually the whole world.

We are a uniquely wide window to the world, since well over two-thirds of our books and materials are in foreign languages. The Library of Congress is almost certainly the largest Spanish and Arabic as well as English-language library in the world and has the largest collections of Slavic, Germanic, Chinese, Japanese, and Korean materials outside of those countries themselves. All this constitutes an international resource for scientists, economists, policy-

makers, and others in our own country, and it should be made widely available.

Right now, we have a number of optical disk imaging projects at various stages of development. In addition to books and periodicals, the Library's collections encompass many formats: maps, motion pictures, prints and photographs, recorded sound, and computer software. Once these materials are scanned, they will, like printed materials, become part of an evolving, national, digital library.

One of our leading initial projects is American Memory, which digitizes selected collections of the Library's vast holdings of American historical and cultural publications and artifacts—Mathew Brady's famous photographs of the Civil War, turn-of-the-century movies of New York City, sound recordings of President Warren Harding and General John J. Pershing, scores of documents from the Founding Fathers' Constitutional Convention of 1789, hundreds of African-American political pamphlets published after the Civil War, thousands of interviews with ordinary Americans conducted during the Great Depression. Now being tested at 44 colleges, schools, and libraries throughout the country, this program has generated an enthusiastic response. You will see a demonstration here today. We continue to search for more ways to make unique and rare Library of Congress materials which have only been available to the public, using such new technologies.

We recently used the Internet, as well as commercial services, to disseminate an electronic version of a major Library of Congress exhibition of documents from the formerly highly secret archives of the former Soviet Union. Our plans include having electronic versions in future exhibitions as part of our outreach to the library and scholarly communities.

The Library of Congress has been working with the private as well as public sector. In December 1991, we established a privately-supported National Demonstration Laboratory at the Library of Congress that is open to the public and provides access to all the newest technologies in the field of education.

We have recently undertaken an experiment with a private corporation involving the digitization and high-speed transmission of multimedia materials from the Library's collections that will connect us during the next year via fiber optic networks, to approximately ten sites around the country—primarily state, municipal, and university libraries. During three two-week periods, we will transmit high-resolution images, text, sound, and full-motion video to these sites.

I've almost completed this little inventory, in case you were wondering if I'm conducting a Washington filibuster here, but since you pay your taxes, you're entitled to some report on what we're doing with it all.

The Library's science and technology information initiative is beginning network-based activities. An electronic bulletin board is being established on Internet to support a possible National Engineering Information Service as a joint project of the Library of Congress and the Association of Research Libraries. We are participating in a NASA-sponsored project to put the full contents of five recent years of three major astronomical journals on Internet for use by astronomers, providing document delivery through our existing Photoduplication Service. And we are considering putting an updated version of our existing National Referral Center Masterfile on Internet as the prototype of an expanded network-based Automated Referral Center system.

The overall goal of this acronymic avalanche that I just confronted you with is to make the Library's resources more useful, more accessible, more productive—to the country as a whole and to individuals with special needs. Our traditional free core services to the public and to the nation's libraries—cataloging, general reference, exhibits, inter-library loan—will continue and expand as we become more efficient through new technology. We have also asked Congress for authority to charge cost-recovery fees to lawyers, publishers, business enterprises, and others for "customized" services which go beyond what the taxpayer can or should support. These "customized" services include translations, rapid document retrieval and transmission, certain database searches, special research, and, in some cases, electronic access to the complex collections. The idea, again, is to provide the "extra" service not provided by the private sector, but to provide it without adding cost to the taxpayer.

We have lots of company in this endeavor; more than 400 libraries in America, without much attention from the library press or anyone else since nobody ever writes much about what libraries do, were offering such fee-based services last year, including the New York Public Library and several state university libraries. Such service makes sense: not everyone in America needs to have 72-hour translations and copies of the latest Japanese technical papers on space exploration from the Library of Congress. But the space researcher in Houston who does need such fast customized service ought to be able to get it at cost—in the national interest. Otherwise, some of our unique assets go unused.

But our main goal overall is to deliver our unique collections by electronic means to libraries in schools, colleges, cities, and towns to reinforce the local communities of learning where wisdom and creativity are generated—not to further the individual home entertainment center. We want to be a benevolent wholesaler to enrich and reinforce local libraries. Because local libraries like this in real communities with solid constituencies are the most efficient retailers of information to students, teachers, and the public. They are open to all Americans. And libraries will be the best venues for the kinds of materials that, in the next twenty years, probably will be most useful via electronic dissemination: technical material of all kinds, from legal cases to census statistics; scholarly journals from around the world; manuscripts.

We see all these materials from the Library of Congress, organized and cataloged in various ways for quick search and retrieval, as enormously useful to librarians at schools and colleges in particular. When the computer center is in the library, as it should be and as it is here at Hood, it is close to books. This helps in the all-important business of driving people back into books for further elaboration, further answers, further creative speculations on the things that are raised by electronic means but cannot really be answered by this constant overflow of electronic information. The computer center is close to the world of books in which the active mind is the central driving force rather than the passive emotions which is what television essentially feeds.

The materials, especially visual materials, available on the computer screen, should act as a spur to the student's curiosity, a spur to look further and more broadly, to conduct a personal voyage of discovery in books. That is our goal in American Memory, and as we

digitize more of our collections, we hope to provide both teachers and librarians with well-organized materials, available on-line, that can both buttress local libraries and serve as a stimulus to the minds of the Americans who use them.

So we see the library of the 21st Century as growing out of what we see here today at Hood College—linked very more directly by technology to the resources of other libraries, including the Library of Congress, able to supply a concrete local community with access to a whole world of information and knowledge and, at the same time, be a source of inspiration for lifelong learning through reading and discussion of what one has read.

One of our greatest problems in this country is not only illiteracy but what my predecessor called "aliteracy," that is, people who can read but don't, whose minds have gone brain dead, who were perhaps force fed in college with too much reading which they couldn't digest and who made a firm, yet unstated, resolution at graduation never to read another book. One of the most alarming statistics is the decline of reading among retired people. Those are the same people who once said, "I have no time to read now but when I retire, I will."

At Hood, as elsewhere, books will remain, even as the new technology advances. They are simply too user-friendly to disappear. And the new technology makes the librarian more important, not less. In an age of increased access to a growing flood of data and ocean of information, the librarian will serve her or his constituents as a knowledge navigator. She must answer the old questions: How? Where? Which? What? Why? Who? (How do I find this? Where do I go for that? Which is a really good book? What is useful? Why is this important?) The librarian will have to know more because there will be more possible connections, more possible answers and hopefully, if democracy is to survive, and active citizenry with more people asking more questions.

So my belief is that, in the 21st Century, the library in the school, in the college, in the government agency, in the private research sector, in the town and the city has enormous potential for helping the United States move forward.

Information technology, properly organized and supported, can greatly reduce the wide disparities among local schools and colleges across America in access to knowledge even as, on a different level, it boosts productivity and creativity among widely dispersed scientists and scholars. No less important, the new technology can make accessible through libraries and smart librarians a vast range of up-to-date information to local businessmen, public officials, and ordinary citizens far from the great research universities or the think-tanks of Washington. Much of this information will be free; some will require payment to recover only the costs of distribution; some will require full cost-recovery, including royalties paid to publishers and authors. Some specialized frequent users will bypass the local library entirely, going instead to data banks or NREN.

But the library, properly staffed and equipped, and that is the great glory of what you have done here at Hood College, will remain central to the Information Age, no matter how glitzy the new technology becomes. The technology is a means to an end, only part of the transmission that leads data into information into knowledge flowering into wisdom and creativity, the twin peaks that lie at the top. Wisdom is an extension of common sense, expended by experience,

deepened by reflection. Creativity is that mysterious process of breakthrough that brings inspiration out of perspiration. Both wisdom and creativity are most likely to happen to people who do hard work in and around libraries.

So it is especially fitting that, along with its high-tech local area network of computers and its eMail, Hood placed the new library at the center of its campus, and its computer center in the library, not parked off somewhere else, far from the books. President Church, the trustees, the donors, and all the people who made this day possible knew that the library, both symbolically and as a practical matter, remains central to the operation of this fine college. Indeed, in its commitment to the library, Hood reminds us of the great universities that developed in the late 18th and 19th Centuries, first in Germany, that really transformed the use of knowledge in the modern world by building around the library and laboratory rather than the lecture hall. The idea was to introduce the student directly to the sources of knowledge, to bring him into contact with the books, going beyond passively taking lecture notes to actively pursuing study and exploration. This spread to the United States as the University of Berlin became the model for many of the American state universities that came into being under the 1862 Morrill Act. Indeed, these state universities were to develop some of the strongest library collections in the land, even as they opened up higher education to more people than ever before in the world's history.

So, in effect, Hood, like the Library of Congress, is betting on the positive evolution of electronic information technology. During the past three decades, in its powerful popular video manifestations, this technology seems to have worked against reading, against learning, against active curiosity in the young; at the very least, television's daily clamor took up more hours on average than we spent in the classroom or in any other activity, except possibly, sleep. Television was the family's babysitter but the teacher's rival and the librarian's enemy, one more agent of mediocrity, relentless stirring and soothing the emotions of an increasingly passive viewer. A pessimist might say, today, surveying the scene, that this seductive technology has contributed heavily to the not-so-benign neglect of the cultural institutions left to us with so much hope by our forbears. Market research indicates that despite the vast costly expansion of higher education, sizeable numbers of nominally well-educated Americans today have deserted the possibilities of the book. Too often our public officials, our prominent educators, our media moguls have sought not to counter this shift but to accommodate themselves to it. Such abdication has been no service to either the citizenry or to the country's future. But I do see changes in the air, particularly on this beautiful day and in this creative place. It reinforces my basic optimism that the new technology, properly organized and supported, can bring more knowledge to more Americans in more places than man ever dreamed before \* \* \* advancing the health of our democracy and our competitive efforts in science, business, and the professions. Properly used to re-enforce libraries and schools, with the guidance of teachers and librarians, it can draw the new generation to exciting prospects for learning and exploration through reading that can compete with the flashes of sex, violence, and sheer noise of the emerging MTV

culture. And it can greatly enrich the already popular concept of lifetime learning among adults.

So we praise this library, we honor the people working in and around it. They are not just gatekeepers but they are something else. This came to me when I attended a conference in the Midwest not long ago and was using the term "gatekeeper" to describe the librarians in small, rural communities of the Great Plains areas in Central Nebraska. And afterwards somebody got up in the back of the room. He was one of the Native Americans on one of the Indian reservations and he said, "You know, these librarians are not just gatekeepers, they are heirs to a tradition we had long before the settlers arrived where someone old in the community was the repository for an oral culture and he kept it alive and transmitted it to the young. We did not call them gatekeepers. We called them 'dreamkeepers.'" So I think that is to a large extent what the librarians, those who are the custodians of the legacies of the past, stored and preserved and transmitted to the next generation, will be.

We must keep alive then the dream of understanding, the pursuit of truth, the dream of America that whatever the problems of today, tomorrow can still be better than yesterday even if we don't always succeed or don't always answer the question. One of my favorite quotes was a quote out of the failure of one of the most ambitious attempts at international understanding ever undertaken—the great Jesuit mission to China at the dawn of the modern era. And when the Jesuits left China in the early 18th Century after the most scholarly and most nearly successful effort in history to build a bridge between the most ancient of Eastern cultures and the Christian West, they left behind as their last legacy to that effort a haunting epitaph, "Abi viator congratulari mor tuis condoli vives ora pro omnibu mirali tace." "Go now voyager, move on, congratulate the dead, console the living, pray for everyone, wonder and be silent." Wonder and silence are easier for readers than for TV viewers, for adventurers than spectators, dreamkeepers than for imagemakers.

So, may the adventure of learning and discovery go on from this base camp you've created here for the millennium to come. May knowledge slowly ripen into wisdom, secure in the knowledge that a better life will come in America, not just from more data and a modem, but from a better understanding of one another that comes from books. May your appreciation grow of the values of the book, here in this wonderful place, which favors active minds over spectator passivity, putting things together rather than just taking them apart. For whatever the confusion of our own minds and the profusion of our information in that big world out there, things can still come together in a book—just as the left and right halves of the brain come together in one human mind, and the hemispheres—East and West, North and South—in a single planet.

#### DELUGE OF TEXTILE IMPORTS

Mr. HELMS. Mr. President, on May 6, I paid my sincere respects to the Honorable Carol Hallett, U.S. Commissioner of Customs, a remarkable lady who had earlier promised to me that she would investigate the deluge of textile imports flowing into the United States from Communist China.

We had discussed in detail the widely held suspicion that the Chinese were

willfully violating the tariff and quota laws that forbid such trade practices.

Commissioner Hallett came to my office last year to discuss my serious concern about the unlawful flood of textiles coming into the United States from Communist China. I recall her concluding remark: "Senator, I give you my word. We are going to get to the bottom of this."

Mr. President, on May 6, she called to report that indictments for fraud were being filed against Chinese companies and their American subsidiaries. At the time, I speculated that the Chinese Government was an apparently willing and knowing accomplice to substantial fraudulent activity, to which various lobbyists and others said, "Oh that couldn't be true; the Chinese Government couldn't be involved in such fraud."

Well, Mr. President, today I received another call, informing me that charges were being filed this afternoon in Federal Court in New York against the Chinese Government agency.

The U.S. attorney explained today that a major Chinese governmental entity was indicted for fraud. The Chinese entity in question is called China National Textile Import and Export Corp., which is a quasi governmental agency that is in charge of all imports and exports of textile and apparel goods.

These latest indictments strongly indicate that the Chinese Government is in fact involved in a scheme to evade United States laws and to avoid paying millions of dollars in duties on textiles and clothing imported into the United States.

Mr. President, this reinforces my long-held conclusion that the Communist Chinese will lie and cheat and use every underhanded trick in the book to defraud the United States. But this time, they got caught.

Mr. President, the Red Chinese activity exposed today defrauded the U.S. Government of tens of millions of dollars. More importantly, it destroyed thousands of American jobs. Industry experts estimate that as many as 500,000 United States jobs may have been lost.

The Red Chinese double-dealing operated in two parts: One part of the operation involved in the misclassification of textile imports so as to evade United States quota laws, thereby allowing more Chinese textile and apparel imports to flood our market.

The second part of the scheme involves a deliberate understanding of the value of the textiles, again defrauding the United States of tens of millions of dollars. This is no doubt just the tip of the iceberg.

Mr. President, again I commend the Customs Service and Commissioner Hallett. As I stated at the outset, I have been working with her for quite awhile. It is certainly encouraging that

the Customs Service has pursued Chinese perpetrators so relentlessly.

#### YOUTH DEVELOPMENT PROGRAM

Mr. HARKIN. Mr. President, On September 20, Jane Quinn, the project director of the Carnegie Council on Adolescent Development, delivered the key-note address at the University of Northern Iowa's National Youth Leadership Symposium. In her remarks she outlined the findings of a 2 year study conducted by the Carnegie Council on Adolescent Development and the Carnegie Task Force on Youth Development and Community Programs.

In the course of this study, which was an effort to compile data on America's youth organizations, the researchers at Carnegie found that although there are many organizations providing positive experiences for today's young people, there are several problem areas that need to be addressed. In particular, the study points to a lack of sufficient and stable financial support; a marked disparity in both number and quality of programs between low and higher income neighborhoods; the failure of many programs to gauge the true composition of the population they serve, or provide appropriate assistance and activities that will aid them in retaining the interest of their members; the failure of many organizations to effectively compete with gangs; and the lack of adequate financial and statistical accounting which would help membership organizations measure their effectiveness. The study, as Ms. Quinn indicated, however, addresses these deficiencies, and makes sound recommendations on the way to overcome such problems.

It has become increasingly apparent in recent years, as Ms. Quinn pointed out in her speech to the Symposium, that it is time to move beyond rhetoric. As our children more and more become grim statistics instead of productive adults, we must reach further for answers. The Carnegie Council's findings, and its recommendations for improving our Nation's youth organizations, are an important step.

Ms. Quinn, and all of those at the Carnegie Council on Adolescent Development who contributed to this study, should be congratulated on their fine work. I therefore ask, Mr. President, that the text of Ms. Quinn's speech be inserted in the RECORD.

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

#### YOUTH DEVELOPMENT AND COMMUNITY PROGRAMS: STRATEGIES FOR APPLYING WHAT WE KNOW

(By Jane Quinn, Carnegie Council on Adolescent Development)

##### I. INTRODUCTION

It is really a great pleasure to have this opportunity to talk with you tonight. For starters, this is the first time that I have

been asked to give a NAMED address—and so I thank Mr. McElroy as well as our more immediate hosts at the University of Northern Iowa's Youth and Human Service Administration Program. Second, this annual Youth Leadership Symposium—and in fact all of the work of the Institute for Youth Leaders—have a critical role to play in a society that tends to undervalue both *youth* and *leadership*. The prestigious National Commission on Children has urged our society to move "beyond rhetoric"—beyond the rhetoric that says children and youth are our most valuable resource, and then allows more than 20 percent of them to live in poverty; beyond the rhetoric that says children and youth are a precious investment, and then undercapitalizes all of its social institutions that are supposed to develop that investment.

Given these realities that face our nation on the eve of the 21st century, it is a special pleasure and privilege to be among people who are personally and professionally willing to invest in children and youth—who moved beyond rhetoric by *living* the commitment to young people on a daily basis.

The theme of this symposium is "Building Practice on Knowledge," and I have been asked to talk with you this evening about one aspect of this challenge—Youth Development and Community Programs: Strategies for Applying What We Know. In my presentation, I will be reporting to you—for the first time in a public forum—the findings of a two-year national study conducted by the Carnegie Council on Adolescent Development and its Task Force on Youth Development and Community Programs. This study has attempted to bring together information about contemporary American youth organizations—broadly defined—with a view toward strengthening community-based programs and services for young people. A particular focus of our work, because it is a particular focus of the Carnegie Council on Adolescent Development, has been young adolescents—youth people between the ages of roughly 10 and 15. But much of what we have learned—and of what I will be discussing tonight—applies to both younger and older children and youth. The Carnegie Council study, to be published in early December, is entitled *A Matter of Time: Risk and Opportunity in the Non-School Hours*. The title is intended to call attention to the fact that some 40 percent of the hours available to our nation's youth are discretionary, meaning that they are not already committed to such activities as attending school, doing homework, assisting with household errands and chores, or working for pay.

##### II. THE STUDY ITSELF

One of the most amazing parts of directing a study that is sponsored by a private foundation is that you don't have to write a grants proposal. Having spent the previous ten years raising money for youth organization programs, I greeted this news with some enthusiasm, as you can imagine. But I quickly found out that designing such a study is very much like writing a proposal—you have to define the scope of the problem you are going to address, determine the possible alternative approaches, and select the ones that seem most reasonable. I make this comparison between fundraising and action research by way of telling you there were many decisions facing Carnegie staff and our Task Force on Youth Development and Community Programs as we started our work together.

The first major decision was how we were going to define the universe of organizations

to be examined. We initially determined that we wanted to focus on youth development and primary prevention, rather than on remediation and treatment of problems; second, we decided to take as inclusive an approach as possible, and that meant taking a look at local as well as national groups, religious as well as secular, public as well as private institutions. After some deliberation, we decided to include the following five sectors of community programs for young adolescents:

(1) Private, nonprofit, national organizations that serve youth (including organizations that are primarily or exclusively youth-serving in their focus—such as Boy Scouts, Camp Fire, Boys and Girls Clubs—as well as multi-service organizations, such as the YMCA and YWCA, that offer substantial service to youth);

(2) Grassroots youth-development organizations not affiliated with any national structure;

(3) Religious youth organizations;

(4) Youth programs run by privately sponsored adult service clubs, sports organizations, senior citizens groups, and museums; and

(5) Youth programs run by selected public sector institutions, including libraries and parks and recreation departments.

Since most of you in this audience are youth work professionals in one capacity or another, you have some idea of the immensity of this undertaking. According to the National Center for Charitable Statistics, an arm of Independent Sector, there are 17,000 youth development organizations in America, and that does not include many of the religious groups (which are counted in a different category for their purposes), sports programs, municipal services, or the youth programs sponsored by adult service clubs, senior citizens groups or museums. How then were we going to wrap our arms—or, more accurately, our brains—around this huge universe?

We decided to follow the dictate of Jane Addams, who advised social workers to keep "one foot in the library and one foot in the street." We knew that a literature search would quite naturally be a part of our study; but we also knew that, by itself, a literature review would constitute an inadequate data-gathering mechanism in a field like youth development, where knowledge is based as much on experience as on research. So we attempted to combine the best of both worlds—the practice world and the research world—by employing nine different methods in our study design;

(1) We started by convening the 27-member Task Force mentioned earlier, to guide and oversee the project. This group is composed of national policymakers, researchers, youth organization executives, local and national funders, and other civic leaders. At least one member of the Task Force, Judith Erickson, is here tonight. The Task Force met six times during the course of the research phase, participated in research interviews and planning subcommittees, and in many rounds of reviews of its final report;

(2) Next, we conducted focus groups with young people in the age range that was of interest to us (young adolescents). In all, we conducted 16 groups that were then separated by race, gender, and age. We talked with these young people about how they spend their non-school time, about activity preferences during the non-school hours, about the characteristics they do and don't like in adult leaders, and about how they would design an ideal youth center.

(3) We did conduct an extensive literature review, combing through research and practice literature, both published and unpublished. This literature has been described as having two primary characteristics—"fugitive" and "untamed." The fugitive part is that much of the best, most useful literature is unpublished and difficult to obtain; the untamed part is that relevant information exists in many different social science disciplines and that this information remains largely unsynthesized. As we conducted our review, we were interested in building both the theoretical and empirical cases that youth development programs can and do make a difference in the lives of young people.

(4) We commissioned 13 papers, researched and written by specialists in various aspects of youth development, on topics ranging from adolescent time use to the funding of American youth organizations to cross-national perspectives on youth development.

(5) Members of the Task Force and I interviewed scores of youth leaders, including the board presidents and executive directors of the 20 major national youth organizations. Other key informants were local youth work practitioners—including direct service workers, agency administrators, and volunteers.

(6) A major challenge in this study was how to learn anything coherent and systematic about the hundreds of independent, grassroots youth development organizations that exist in cities and towns across America. We decided to conduct a national survey of these groups, using the Independent Sector data base as a means to identify them.

(7) We consulted with other national experts, bringing some of them in to meet with the Task Force. For example, Francis Ianni met with the Task Force early in its deliberations and reported on his 13-year investigation of adolescent development in ten American communities—research that is reported in his wonderful book, *The Search for Structure*. Lisle Carter of United Way of America made a presentation on that organization's new 20-year initiative directed toward children-at-risk, called the Mobilization for America's Children.

(8) Staff and commissioned paper authors visited programs and communities, in an effort to learn at the ground level about exemplary program practices and about models for comprehensive community-wide planning of youth services.

(9) Finally, we held two consultations—one-day meetings with practitioners and researchers—to discuss the urgent and important issues of program evaluation and professional development of youth workers. In both cases, we were seeking to establish a consensus about the current state of the art and about recommendations for improving those states. Both of these consultations have resulted in written reports that are available free from the Carnegie Council.

### III. FINDINGS FROM THE CARNEGIE STUDY

So that is what we did. Now let me tell you what we learned. In synthesizing the results of its various analyses of the universe of America's youth organizations, the Task Force saw 10 clear themes emerge:

Many strengths characterize the existing array of community-based youth development programs. These strengths include tradition, durability, commitment, credibility, diversity, widespread support, and an extensive current reach;

Yet many youth programs are not responding as fully as they might to the needs and wants of young adolescents, and are thus failing to attract young people after the age

of 12 or 13—even to such potentially attractive offerings as sports;

In particular, youth programs are failing to reach out to young people in low-income environments, to solicit their views, to listen to them, and to act on their suggestions for appealing, accessible activities;

Programs do not adequately address the needs of young adolescents, especially those in low-income neighborhoods, for earned income and initial paid employment experience;

In general, programs do not adequately acknowledge the role of young gangs in addressing young adolescents' needs (for safety, status, meaningful roles, a sense of belonging, a sense of competence) and they do not actively compete with gangs for youth membership;

Intensity levels of many programs are far below what it takes to be effective in helping young adolescents to mature in a healthy manner;

Financial support for youth programs is grossly inadequate to current needs and is, in the eyes of many fund-raising experts, likely to become even worse. As libraries, parks and recreation departments, and other public sector institutions increasingly compete for private dollars, and as both public and private agencies cope with deepening government cutbacks, support for youth-oriented programs will doubtless become more difficult to generate;

Recruiting, training, and retaining mature, dedicated, top-quality adult leaders—both paid and volunteer—is a constant challenge to youth organizations;

Many organizations that offer programs for youth know little about the characteristics of the youth they serve, and therefore find it difficult to plan effective outreach strategies; and

Few organizations conduct regular and systematic evaluations of their program.

### IV. RECOMMENDATIONS FOR CHANGE—APPLYING WHAT WE KNOW

Let me take each of these themes, as we do in our report, and make recommendations for change, being careful to apply what we know from research and experience to future practice.

#### *Theme #1: Building on current strengths*

As we examine the vast universe of American youth organizations, let us acknowledge and celebrate the fact that the glass is definitely at least half full. The extensive and impressive reach of these services is documented in several places—probably nowhere better than the 1988 National Education Longitudinal Study, which found 71 percent of their nationally-representative sample of eighth graders to be involved in at least one type of organized, out-of-school activity. I would like to see this number approach 100 percent in future national surveys—because I believe that all young people can benefit from participation in well-planned youth development programs. It might interest you to learn that some other developed countries do articulate this type of universal participation or "attachment" as a national goal. As we look to the future, let's make sure that we build on the other current strengths—a broad base of committed adult leadership, both paid and unpaid; widespread financial and other support, both private and public; and permanence and durability that allow for meaningful strategic planning.

#### *Theme #2: Responding to the needs and wants of young people*

Most current youth development programs are planned, led, run, and controlled by

adults. This strategy works much better with five-year-olds than with fifteen-year-olds, who want and need a bigger piece of the action. Regardless of which sub-sector in the broad universe we were examining at any particular point in our study, we found that participation tends to drop off at about age 12. This is true among sports organizations and religious youth groups, as well as among the well-known national youth agencies. Yet young people—in our own focus groups and other surveys—consistently report that they want places to go, things to do, people to care about them. Our research found a clear developmental mismatch between the practices of many youth organizations and the needs of young adolescents.

Let me provide a few examples. While teenagers frequently voice their need for help in understanding and exploring such topics as human sexuality and violence prevention, many youth organizations avoid or water down discussions on these and other issues that might be deemed as controversial by adult leaders, donors, or board members. While adolescents need to develop an array of complex life skills, some programs are of insufficient frequency and duration to allow for the acquisition of such skills through practice and repetition, while other programs rely on didactic teaching methods that also do not allow for needed practice. And while adolescents want to be and feel useful, many youth agencies provide insufficient opportunities for young people to participate in organizational decisionmaking, to determine the goals and methods of programs, and to make meaningful contributions throughout the organization.

The voluntary nature of youth agencies suggests that young people should have a great deal of autonomy in structuring and selecting activities in which they will participate. And when they are not granted such autonomy, many youth people "vote with their feet."

*Theme #3: Reaching out to young people in low-income areas*

The positive news cited earlier in the data from the 1988 National Education Longitudinal Study was coupled with some rather definitive and disheartening information about the disparity in access to out-of-school programs on the basis of income. While only 17 percent of eighth graders from upper-income families reported no current participation in organized out-of-school activities, fully 40 percent of low-income youth reported no such involvement. Because parents and adolescents in low-income neighborhoods express a desire for increased services, the likely explanation for differences in program participation levels is access (including cost) and availability. Confirmation of this explanation can be found in other studies. For example, a recent national child care survey reported sharp differences by socioeconomic levels in school-age children's enrollment in structured after-school activities. Parents from higher-income group relied on lessons, clubs, sports, and similar enrichment activities to supplement other child care arrangements to a much greater extent than did lower-income parents. And a comparison of services for 11- to 14-year-old adolescents in the inner city and a nearby suburb of Chicago showed wide differences in available resources for young people. The suburb had nearly three times more non-religious organizations and three times more activities per 1,000 youth, and it offered a range of programs that include arts activities, classes, clubs, or groups, sports, and social or civic events. Inner-city neighborhood pro-

grams focussed more on personal support and tutoring. Increasing the access of young people living in low-income areas to supportive community programs will require individual and collective action at both the local and national levels. Community programs for youth should view themselves as actors in a network of services, and these networks should engage in systematic planning and coordinated decision-making. Youth and community needs, rather than organizational concerns, should remain at the center of these efforts from their inception. An expanded and realigned set of services should build on the strengths of current programs and organizations; but all actors in the network should anticipate that ongoing adaptation and change will be required.

*Theme #4: Addressing economic and employment issues*

Young adolescents consistently name economic and employment issues as a priority for them, yet few organizations respond overtly to these concerns. Approximately 20 percent of 14- and 15-year-olds work for pay outside the home, often in jobs that are routine, boring, and devoid of positive interaction with adults. Some youth organizations offer young people a "career path" that includes voluntary service within the organization or club to learn and practice basic skills, with movement to junior counselor or leadership roles (usually with a stipend of some sort), and then progressing toward paid employment on a part-time basis. Similarly, some of the libraries participating in the San Francisco Bay Area Youth-At-Risk Program responded to a youth needs assessment by providing paid employment for young people, particularly in low-income neighborhoods. In addition to offering paid employment when possible, youth organizations should capitalize on the interest of young people in the world of work by providing career awareness, pre-employment training, jobs skills training, and internship programs on an ongoing basis.

*Theme #5: Responding pro-actively to competition from youth gangs*

American society has witnessed several waves of youth gangs throughout its history, and much is known about their formation, organization, and functioning. Recent research on gang involvement indicates that early adolescence represents the critical decision period for initial gang activity, with most involvement beginning between ages 13 and 16, and some as early as age 8. Youth gangs address many of young adolescents' developmental needs, including safety, status, meaningful roles, income, and a sense of competence and belonging. One researcher, James Diego Vigil, has correlated the rise of youth gangs in Los Angeles over the past 15 years with the dismantling of social programs available to youth. He notes, for example, that the city of Los Angeles sponsored 130 inner-city Teen Posts in the late 1970's and that only five such centers remain in the 1990's. Youth development programs can—and in some cases do—actively compete with gangs for the time, attention, energy, and commitment of young people. But in order to do so, these pro-social programs must offer meaningful alternatives to gang involvement. One promising initiative, sponsored by Youth Development, Inc., in Albuquerque, New Mexico is the Gang Prevention and Intervention Program. This effort is not directed toward disbanding youth gangs, but toward preventing initial gang involvement among younger teens and providing constructive, non-violent activities for current

gang members. A structured seven-week program for gang members includes involving them in community service, teaching non-violent conflict resolution skills, visiting adult corrections facilities, obtaining employment and legal assistance, and counseling with family members.

*Theme #6: Matching program intensity with program goals*

To be responsive to the needs of today's young people, many community programs will need to increase the level of their involvement and make their services more intense in both frequency and duration. Evidence is growing that, to be effective, community-based interventions—particularly those designed to serve young people from less advantaged backgrounds—must be intensive and sustained. This does not mean that every program or service needs to be comprehensive and intensive, but rather that young people should have access to an array of services that meet these criteria. The frequency and duration of any particular program's activities should be adequate relative to its own goals and objectives and to the needs of the young people it serves. If a program is building-based, the facility that houses the program should be open long hours, at times that are convenient for young people. Effective community programs should actively seek ways to intensify their contact with young people—for example, by providing camping or retreat experiences, particularly when youth have more discretionary time (weekends and summer).

*Theme #7: Increasing and stabilizing the funding bases of youth organizations*

One of the most striking features of America's youth development organizations is the precariousness of their funding. Although a few organizations enjoy regular annual surpluses and substantial assets, most depend heavily on outside funding, over which they have little control. Because of this dependence on others, community programs for youth cannot stabilize their funding bases by themselves. Specific actions they can take are: diversify their funding sources; make best use of existing resources; continually work to develop innovative and stable sources of core support for their organizations (comparable to sales campaigns for Girl Scout cookies, which provide an average of 60 percent of the core support for the work of local Girl Scout Councils); work collectively with other youth organizations to increase the stability and total level of support for the sector's work, through action directed toward both traditional sources and innovative new mechanisms—for example, a Children's Investment Trust that would earmark public funds for youth services or a semi-postal stamp that would allow individuals to make voluntary contributions to youth programs each time they purchased stamps through the U.S. Postal Service.

Furthermore, youth organizations should view themselves as having an interdependent relationship with funders, which means educating funders about their real needs and responding to funders' requests for greater accountability and responsiveness to community needs. For their part, youth organization funders can help to stabilize and expand their base of support for youth development work in a variety of specific ways. Local United Ways, community foundations, national foundations, businesses, individual donors, and government at all levels need to work together to address the three major current problems with youth organization funding: the inadequacy of the overall level

of support; the tendency to support remediation, treatment and control rather than youth development and primary prevention; and the tendency to fund categorically, by problem area, rather than comprehensively.

*Theme #8: Investing in adult leadership*

At a conference of youth leaders, this part of my talk may be preaching to the converted. You can probably guess what I am going to tell you: that across all sub-sectors of the vast universe of community programs studied by the Task Force, the quality of adult leadership was consistently named as both vitally important and inadequately addressed. Youth-serving agencies, religious youth groups, sports programs, parks and recreation services, and libraries all report that the adults who work with young people in their systems, whether serving on a paid or pro-bono basis, are the most critical factor in whether a program succeeds. Why then do they frequently not receive adequate training, ongoing support and supervision, or public recognition? Training and supervision problems are reported to be the result largely of resource constraints, although they may also be tied to the widely held views that work with youth is neither highly valued nor particularly difficult.

The importance of adult leadership in program delivery is well documented in the research literature, and the qualities that contribute to program success in these empirical studies are strikingly similar to the qualities that adolescents say they value in leaders of community programs. These qualities include: competence in group processes; ability to act as a guide and facilitator, as opposed to seeking a dominant authority role; respect for adolescents, and ability to empower them to make good decisions and to encourage freedom of choice and individual self-determination. In addition to these skills, adolescents want leaders who are kind, nurturing, consistent, trustworthy, and genuinely interested in young people. They want leaders who know how to create a welcoming and supportive atmosphere in the organization or program, and who do not single out, exclude, or embarrass individual young people. Youth of color want assurances that leaders will not discriminate against them, and many immigrant and refugee youth want bilingual leaders who can speak with them in their own language as well as help them learn English.

Improving the quality of adult leadership involves matters of pre- and in-service training, recruitment and retention, and paid and unpaid staff at all levels. An immediate first step is for community programs to expand greatly the availability of appropriate training and other forms of staff development for all adults who work directly with young people whether on a paid or volunteer basis. Program administrators should begin by assessing the effectiveness of existing training models to identify what works for whom and why. They should then promote a range of successful models that include one-on-one coaching, mentoring, and supervision in addition to experience-based workshops and courses.

*Theme #9: Achieving greater accountability through more systematic documentation of services*

Again, across the many sub-sectors of youth development services that we examined, the Task Force was dismayed to find that many programs and organizations do not collect even basic information about the youth they are currently serving. Many na-

tional organizations do not know the age, gender, racial, ethnic, or economic backgrounds of their current service populations. In fact, of the 20 national organizations that we interviewed and examined in depth, nine have no data on the ages of current participants, seven keep no statistics according to gender, five had no information on the racial or ethnic background of members, and fewer still had reliable data on family income levels. Such a situation makes it extremely difficult for these groups to assess their current reach and to conduct strategic planning activities. Local youth organizations are more likely to have at least some of this data, in part because United Way and other local funders have come to require it. In several of the other sub-sectors we examined, even the basic head-count type of documentation was missing. For example, many religious youth groups and adult service clubs had little or no idea of how many young people were reached by their services.

It goes without saying that much could be done—quickly and inexpensively—to rectify this problem. Ideally, all youth organizations would keep basic, accurate, regular, and consistent information about service demographics. Such a system would allow individual organizations to conduct more effective planning, and would also enable groups of agencies to plan collaboratively around outreach to underserved groups of youth.

*Theme #10: Specifying program outcomes and measuring progress toward their achievement*

A problem that plagues the field of youth development is the poor overall state of program evaluation. Many youth development programs have unclear, unspecific, or global (and therefore unmeasurable) goals and objectives, and more still have no reliable basis for claiming that their services are effective. This problem confronts individual agencies as they seek funding and it hampers collective efforts to advocate for expansion of services.

Program developers should seek clarity and realism when defining outcomes of their efforts. As much as possible, these outcomes should focus on the end point of positive youth development rather than solely on preventing problem behaviors such as substance abuse, delinquency, and adolescent pregnancy. The outcomes should be stated in terms of behavioral functioning in the real world, and the indicators associated with each outcome should also be identified.

Once clear program outcomes are established, evaluation measures can be developed to assess whether the program is effective in reaching its own goals. Some type of assessment mechanism should be built into every community program for youth. The level of the assessment or evaluation should match the needs of the sponsoring organization and the state of the program's evolution. For example, a new program should be subject to process evaluation that is directed toward program improvement, while a more mature program that has shown promising initial results should undergo outcome evaluation to determine objectively whether the program is producing its intended effects. In a world of scarce resources, the best candidates for rigorous outcome evaluations are those programs that are carefully designed and implemented, that have shown promising results, and that seem amenable to large-scale replication. Because of the many challenges in conducting appropriate evaluations in the real-world setting of the youth organization, many agencies have found it useful to work with evaluation experts from other institutions, including universities and nonprofit

technical assistance organizations. In effective collaborations, outside evaluators see themselves as equal partners with youth agency personnel in designing and implementing program assessments, and young people are active participants in the evaluation process.

V. CONCLUSION

In conclusion, I would like to return to a point I made at the beginning of my talk, and that is the way our society undervalues leadership. We will not be able to address the issues I have raised tonight without effective youth leaders, because the world is complex, and so are the problems facing young people and the systems that we have already constructed to support and guide them. In his book entitled "On Leadership", John Gardner notes that "history will judge its leaders on—among other things—how well they understand the traditional framework of values, and on how they renew the tradition by adapting it to contemporary dilemmas." This notion of the role of leadership might be useful to us as we begin the third annual Youth Leadership Symposium—an effort that, according to the preview brochure, "focuses on solving practical problems and addressing current issues." I look forward to being part of the deliberations over the next two days and to working with all of you on the challenge of building practice on knowledge.

TRIBUTE TO PFC DONALD L. SELLMAN

Mr. JOHNSTON. Mr. President, I would like to take just a few minutes to pay tribute to Pfc. Donald L. Sellman, who retired from the U.S. Capitol Police on September 26. Officer Sellman, known as "Tex" to his many friends on Capitol Hill, retired on September 26, after 21 years of dedicated service.

During his tenure with the police force here in the Senate, Officer Sellman on numerous occasions was called upon to provide security for Energy and Natural Resources Committee hearings and business meetings. He always carried out his duties with the utmost professionalism. Tex had the special ability for keeping order while at the same time maintaining a friendly and cheerful demeanor.

Prior to his service with the U.S. Capitol Police, Officer Sellman spent 23 years with the U.S. Army where he was awarded numerous medals and honors, including the Silver Star and the Bronze Star with three oak leaf clusters.

Officer Sellman has given over 40 years of devoted service to our Nation. On behalf of the committee members and staff, I would like to congratulate Officer Sellman on an outstanding career and thank him for his excellent service to the committee. May he enjoy to the fullest a well-deserved retirement.

WILLIAM F. DEGAN, JR., OF MASSACHUSETTS—A LAW ENFORCEMENT HERO

Mr. KENNEDY. Mr. President, in August, Massachusetts and America lost a

genuine law enforcement hero when Inspector William F. Degan, Jr., of the United States Marshals Service was killed in the line of duty in Idaho. Mr. Degan was part of a team of Federal marshals who were conducting surveillance of the home of an ultra-right-wing extremist and fugitive, when he was killed by gunfire from the home.

A resident of North Quincy, MA, Bill Degan served as an officer in the Marines before joining the Marshals Service. He spent much of his career in Massachusetts, where he served brilliantly, and was involved in the apprehension of many dangerous criminals. Mr. Degan earned the Attorney General's Distinguished Service Award and the Marshals Service Director's Award for his outstanding performance as Commander of a Special Operations Task Force sent in to restore order in St. Croix following the devastation caused by hurricane Hugo. As a Lieutenant Colonel in the Marine Reserves, he served with distinction in the Persian Gulf in Operations Desert Shield and Desert Storm.

As a tribute to Mr. Degan's valor and the sacrifice that he has made for his country, the Marshals Service has named its facility at Camp Beauregard in Pineville, LA, as the Inspector William F. Degan, Jr., Special Operations Tactical Training Facility.

I extend my deepest sympathy to Mr. Degan's wife, Karen, and to their two sons, William and Brian. Their husband and father made the ultimate sacrifice for his country, and all of us share their sense of loss at his untimely passing.

#### THE START TREATY

Mr. WARNER. Mr. President, last week, the Senate voted to give its consent to ratification of the historic Strategic Arms Reduction Treaty [START I] by a vote of 93 to 6. One of the most important reasons for the Senate's overwhelming support of the START Treaty was the fact that, throughout the negotiating process, our negotiators set their standards high and negotiated with tenacity. The vital contributions to these negotiations of one true statesman, a former colleague, must never be forgotten. I am speaking of my good friend, the late Senator John Tower.

John Tower played an instrumental role in the great national debate over the never-ratified SALT II Treaty. That debate helped mold a national consensus that the United States needed to restore its defenses so that we might deal with our adversaries from a position of strength. As chairman of the Senate Armed Services Committee, John Tower presided over the rebuilding of America's national defenses. But he did more.

In 1985, when the new Strategic Arms Negotiations began in Geneva, John

Tower accepted the request of President Ronald Reagan to serve as chief U.S. negotiator. He was given the task of getting the talks back on track leading in a direction the United States wanted to go. He did that job magnificently.

John Tower used the skills that he had fine-tuned in the Senate to conduct negotiations with his Soviet counterparts. He was always a gentleman, but always pressed to explain to and persuade the other side of the merits of the American approach.

We should not be surprised that the final START Treaty bears such a close relationship to the positions that John Tower presented in Geneva. The basic structure of the agreement was shaped then. I remember vividly John Tower's efforts to ensure that the emerging START Treaty took account of the important differences between stabilizing, slow-flying bombers on the one hand, and fast-flying, potentially first-strike, ballistic missiles on the other hand. In particular, he stressed the dangers posed by large MIRVed land-based missiles which present the greatest threat to the strategic deterrent of the United States.

His persistence paid off, as we see today. While the START Treaty does not fulfill every one of the goals he had set, the Treaty does place tight limitations on fast-flying ballistic missiles and particularly, reduces by half the number of heavy, land-based, MIRVed SS-18 missiles. Always a strong supporter of America's allies, he forcefully rejected Soviet efforts to include British and French forces in the negotiations. He broke the back of this demand and set the stage for the basic outline of the agreement. He made clear that the United States could not accept a treaty that was not effectively verifiable, and he pressed hard for the necessary on-site inspections and openness. Indeed, after leaving Geneva, he sponsored the highly acclaimed verification conference held annually at Southern Methodist University in Dallas, Texas.

During the time John Tower was in Geneva, he was visited by members of the Senate Arms Control Observer Group and a number of his other former colleagues. He understood the importance of congressional support for the ongoing negotiations if we were to have a START Treaty that would be ratified. He worked hard to ensure that members of the Senate understood the goals of the United States in the negotiations and the strategy for getting there. More important, however, he understood that the Treaty would be judged on its merits, that substance mattered, and that the details of provisions negotiated were often every bit as important as the basic concept of limitations.

We have lost John Tower, but we will live more securely because of his leg-

acy. He understood that arms control is an integral part of our foreign policy and national security strategy. He understood that agreements for agreements' sake was a dangerous psychology. He recognized that if we negotiated from strength, we could create opportunities to enhance our security. In short, he knew how to think about strategy and he knew how to implement it.

Now that the Senate has approved ratification of the START I Treaty, it is only appropriate that we take a moment to remember that John Tower, the Senator, was also John Tower, the negotiator.

#### CONGRATULATIONS TO CENTRAL CITY CONCERN

Mr. HATFIELD. Mr. President, I would like to take a moment to congratulate the people of Central City Concern in Portland, OR, who recently received the Interagency Council on the Homeless' Award for Excellence in Community Service. Central City Concern was honored by the Interagency Council, Secretary Jack Kemp, and Secretary Louis Sullivan for their highly successful programs which have had a tremendous record of ending the cycle of homelessness.

Central City Concern currently owns, manages, or has under development 1,061 housing units in 12 buildings, making them the largest nonprofit housing agency in the Pacific Northwest. Their combination of housing and chemical dependency treatment services in Portland's urban core area is unique nationally, and allows for a meaningful and permanent impact on the lives of thousands of Oregonians each year.

The Downtown Housing and Preservation Partnership, with a membership including the Portland Development Commission, the Chamber of Commerce, the Housing Authority of Portland and Central City Concern, has been able to develop the first undertaking of its kind in the Nation. This project, which brings together chemical dependency resources with a housing facility called the Sally McCracken Building, is managed by Central City. It offers an opportunity for people who have worked to address their addictions, and are trying to end their cycle of alcoholism, drug abuse, and homelessness, to pursue their lives as clean and sober. Many of these people have formerly been written off as being hopeless members of their community; however, with the hard work and dedication of the people at Central City, 85 percent of these tenants have been able to end their cycle of despair.

For the short period of time that this project has been in existence, 21 people have been able to go forward with their lives successfully. In fact, the two

major reasons people leave the Sally McCracken project is because: First, they have been able to regain custody of their children or second, they have been able to secure full-time employment and are able to afford private market rental rates.

Central City has 190 employees, 140 of which are formerly homeless, typically recovering alcoholics or drug abusers. Many of these individuals have advanced to positions of responsibility and show not only to their colleagues, but also to their clients, that they too can become productive members of their community. They all bring their talents, abilities, and experiences to help those who have been unable to help themselves. The people of Central City Concern have given the ultimate gift through their effort—they have renewed self-esteem in each and every life they have touched.

#### REGARDING THE BRADY BILL

Mr. HARKIN. Mr. President, once again, Republican Members of this body have acted to stop the Brady bill from being considered and enacted into law. I have long supported this legislation. Despite being passed in both bodies, this legislation will not become law, due to the intransigence of those who would prefer to advance the interests of the NRA over the interests of the overwhelming majority of Americans.

The Brady bill is a simple, common-sense measure to keep guns out of the hands of criminals. It is ludicrous for us to have a statutory prohibition on felons owning or buying handguns, but no effective mechanism to enforce it. The Brady bill would provide for criminal background checks, and also help update criminal records to make those checks more effective.

In my State of Iowa, a criminal background check system is already in place that would comply with the Brady bill. Iowans wait 3 days before they are able to purchase a gun. It hasn't been a tremendous inconvenience to gun purchasers. This bill would not require any change in Iowa's gun laws. But this bill is important to the people of Iowa nonetheless. The problem is that guns purchased in jurisdictions with lax gun laws are brought across State lines and get into the criminal gun pipeline.

Contrary to the often repeated claims of Brady bill opponents, it is not true that "they'll just get their guns somewhere else." Nobody thinks that the Brady bill will prevent guns from being used in crime, or ensure that guns will never get into the wrong hands. But isn't it reasonable to try to make it more difficult to obtain guns? Criminals aren't brain surgeons or rocket scientists. As the distinguished chairman of the Judiciary Committee

pointed out, of the first 1,063 in his State of Delaware to apply for a permit under that State's waiting period, 10 percent—106—were ineligible to buy guns. That's 106 convicted felons who would be armed now, if it wasn't for a criminal background check. The question we must ask is whether the Brady bill will save lives, and I think it is undeniable that it would.

Unfortunately, as in so many other instances, George Bush is giving lip service to supporting the Mitchell-Dole compromise Brady bill, but he and many of the Republicans in this body have stopped its consideration. Just last night, on "Larry King Live," he said "Dole and Mitchell have a bill on that \* \* \* one that I support." But if President Bush really wanted to enact this bill, it would be enacted. I hope and believe that next year, the President of the United States will fight for the interests of the people, rather than those of the NRA. I look forward to taking quick action on this legislation when the 103d Congress convenes.

#### INDIAN TECHNICAL AMENDMENTS

Mr. STEVENS. Mr. President, yesterday the House passed by suspension the Indian technical amendments bill passed by the Senate a few days earlier. One of the Senate amendments approved by the House authorizes the Bureau of Indian Affairs to reenroll Yvonne LeCornu and her son Andres Manual Salazar into Shaan-Seet Corp. This will rectify a clerical error made by the Bureau when it accidentally dropped the family from the official rolls in the early 1970's.

The amendment will enable the LeCornu family to receive, after years of waiting, all the benefits of membership in Shaan-Seet, Inc. after the effective date. Past distributions made by the corporation will not be affected and will not be paid to the LeCornus. Likewise, the land distributions under the Alaska Native Claims Settlement Act will not be altered.

The bill will grant Yvonne and her son full status as village corporation settlement common stock shareholders in Shaan Seet with the same rights as they would have had if they had been enrolled during the original enrollment period. It is not intended that they have any rights beyond those of ordinary shareholders Shaan Seet.

The legislation is not intended to affect any prior distributions to the shareholders or to require any readjustments of cash allocations between Sealaska Corp. and/or Shaan Seet. Similarly, past distributions made by Sealaska and/or Shaan Seet to the LeCornus shall not be affected. This act will not give rise to any claim between Shaan Seet and Sealaska based upon such prior distributions. It is expected that Sealaska will cancel the

existing class C at large stock held by Yvonne and her son and reissue class A village stock in its place.

The amendment simply corrects an administrative error, and I am grateful to Congressman GEORGE MILLER, the chairman of the House Interior Committee and Congressman DON YOUNG, the ranking member for their support of this provision and for approving it in such an expedited manner.

#### NIH REVITALIZATION

Mr. PACKWOOD. Mr. President, I rise today in support of S. 2899, the National Institutes of Health [NIH] Revitalization Amendments of 1992.

I would like to speak to the section of the bill that deals with fetal tissue transplantation research, especially as it affects our senior citizens.

The American Medical Association has stated that fetal tissue transplantation research is morally acceptable and a promising area of clinical investigation.

Fetal tissue research has already given the world vaccines against polio and German measles.

Breakthroughs in medical research should not be compromised because of politics, Mr. President. And, that is just what is happening to this legislation that would ensure progress in research for diseases such as Alzheimers and Parkinsons, which together afflict over 5.5 million of our elderly population.

Scientists are very encouraged about a breakthrough in the understanding and treatment of Alzheimers, for instance, but this can only occur if they are able to conduct research in fetal tissue transplantation.

Alzheimers affects one in every three American families, one in three—what a terrible burden on so many.

Because Alzheimers is so closely linked with age, demographic changes alone means that by the middle of the 21st century, 14 million Americans, 1 in every 2 persons over the age of 85, will have Alzheimers.

Science is the only place we can turn to for clues and eventual answers to this heartbreaking disease.

The first results of fetal tissue transplantation also offer great hope to the 1.5 million Americans who suffer from Parkinson's disease. Every day of their lives, these people have to cope with this progressively debilitating disease for which there is no cure.

The NIH legislation has the support of the Alliance for Aging Research, the Alzheimers Association, the Parkinson's Disease Foundation, and the Parkinson's action network, along with many other national groups.

The American Geriatric Society, made up of 6,000 physicians and other health professionals dedicated to meeting the special needs of the elderly patient, also supports fetal tissue transplantation research.

The American Jewish Congress says that the present Government moratorium stopping fetal tissue research ignores the suffering of millions of Americans who endure these diseases.

The National Arthritis Foundation, and organization dedicated to improving the quality of life for the 37 million Americans with arthritis, supports fetal tissue research that will lead to the achievement of this goal.

The American Cancer Society has also stated that several areas of research directly related to the cancer problem have benefited from the use of human fetal tissue.

The elderly, as the grandparents and great-grandparents of the children who are the future of our country, should also know that the Juvenile Diabetes Foundation International supports the research because it may hold the answer to a cure for diabetes.

And, the March of Dimes supports fetal tissue research because it has the potential to ensure the birth of many more health babies.

Also, many antiabortion Members of Congress also support fetal tissue transplantation research, saying that the research protocol ensures adequate safeguards for fetal tissue collection.

It will be a sad day for our senior citizens, Mr. President, if we cannot pass this bill out of the Congress.

While we can return another day to address the entire NIH reauthorization bill, by not passing this bill now, we are saying to our suffering elderly, you have no hope to cling to, we are very sorry, but don't expect a better quality of life because Congress won't allow us to move forward with this vital research.

Well, Mr. President, this Senator has a very, very hard time with this message.

I strongly urge my colleagues to pass this legislation and get on with helping our elderly to live out their years without the needless pain of these diseases. I thank the Chair.

#### ENVIRONMENTAL ASPECTS OF NAFTA

Mr. CHAFEE. Mr. President, nearly 3 weeks ago, the Senate Finance Committee held a hearing focusing on the environmental aspects of the North American Free-Trade Agreement [NAFTA].

I found the testimony presented at this hearing to be timely and informative. I believe it is important that Members of the Senate, who ultimately must give their approval to implementing legislation, be aware of the expert comments—both pro and con—on the green aspects of the NAFTA.

Toward that end, I am placing in the RECORD a statement released last Wednesday by the National Wildlife Federation, one of the environmental organizations that testified at the Sep-

tember 16 hearing. I hope my colleagues find it useful in the coming months as they study the environmental provisions of the agreement text.

[Press release from the National Wildlife Federation]

#### ENVIRONMENTAL PROVISIONS OF FREE TRADE AGREEMENT WIN SUPPORT OF NATIONAL WILDLIFE FEDERATION

WASHINGTON, D.C.—Following closely on the heels of a pledge from North American Free Trade Agreement (NAFTA) governments to create a commission on the environment, the National Wildlife Federation (NWF) announced its support today for the NAFTA's environmental provisions.

"We are satisfied that substantial progress has been made towards establishing protection of the environment as a cornerstone of NAFTA," said NWF President Jay D. Hair. "We believe the North American Commission on the Environment is essential to assure that the NAFTA's environmental provisions will be implemented effectively."

The U.S. government's support for NWF's specific recommendations for the Commission was confirmed in a letter sent to Hair yesterday from U.S. Trade Representative Carla A. Hills.

In its announcement, the largest conservation organization in the United States made clear that its support extends only to the agreement's environmental provisions and should not be misinterpreted as a green light for the whole of NAFTA. Further, NWF urged the next Congress to carefully consider the evolution of the environmental commission as details are negotiated, the language crafted for legislation implementing NAFTA, and the treatment of funding issues related to trade and environment.

"Vigorous implementation of the agreement's environmental concepts will be crucial to accomplishing responsible free trade," Hair said. "Good intentions and the right ideas alone just aren't enough."

For the past two years, NWF has played a lead role in establishing an agenda for NAFTA environmental considerations. In addition to the Federation's work with the U.S. Trade Representative's (USTR) office and the Environmental Protection Agency (EPA), Hair was appointed to serve on the Investment Policy Advisory Committee to the USTR.

"A key factor in these negotiations has been Ambassador Hills' and EPA Administrator Reilly's ability to advance trade-related environmental concerns beyond the status quo. Together with their proficient staffs, they have engaged these important issues in a forthright and professional manner. They are to be commended for their excellent efforts," Hair said. "These important environmental provisions represent a first step in achieving the goals of sustainable development as articulated at the Earth Summit in Rio last June."

The Federation's affirmative support of these provisions does not extend to aspects of the NAFTA other than those related to the environment, nor does it extend to other actions taken by the Administration on environmental issues.

The National Wildlife Federation is the nation's largest conservation organization. Founded in 1936, the Federation, its 5.3 million members and supporters, and 51 affiliated organizations, work to educate individuals and organizations to conserve natural resources, to protect the environment, and to build a globally sustainable future.

#### NATIONAL INSTITUTES OF HEALTH REVITALIZATION AMENDMENTS OF 1992

Mr. DODD. Mr. President, I am disappointed that the administration and a few Members of the Senate have prevented the passage of legislation to reauthorize the National Institutes of Health. This legislation would have provided critical support for the kind of biomedical research that has made NIH the leading research institution in this Nation and throughout the world.

President Bush vetoed very similar legislation despite the fact it clearly had overwhelming bipartisan support in Congress. The Senate passed this earlier measure by a vote of 85-12. The legislation, as revised in recent days, responds to many of the concerns raised by the President in his veto message. Compromises were made on a number of key issues including the most controversial issue—fetal tissue transplantation research. The White House, however, is clearly not interested in compromising. Many of the most ardent pro-life advocates in the Senate support this legislation and recognize that it in no way encourages women to have abortions. They recognize that women would not have abortions to donate tissue for research. The administration, however, appears to only be listening to extremists in the Republican Party.

Mr. President, the Senate has clearly expressed support for lifting the ban on Federal funding for fetal tissue transplantation research. New provisions in the bill respond to the concerns of the administration but would allow this much needed research to move forward under carefully regulated conditions. This research must continue—it holds the promise of cure for the millions who suffer from diabetes, Parkinson's disease, spinal cord injuries, and other chronic disorders. It is time to end this unnecessary restraint on biomedical research.

Mr. President, the revised legislation contains all the safeguards for fetal tissue research contained in the original legislation. These safeguards ensure that the decision to terminate a pregnancy will be independent from the retrieval and use of fetal tissue. The safeguards in this bill are not a substitute for—but additions to—the already extensive ethical, technical, and scientific review that all research applications undergo. For example, the legislation requires that informed consent to donate the tissue be obtained only after the decision to terminate the pregnancy has been made. Women would be prohibited from designating the recipient, or from being informed of the identity of the recipient. This legislation would make it illegal for any person to purchase or sell fetal tissue.

Mr. President, the administration has insisted that fetal tissue collected

from miscarriages and from ectopic pregnancies would be sufficient to meet medical research needs. The administration has proposed the establishment of a tissue bank composed of tissue from these sources. The new legislation gives the President's tissue bank a year to become operational. After this year researchers must continue to apply to the bank for tissue, and only if the bank is unable to provide suitable material within a 2-week period, are researchers free to obtain it from other sources. If, as the President claims, there are sufficient amounts of tissue from these sources, the use of fetal tissue from induced abortions will never be necessary.

Mr. President, I am also concerned about the administration's objections to provisions in the legislation requiring, when appropriate, the inclusion of women and minorities as subjects in clinical research conducted by NIH. In the past, NIH has failed to adequately involve women in NIH-sponsored clinical research and has failed to sufficiently support research on conditions that have particular significance for women—osteoporosis, breast cancer, and ovarian cancer. The administration has stated that the inclusion of women and minorities in clinical trials will force NIH to conduct impractical and costly studies. The failure of NIH to include women and minorities in research has resulted in their receiving second rate care. It is absolutely inexcusable that the administration is willing to allow this situation to continue. Women and minorities must be included in clinical trials and their health concerns should not take a back seat to the health concerns of white males.

Mr. President, this legislation provided an opportunity to help end the suffering of millions. It held hope for people with Parkinson's, Alzheimer's, diabetes, and other chronic and crippling diseases. Research on women's health would have received long overdue attention and increased support. It is unfortunate that the administration has chosen to put politics and the wishes of the extremists in the Republican Party ahead of medical research that holds promise for so many in this country. Mr. President, while the administration efforts to hold up this legislation have succeeded for the present time, I am pleased that the majority leader, Senator MITCHELL has committed to making this legislation the first order of business in the next Congress. I am certain that at that time we will succeed in enacting legislation that will allow critical biomedical research to proceed.

#### TRIBUTE TO SENATOR ALAN DIXON

Mr. SIMON. Mr. President, now that we are in the waning hours of this ses-

sion I think it is an appropriate time to pay tribute to my colleague, the senior Senator from Illinois, who is retiring from this body. He was defeated in a primary election in an unusual set of circumstances. I do not say that in any way demeaning his distinguished opponent who won the nomination, and as some of my colleagues know, I am doing everything I can to help her candidacy.

But ALAN DIXON through the years has contributed a great deal to the State of Illinois and to our Nation. I served in the State legislature with him. We were seatmates in the State legislature, both in the House and in the State senate.

I saw him contribute significantly in areas of civil liberties. We had something called the Broyles bills, which required people to sign papers saying they were patriotic Americans, to affirm that by oath. Of course, the net result was not to catch people who were unpatriotic Americans but simply to cause people who did not believe in taking oaths, Quakers for example, not to sign. And therefore they could not teach in Illinois or serve under State government there.

But one of the more significant contributions that he made was to revise the judicial system in the State of Illinois. We had, in Illinois, a justice of the peace system, where if you went through a community and you were guilty of speeding, you would be hauled before a justice of the peace and you might possibly not pay the fine but you would pay court costs. You could be sure. We had an extremely partisan judicial setup, where everyone had to run at all times on a party label.

We still have some deficiencies in our judicial system in Illinois, but we made giant steps forward, and there is no question that was because of Senator DIXON. And here my colleagues have seen the contributions he has made in a number of areas, particularly on the Armed Services committee.

But for the State of Illinois, I will mention one final contribution that is significant. Back in the old days when the mayor of Chicago had tremendous influence, particularly with the Chicago delegation of the House, we did not have meetings of the Illinois delegation, either Democrats or Republicans, except on very rare occasions. Senator DIXON was elected to the Senate. I was then serving the House, and he said, the Illinois delegation ought to meet and meet regularly. We started doing it and we have become a much more effective body because of that.

His contributions to this body are significant. As I said to him in a letter that I sent to him, in generations to come, his children, his grandchildren, his great grandchildren will look back and say with great pride: ALAN DIXON was my father, my grandfather, my great grandfather, whatever the relationship will be.

I have been proud to serve with him. I think I speak for all of my colleagues when I say we have been proud to serve with ALAN DIXON in the U.S. Senate.

#### FAREWELL TO SENATOR BROCK ADAMS

Mr. MITCHELL. The Senate is losing a valued Member with the retirement of Senator BROCK ADAMS. The State of Washington is losing an effective advocate.

BROCK ADAMS has had a long and diverse career in public service. Throughout his career, he has never been afraid to challenge the status quo and to forge new ground.

President Kennedy, committed to bringing the best and the brightest into Government service, recognized the talents of BROCK ADAMS more than 30 years ago, when he appointed him U.S. Attorney for the Western District of Washington. BROCK ADAMS has been committed to public service ever since.

He came to the House of Representatives in 1965 as our Nation was becoming increasingly involved in the Vietnam war. His service in the House during that divisive and controversial war gave him an understanding of the importance of congressional involvement in decisions to commit our Nation to war. It's not surprising that he was one of the primary advocates of invoking the War Powers Act in connection with the Bush invasion of Panama and the Persian Gulf war.

His forceful and compelling arguments during these crises served as a necessary reminder that Congress must never abdicate its responsibility to represent the American people on the most difficult decision elected officials must ever make—whether to send our young people to war.

BROCK's understanding of the need to maintain a careful balance of power between the executive and legislative branches reflects three decades of experience in both legislative and executive branches. After serving in the House for 12 years, he was chosen by President Carter to serve as Secretary of Transportation. His concern with and emphasis on transportation safety moved that Department forward from a focus solely on the movement of goods and people to the recognition that the safe movement of goods and people is equally a part of a sound national transportation policy.

For BROCK, the bottom line has always been how Government policies will affect people. His work on the Labor and Human Resources Committee has reflected this priority. His support of women on reproductive health issues has been unfailing. His work on behalf of the elderly has been unwavering and effective. Many Americans enjoy a better quality of life because of the work of BROCK ADAMS.

While BROCK's views have not always prevailed, he has always argued his po-

sitions articulately. BROCK's skill in debate has advanced the discussion of important issues facing Americans. His contributions to the national debate will be missed in this Chamber.

#### FAREWELL TO JOCELYN BIRCH BURDICK

Mr. MITCHELL. Mr. President, the close of the 102d Congress will see the departure of many of our colleagues. Among them will be Senator JOCELYN BIRCH BURDICK.

Mrs. BURDICK assumed her husband's position as Senator of North Dakota in the most difficult of times. While all of the Senate mourned the loss of Quentin Burdick, no one felt that loss as deeply as JOCELYN BIRCH BURDICK. Yet Mrs. BURDICK rose above her own personal tragedy to complete her husband's term in the Senate. Her personal sacrifice ensured that North Dakotans continued to have a voice in the legislative process during the last hectic days of the 102d Congress.

While Mrs. BURDICK's time with us was short, we will not soon forget the strength and graciousness with which she served in the 102d Congress. We have all learned a great deal about overcoming adversity from JOSELYN BIRCH BURDICK. I am confident that the courage and perseverance she demonstrated in carrying out her duties as a U.S. Senator will serve her well in whatever she chooses to do. We will miss her and wish her well.

#### FAREWELL TO SENATOR ALAN CRANSTON

Mr. MITCHELL. Mr. President, when the 103d Congress convenes in January, the Senate will be without the sound voice of experience of Senator ALAN CRANSTON.

The veterans of America are losing a friend. Advocates of world peace and a sound disarmament policy are losing a voice. Environmentalists are losing an effective proponent. Women are losing a champion for equality and reproductive freedom.

ALAN CRANSTON's dedication to promoting world peace comes from a personal and varied experience with war. As a young journalist, he covered the rise of fascism in Europe. He translated and published an English version of *Mein Kampf* in America to warn the public of the threat of nazism. During World War II, he enlisted in the Army as a private. As chairman of the Veterans Affairs Committee he has heard personal accounts from American veterans of the horrors of war and the lingering aftereffects of armed conflict.

ALAN CRANSTON's work for world peace has been far-sighted. His assignment to the Foreign Relations Committee has given him an effective forum in which to pursue methods to make our world more peaceful and se-

cure. He supported bilateral nuclear arms reduction negotiations. He was a leading advocate of the SALT II and START treaties. Most recently, he proposed legislation to purchase weapons-grade uranium from the former Soviet Union. Such a move will help prevent nuclear arms proliferation and will also serve as an efficient and low-cost fuel for U.S. nuclear power plants. Recently, the President adopted Senator CRANSTON's initiative and announced that the United States will begin to purchase high-grade uranium from Russia next year.

I have had the pleasure to work with Senator CRANSTON on a number of legislative initiatives since my arrival in the Senate. I have had the honor to work on the Veterans Affairs Committee under his chairmanship. In this capacity, I have found him to be compassionate and attentive to the needs of American veterans.

I recently worked with him to introduce a clarified version of the Freedom of Choice Act. In this effort, he was a tireless and firm advocate of a woman's right to choose. ALAN CRANSTON has initiated and persevered in the modern movement to pay equity for women. His recognition of the essential equality of rights of all human beings under our Constitution has been constant throughout his career, and it is a record in which he can take great pride. It is a record for which American women, African-Americans, Hispanic-Americans, and native Americans honor him, and it is an honor fairly earned.

I have admired and shared his dedication to preserving the environment. California and the Nation has benefited from ALAN CRANSTON's efforts to create and maintain our National Park System.

In examining ALAN CRANSTON's record one common theme appears. Throughout his career, ALAN CRANSTON has been concerned with improving our world and our country. Thanks to ALAN's work, the world is safer, cleaner, and more just than it would have been without his efforts. Conditions for American women, minorities, immigrants, and the disabled have improved because of ALAN CRANSTON's dedication to solving their problems.

Senator CRANSTON has brought vision and initiative to the Senate that I will sorely miss. I wish him well and thank him for his contributions to this institution and our Nation.

#### FAREWELL TO SENATOR ALAN J. DIXON

Mr. MITCHELL. Mr. President, with the retirement of ALAN DIXON, the Senate is losing one of its most fiercely independent Democrats. Political independence is an important part of our system. Willingness to challenge conventional thinking drives political dis-

cussion and helps form the consensus necessary to govern.

ALAN DIXON has had the difficult job of balancing the contrasting demands and needs of a very diverse and populous State. He has had to represent one of the largest cities in our Nation, and also the vast farmlands of southern Illinois, and the industrial centers of the small Illinois cities. That is a task that ALAN DIXON has always pursued with vigor, enthusiasm, and effectiveness.

His work on the Small Business Committee allowed him to serve all Illinois communities—rural, suburban, and urban—for small business in Illinois, as in most of our Nation, is the backbone of the economy. Preserving and protecting small businesses has not been an easy task during this prolonged recession, but ALAN DIXON has consistently fought to stimulate business and protect American jobs.

ALAN DIXON's spirit, vigor, and articulate debate will be missed in the Senate. He always added a unique perspective to our deliberations. We wish him well and thank him for his service.

#### RETIREMENT OF SENATOR JAKE GARN

Mr. MITCHELL. Mr. President, the Senate is losing a man of courage and conviction in JAKE GARN, a man who has literally explored new frontiers as a Senator and a man who has put his own life on the line for his family. His work in the Senate has been an example of a man committed to his principles, not only on the Senate floor, but also in his personal life.

The work we perform in the Senate is often abstract. It is frequently difficult to fully gauge the impact our work and decisions have on the everyday lives of Americans. As a result, when we are not in Washington, we are frequently traveling back to our home States, or visiting sites of Government programs to get a sense of what needs to be done. This is a practice as old as the Senate itself. However, JAKE GARN took this personal involvement to an historic extreme.

In 1985, Senator GARN participated in a flight of the space shuttle *Discovery*. At the time, he was chairman of the Appropriations Subcommittee responsible for NASA. He was understandably curious about the space programs for which his subcommittee has appropriated so much money. We all wonder if the Nation is getting its money's worth for various Government programs. JAKE GARN decided to find out first-hand whether the space shuttle was a worthy investment.

Despite years of waiting and many hours of intense training, JAKE's enthusiasm for his journey never diminished. He returned from space more convinced than ever of the necessity of space exploration; he has since been a committed and eloquent advocate for funding of NASA.

JAKE has not only distinguished himself with his dedication to his work, but also with his love for and devotion to his family. JAKE'S belief that government is not the solution to all problems and that individuals must commit themselves to solving social problems is not just a political view; it is a way of life. When JAKE'S daughter was facing kidney failure from diabetes, he donated one of his kidneys so she could live. Again, his personal experience has made him a credible spokesman on the need to encourage organ donors.

JAKE has taught his Senate colleagues much about living by the ideals we espouse on the floor. He has been an example of dedication to his work. Utah will lose a hard-working man of principle with the departure of JAKE GARN. I wish him well and thank him for his service.

#### FAREWELL TO SENATOR WARREN RUDMAN

Mr. MITCHELL. Mr. President, it is with great regret that I note the departure from the Senate of my good friend and respected colleague, WARREN RUDMAN. Senator RUDMAN possesses one of the most penetrating legal minds in recent Senate history and his departure diminishes the stature of the body.

WARREN RUDMAN is a thoughtful and fair man for whom I have the utmost respect. He has had many difficult jobs in the Senate and has always fulfilled his responsibilities in a thorough and just manner.

I served with WARREN on the Iran-Contra Committee of which he was the vice-chair. It would have been easy for him to play a partisan role and defend a Republican administration. Instead, he conducted himself in an impartial and thoughtful way. His judicious demeanor in those hearings reflected the integrity and independence he demonstrated in a long and prestigious legal career coming to the Senate. He listened to all of the facts and reviewed all of the possible arguments before making a judgment about the activities of those involved.

As the ranking minority member on the Ethics Committee, Senator RUDMAN has had the unenviable and painful task of reaching judgments on the conduct of colleagues. It is a job that no Senator seeks, but it is an essential role that maintains the integrity of the institutions. WARREN RUDMAN has shown reason and fortitude in carrying out burdensome task of judging his colleague's behavior. We too seldom thank our colleagues for serving on the Ethics Committee. They perform a truly necessary but unappreciated task. I take this opportunity now to let Senator RUDMAN and the other members of that committee know how much I value their efforts on the Ethics Committee.

Senator RUDMAN has a respect for and commitment to justice that has

permeated all he has done in the Senate. He has supported legal services for the poor because he understands that legal representation is essential if our judicial system is going to be fair. Yet he knows that the great constitutional guarantees alone are of little value to people struggling for survival. So he has also fought for heating assistance to the poor because he knows that this help is essential to thousands of Americans facing the harsh New England winters and the blizzards of the Great Plains. It is a tribute to his honor of both the Constitution and common sense that he understands that the human goals of a good life will not be preserved if the essentials of a decent level of human comfort are not assured.

Senator RUDMAN is not only a fair man, but his name has become permanently associated with fiscal responsibility. His work on the Gramm-Rudman-Hollings deficit reduction act put the issue of continuing large budget deficits at the forefront of public policy discussion. More remains to be done, but public attention has been focused on the problem because of Senator RUDMAN'S efforts to heighten awareness of the issue.

I am pleased that Senator RUDMAN is considering continuing work on the issue of deficit reduction after he leaves the Senate. His reputation and credibility will do much to advance public discourse on the issue and no doubt will help promote solutions to our fiscal problems. I look forward to his work in the private sector. I have no doubt whatever he does will be productive, thoughtful, and intellectually sound. WARREN RUDMAN has been an asset to the Senate as well as a close personal friend. I have enjoyed working with him and I will greatly miss him.

#### RETIREMENT OF SENATOR STEVE SYMMS

Mr. MITCHELL. Mr. President, I also say goodbye to a colleague with whom I have had the pleasure of serving on both the Environment and Public Works Committee and the Finance Committee. Senator STEVE SYMMS has represented the rugged frontier individualism of the Idaho wilderness well. He has consistently fought for the rights of gunowners and private property owners. He has worked to make wilderness areas accessible to outdoor enthusiasts. He has tirelessly sought to protect the unique way of life that is Idaho.

While STEVE and I often disagreed on issues, the similar nature of our rural States bridged our political differences when we worked on infrastructure issues on the Environment and Public Works Committee.

We both understand that a sound transportation system is literally a lifeline for rural States. Well-paved

roads, sound bridges, and secure rail lines link remote parts of our States with the larger cities on which they rely for the necessities of life. Reliable transportation systems mean economic development and flexibility for rural areas whose economies are undergoing change.

STEVE'S position as the ranking minority member of the Subcommittee on Water Resources, Transportation and Infrastructure has enabled him to work effectively on transportation issues. I personally appreciated his help in getting the Intermodal Surface Transportation Act passed last year. His efforts have helped to put thousands of Americans back to work and to lay the groundwork for future economic growth. That is a record of which he can be justifiably proud.

STEVE has always demonstrated a sense of humor and a good spirit that has made otherwise difficult committee work a pleasure. That is a gift that will be sorely missed. I have no doubt that STEVE'S ability to see the light side in any situation will help him to succeed in whatever he chooses to do after leaving the Senate. I appreciate having had the opportunity to work with STEVE and wish him well in the future.

#### RETIREMENT OF SENATOR TIM WIRTH

Mr. MITCHELL. Mr. President, I am personally very saddened to say goodbye to TIM WIRTH. TIM and I have shared many legislative interests in the Senate. Perhaps most important among these has been our shared interest in preserving and protecting the environment.

TIM has served but one term in the U.S. Senate. But in one term has done more to draw attention to the problems of the deterioration of the ozone layer, acid rain, and global deforestation than many who have served much longer. I was disappointed that TIM decided not to run for reelection. His departure will leave a void in the Senate's environmental work that will be difficult to fill.

TIM'S concern for the future is not limited to environmental concerns. He has dedicated himself to ensuring equal opportunities for all Americans. He has always understood that fully utilizing the abilities of every citizen is the best way to ensure a bright future for our Nation. He has been a staunch supporter of women's rights. His work on women's issues has demonstrated a fundamental respect for women that has in turn won him the respect of every women's organization in the country. American women have lost an unquestionable champion of equality with the departure of TIM WIRTH.

TIM came to Washington as a Member of the House of Representatives in 1975. He came promising change. He

came to instill confidence in the Government in the wake of the Watergate scandal. I did not have the pleasure of serving with him in the House, but during our time together in the Senate, I have found him to be sincere and deeply committed to improvement of the environment. He has never forgotten the reasons that he came to Washington nearly 18 years ago. I know that at times, he, like the rest of us, has found the legislative process frustrating, but I hope when he leaves, he will take with him a sense that his work has made a difference.

Environmental concerns are now at the forefront of the American and even the international agenda. Public opinion increasingly supports women's reproductive rights. TIM WIRTH's reasoned, measured contributions to these debates has made these advances possible. I will miss his assistance in advancing these causes when the 103rd Congress convenes. But I respect his desire to pursue other endeavors and have no doubt that he will succeed in all that he does. To TIM WIRTH, I say, thank you and we wish you well.

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

The PRESIDING OFFICER. The clerk will call the roll to ascertain the presence of a quorum.

The legislative clerk proceeded to call the roll.

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

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

#### FAIR TRADE AND FREE TRADE

Mr. D'AMATO. Mr. President, thank you.

Mr. President, for some period of time now, the Senators from New York, the senior Senator, Senator MOYNIHAN, and this Senator, have attempted to deal with an inequity, the very real problem as it relates to American jobs.

Mr. President, I am here to talk about this business of fair trade and free trade. It seems to me that we have run into a situation where free trade oftentimes in the manner in which it has been handled has not been fair. Free trade means to many that we open up our markets to competition and we see closed markets when it comes to our products.

Even more insidious is when we open up our markets and we find that not only are markets closed to us for fair competition abroad, but that, in addition, there are unfair, illegal practices that are utilized in bringing the competitors product into this country.

One of these methods is called dumping. I wonder what the average person knows when they hear about dumping. Let me give you an example.

When we are talking about automobiles and the price and the cost to

produce a comparable automobile is \$6,000, that is what it cost someone to produce it, \$6,000. And if they were to sell it for \$5,000, sustaining a \$1,000 loss, that is illegal. That is dumping. We can understand that.

If one were to manufacture a typewriter, and the cost of that typewriter to the manufacturer were \$250, and if they were to sell that typewriter for \$200, \$50 below what it cost them, that is dumping. It is illegal.

Mr. President, we have had exactly that kind of thing taking place.

People might say how can that be? You cannot stay in business if you are manufacturing automobiles and typewriters and selling them at below cost. Sooner or later you will go out of business.

But, Mr. President, if that manufacturer is selling those products here in the United States, and absorbing a loss of \$50 for each typewriter; and, when he or she sells them abroad in their own closed market, they increase the price by that additional \$50 to their consumers; they sustain no loss; and, eventually they will drive all of their competitors out of business here in America.

Indeed, that is a sorry saga of the case of Brother, which is a Japanese corporation that does not manufacture the typewriters here; that has them come from foreign sources, Malaysia, and Singapore; that has what we call a "screw plant" which is a plant where the parts come in and are simply assembled where there is American content; and where the products are then dumped below cost, below what it costs them to produce illegally, and immorally. And we have not done a darn thing to stop it. Finally, we get the trade people and others in the administration who should have been pursuing a course diplomatically through all of the courses left open to us, why they were recalcitrant and slow. This is not the story of partisanship. This is a story of neglect.

Mr. President, understand that what we are talking about here is a situation that resulted in all competitors being driven out of business, a situation that has resulted in only one last American manufacturing company, Smith Corona, manufacturing a portable typewriter or word processor, and faced with the continuation, notwithstanding that it has won every court case it has brought against this illegal dumping, but with Brother circumventing the orders, moving the areas by which the products come, same product, same manufacturer, same practice; they have managed to thwart the tariffs that have been placed upon them.

And we finally reach a point in time, where after 8 to 10 years of litigation, where after Smith Corona has won every single suit that it has brought, every single suit, and it finds itself in a situation where the tariff order still

cannot be enforced, because of this classical case of circumvention.

So no longer does the order lay against a country and a product which comes from a particular country, they circumvent it by moving the places by which the parts are manufactured and then reassembled.

People at Smith Corona, chairman of the board, Mr. Lee Thompson, made a rather sad announcement several months ago. He said that he could no longer compete with these kinds of practices, that notwithstanding the fact that the company had achieved unprecedented results in terms of their efficiency, in terms of productivity—700-percent increase in productivity over a 12-year period of time—a product that was every bit as good and competitive as their competitors'; faced with this dumping, there was no other recourse for them, other than to totally close and eliminate that plant and that operation in this area, or to move its manufacturing base and components of that plant to Mexico.

How often have we heard that sorry saga? How often have we heard of the plants and the jobs that are lost, and then only to hear and have insult added to injury, that the job that paid \$17 an hour in the small town of Cortlandville, outside of Syracuse, NY, would be moved down south to be replaced by a job that pays \$3 an hour.

Mr. President, both Senator MOYNIHAN and I and our staffs, and, yes, the Commerce Department and others, and some at the White House, have worked in a last ditch effort, an 11th hour effort, to remedy this situation, and to bring about a process whereby an enforcement order can lie for these kinds of illegal activities, which will force the closure of this plant.

Legislation was provided for both in the energy bill and in the tax bill to amend this, to make that legislation more palatable, so that it would not come into conflict with GATT. Indeed, exhaustive negotiations so that we would not come into collision with the general overall theme of free trade were conducted. Indeed, legislation that the administration had agreed not to veto had come to be. And that legislation was submitted to the conference. It was submitted by my colleague, Senator MOYNIHAN, and myself. It was submitted to staff. They were told that in the balance lay 875 jobs, 875 families, who would lose their jobs, the closure of a plant that would have a devastating impact in the region of Cortland, NY; a loss not only of payroll, but of a lifestyle to that community. We had an opportunity, not to keep them in business if they could not compete on their own, but to see to it that those who were violating the law, those who were engaging in unfair practices, would be pursued in a court of law, that a tariff would lie against them.

Mr. President, now we find that the conferees, after all of their exhaustive

work, after all of their hours of negotiation, after all of their work over the weekend, somehow did not include this provision. Somehow, it did not get in, and what an incredible nonsense excuse-filled laden story we hear. What a story. They would have you believe that it was the staffers' fault on the House side. Oh, no, it was the staffers' fault on the Senate side. Oh, it was the Congressman from Illinois who did not want it. I guess our Senators were not even aware.

Let me tell you something. The Senator from Texas was doggone well aware of this provision. If you want to say, so long to New York, if it was not because we did not have a plant that was deep down in the heart of Texas, that is right; it is in central New York, not in Texas. But those jobs are every bit as important, and those people are entitled to every bit of protection as anyone from any other place in this country. And if it is important to protect jobs in other regions, then it is important to protect not just jobs on the basis that we keep people in non-productive jobs that can compete, but to allow them to compete, and that is what we seek.

When I came to the floor and we offered this, we said let me tell you, this is important, and I said that if this is not included in the tax bill, then do not expect this Senator to just go along, that I will do and use whatever method I can to see to it that we address that situation.

I do not intend to yield. I do not intend to just sit willy-nilly by and say there is nothing we can do, because the House is going out by 12 o'clock. I do not care if the House goes out by 12 o'clock. Unless we get that provision included in the bill, this Senator will not allow that bill to come for a vote. If I have to stay on the floor all night and all day tomorrow and do whatever I have to, I am prepared to do it. My people are not going to be sold out for cheap partisan politics.

And that is the way I see this situation.

Mr. President, I did not come down here to be the best loved. I am not. I want to tell you something. You may not agree with me on every issue. Not even my momma does that. But I am not going to be rolled up, because a bunch of staffers play games and take it onto themselves that they know what is best. They think they know what is best. OK.

I want to tell you 875 peoples' lives are on the line and I am not going to permit it simply because we are going to do business as usual and we have this little deal and that is what it is. It is a little smart guys deal that over there we go out and we send you this and if you do not get it back to us at 12 o'clock the way we like it too bad. I have to tell you we serve notice, both Senator MOYNIHAN and me, and let me

refer to an article in the Syracuse Herald published on this past Sunday, entitled "Pair Tried to Save Cortland Jobs."

WASHINGTON.—Two New York Senators, Senator D'Amato and Senator Moynihan, Saturday threatened to hold up passage of a tax bill unless it includes a provision to save the jobs of Smith Corona workers in Cortland. With Congress trying to adjourn before Wednesday's Yom Kippur holiday the Republican and Democrat can use parliamentary procedures such as a filibuster to delay or prevent passage of the legislation.

So it goes on to say, and I quote:

It is a matter of wanting fairness for our workers in the Smith Corona plant.

Mr. President, that is exactly what it is. If they cannot compete against the foreign product, that is one thing. But when the courts have ruled repeatedly that that company has been dumping, that is another thing.

And these people as in any other plant, in any other case, deserve to see to it that there is enforcement, that will not permit this circumvention.

I have to tell you, I intend to see that I do everything possible to bring that about.

Here is a question, and some have asked me, "Senator, if this legislation is passed, will that save the jobs?"

I can only tell you that we have to rely upon the word of those in charge at Smith Corona. They did not just fold up the plant and move it out after they lost or after the first case was decided in their favor and they still did not get addressed their grievances or the second case or the third year or the fourth year or the fifth year. They hung in and they played by the rules and when it finally came down to a point where circumvention continued and the pattern of dumping illegally continued, they had no recourse. I believe that those workers at that plant should be given an opportunity to give that plant management to give the Smith Corona people an opportunity to see if the law is applied, if fairness is applied, whether or not they will change their mind. That is what this is about.

I cannot understand how it is that we have reached this stage in this time in this glorious body that we do not care about the little guy. If there is animosity out there in the country toward government, toward politics, toward politicians, I understand it.

If I lived in that community, or if I were one of those workers, I would be wondering how is it that you allow this to take place. How is it that this Government, that our Congress, that our Senate, that our trade people, cannot bring about a redress of this situation?

How is it that when we talk about freedom to compete and competition and fairness that it turns into empty, shallow words? We wonder why there is a lack of faith in terms of those who look upon us in Government. No one dear.

Who will put food on the tables of those families? Who will take care of

their needs? Some of them have worked in that plant since 1947 and 1948, a lifetime, and now in their senior years to lose their job, some with children in college, mortgages, notes to pay, automobiles to run, responsibilities. What is their fate? Is it to turn to the public assistance rolls? I hear all this rhetoric about jobs. I hear all this talk about who is going to do best for what. Elect me. I am going to help. I am going to give you job training. I am going to give you public works.

BS. That is what they should say to all of us. You are all a bunch of nonsense, and I have to tell you the first place where you go to see the biggest bunch of hypocrites is right here, right here. You do not give a damn about the people, not a damn, because if you did, you would not let this take place. It is an outrage, absolutely a disgraceful outrage. And then I will hear some Senator come and he will tell me, oh, Senator, we will give you hearings, early hearings in the first part of the year.

Is that really going to help these people when their jobs are gone? They are gone. You know something: There has never been a good-faith effort on the part of the international staff on the finance side to come and to understand what we were trying to do and to work with us. Never. Stonewalled us. Stone face—give me his name. People should know his name. Robert Kyle, chief international trade counsel, Senate Committee on Finance.

Oh yes, Kyle, you have a job. You have a job, but 875 people, they will not have a job. They will be out. They will be out on their can. Did you ever try to meet with our staff to look at what could be done? No. No. Absolutely not.

And then I hear my other colleagues say, oh, I cannot lose jobs, because this company is headquartered in my State.

Let me tell you something. If Smith Corona were dumping illegally and they were breaking the law, I would not be down here making this battle, and I do not think any other representative should be saying we are going to countenance the breaking of the law simply because the company is in his or her State. That is bull.

I want to tell you I did not get elected to be anybody's favorite friend, and I am not. And if you think I am going to roll over on this, you are wrong, and I am not.

I want to read, Kyle, what you have done. Very, very interesting. Give me the list. You will have your job. You will have your job. But these people, it is a good chance, most of them will not.

Robert DeGroff. He just started August 24, 1992. Helen, Joseph. He works at Smith Corona. Most of these people get paid \$17 an hour. Maybe they can follow their job. Maybe they can go down to Mexico and get \$3 an hour.

Christine Pirozzi. She started on May 26 of this year. I guess it is going to be

pretty tough. She will be one of the first laid off. Angela Chatterton. She started May 6, 1992.

These are the people who stand a good chance of getting laid off. No one knows but we know there are 875 and that is most of the manufacturing base.

Starkweather, Paul. He started in April of 1992. And there is Williams, Adam. He started April 1. What a joke on him. Here he is before the end of the year. April 1. He may or may not have a job the end of this year.

Veronica Fisch. She started March 30, 1992. Lawrence Merrithew. He started same day, March 30, 1992. And Tracy Truman. Tracy started same day, March 30, 1992. And Janine Flynn. She also started March 9, 1992. Miles McCarty, March 9, 1992.

Michael Driscoll, he started February 17, 1992; Douglas Tiedemann, he started February 3, 1992; David Quijano, he started on January 27, 1992; April Lawton, she started on January 5, 1992; Donald Anderson started January 2, 1992; and John Piontkowski started on December 16, 1991; Donald Sevey started on December 2, 1991; Mark Bates, started on November 25, 1991; Craig Calzone started on November 11, 1991; James Bottrill started on November 28, 1991; Susan Tripp started on November 18, 1991; Martin Brown, he started on the 14th of November, 1991; Karen Westlake started on November 7, 1991; Cindy Ondrak, she started on October 3, 1991. And then we have Victoria Smith, she started on September 30, 1991; and Everest Tucker, he started November 5, 1991; and Evelyn Chung, she started on November 3, 1991; Amy Berger, started on August 26, 1991; and Bridgette McAdams, she started on August 19, 1991; Stephen Proscia, he started in May, May 13, 1991; Maurine Jaworski, she started in April, April 22, 1991; and David Stahl, he started April 1, 1991; and Amanda Wauchope, she started March 25, 1991; Michel Sukkarieh, he started on March 11, 1991; Thomas Geremski, he started on March 6, 1991.

These are real people, Mr. President. These are real people who should have an opportunity to keep their jobs. And that opportunity should not be precluded because we have a bunch of fat, happy politicians who want to keep doing business as usual and do not have the courage or the guts to stand up and protect American jobs, protect them when they have been dealt with unfairly, when we have had the kind of practices that I have outlined, where there has been dumping.

It is one thing to say, "We don't make a good product; we can't compete." It is another thing to have somebody breaking the law. It is another thing to have my own colleagues who just turn their backs on this thing with cold indifference, that they would just go on their way as if this was not happening.

Well it is happening. And I hope it bothers them, and I hope I bother them, and I hope that hearing this over and over is going to make a difference. And if I get them angry, maybe they should take a look. And I say, I am sorry if I got on your nerves, but what are you going to say to Thomas Geremski, who just started working on March 6, 1991; or to Scott Brown, who started on March 4, 1991; or Scott Hilbert, who started the same day, March 4; or Jody Rawson, who started on March 4, 1991; or Paul Sheldon? Because at least one or two, if not all of those people, are going to be laid off, they are going to be fired.

And I have to tell you, if we want to go home without completing our business, let us understand that these people are going to be victimized as a result of that. And I am not going to stand by and go home with business as usual. Their lives are going to be dramatically changed.

And when people say to me, well, Senator, How do you know if indeed you passed this legislation something would take place, that their jobs would be saved? I cannot tell you with definiteness that I absolutely know with assuredness that their jobs would be saved.

But I can tell you this: that the chairman of their board spoke to me this evening, just 2 hours ago. And I told Mr. Lee Thompson, it does not look good.

I will characterize his reaction by saying that he was deeply, deeply saddened and taken aback. I would characterize him by saying he is an honorable man who, if given the opportunity would do, and already has done, everything he can to keep this company from being closed, at least that portion of the manufacturing that would be sent to Mexico.

I would say to you that we have an opportunity, even at the eleventh and a half hour—and I cannot understand why people do not want to give these people a chance.

I do not know Paul Sheldon—I know that he is a worker there; he started on March 4, 1991—or James Porter, who started on January 28, 1991.

But I can tell you that each and every one of them should be given an opportunity to hold his or her job on their ability. I can tell you that a plant line and a production line should not be closed down because we lacked the courage to stand up to the special interest groups.

Oh, yeah, and those special interest groups are plenty.

Well, let me tell you something. We have some of the biggest corporations even in New York who do not want companies who are breaking the law to have an enforcement procedure against them. Incredible. They are more interested in their bottom line than what is right, and that is jobs for Americans.

I guess them getting up there, making their highfalutin speeches about free trade. Well, I am for free trade, but I am for fair trade and I am for fairness. And what we are about to perpetuate by passing this bill without including that provision which would see to it that this illegality is not perpetuated—Is it free; is it fair? It is not free, and it is not fair, and it is a disgrace and a discredit to this body.

And to say, oh, it is the House, you know, we will blame the House. Our conferees had to sign off on that report. They signed that report. They approved that report.

And let me tell you, they knew that both Senator MOYNIHAN and I had a just cause and a just case and we said if you are going to have a tax bill, we want to see that this situation, this situation that threatens the livelihoods and has already resulted in the loss of many manufacturing jobs, that it is stopped; that there is given an opportunity for this company to say we will stay here now; that we can compete fairly, now that a tariff law and order which has been approved by the courts will have the opportunity of being enforced.

So, Mr. President, I do not intend to make it easy for this body to look the other way and to shirk its responsibilities. I do not intend to be everybody's best friend and walk out on the jobs and the hopes and the aspirations of these 875 families. And it is more than 875 families.

If we can look the other way with such indifference now, then what is to say that we are not going to in the future. What is it to say that we have looked the other way over and over in the past and because we did it in the past, does that mean that we should continue this?

Now, again, we are in an election year. And I hear the Presidential candidates talking about who is for jobs and who is for fairness and how they are going to protect them.

Well, I want to ask you something, Mr. Clinton: What are you going to do as it relates to this situation? What would you do? I would like to know.

Would he walk home and allow this situation to take place if he were here in my place? Or would he say, no, I am not going to allow this to continue?

And I tell you, I went to the President and his people and said: Are we going to allow this to continue? And I understand they want free trade. I want free trade, but it has to be fair.

That has been an element that has been missing for far too long. Who hires the big fancy lobbyists on both sides, who come in and who plead very persuasively, but just leave out some of the salient points and facts? And how do we get these laws manipulated in such a way?

Then, I think the best argument of all, which really makes me sick, is

when I hear them actually talk about the consumer. They say, "We are worried about the consumer because, if we can get a price cheaper, is that not better for the consumer?"

They are not interested in the consumer. What happens when Smith Corona is totally out of business? What happens if the only way they can compete is to go offshore to cut down their payroll so they can compete against those who are illegally dumping? Incredible. What happens to the taxes that those 75 people pay, both Federal income tax, State income tax, and those revenues that were produced as a result of their home ownership, and they are paying taxes locally, and they are purchasing goods and services that they are no longer able to participate in? What happens?

Then we hear the shoddy, ridiculous argument that is put forth—in some of the great newspapers, too, of our time, some of the great financial papers, who would have you jump over the process and who will excoriate me on the editorial pages and say I am trying to be a protectionist.

I am not trying to be a protectionist. What I am saying is, if an order is made in a court of law against a company for an illegal practice, by gosh, do not circumvent it by a little trickery, then let them start the whole case all over again, and then they move their manufacturing base and again the order is not applicable. The same product, same corporation, same illegal dumping. Yet we do not have the courage to stand and to do.

So, Mr. President, maybe this is because I should have moved and others should have moved more forcefully that I make this plea. And I make this statement. But I am not going to turn my back on Drew Thogode, who started working on January 28, or those who started before him or those who started after him: Joe Mastrangelo; Michael Motyka, they started on December 31, 1990—imagine, on that fateful night, New Years. Andrea Zopf, who started October 22, 1990; and Julie Mazzanti, who started October 1; and Anthony Frutche, who started September 17; and Julianne Wilcox, who started on September 4; and Susan Bova, who started on May 30, 1990; and Kelli Truman, who started on May 1, 1990; and Stephen Gilmore, who started on March 19, 1990; and Frank West, who started on March 5, 1990; and Kevin Gates, who started on February 26, 1990; and Gregory Smiley, who started on January 29, 1990; and Gretchen Sweeney, who started on December 4, 1989; and Brian Belyea, who started on November 13, 1989; and Richard Crow, who started on November 1, 1989; and Lisa Wheeler, and she started on May 5, 1989; and Betty Larson, she started on June 12, 1989; and Thomas Rogers. Thomas Rogers started on May 22, 1989; and James Karpinski, he started on

April 17, 1989; and Elmer McNeal, he started on April 17, 1989; Robert Rycroft, he started on March 28, 1989; and Eric Thorsen, he started on March 20, 1989; and Eugene Allegretto, he started on March 13, 1989; and David Henderson, he started on March 13, 1989; and Keith Hill, he started on March 6, 1989; and Ralph Hill, who started on March 6, 1989; and Karl Oltz, who started on March 1, 1989; and Mark Steiner, he started on March 1, 1989; and Carmen Chappell, who started on February 27, 1989; and Karen Pappalardo, who started on February 27, 1989; and Carol Snover, who started on February 27, 1989; and Patricia Shaver, who started on February 20, 1989; and Stephen Stone, who started on February 14, 1989; and Sandra Weigel, who started on February 13, 1989; and Mary Cleveland, who started on February 6, 1989; and Daniel Frost, who started on January 30, 1989; and Kristine Lane, who started on January 30, 1989; and Robert Dodds, who started on January 4, 1989; and Christopher Abbe, who started on December 28, 1988; and Jeffrey Dann, who started on December 22, 1988; and Judy Sliker, who started on December 19, 1988; and Paul Palen, who started on December 5, 1988; and Frank Racciatti, who started on November 28, 1988; Jeffrey Leitch, who started on October 24, 1988; and Arthur James, who started on October 5, 1988; William Gage who started on October 3, 1988; and Bassam Chamoun who started on September 19, 1988.

You know, Mr. President, something just came to mind, and that is, as you hear these various dates—and these are people, real live people—they started working on those dates. I notice some dates, for example, February 27, three people in 1989 were hired that day: Carmen Chappell, Karen Pappalardo, and Carol Snover—three. Who will provide that employment opportunity in the future?

Some of these people who are now working will undoubtedly move, retire, some may pass away. There has been a continuing of employment opportunity as a result of this facility, as a result of this work. So it is not only the incredible brutality of having these jobs terminated unnecessarily with a company that is willing to stay, that says, "Give us an opportunity to compete fairly. Give us an opportunity and we will reconsider our decision." It is not just 875 jobs—and that is a tragedy. I think it is the callousness in the way we proceed, the callousness in the way we proceed. And it is also the loss of opportunity as this plant continues on an annual basis to hire people.

Certainly it does not hire people at the rate that it once did when we had the great Smith Corona. I remember in those days when I would go to school in Syracuse where I went to college and law school when it employed 3,000 and 4,000 people and when the employment opportunities were even greater.

But even that opportunity of hiring, 30, 40, and 50 people annually no longer will be the case. What a devastating blow to our country. What a devastating blow to this community. What a devastating, I think, insight into what Government has come to. We are so big that we take ourselves to be so important that we do not take time out to make a difference for the little guy, for the people who are important, for the people who are taken for granted.

So we will go back to our States and to our communities and to our undertakings. And, oh, they will be so important for us. But the lives of these people we will have consigned to Lord knows what. Maybe a job training program. Maybe some will be able to land on their feet, maybe even get a better job. But for the most of them, Mr. President, let me tell you that this is by far the highest paying job that they will ever have any opportunity to even hope for remotely. For most of them, they will be lucky if they can find a job for \$5 or \$6 or \$7 an hour. For those who need these dollars to support a family, it is a life and death matter.

We trivialize it by our inadequate response. This matter was discussed at conference for maybe 5 minutes. There was no debate at conference with respect to the importance or the relevance of this matter. There was no debate in conference with respect to whether or not this broke any of the provisions of GATT. There was no debate in conference with respect to whether legally this could be done. There was no debate in conference with respect to the merits. Shame on us. Shame.

And I have to tell you, I understand what is going to take place: Oh, we will sit down; oh, we will do that; oh, we will do the other thing. And people are going to be annoyed, and they are going to be angry, and they should be. They really should be angry at themselves. Every Member of this body has a responsibility. This is not mine. This is not mine alone. Let me tell you something, that if the President, or any other Member of this body, were to come to me and say, "Al, this is a situation that is taking place, I need your help to address this," that I would be there to try to make a difference. And if I did not, then shame on me, and I should not be here.

I am telling my friends, and I am telling my colleagues, that they can and should make a difference, that we should not accept this conference report. And I want to tell you something else, and we will not go into the little favors that were done for this one, and that one, and the other one, and that bill is jammed full of them. This matter that I speak about is every bit as important as any matter in that bill. Any matter. It is the lives of people.

For God's sake, when are we going to stand up and do what is right and not

what is politically expedient? That is why people have disdain for the institutions, and for Government, and for this place as well. Imagine, backing down? We did not stand up. You really mean to tell me that Chairman ROSTENKOWSKI did not want this provision? Nonsense. Nonsense. Anybody who knows the good Congressman understands and knows that, indeed, he has championed causes that parallel very closely if not exactly this situation.

We did not have the courage to stand up and to do what is right. Why? Because we have a Japanese company who has a headquarters in one State and a plant in another State? Nobody tells them to close their plant, nobody tells them to cease manufacturing. What we say is: Compete fairly. Obey the law. And what we want to do is to see to it that there is an opportunity to have enforcement of the law. That is what we want.

Am I angered? Yes. But I am more sickened by our attitude.

Great Senators. I wonder why we dillied and dallied when it came to deciding what to do, whether it be a cable bill, or whether it be taking on Saddam Hussein, or whether it would be dealing—oh, I hear this great body now, oh, what happened, Iraqgate? Let me tell you something, everybody heard that debate. They were down here. We tried to cut off giving that guy money. I remember that. I said: Why are we giving Saddam Hussein loan guarantees? You would have thought I was attacking Mother Teresa. The place filled up. Filled up. Oh, no, we should not do this, it will cost us money. We should not do this. We did that with Jimmy Carter.

Now all of my colleagues woke up, why? Because it is political time. So the whole side over there says, what was Bush hiding? For God's sake, everybody knew it or should have known it.

What are you hiding today: 875 jobs. If you did not have the courage to stand up to Saddam Hussein and cut off loan guarantees before he made an invasion, then do not go talking about Bush and the State Department were cozying up to him because you all knew and you should have known and made believe we did not.

What State had rice? And what State had oil? And what State had this, and what State had that? They did not care about morally that he was gassing and killing Kurds and innocent women and children. They did not give too damns and a holler.

No wonder people think what a bunch of hypocrites this great august body and Government is about, because we are. But when it becomes the rule of the day—I understand not having the courage to stand up on every issue, but when every issue that has any import and it means that you have to make any decision, you are afraid to make a

decision, you know what? We do not deserve to be in office. I have to tell you, I will not miss this body. Incredible. Incredible. This is a joke. Absolute joke.

I wonder if somebody is going to come out there and say because I have referred to the body in the disparaging terms that I have that I have violated some rule. That will be the next thing. Well, too bad. Too bad. There is a higher rule. And you know something, we all violate that if we allow these kinds of things to take place. I have to tell you, I am not asking for any medals for courage or for leadership. But I have to tell you there are very few around here who should get any of those medals.

Mr. President, I am going to do everything I can to block the bill that has more special interest and it has less concern for real people, people of Cortland. They are entitled to that. They are entitled to have somebody stand and make this battle.

I am pleased that my distinguished senior colleague, Senator MOYNIHAN, feels the same way. No doubt he will express himself in a much more congenial and maybe even a more cogent manner than this Senator. But I respect the fact that he has the courage to indicate that he is going to do everything that he can to see to it that the legislation that we have sponsored is at least given an opportunity to be enacted.

Let me say to my colleagues and to my friends, before you come back and say there is nothing we can do, that the House has gone out, there is something you can do. You can go back and reopen the conference. You can send that back tonight. You can send it back in the morning. You can send it back before the House goes out at 12 o'clock.

I do not give a darn that there is one person or two people with their special interests who say, oh, no, this is going to hurt my constituency. Look, if enforcing the law and doing what is right is going to hurt your constituency, they cannot complain. People are entitled to protection under the law. If you want to be a special interest, that is a different matter, then say it, it is a special interest. It is not grounded in any kind of morality, or legality, or fairness. It is not grounded in equity to argue to say, well, this plant is headquartered in my community and, therefore, I have to condone what they do and how they break the law.

Logic 101, if you say that because they are a company that is in your community and that you are a Representative, does that mean you turn your head the other way as they undertake practices, whether it be polluting the lake or polluting the rivers? And we did that for years because they were the biggest employers, and that is why we have so many problems. Does it mean that we condone unfair labor

practices where they take advantage of their workers, because, after all, they live in our community? Or that we take for granted the fact that might have a subsidiary that is breaking the trade laws and violating the dumping provisions and putting people out of work in other areas of the country?

But after all, that is OK, it is acceptable because, why? They are in my community.

That is not what this is about. That is not what a nation of laws is about. And that is not what our representation of our constituents is to be about.

It is not. And this is not a matter that should be equated to whether or not a military base or a Government facility is developed in my State as opposed to your State whereby reasonable people could disagree on the merits. This is a situation where there is no case. There is no argument. You are breaking the law. You are evading the law. Now we want to make believe it is not happening.

Now, let me tell you. I do not intend to get into the nitty-gritty of the bill yet, but I will tell you that we have the provisions of that bill read, every single line, every single word, and I intend to examine some of those provisions in the Tax Code to ascertain how it is that they found their way into this conference report, how it is that they had the time to discuss these wonderful and illuminating matters but they did not have the time to discuss and debate more than in a very perfunctory manner the question of whether or not legislation that would remedy this evil, remedy this wrong, should be included; why it is that the people of Portlandville in central New York were not every bit as important as the people in every area of this country who sought to have legislatively their grievances dealt with, the inequities the tax and tariff provisions may have created, or as a result of lack of provisions have opened loopholes for them to be taken advantage of.

Now, why is that? Why is it at this hour, at 20 minutes to 11, we cannot take up these provisions?

Now, let me tell you. Some have warned me. They said, "Alfonse, you should not say those things. You should not talk about the staff."

Why not? Why? Why should I not? Is it good enough for Lisa Wheeler, if she loses her job, or she may lose her job, or Betty Larson? Are they just a statistic? Are those people who have this great power to recommend to just willy-nilly turn it over—let me tell you something. I do not believe that staff really determined what got into this bill. I think the staff was used, and so what we hear is so-and-so does not want it in. And then at the end we hear some Senator say, "Oh, I did not know you wanted it in. Oh, I did not know anybody really wanted it."

Come on. Senator MOYNIHAN and I were down on the floor Saturday. We

spoke about this. We brought this issue up months ago, weeks ago. Our staffs came together.

Now, why is this? Why is this?

Why is it that we can just shut it out so easily? How can it be? How can it be?

And I have to tell you something, I do not believe that my colleagues on this side fought for this provision. They gave it lipservice, absolutely gave it lipservice. There is just no doubt in my mind—just gave it lipservice.

And so there goes 875 jobs and the potential for other people and the fact that we now will not have fair competition.

Oh, by the way, that will be nice. I guess Brother would be even happier if the Smith Corona people could not move their manufacturing facility to Mexico because then it would not have any competition whatsoever. And then, Mr. President, do you not think that it would be selling its typewriters at \$50 or \$75 or whatever. In some cases they have a 60-percent tariff, 60-percent tariff placed on them below what it cost them to produce. Because we understand that where there is competition, we have an opportunity—and we have laws to see to it that there is competition—why then there are competitive prices. Where there is no competition, then there will be no relationship between what the cost and what the eventual price of that product will be.

I daresay, given Brother's record as it relates to breaking the law—and I say that because they have broken the law systematically for these past 10 years—who is going to protect the consumer then? And then we will hear people say, well, we should be—and by the way, there may be some who are happy with the fact that there are jobs that Brother allows to stay in this country because if we continue to see the spiral continue, we lose \$17 jobs, Mexico gets the \$3 jobs, Tennessee gets the \$6 jobs. At some point in time, if enough jobs go down to Mexico, why, they will probably be contracting the jobs back with us as their wage rate goes up. And who knows, maybe we will get some of those jobs back, screwing these parts together. We just put the people there and screw them together because that is what they are doing now.

That is a pretty apropos word about screwing the parts together, and they call it a screw plant. I have not made that up. It brings some humor to this Senator, as I mention this, that they have this screw plant in Tennessee where they literally take these parts that come from Malaysia and Singapore, and they put them there and they screw them together. It is really a phantom plant.

There has been a court decision recently which is being appealed that said it is not a phantom plant; it is a

real operation. That is testimony to the Justice Department and their inadequate representations. That is about all that it is, because they sent a rather inexperienced lawyer up to handle this court case. Between the International Court of Trade and the Mamelukes they have on that court and the Justice Department's people, who leave something to be desired, why, we had this incredible decision notwithstanding that there was no foreign content of any kind—and only the wrapper, et cetera, was purchased here—that they came out with this contorted decision, some would say, that makes it a legitimate plant.

I thought I would share with you a little bit of this almost humorous comedy, and it is really a comedy. If it were not so tragic, one could sit down and laugh at how they have thwarted and dealt with the law. It is a fiasco. It is an incredible fiasco.

Now, I have to tell you something. I know DAN ROSTENKOWSKI. I did not grow up with DAN ROSTENKOWSKI, but I have been here for 12 years. He has been here for longer. I have had an opportunity to observe the Congressman and the chairman of the Ways and Means Committee. I cannot believe some of the notes that have been passed to me that would suggest it is the Congressman who is opposed to this. I do not believe it. I do not believe it. I do not believe that he would be opposed to a provision that would bring about some fairness.

We may differ on philosophies, but that is not the Congressman who I have come to know and respect. That is not the person I know. There is more to this. Because I want to sell you something. Anybody, anybody looking at this matter on the merits regardless of where this plant is located—Portlandville happens to be in central New York—if they could not come to the same conclusion, I would stop talking. If they would look at this objectively and say that these people are not, should not be given this opportunity, I would stop. I do not believe that to be the case.

I know we have some thunderheads in the Congress, but I have to tell you something. It seems to me that a majority, the vast majority, no matter how contorted the reasoning or logic, if you were to say that this plant was in a different area and they had no local considerations, and it was not this Senator offering this amendment but anybody else, it was Senator Anonymous, or Congressman Anonymous, they would have to say, yes, of course, we should do this. Of course, we should see that the law is adhered to, that the law is obeyed.

Now, let me, if I might, take a brief respite from the reading of the names so that—and I wonder; here is a name, young lady, Lori Biviano, started April 5, 1988. I am wondering if Lori Biviano

is not related to Judy Biviano, who has worked with our distinguished minority leader, Senator DOLE, for so many years.

I would not be a bit surprised. What I am suggesting to you is that these families reach far and wide. The consequences sometimes reach a lot closer than one would think.

Let me read the testimony, if I might—this is when this matter really came to my attention in a very vivid way by—Mr. Lee Thompson. He is chairman of Smith Corona. This was testimony that he gave to the Banking Committee on July 23, of this year.

Prior to his giving his testimony to the Banking Committee, he had paid a visit to my office. He went over in some detail this incredible saga of how it was that he had come to this conclusion and his board of directors had finally taken that action of saying no longer can we continue this money-losing operation, because Smith Corona indeed, as a result of this dumping by the Brother Corp., is absorbing some huge losses.

He starts out:

Mr. Chairman, members of the committee, my name is Lee Thompson. I am chairman of Smith Corona Corporation. Thank you for the opportunity to testify before you today on U.S. competitiveness.

U.S. business can compete with anyone. Our companies are competitive in the production of goods and services across a broad spectrum of business endeavors.

What is competitiveness? The President's Commission on Industrial Competitiveness put forward a useful definition in 1985: "Competitiveness for a nation is the degree to which it can, under free and fair market conditions, produce goods and services that meet the test of international markets while simultaneously maintaining or expanding the real incomes of its citizens.

Competitiveness is the basis for a nation's standard of living."

Note the important qualifier, "under free and fair market conditions." This is where I want to put the emphasis of my statement today, and it is where I have the most direct experience.

Today Smith Corona stands as the Nation's last remaining manufacturer of portable electric typewriters and word processors. In the coming months, however, Smith Corona will join the ranks of so many of our Nation's former domestic manufacturing concerns headquartered in the United States but forced to move manufacturing operations offshore to compete against foreign competitors who compete on terms inconsistent with fair trade.

The prospect of losing U.S. manufacturing in the typewriter industry to low wage foreign sources may seem a small footnote to "globalization."

Oh, Mr. President, how so true those words are. Here is Mr. Smith testifying before our committee. You know, I know, and I have a feeling that while I make this statement and try to get some kind of recognition as it relates to what this loss means, that it pales in importance to "Monday Night Football." It pales in importance to one's own concerns of when am I going to go

home, or when are we going to wrap this up, or when is the Senator from New York going to sit down, and when can we get on with this.

Listen to his statement. It is pathetic:

The prospect of losing U.S. manufacturing in the typewriter industry to low wage foreign sources may seem a small footnote to "globalization."

It is a small footnote to just about anything, anything that is going to interfere with what we like to do with our creature comforts, with our own comfort for the moment.

I think we lost heart. We lost feeling. We have lost compassion for people. Maybe we have to become to traumatized by the machine of bureaucracy and Government that even those of us in this august body have lost the capacity to continue to battle and to fight on to try to change, to make a difference. It seems to me that that is kind of what it is about.

We have become so engrossed in our own creature comforts and our own concerns that the citizen is almost secondary. And he or she would be grateful if we lend them an ear, to give them attention. Most of the time we are so busy that we can barely stand still long enough to give any meaningful consideration to their cry of pain or suffering.

So why should things change at the 11th and a half hour when people have places to go, things to do, campaigns to run? Why should the plight of these people be any different today than it was last year or the year before?

We have become so enmeshed in the trappings of the office and the power, and all that goes with it, that I think that many good people have forgotten why they started on this journey of public service.

I cannot believe that, for most people because they thought they could make a difference. Somehow along the way it is easy to become jaded, to lose that sense of doing what is right because it is the right thing. Maybe, as this session winds down, it gives at least this Senator an opportunity to take a look at where I have been, and maybe more importantly what I should be doing and should not be doing as it relates to the conduct of this Senator, and standing up and listening and trying to make a difference for our people.

Mr. Thompson's testimony goes on. He said:

Where borders are coming down and the production engine is fueled by the lowest cost, most efficient inputs in open competition, while their ideal seems to represent what is best about the hope and opportunity inherent in the United States, it also represents a naive, simplistic, and destructive approach to real-world public policymaking.

Domestic manufacturing is the driving force behind much of the growth and expansion in our economy. Based on quantitative information, the Chamber of Commerce fig-

ured the importance of domestic manufacturing and its contributions to a community's economy to be an additional 64 non-manufacturing jobs for every 100 manufacturing jobs.

That is an incredible statistic. So when we talk about losing almost 1,000 jobs, manufacturing jobs, in Cortland, we are also talking about the loss of almost 600 nonmanufacturing jobs in Cortland.

These jobs range from wholesale and retail trade to transportation, finance, business services and so forth. Aggregate personnel income associated with additional manufacturing jobs was sufficient to spawn seven new retail establishments. Maintaining domestic manufacturing is clearly a key to global competitiveness and our continued economic success.

While pursuing a fuzzy notion of global free trade, our Government has missed its real effects on American manufacturing. I fear, Mr. Chairman, that our current trade and competition policy will lead to the eventual demise of U.S. manufacturing, competitiveness and opportunity, and destroy all that led companies like Smith Corona to become world leaders.

Smith Corona is a valid illustration of both the success of U.S. competitiveness and the failure of our Government to sustain a competitive marketplace.

For more than 100 years, Smith Corona has been the world leader in the manufacturing of portable typewriters; first manual, then electric, then electronic, leading us to word processing. The typewriter industry has long been driven by design ingenuity, features, consumer needs, and market dynamics such as pricing. In the mid 1970's, our foreign competitors took a new approach—unfair pricing. This divergence from fair competition sent the industry on a race to the bottom.

Just two days ago, we announced the eventual relocation of our manufacturing operations to Mexico, costing 775 of our employees their jobs. Intense predatory pricing recharacterized the whole nature of our business. Were this pricing based on features, quality, performance, or most importantly, efficiencies, the market would have been enhanced for both consumer and producer. However, our foreign competition did not have better costs of production, efficiencies, or other means to reduce prices.

Rather, a protected home market permitted them to set upon the U.S. market, knowing that barriers to price competition protected them at home.

Mr. President, what Mr. Thompson was talking about was exactly what was taking place. Brother—that is a good name, Brother. You do not need a brother like this around. This is Brother. They had no competition at home. We do not get access to their market. So they can keep their prices at whatever level they want, and then dump their typewriters here. That is exactly what they did, because I do not say this. There are a number of court cases, over and over and over. Commerce Department rulings. Portable electric typewriters from Japan, Treasury Department, Federal Register notice, 1975; portable electric typewriter from Japan, 1980, antidumping order, 45

Register 3618, Department. First dumping order in 1980, Mr. President, 1983, portable electric typewriters from Japan. Final result, administrative review. Portable electric typewriters from Japan. Final result, administrative review. And on and on and on and on, and in every one of these cases, we find antidumping orders.

Finally, we come down to certain personal word processors from Japan, antidumping order, 1991. They just circumvented it. Nine affirmative decisions. Nine. And we cannot get a tariff order placed on it. I did not say they were dumping. And, Lord knows, if you get the Commerce Department to find out and come down with a ruling that this has been the case, and the Treasury people, I mean, we are talking about the world's greatest free traders. They do everything to look the other way. When they come down in nine cases and find that there has been dumping, that is rather indisputable.

So he says, "To wit, the managing director of our Japanese competitors recently admitted in the June 22 Financial Times article," and the articles were attached, "that his company, Brother Industries, has tolerated"—listen to this, because this is the Japanese manufacturer himself—"has tolerated losses in its U.S. operations to secure market share. Put another way, they circumvented U.S. laws and continued dumping their products to increase sales at the expense of U.S. manufacturers. As each of you must know, U.S. companies cannot survive by selling below-cost overtime."

Some of my colleagues were a little bit upset with Mr. Thompson for what he went on to say. I can tell you that he should be upset with us. He should be upset with us tonight in the Senate for acquiescing, for keeping legislation dealing with this problem out of the conference. He should be upset with the House of Representatives, the people's body, for not permitting this legislation to even be considered, and I have to tell you that I do not blame him. I think he was rather mild in his criticism, absolutely. He said, "To our Government I say, wake up, this is the real world of competition. If companies cannot turn to their Government to provide conditions of fair competition, predatory pricing will force U.S. companies out of business or offshore."

Mr. BAUCUS. Will the Senator from New York yield, without losing his right to the floor, so I might make a unanimous-consent request on behalf of the leader as a technical formality so that he might undertake certain actions.

Mr. D'AMATO. Yes.

The PRESIDING OFFICER. The Senator from Montana is recognized.

#### UNANIMOUS-CONSENT AGREEMENT

Mr. BAUCUS. Mr. President, I ask unanimous consent that the majority

leader, the Senator from Maine [Mr. MITCHELL] be designated as an Acting President pro tempore until the Senate next convenes for the purpose of signing duly enrolled bills and joint resolutions.

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

Mr. BAUCUS. I thank the Senator.

#### FAIR TRADE AND FREE TRADE

Mr. D'AMATO. To continue, Mr. President, our hearing that was conducted on July 23 got quite some attention, because Mr. Thompson went on to say: "In an effort to end the dumping, Smith Corona initiated actions to obtain relief through the fair trade regime mandated by Congress. Since 1979, we have prevailed in eight"—excuse me, I said nine, but it was in 8—separate antidumping decisions.

Despite this string of successes, the dumpers have never been forced to comply with the dumping orders. Instead, the targets of our action have persistently, cleverly and with the support of our Government, circumvented U.S. antidumping laws.

In 1988 Congress responded by creating an anticircumvention law. It was intended to be "black and white", with just enough gray to give the administrators at the Commerce Department the flexibility to address new types of avoidance. Yet, Mr. Chairman, as we have experienced time and time again, discretion divorced from a focus on the statutory purpose too often results in bad decisions and lost jobs.

For example, after passage of the 1988 trade bill, foreign manufacturers found that shifting the base of a company's assembly operations would allow them to evade dumping duties. By establishing a "phantom factory," where virtually no value is added other than "mere assembly".

Mr. President, if you recall, I said if we had this plant that is otherwise known, because sometimes the plant itself is put up in a way where they literally use screwdrivers and prefabricate the parts that come in, none of them manufactured in this country, all of them from abroad are then basically assembled here. We call that a phantom factory where virtually no value is added other than the assembly, the workers who are hired to put these parts together but no content from this country, no engineering from this country, no skills other than putting together.

It is an avoidance. It is a sham, it is circumvention. It is wrong. It is wrong.

A dumper can claim that the U.S.-assembled typewriter is no longer the object of a dumping order—even when the final product is the same identical product subject to an order.

Mr. President, that is what has been going on. It is wrong. It is not right. I do not care how many courts tell you that that plant is not a phantom plant. We know it and in the real world and so when Mr. Thompson says get into the real world, take a look and see what is taking place here, he is not wrong.

For those who decry Smith Corona moving offshore, maybe we should decry the lack of action by the Commerce Department over the years, the lack of Congress over the years passing legislation to deal with this and in other cases wherever they may be, these situations.

We should not criticize, oh maybe, we should have sought another remedy, another forum. Our business should be how do we help him. I tell you something. I as a Senator from New York have a responsibility to do and help even those that may take place somewhere else, if it is taking place in New Jersey, if it is taking place in Hawaii, wherever it might be taking place.

So if we become so parochial that we cannot see the justice and the merit of seeing to it that every person's opportunity to earn a living and a livelihood should be protected by elements of fairness, that we say fairness, that we do not allow people to break the law to threaten and endanger that job. We are not talking about protecting against fair competition but we do say against breaking the law.

Despite this string of successes, the dumpers have never been forced to comply with the dumping orders. Instead, the targets of our action have persistently, cleverly and with the support of our Government, circumvented U.S. antidumping trade laws.

In 1988 Congress responded by creating an anticircumvention law. It was intended to be "black and white", with just enough gray to give the administrators at the Commerce Department the flexibility to address new types of avoidance. Yet, Mr. Chairman, as we have experienced time and time again, discretion divorced from a focus on the statutory purpose too often results in bad decisions and lost jobs.

For example, after passage of the 1988 trade bill, foreign manufacturers found that shifting the base of a company's assembly operations would allow them to evade dumping duties. By establishing a "phantom factory," where virtually no value is added other than "mere assembly", a dumper can claim that the U.S.-assembled typewriter is no longer the object of a dumping order—even when the final product is the same identical product subject to an order.

Does this make sense? It does if your intention is to circumvent U.S. trade laws. Is it good public policy? Only if we wish to displace U.S. manufacturing with assembly line work.

Assembly operations do not generate the high wages, high tech jobs created by real manufacturing. The level of related activity in other sectors I mentioned earlier does not occur. Even recognizing the positive spin-off from a few assembly positions in a transplant operation, the assembly-only operation obviously requires far fewer workers per unit of production.

Think of that. How many workers does it take to put these parts together as opposed to creating them? The grinding, the precision, the kind of technical work, the kinds of creativity, the capacity necessary to train, the ingenuity, and that is why it is for every 1,000 manufacturing jobs there is a similar 650 collateral jobs, if you were

to measure the effect and the impact in terms of assembly jobs, in terms of the spin-off, far, far fewer. If to measure the rate of compensation, I can tell you \$6 to \$7 an hour in this case on the assembly jobs; \$17 an hour for the production for the high skill for the high tech.

Is that what we are about? Is that what this trade policy is supposed to be about? I do not think so. Is that what the law is supposed to be about? Yes. The law says we should not permit companies to dump and to sell below cost. The law says that Brother has to sell its product at or about at least what it cost it to manufacture, not below cost. How is it that decisions have come down that said that 60 percent duty must be paid. It is because they found out that the predatory pricing practices of Brother's was so out of the marketplace, so out of the realm of reality that it came in and imposed this huge fine.

Mr. President, you cannot compete against someone who is engaged in this kind of predatory practice, this dumping.

So, indeed, we find the situation where unfortunately not only Smith Corona but others have been forced out of business or to shift their manufacturing, the very thing that we cling and try so desperately to keep from the United States to a lower cost manufacturing area.

For more than a dozen years Smith Corona has fought at the front lines—

And this is Mr. Thompson in his testimony before our committee—

using every legal and political weapon in the arsenal available to U.S. manufacturers. Yet, we have consistently come up empty. The laws do not move fast enough to keep up with new techniques designed to attack manufacturers; Government officials charged with enforcing our laws have unfortunately too often exercised discretion to let the dumping continue. The natural interest of shareholders in maximizing return on investment says you play Don Quixote only so long.

Mr. Chairman, from the front lines of U.S. Manufacturing, I have witnessed the ravages of unfair trade and noted the inability of administrative discretion to support the advancement of U.S. industry. As vice president of Sylvania Television, and then as president of Singer Sewing Machine, industry's calls for fair trade were dismissed as protectionist.

And how often have we heard that in this Chamber. How often have we heard the arguments that you just want protectionism.

I think there is a big difference and distinction, and it can clearly be made between protectionism and fairness, between equal protection, equal protection under the law and the discriminatory, arbitrary recalcitrance of those charged with enforcing the law and also those charged with the responsibility of dealing with the apparent inequities of the law.

We, Mr. President, fall in that later case. Those of us who have a respon-

sibility to deal with the inequities that would allow a situation to fall through the cracks, we have a responsibility and an obligation to deal with those inequities.

And do you know, that is what my plea is. And it may be a harangue to some. But when I spoke softly, when I asked, when I pleaded, when I had staff go, when we went on bended knee, we met polite but, I must say, nonresponsive replies. They were not responsive. No one has said, "Senator, this bill runs afoul of the dumping provisions of the GATT provisions. We cannot enforce it." No one has said that, because it does not, because it was carefully crafted in a manner to get GATT neutral. It was crafted to seek fairness and fair play.

So, if at times I might appear to be somewhat annoyed, dismayed, and even angry at the lack of response, it is because these people have been denied their petition. This is not my petition. This is not Senator MOYNIHAN's petition. This is their petition for fairness. It has not been given a hearing. It has been denied. And it has not been a subject that came up at the last minute. By gosh, everybody knows that.

But now we find one would say, "Oh, I did not know it. I did not know it was in there, the other one did," "No, this one did." "Oh, no, this staffer did." "No, it is the other staffer."

No, it is all of us collectively. I want to know how we can deny our responsibility collectively.

It is now 25 minutes after 11. I think the House is still in session. I know that some of the conferees certainly have heard this Senator, and they are going to hear him for a lot longer, a lot longer. And, as you know, they can still go back and reopen the conference and say, "Let us look at this. Why should we not take this?"

And I want to know, I would like to know, as a person who brings this petition on behalf of these people, why it is, what is so bad, what is the evil in saying that the law shall be enforced? I would like to know that. Is that something that is terrible? Is that something that is too much to expect for the American workers to have the law enforced that people cannot illegally dump, so that an antidumping order can be enforced?

By the way, that is all we want. We want it so that in the event of a dumping order is found, a company is found to violate the law, that a tariff can be placed against them; not that they circumvent them and they now say, "Oh, no, that was against the company. I am still the corporation comes from Japan, but now the operation comes from Malaysia and Singapore."

And then they meet over here in the States and they put together this phantom factory and they screw these things together and now you know it is no longer subject.

Come on, let us get real. And that is why this gentleman, Mr. Thompson, said, "Let us get into the real world." Maybe I would like to be—because I heard that expression before when I spoke to Alan Greenspan and he told me that all was well, and I told him to get into the real world, because it may be well in your little cocoon where everybody talks to you and everything is well in this plastic bubble of Washington, but it is certainly not well on Main Street. And so when I heard him talk about "let us get into the real world," it made an impression.

I have to tell you, Mr. Thompson went on and he said:

Mr. Chairman, from the front lines of U.S. manufacturing, I have witnessed the ravages of unfair trade and noted the inability of administrative discretion to support the advancement of U.S. industry.

In their wake, we clearly see that a failure to act leads to the wholesale devastation of entire industries and a further erosion of the U.S. commercial base. My experiences have revealed to me certain basic shortcomings in American competitiveness.

First, Americans fail to understand or appreciate the substantial importance of manufacturing. To many, investment in America is investment, without regard to its source or character. The continuing thirst for capital investment has led many of our communities and their political leaders to race to the bottom, willing to displace manufacturing with assembly jobs, so long as the job lands in their community. We ignore national interests in our pursuit of the parochial.

How true that is.

Second, I am concerned about the failure of Government to respond in a timely fashion. By the time relief comes to industry, or even the prospect of relief, it may be too little too late, such as with Smith Corona.

Mr. President, I tell you, I really thought that we could make a difference here. I really thought that this case and the examples of eight dumping cases, eight findings of dumping, was so clear that all of my colleagues on both sides of the aisle, Republicans and Democrats, regardless of where they come from, would come together and say, "Let us deal with this."

I have to tell you that Mr. Thompson's statement as it related to our drive to get those other jobs regardless is true. We have become so mired down in this parochialism that we have lost the bigger picture.

I have no illusions about what will be the outcome. I guess I did have some. I guess maybe I really did think that we could make a difference.

I approached this with my colleague from New York, Senator MOYNIHAN, a wonderful and gracious individual, and he understood the pitfalls. But he approached it, I think, with a very real dedication and fervor to try, even at the last hour, to make a difference. And do you know what bothers me more than anything else is that the very group that over the years has not shown the kind of flexibility I think

necessary to distinguish between free trade and unfair trade; they finally came around. And it was not easy—and it was not easy. And it was not made on any promises. It was made on attempting to do the right thing.

I think maybe some of my colleagues here in the Senate and the House said, oh, well, we will never get the Commerce people or the White House people to sign off on this. And, indeed, when we went to them, we met obstacle after obstacle after obstacle.

We did not give up. Our staffs worked and worked—the first time, the second time, the third time. Finally, when in the energy bill, in the tariff side, we included a provision they understood that we were really serious. Then they looked at that, and they said, no, this provision is violative of GATT. We understand the objective that you are attempting to attain but it is violative.

And the lawyers worked harder and some mornings until 2 and 4 o'clock in the morning. And we finally came up with a proposal that reluctantly—reluctantly—the administration agreed not to oppose.

They were not jumping up and down. They were not celebrating. But, I tell you, I guess it is an admission of my naivete—yes, it is—I was celebrating.

I honestly thought that we were on the threshold of making a major breakthrough. Shame on me. I really thought that we had overcome the major obstacle, the intransigence of the administration. It was an obstacle and it was a major one.

I could not fathom it, Mr. President. My colleagues in both Houses were sent here to represent the interests of all Americans, the unheard of Americans, whose names I read to you—whether it is Biviano or Tracy; that there would be unanimity, not just overwhelming support, but unanimity in saying let us see whether the chairman of the board of Smith Corona is real when he says if given an opportunity, a real opportunity, he would try to keep those jobs here.

We are not even willing to see whether or not that is the case. And in so doing, we destroy the hopes and opportunities of lots of people. It is not just those 775 whose jobs will be lost immediately, but it is those who might have had a job. It is those who earn a living as a result of these people and their employment.

We break a contract—we break a contract with what? Public service. Not just in the Congress, but I guess that is probably one of the more exalted positions of public service. We break a contract with what those who are elected in a democracy should be doing. That is not making a difference to enhance ourselves but it is to make a difference enhancing the quality of life for our constituents; it is for fighting for fairness. And this issue is one where it just cries out for fairness.

Listen, it might be that a year from now, even if we were able to pass this legislation and even if the Commerce Department pursued aggressively the antidumping orders and enforced the tariffs, the Smith Corona people might decide to close and to move. I cannot tell you, or the workers, with any definitiveness that this might not ultimately be the case.

But why should they not have an opportunity to compete fairly? Why should they have a situation where they cannot compete? I look around in the Halls, and I see people who understand this. And they should. I do not question the motivations of my colleagues, they are good and decent people.

But I am saying should we continue business as usual? Why should it be on a bended knee to a parochial interest that does not represent one iota of interest of fairness? That is not why my friends came to the Senate or to the House. I think they came here to seek fairness and to stand up.

And it is not just a matter of what I can get for my State or for my community. This is not a question of where we open a new Federal facility. Reasonable people could disagree as to where or how the merits or the opportunities, and the closeness of the issue is one where it comes down to—yes, politics and political power. We understand that and that is part of the process. And I am going to continue to talk and talk and talk, because someone just asked me about that.

And I have just begun. I have lots of energy. I have lots of time. And, indeed, I have not made many remarks as it relates to this important legislation heretofore, other than to indicate for a very short period of time my deep concern with respect to those provisions that would give to the people in central New York, outside of Syracuse, NY, in the county of Cortland, an opportunity to compete fairly. That is all we want. That is all we want.

By the way, who knows, maybe the Commerce Department will not pursue with the vigorosity, these antidumping cases. I cannot guarantee that they will. The law will be there. They will have the opportunity, the discretion to do this. We close a gaping hole and that is why I was so excited. Because, if you look at the history and the litany of these cases, all throughout the avoidance of these eight cases where they won, eight cases where they prevailed, eight cases where they said Brother is breaking the law, eight cases, eight times we get the circumvention, the pattern of evading the law, they evaded the law.

Oh, well, now what can we do? Close the loophole.

What is wrong with closing the loophole? Why is it that we are afraid to close the loophole, may I ask that question? I ask this rhetorical ques-

tion, why are we afraid to close the loophole? Will we close it after Smith Corona makes its final decision, its irrevocable decision to move? It that what we are going to do?

Are we going to wait for the Smith Corona people to actually consummate a contract for the construction of their plant in Mexico? Is that what we will do? Will we come back here in January, have the induction of our President in late January, have our mighty 100 days, and in some time or some place hold a hearing on circumvention? And if, indeed, at that point in time we pass this legislation, or even legislation which is broader to deal with the variety of problems that exist in this area—and I understand that there are some and I understand that some of my colleagues might be very vexed and say why do you think that this is special? Why is it special for you? I have a situation and it is special to me.

I want to tell you something. As far as I am concerned, I will be supportive of those areas and those conditions which are special and where the law is being violated and where people have a right to petition their Government for a change, to see to it they are given fair play.

Mr. President, I have to tell you, and I do it again. If you told me that the administration would be opposed to this, I want to tell you something, I was prepared to come to this floor and chew them out. And you can believe that. I was going to take them on. I had a speech prepared to say, you want to know something, it is not good enough to talk about jobs, here you have an opportunity to do something about jobs.

I am not making that speech tonight about the administration. I am making that speech about this body and every Member in this body and in the other House. Do not, anybody here, talk about saving American jobs. You do not have the right to do it. And if you do it, I want to know why you did not do something as it related to the people in Cortland, the people in Smith Corona.

Am I getting angry? You better believe it. A bunch of sanctimonious nonsense. That is what I hear. I do not want to hear how am I best to do jobs, what can I do about America. You have a chance to make a difference and to stand up for what is right. That is all we are asking for and not this business about, oh, I have a company and it is headquartered over here and I have a plant.

Let me tell you something. I wish them luck and fair competition. They should grow. They employ Americans. They employ people in this country.

I do not want to discourage foreign investment. I want it here. But they still want to see that whoever it is competes fairly and that American corporations are not disadvantaged. We

just cannot say, oh, it is the administration, the administration. Because I want to tell you something, the administration signed off on this bill and then when it reached the House and they wanted to change it more and make it a little broader, they agreed to sign off on the second provision. Then they did a third one.

Now come on. What has happened? What is up? Let us stop the nonsense. I am not going to let people off the hook, I am not. Absolutely not. Those guys in the House say they want jobs. You want jobs? Here is an opportunity to create and save jobs. Over here in the Senate, the same thing.

We ought to send back that conference report. Absolutely, send it back. This Senator will know when to sit down: When I am told and I am given the assurance that we will send this bill back and insist that that provision be put in. That is when this Senator will be ready to sit down. That is when I will be ready to yield the floor. And if it means I have to keep people in an embarrassing position, why then let us do it.

I have gone to so many banquets and so many campaign stops and so many parades and so many this and that and been nice to so many people, this group, that group, that is nonsense, that is irrelevant. I want to tell you something, all of our campaigning, all that pandering, that is pandering. I am for jobs. Are you really for jobs? I have some program tonight. The woman said to me, the reporter, well, Senator, what about jobs? I said investment tax credits, we have to cap spending. I believe in those. But let me tell you something, something so basic. We should not be debating this. The powers to be—and I am not one of the powers to be, you know that—the powers to be should say, Alfonse, we are going to settle this, we are going to do this. We are going to do whatever is necessary to see to it that it is handled correctly. We are sick and tired to listening to you, besides, and they should be. They should be, really.

I think we all ought to be ashamed. We ought to be ashamed we waited to this point. We all should be saddened. Really. It is not a tribute to what we are supposed to be about. It is not a tribute to public service. It is absolutely an abysmal record.

So when we talk about jobs and how do we produce them, here is a good way. What would it cost you to replicate a Smith Corona plant because it is disassembled? What would it cost you to put in a manufacturing operation like this which, by the way, has increased its productivity and efficiency 700 percent over the last 12 years? Mr. Thompson says I can compete with any manufacturer of these typewriters fairly. I cannot compete if they are selling below market and absorbing the losses in their protected

market. That I cannot do. No one can do that. You can be a genius and cannot do it. You just cannot deal in that kind of situation.

So I have to tell you, I understand this action, but what would it cost us? How much do we pay to create a job when a person goes on the relief rolls and then we get into a job-training program and then we send that person to an education, vocational whatnot, then we try to find an entry-level position.

Did you ever figure out how much we would pay for that job? Here we have 775 high-paying, high-skill jobs paying \$17 an hour, gone. I think this case epitomizes the kind of almost indifference you see. It is not good enough to say that it is the administration. Now, we can blame it on them, and I want to tell you and I do not know whether the President or others really believe what I tell you, and my staffers will tell you, I would have come down and probably been much harder on the administration had they refused to attempt to deal with this problem. I would have because I would have seen that as a betrayal of everything I really believe that we are about.

Mr. President, Mr. Thompson went on to say, in pursuing relief:

We frequently heard the claim that adequate discretion existed to remedy our problem.

He asked the question:

How useful is discretion if it is in the hands of those who, for whatever reason, choose not to act? Political leaders need to reflect on why it matters if a manufacturing job is displaced with assembly. Where does the manufacturing go? Where will the skilled labor reside? Where is the value and what are the wages? Does foreign ownership matter? Of course. Who will make the decisions of where we manufacture, do our engineering and design, high technology and where will the profits go? Do these phantom factories represent the future of American manufacturing? To claim them as manufacturing is an exaggeration. To encourage their growth is a national resignation to low wages and decline.

In closing, let me underscore that Smith Corona has pursued every available means to ensure fair trade and secure a competitive marketplace for U.S. manufactured goods. The failure of our Government responding in a timely and effective manner has denied us the opportunities for competitiveness and forced us to join other U.S. manufacturers offshore.

Mr. President, that speech was made by Mr. Thompson on July 23 before the Banking Committee. I think it is a sorry testimony to the lack of action and to the fact that over the years if there was a deficiency in the law, that the people at Commerce and Trade should have been suggesting either administrative changes to deal with this or the legislative changes necessary. I do not think we should have been reduced to this last minute situation where we come in and say, look, this is how desperate a manufacturer becomes, and by the way he has not

promised to keep his plant here and operating if the law is changed.

And I do not blame him. He wants to see it changed. He does not want to give false hope to those people. I understand what it is. And I could not even begin to fathom the kind of feelings they must have. Roller coaster, I was on the roller coaster. I was up on the high point just 2, or 3 days ago, when we finally got the administration and its representatives to say: All right, we are not happy but we see the need, and we are willing to take what they call this rifle-shot approach that would deal with this one inequity and not open up the whole question, which is a very technical legal one, of circumvention.

And so with that, I was so elated and I felt that here we have an opportunity to show people we hear them, that we hear their pain, that we hear their anxiety. I mean these people are crying out for help. And they are so much a part of this great country because in their anguish they have not come and marched on Washington. Lord knows, they have every reason to do that.

These are the good, the quiet people, the enduring people. They pay their taxes. They love their community. They love their country. They educate their children. They do not have time maybe for protests.

Oh, yes, they came together on more than one occasion locally to express their concern and dismay. They have a right to.

I can only tell you that I felt this incredible disappointment where I went from this high of saying: My gosh, we have a chance to save these jobs, and save these people, save their lives, to a point where I was absolutely devastated this evening to learn of how we handled this matter with a casual indifference that some might characterize as bordering on contempt.

That is tough language. But it was a casual indifference. It is a casual indifference when a matter of this importance cannot get all of the conferees to sit down and to discuss this matter in depth for 10, 15, or 20 minutes, for a half-hour, where it can just be waved away, waved away. That is the lives of 775 people, just treated with contempt. That is what we do. And if my colleagues are distressed at that characterization, I am distressed at the facts and the indifference in which this serious situation was handled. I think it is inexcusable.

Now, some might say, well, there are some good things in this tax bill, Alfonse. You will have to pay the price if you stand up here.

And I say to you, we have a chance to let the bill get to the President, let people vote one way or the other. "The final tax bill was being negotiated behind closed doors." This is this article, Syracuse Herald, Sunday, October 4. That was yesterday, I think. "Final tax

bill was being negotiated behind closed doors by House Ways and Means Chairman ROSTENKOWSKI and Senate Finance Chairman LLOYD BENTSEN of Texas. It sets up enterprise zones in cities and makes other changes in the Tax Code." That is an article by Jonathan Skalan.

Now, the point I wanted to make is that this was being done literally at the last minute behind closed doors. This Senator did not get an opportunity, nor was I asked, to come on down and to discuss it. Not even behind closed doors. I was not given an opportunity. And I do not believe Senator MOYNIHAN got an opportunity to lay out the facts, and certainly if he did it was not for any extended period of time.

Now, I understand that we have to do the business of the people, and I understand that we cannot be at every committee meeting at the same time and that we have conflicting responsibilities. Nobody ever even asked this Senator: Do you want to make known your view? Can we get a response back? Can we hear what you think? Can we tell you what our problems were? Can we tell you that the drafting of this legislation is inappropriate?

Now, I tell you, there were lots of things that got into that bill that were not in that bill when it left this Senate. They are not in there. How did that happen? Were there big, deliberate discussions? How did other provisions affecting some of the same things that I am talking about get into that bill?

Mr. President, workers and citizens in my State deserve every bit of protection, as much as the citizens in any other State—maybe not more, but certainly every bit as much. And if that bill does not have provisions dealing with the inequities that I have outlined, then this Senator, as I have indicated, and as Senator MOYNIHAN indicated, will do everything necessary to see to it that it is not adopted in this form. It would be wrong and it would be a betrayal of what I consider to be my solemn obligation, and that is to fight for what is just and what is right and particularly when it is a situation that is brought to my attention in such a vivid manner, when the man who has to make this decision about disbanding this plant is heartsick about it and says: Give us an opportunity and we will fight to save those jobs and keep those jobs in the United States.

I would think the least we could do would be to consider that legislative remedy, that relief which we sought. No one has yet explained to me, either informally or formally, why it is that this provision was not included in the legislation. No one. Staff cannot tell me, staff of the minority on the Senate side. On the House side, forget it, what stories we get. A mixed array: Oh, no, it is not there; this is it; I am going to take it.

Who speaks up for the little guy? Who is going to hear their voice and their plea for fairness? Have we really become so jaded we can sit by and just watch this take place and go on to our next adventure, our next challenge? Maybe ours is such an exciting life that we can pass with indifference this tragedy. If this is not the traveler who finds himself stranded on the road in the wilderness, frightened, not knowing what will take place next, I do not know what is.

Most people have a lot more courage than I do. They are taking the plant shutdown and the termination of their work, not because they did not work their hearts out, not because their plant cannot compete—because it cannot because they have not improved their productivity to incredible levels, but because all of us collectively, both the administration and the Congress, could not treat them fairly, could not see to it the predatory pricing practices which are illegal were not stopped. And on the altar of political expedience, why, we take a copout because, after all, my friend has a plant in his State. They are a competitor of this Smith Corona. So this gives us a reason to look the other way, and we do not look at the merits. My other good friend has one that is headquartered in his State. We do not look at the reason or the merits. So we look the other way.

I wonder, if we were traveling down that road and we saw as we came upon the weary traveler delaying in that road, a sign that identified him as a citizen of another State, we would go by indifferently? I do not think so. I hope not. But what are we doing here? We go by indifferently. "After all, this is not my fight."

I wonder why it is not. I wonder how we can go back to all the American Legions and talk to them about America, how great it is. I wonder how we can go back and talk about how it is that we have a position on the fair free trade bill.

I have heard so many of my colleagues express reservations because they wanted to be sure that there was fairness. They wanted to be sure that American jobs would not be displaced. Here is an opportunity to back up your rhetoric and do something.

So, if we go home and we fail to even attempt to take this up—and I think that collectively we have all failed—and I hope maybe when people give one of these patented speeches about how they are for the American jobs, how they do not want to see these jobs go someplace else. And the American worker—I have to tell you, it would not bother me if somebody stumbled a little bit on those words and maybe think about what our lack of action is and whether we really meant what we said; and, if we become again so enamored at the trappings of our office and

this office that we forgot our real responsibility, responsibility for that weary traveler who is on the roadside or to that factory worker who has done one heck of a job, is a good and decent citizen, who loves his family, protects his community, and adheres to the laws, and is a good worker and produces a good product, and his company produces a good product, but is literally going to close on him, close on him because the people who are elected did not have the courage to do what was right.

They not only did not have the courage to do what was right, but they did not even have the courage to tell him why they refused to do what was right. They did not have the courage to tell his elected representatives why they refused to do what was right.

I would like to know why they would not do what was right. I do not want to hear one of the sanctimonious speeches about we will take it up next year and we will consider it because it is too late for them. Those jobs are gone. That plant, that manufacturing plant will be closed. Those people will be terminated. Smith Corona will make its decision to start to build in Mexico, and they are not going to wait. And every day that goes by has increased the cost to Smith Corona.

If anybody should be commended, I guess they should for not having pulled out of this fight a long time ago. They had every right to. They have never seen a responsive administration or, on the administrative side, they have never seen a responsive legislative initiative that has gotten off the ground. I guess they never will. That is too bad. That is too bad as it relates to this body.

Mr. President, there is an interesting article that appeared in the New York Times on September 1 of this year. It is called "Global Issues Weigh on Town As Factory Heads to Mexico."

When the red brick buildings on Main Street were new eight decades ago, and the autos were bulky, black and few, a local steel company brought hundreds of low-wage workers here to upstate New York from Italy and the Ukraine rather than pay more to local workers.

Today, the steel company has long since closed and a rainbow of sleeker vehicles cruises Main Street. But once again a big local employer, this time the Smith Corona Corporation, is looking for cheap foreign labor.

Rather than importing foreign workers, however, Smith Corona announced last month that it was moving its typewriter manufacturing operations to Mexico, most likely to Tijuana. Although it plans to keep its much smaller engineering, distribution and customer service divisions here, Smith Corona will lay off 875 of its 1,300 workers in the next 12 months.

#### STARTING ALL OVER AGAIN

Smith Corona workers were generally unwilling to discuss the pending layoffs. But one worker who did talk was Barbara E. Miller, who assembles the typewriter mecha-

nism that flicks the correction ribbon into place. "At 50, I'm not really looking forward to starting all over again," she said recently, as she sat on a hay bale near the large gray barn that she rents with her husband. "I have five weeks of vacation; it's back to scratch."

The decision by the company, whose typewriters have been a common graduation gift for several generations of Americans, has become a centerpiece in the national debate over President Bush's recently announced free trade agreement with Mexico and Canada.

Mr. President, how apropos. You see, if indeed we are concerned about the free trade agreement that is being negotiated, if indeed there are those who say, "I want to keep jobs from going to Mexico, I don't want to be trading high-wage, high-production jobs for the low-wage assembly jobs," then here is an opportunity for those who have raised those considerations to do something about it. Here is a chance to act. We actually have the administration ready to sign off. They have.

So, Mr. President, this is not a situation where it is the administration that we can hold responsible for the loss of 875 manufacturing jobs.

The responsibility at this point for the loss of those jobs rests right here, right here in the U.S. Senate. That is right. Because we have not had the courage to stand up and say, wait a second, Lee Thompson at Smith Corona, we are going to give you a chance. You say this is taking place because of unfair dumping. We are going to give you a chance and hold you accountable. We are going to find out whether or not you and your board are ready to back up your rhetoric. You went and testified before the Banking Committee and made other statements. OK, now we are going to give you a chance.

Now, Mr. President, who has the courage to stand up and act? It is one thing to bash the President and to bash the administration on their lack of enforcement, and it is another thing when we have the ball in our court. We have a chance to do something here. Are we just going to let those jobs in that factory close down, and then we will say the Bush administration did it? They did it?

I want to tell you right here and now that we did it. We failed to act on this. We did it. I have not heard any redeeming arguments as to why we do not stand up and stop that, or at least give us an opportunity to stop it. No. In the conference committee where these things are supposed to be debated, none, none.

Then we hear the House would not take it. You know those deals. You tell me you do not really want this thing, so I will reject it, and that is what happens. That is what happens. We have "ROSTY" taking the blame.

Do you really think he is really upset about the fact that Smith Corona

might, if they get this legislation, decide to stay? Do you really think we are going to blame that on Congressman ROSTENKOWSKI? Come on. I mean, I know I do not come from the big city, and I know I do not come from those areas where they spin these yarns. That is inconceivable. It is nonsense. "ROSTY killed this." What a nice way to cover our political you-know-whats here. Well, it is not going to work, because I do not believe it, and you do not believe it. Nobody believes it. If you said we want to consider something else and you made a demand that is incredible, you know there are lots of ways to do that kind of thing.

It is inconceivable to me, having seen how tenaciously Congressman ROSTENKOWSKI has fought for fairness as it relates to these issues of trade, that he opposed this. Maybe if we were unwilling to undertake something that he deemed important, then you call that a deal killer. Is it not incredible that I now have to speculate? I do not know. Nobody really knows, because we did not really have a discussion, Republicans and Democrats sitting down at the conference discussing this. They did not do this. One chairman, the majority, sat down with the other chairman and, poof, here we have this wonderful thing called this tax package. What kind of discussion did we get? I did not see it, says one to the other. I did not know you really wanted it, says one Senator to the other. I did not really know you wanted it, said one Congressman to the other Senator.

We are supposed to just accept that? So we leave the traveler in the road, and more than that, we run over him. You see, when you cannot make a difference by merely extending a hand, and you do not do that, that is probably a far greater sin than maybe the person who struck the traveler in the first place and left him in the road.

I cannot even be angry at Brother here. They did what they could get away with. But I certainly can be terribly disappointed with the person who walked by and did not even extend a hand when they have an opportunity.

As we talk, we still have that chance, and we still have that opportunity. Maybe I am talking in vain, and maybe I am wasting my voice, and maybe I am taxing people's patience, but it just seems to me that I have no other recourse. I hope that some of us will be embarrassed. I hope that some of us will be shamed. I hope that maybe some of us will say, what is this about, if it is not coming together for the right thing. I have seen so much cheering over the years, over victories that have nothing to do with reality. They have to do with vain, partisan politics and one-upsmanship, one side over the other.

Those are not victories. But I will tell you, this is a defeat. It is not my defeat. I think it is a defeat for every-

body in this Congress, certainly in this Senate. I do not know who spoke to this issue in the House. They have different rules. They have a 2-minute rule. I know some people around here wish we had a 2-minute rule. But the fact is that I think this is a tragic defeat for this institution, that we can go about our business as if this was not taking place.

I guess that most of my colleagues, if they have not already left for home, soon will, and we are probably not getting through to any of them. I really do not know if we can get through to most of them if they would have the courage to do anything to try to change the situation. It is pretty easy to say: I do not have a dog in this fight, so why should I get involved? Why should I get involved? Those 875 people, I do not know any of them, and they cannot even vote for me, and they do not know and would not know what I did or did not do in their case, so why should I rock the boat?

Well, maybe because we are here. Maybe because we should do what is right. But I guess the more I have seen in business and politics—and I have been involved in it for 30 years, maybe a little longer—I really should not be surprised at that.

I remember when I thought that the greatest thing one could do would be to attempt to deal with the inequities that existed in Government and try to make a difference in that way. I guess sometimes I have strayed and lost my perspective. I think probably many do at times. And you can become enamored of the job, meeting the President, the Prime Minister, hearing people make big speeches, and coming to different occasions that only as a result of your office would you ever have an opportunity to be at.

That is nice. But it really falls short of what we should be about.

I am not going to read you the rest of this article that talks about the despair of people and how it is that they are losing their jobs and how it is that the sales have gone down as a result of the kind of competition that they face.

And then you look and you see the manner in which they have to deal with this. If I were to read you this article, then I would probably start telling, guess what I thought about all the Presidential candidates and the debate that goes on, because I think it is all a lot of nonsense, because here we have both Gov. Bill Clinton, Democratic Presidential candidate, and President Bush have detailed plans for extra Federal spending on job training programs.

I cannot believe it. I should not have read that. That is a little piece of the article. Both Governor Clinton, the Democratic Presidential candidate, and President Bush have detailed plans for extra Federal spending on job training programs to help unskilled, and it seems to me skilled workers like those at Smith Corona.

My gosh, wake up, wake up and smell the flowers. Do not wait until it is dead. You have an opportunity. Why should you wait for them to be unemployed? Why should we wait to have to spend millions in job training for jobs that do not exist in that area?

This is incredible. I do not believe it. I do not believe it. You have a chance to save 875 jobs and we have 2 guys running around saying they are for job training. If I were both of them I would hold a conference and say, my gosh, pass that bill; maybe we will get Clinton to do it and get the President to do it and then maybe these turkeys over here will act. Incredible. Incredible.

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

Mr. D'AMATO. For a question.

Mr. FORD. For a question?

Mr. D'AMATO. Certainly.

Mr. FORD. Who is the Senator referring to as turkeys?

Mr. D'AMATO. Collectively.

Mr. FORD. Collectively?

Mr. D'AMATO. Collectively the inaction of the Congress of the United States.

Mr. FORD. I say, Mr. President, I think the speaker ought to be a little more careful.

Mr. D'AMATO. And I recognize my distinguished colleague's admonition and I will attempt to do so, I really will.

I also think that my good friend from Kentucky realizes my frustration with this situation, because there are lives at stake here, and when there is such an obvious remedy to at least help and make a difference, that is what leads to frustration, because we certainly are not acting as responsible legislators and people who care.

This is an action that cries out for us to act and if not by my legislation or legislative action that has been crafted by Senator MOYNIHAN and myself, then some alternative that can deal with this problem, and it is there. Stop an illegal dumping, predatory pricing. We did not say stop competition; we said stop the illegal act. What more do we need? And why is it, why is it that we cannot get it done?

Why? That question begs for an answer. And I have not heard one, and this Senator is not going to be silenced on this issue until it becomes so painful that maybe we will adjourn and others can use their parliamentary maneuvers of privileges to do what they must, and I have no doubt that eventually they will.

But I have to tell you again when we have a situation where both the administration and those who seek the Presidency claim that they want more in job training, they want to help people, I say, look, an ounce of prevention is worth much more than the proverbial pound of cure. Better to prevent that unemployment, better to save that money, better to keep people with

their self-respect and their dignity, better to show people that we do care. What a wonderful thing if we could show people that we really care. What a wonderful thing. Maybe this is one little example. There are many others. This is a way to show people we really care and it will make a difference. It was not to tell them to get the number of dollars for Route 17. This is not that.

This is saying that we are going to give a company an opportunity to compete, an opportunity that otherwise will be lost, and they will simply have no other action than to move to another area to offset the cost differential which they cannot offset if they stayed here. So they then do something that we all abhor. And how many times do we hear the steelworkers and others say why is it you are sending our jobs, trading our jobs for jobs that pay less?

We cannot say that is just someone. That is not a mythical body that is doing that. We are. We are responsible for this reaction. Every Member of this Senate and people might resent that, but by our indifference and our failure to consider to debate to really have a go at this, and we did not even have a go at this, certainly not on the merits and certainly not in terms of any discussion that was held even at a committee level with any degree of exchange. No merits. It is who has the power. I did not know that that was what this was about. I thought that even in the most partisan situations we attempted to look at the merits.

And indeed more often than not many times when I have gone to Members on the opposite side with those matters where the facts establish a need, I have to tell you that more often than not my colleagues on the Democratic side, on the opposite side, have responded. They have.

But this is a matter that is not partisan. This is a matter that enjoys the support of both the distinguished Senator from New York [Mr. MOYNIHAN] and myself. This is a matter that is based on equity, on fairness, and we say that if everybody is so concerned about jobs then, my gosh, how can we be so blind as to turn away from an opportunity to make a difference?

And what will it cost? It does not cost this Government not one penny, not one penny. No revenue is lost, but indeed it is an opportunity to keep taxpayers paying taxes, to keep wage earners earning wages to keep them in a position where they maintain their dignity, their dignity. Do not we care about them?

I have to tell you I would not vote for anybody if I were them, absolutely not. They have a right to absolutely totally say forget it. You do not care for anybody. And I have to tell you I think if we turn our backs on them they have the right to their total disdain of us, total disdain. There is no earthly reason for this not to be and certainly not

to be handled in the manner in which it was. No reason. That is wrong.

Let me read you part of this:

Smith Corona must reduce its costs to compete with low-priced typewriters imported from Japan and Southeast Asia, Mr. Thompson said. Labor costs in Asia are considerably lower than in the United States, though Japan's advantage may be partly a function of more efficient manufacturing processes. Mr. Thompson, however, blames the Bush Administration for not doing more to shield the company from unfairly cheap imports.

He is right. They should have done something prior.

Over the last 12 years, the Commerce Department has repeatedly found Smith Corona's archival, Brother Industries of Japan, guilty of selling its typewriters at unfairly low prices. But Brother has mostly avoided paying punitive Customs duties, by selling typewriters not subject to duties and by opening a typewriter assembly factory in Bartlett, Tenn.

Both Gov. Bill Clinton, the Democratic Presidential candidate, and President Bush have detailed plans for extra Federal spending on job training programs to help unskilled and semiskilled workers like those at Smith Corona.

Let me tell you, the people are more important. They do not want their job training money. They do not want their job training program. They do not want Federal subsidies. They want a chance to work. They want a chance to compete fairly. And if a Japanese company knocks them out, fine; so be it. But they are entitled to compete fairly. That is what they want. That is what this bill does.

If anybody can say that the bill is illegal and it violates GATT, it is not something that is right, I understand it. But nobody has come to this Senator, not one Senator, not one staffer, no one, and said that that is the case. No one.

Now why should these people be sacrificed? Why?

And I will tell you, I am not going to give us a gold star. We flunked. This body and the other body flunks—care, compassion, F; rhetoric, A, A-plus, A-plus, plus. It is a great place for rhetorical. It is a great place for political demagoguery.

Oh, we bash the President. We come down, we hit him, we smack him. Hey, I was ready to do that. I was ready to come down here and take him on and you say you did not give a darn about these workers when they said, we will sign off on this.

And we spent weeks and hour after hour, hundreds of hours working, dotting the "i's," working one out, putting another one in, doing that so that we could craft it so that we could not get into a situation where we were being unduly restrictive and where we could keep real competition but give an opportunity to see to it where the law was being violated that we could stop the circumvention of the law.

Now I tell you, those people, they do not need these programs, programs to

help unskilled and semiskilled workers like those at Smith Corona.

The article goes on to say:

But these programs will not help Smith Corona's workers if the economy does not start growing more quickly.

Well, look, even if the economy grows more quickly, it is not going to help them. There are no \$17 an hour jobs for these people, \$16, \$15 an hour jobs. They are just not there. They are not going to help them. And this 50-year-old woman, she says, at 50 I am not looking forward to starting all over again; a worker at the Smith Corona plant.

And the sad thing is, if it happened and if it had to happen that the plant were closed down, I understand that. That is a tragedy in itself. And then we try to martial our collective forces—State, Federal, local—to do what we can, job training, try to bring in some kind of other alternative employment for people. We understand that.

But, you know, this should not be happening. There is no reason for this to happen.

There is a reason, and that reason is our reluctance to do what is right.

Now I hope I am not violating any rules by saying, we lack the moral courage to do what is right. We do not have the fiber to stand up and say we want this corrected, we want to address this.

Now, if that be a violation, then I violated, I have to tell you.

The article goes on to say:

The New York Department of Labor has "a lot of money ready to spend, but after 18 months of recession here in New York, what can we do?" said Roger A. Evans, a department economist. "The tougher issue is the job market."

Judy K. Davison, Cortland County's employment and training grant administrator, said her office had over the years met virtually all requests for help, although it has sometimes done so by asking local schools and colleges to accept students without collecting any tuition.

Aside from the job impact, city and county leaders played down the overall effect on the community. Smith Corona plans to keep the only large building it owns here while allowing leases on other buildings to expire, so local leaders do not expect an immediate drop in property tax revenues. Local leaders also say that a third of the company's workers commute from neighboring counties and that the company has not been a strong supporter of civic causes.

Smith Corona's severance pay policies are quite limited. The company, which earned \$22.1 million on sales of \$371.7 million during its fiscal year that ended on June 30, is offering half a week's pay for each year of service.

Mr. President, here is an opportunity to save a lot of money and to do what is right, and again I would hope that even as time goes on my colleagues would consider.

Mr. President, as I have said in many ways tonight, the United States today rests precariously on the edge of an economic disaster. In almost every

American industry, from automobiles to semiconductors, our position of world leadership is eroding or has already been lost, where the decline of the American industry has been no more apparent than in the consumer electronic industry where the United States, once dominant, now holds less than 5 percent of the world market share.

Our position of world leadership is being lost because our industry simply has not been able to stand up to vigorous and often unfair competition from abroad. We are still No. 1 in the world, but that position of world leadership is now even more in danger than at any time in the last 50 years.

Of course, all is not lost. U.S. economy retains tremendous strength. Unfortunately, what strengths our economy retains are quickly being overwhelmed by its weakness.

While the economy contains tremendous resources for productive investment, many of these resources are either tied up in capital markets, which discourage patient, long-term investment, or are being absorbed by our country's massive budget deficit.

While our workers, far from being lazy, have shown a willingness to work hard for the benefit of their companies, their productivity is impaired by an educational system which does not prepare them to work in the high-tech industries of today and tomorrow.

And while we may lead the world in technological innovation, we lag far behind our competitors in the ability to translate such innovation into competitive workclass products.

This productivity gap exists because of a lack of integration in U.S. industry between research, product development, supplier, and manufacturers. The end result is that it takes United States companies twice as long as the Japanese on average to go from innovation to finished product.

Overcoming these problems will require an aggressive effort on the part of industry to restore itself to viability.

Industry must move vigorously to respond to competitive challenges posed by the development of other nations, of revolutionary new management and production techniques. In short, American industry must be willing to take a critical look at itself and adjust to the new demands of the global marketplace.

But industry cannot do it alone. The need for assertive Government action in this area cannot be ignored. Our Government must act aggressively to ensure that our industries have every opportunity to be competitive in the world marketplace.

At home, Government must work to remove anticompetitive barriers in our legal and regulatory structure which put our industries at a disadvantage in the global marketplace.

More importantly, however, our Government must act in the international arena to ensure that our industries have a level playing field on which to compete.

It is the fundamental responsibility of the American Government to make sure that American industries are not denied the opportunity to compete in all world markets.

Mr. President, I believe that if we talk about competition globally, then certainly we have an obligation to see to it that we use our resources to give us an opportunity to compete competitively here within our own Nation.

And when our domestic production and competitiveness is savaged by the lack of Government action to ensure fairness—and by the way I have heard more times, “just give me a level playing field” than I care to even think about. Nobody wants a level playing field. I mean they want this field so that our companies, they have to go up this hill. That is how Smith Corona has to compete, up the hill.

Now, that is just not wise. It is not wise. Because if we leave here, and I think we will, without enacting remedial legislation that will give them half a chance at a level playing field—half a chance, I do not think we are going to get it, certainly not easily—they will have court actions, et cetera—why, then, they are not going to continue to compete, certainly not, as we have seen, as it relates to their production.

And who will have won? Who will have won? Will Brother have won? I do not think Brother will have won because now they will find a company that, by transferring its manufacturing base to Mexico will save millions of dollars annually. It will probably now put Brother in a situation where, in order to maintain its domestic sales here in the United States of these products, it will have to either cut its prices even more and sustain a larger loss on this or it will give way to greater market share. So Brother has not won. And the American worker has lost out. And, I suggest, that we in the Congress have trivialized our responsibility.

Some people might say, what are we doing as it relates to the situation in our economy? And I would say we have mostly made great big speeches and there is very little substance behind what the bodies of the House and Senate have done. Absent the roads, which have a highway trust fund, and the bridges and the highways and the airports—again most of those coming from airport trust funds, absent our appropriating money for these special public works projects—you know, what have we done?

I will tell you, any darned fool can do that. It does not take a great genius to go and vote, to try to cut up this diminishing pie. The pie is really diminishing. I do not care whether we spent

more money for public works projects because where are we getting that money from? We are borrowing that money. We are borrowing it.

So one of these days we are going to find out that when we go to hand out the pie to our constituents, whether it be roads and bridges and highways and what not—guess what? It is not going to be there. Because we will not be able to borrow enough. And that pie is, all of a sudden, going to collapse. It is going to collapse. Did you ever see a pie when it collapses? It is going to be mush. We are not going to have much to give out, much of those goodies that we have been getting away with. It is not going to be there. And then you are going to really see a revolution.

Here is a chance, we do not even have to go borrow. We do not have to borrow. We do not have to raise taxes. As a matter of fact we can keep more money coming in. We can make the pie bigger. We do not have to raise taxes. We do not have to increase Federal spending. We do not have to increase Federal borrowing. All we have to do is to say we will not be opposed to trying to give a company an opportunity to compete fairly.

Now, I would like to refer to the Banking Committee. We had some testimony on July 23d, from a Mr. Choat. He wrote a certain book.

The question was:

Question: Mr. Choat, let me ask you, you have written a book: Agents Of Influence. I would like you to comment, if you would, about the people who have been in charge of trying to stop the trade cheating and trade abuse, who, when they got out went and signed up on the other side and got some big salaries? Tell us about that problem.

Mr. CHOAT: I would be pleased to. I would like to preface those remarks with a couple of comments about manufacturing. What we have today is a circumstance where manufacturing, in this country, has gone in the past quarter of a century from something in the neighborhood of 27 to 28 percent of our gross national product, down to about 19 percent. We are at a point today for the first time in the century where we literally have more people employed by government than we have employed in manufacturing in the United States.

Imagine that. We have more people employed by Government today than we do in manufacturing. That is for the first time in the history of this country. So, I guess, my friends, that there are those in Government and in the Congress of the United States in particular, who must see this as a gain, as a sign of economic prosperity. That is why they would like to block this legislation.

I mean, after all, if our goal is to create more people with jobs in Government then this is a good way to do it. Do not do anything that would permit a manufacturing company to stay in business and to compete, while we go out and reach out for foreign companies—and I have to say, what an incredible travesty. If this was a foreign

manufacturer that was going to come into a community and locate there and bring 875 jobs to pay \$17 an hour, we would have a bidding war. Every State that we represent, every State would be saying, "Come here, come here, we want you here, we want you here. We will give you the subsidy, we will give you cheap electric power, we will give you tax abatements, we will give you long-term bonds, we will give you—what do you want? Name it, name it, we will do it, we will waive local taxes for the first 10 years. Absolutely." We would be down on our knees, "Please, come here, please, come here." What would we do to bring 875 jobs, I ask anybody here, in their community? What would they pay? Oh, the mayors would be out there, the Governors would be out there, the Senators, the Congressmen, "Oh, I brought these jobs here, my people have good jobs and the hope for the future is there will be more."

Let me tell you, I am giving you all a chance now to do something even better because it is far worse to take people who are meaningfully employed and assign them, for the most part, to the uncertainty of a job market which at best is bleak and for a good percentage of these workers is nil, zero, far worse than we, who have an opportunity to stop this from taking place, fail to exercise our legislative responsibility in undertaking that duty.

I say that we fail to exercise our responsibility not because you have to accept legislation that this Senator offers, but because this legislation that was crafted with the view to give an opportunity to these people, to their employer to stay in that community. Far worse than we take from this community and strip it down, strip it down, and if we look the other way at an opportunity to create new jobs, each and every one of us in our own way are contributing to the stripping down and tearing down of that community and, more important, of the people who work there and of those families and of the horrors and, yes, the ills and misfortunes that will take place to those people and their families. We do it. And do we save the taxpayers money? No. Do we help other workers? No. What do we gain? What satisfaction?

Mr. President, this Senator again hopes that even at this late hour, even in the closing hours of this session, that the overwhelming arguments and facts and substance and the compelling case for the people who work at Smith Corona will carry the day. I believe that it can. I believe that it should, and, notwithstanding that I see and understand what is unfolding before us, I believe it will. You see, because I believe that we can accomplish anything we want. It is a just cause, and, if we are determined to pursue all avenues to bring it about, I know that the cause of trying to keep and to give these people

an opportunity to work meaningfully in their home communities is a just cause. It is the right cause.

Maybe the messenger is flawed. I know the messenger has flaws, but certainly the petition is not. If I thought that it was because this message of necessity on behalf of these constituents was not being addressed because of the messenger, I would be more than happy and, indeed, would seek the help of others and give to them the opportunity to help change a situation that will be a desperate one, that will be a bleak one this Christmas and this holiday season and this new year when so many of us will be celebrating with our families and so many of these people will face a very bleak and a very uncertain future.

I know that Senator MOYNIHAN will be speaking to my colleagues. I know he feels deeply about this matter, and I am hoping that, notwithstanding the lateness of the hour, he will be able to convey to you the sense of urgency and, indeed, the desperate necessity that this situation cries out for action.

Mr. President, I do not believe that this body or the House really wants more people to be employed by Government than we have employed in manufacturing. I cannot believe that we are not totally cognizant and aware that the private sector, private employment, capital system that creates wealth and then gives Government an opportunity to meet those needs collectively as a Nation and our responsibilities we must face, I cannot believe that we really do not want to help these people. If someone can show me a better way to try to help them, offer it. I would be willing to entertain it.

Mr. SEYMOUR. Will the Senator yield for a question?

Mr. D'AMATO. Certainly.

Mr. SEYMOUR. Mr. President, I have been listening to the Senator from New York discuss the very sad and unfortunate conditions that these employees with Smith Corona face.

In fact, I recall the Senator telling me the other day on the floor that he thought he had this all worked out. The Senator was with that Italian smile from ear to ear and now what I have heard the Senator saying in the last, I do not know—how long has the Senator been going?

Mr. D'AMATO. Three hours.

Mr. SEYMOUR. Three hours—is that the deal the Senator had going in to conference was not the deal that came out, is that correct?

Mr. D'AMATO. Yes; that is an understatement. That is true. The proposal which Senator MOYNIHAN and I had worked on and which the administration had finally signed off on and which we had given to staff—by the way, the stronger language that was accepted on this body in the energy bill, in the tax portion of the energy bill, was one that we were confident would be accepted by the conferees.

Mr. SEYMOUR. Will the Senator yield again?

Mr. D'AMATO. Certainly.

Mr. SEYMOUR. The Senator knows I have really been a Member of this body for a little under 21 months, and so I am not familiar with all the movements and strategies and things that take place. I can empathize with what has happened to the Senator. As a matter of fact, I felt that same joy the Senator felt just the other day on the legislative appropriations bill.

The Senator might recall, because I think he supported me back in April on the Senate budget resolution, I tried to cut the budget of the Senate and Congress by 25 percent over 2 years and that passed by 52 votes. And so I was going to try to do that again to the legislative appropriations bill, and I was told that if I would settle for 15 percent cut over 3 years instead of 25 percent over 2 years, that in fact they would take that to conference committee and really do their very best to ensure that stayed.

The same thing happened to me. That bill came out of conference committee and was nowhere to be found. And so I empathize with what the Senator is going to do. Smith Corona, is this the company that has been in business in New York, one known as L.C. Smith? Is that the same company?

Mr. D'AMATO. That is correct. This company has a history that goes back well over 100 years, a preeminent manufacturer of typewriters.

Mr. SEYMOUR. I know a little something about the company the Senator is trying to represent. My grandfather worked for L.C. Smith. My father worked for L.C. Smith. My father's brother worked for L.C. Smith. It, indeed, is a fine company.

Is it that we just do not care any more about old line companies like that, that we want to drive them out? Is that the problem?

Mr. D'AMATO. I think the Senator has touched on something. It is almost an attitude that exists in America today, and if you speak to people they almost come to accept that we cannot compete with foreign manufacturers—the auto side, the appliance side, the typewriter here—and that is not always the case. And while we may have gotten at times in various industries kind of fat and sloppy and noncompetitive, here we have a situation where the company's productivity—and this is a staggering thing, I am delighted the Senator raises this—has increased by 700 percent in the manufacture of these typewriters over the past 12 years. That is the only reason they have been able to even stay in business, given the predatory practices of their competitors dumping these products into the marketplace at below cost.

So we have been too ready to believe when an American company comes to the Commerce Department or to others

seeking a fair application of the law that, oh, they are just trying to use the Government to kind of protect them because they cannot compete.

Now, indeed, we have some industries today that as a result of the dominance in market share, et cetera—machine tools, for example—unless they are given some protection, they cannot compete. Here we have a situation where that is the last manufacturer, where there have been eight dumping cases, where Brother, the company has been found violating the law and where they circumvent it by way of moving its manufacturing operation around.

I do not know if we want to assist in terminating, in ending manufacturing in this country. I cannot believe that we do. But by way of no action in this Congress, in this body, why, then, we certainly would give to all concerned the right to believe that.

Mr. SEYMOUR. Does the Senator have any idea of how much it might take to retrain, how many dollars it might take to retrain 775 employees of Smith Corona who are going to lose their job because the conference committee cut out what the Senator thought was an ironclad agreement?

Mr. D'AMATO. Well, let me first, if I might, say this. I cannot say that there was an ironclad agreement. That would be unfair. That would be unfair. This is not the case.

But I certainly had every expectation, given the nonpolitical nature of this petition, of this amendment, given the support of the distinguished Senator, the senior Senator from New York, given the elements of fairness and what is sought to redress, the grievance, which was basically to say, look, we are going to compete on a fair basis, this amendment would have been retained, that it would have been retained instead of meeting with the situation where it was greeted—our question as to how it was that it did not find itself in the conference, that it was greeted with, well, we never considered it or we did not know, or et cetera, or it is one person's fault.

So it would be unfair to say—but given the history of the conferees on both the Senate side and the House side, it was reasonable to anticipate that this legislation was legislation that all of the conferees at one time or another had been supportive of, provided that the administration was on board.

In other words, there have been cases, maybe slightly different fact situations, where there has not been a member of the conference committee who has not taken an interest, who has not sought protection, fairness, and where the opposition of the administration has generally resulted in a reluctant withdrawal or defeat of that legislation.

And so tantamount to acceptance as a necessary prerequisite is the adminis-

tration signing off. When they do that, it is almost tantamount to being agreed to. There was no reason to anticipate that there would be other than that kind of acceptance. None.

And, indeed, that is why I have said if the messenger is flawed, let us get a new messenger. Let us have another Senator. Let us have someone else sponsor it.

I have not run into that kind of situation in this body. I have to say as I look around, and I see the various Members, and there are few who are here, several on the other side that I do not recall of being turned down or very seldom being turned down on the matter of some fairness or consequences to constituents whether they be mine or people throughout the country, where my colleagues have acted with anything other than respectful response and, more often than not, attempting to deal with the situation. So I expected that here.

Mr. SEYMOUR. Would the Senator yield for another question?

Mr. D'AMATO. Certainly.

Mr. SEYMOUR. The dilemma you find yourself in I find myself and in yet another bill that is about to come to this body. So I truly feel the anguish and the frustration that not only you feel but you show eloquently defending your State and 775 jobs.

What is it? Is there any way that this body, this U.S. Senate, if they really wanted to help, if they really wanted to help preserve those 775 jobs, is there anything this body could do at this late hour to possibly turn the clock back, if you will, to go back to whoever you talked to, and made part of the bill that went into conference and was assured that it was going to remain in the bill in the conference? Is there any possible way that if this body had the will, if they really cared, if they really wanted to do something, that they might extend a hand and help?

Mr. D'AMATO. I think that could be done. Indeed, that is really what I am asking. I am really asking my colleagues to put aside any considerations other than fairness for these people and take a look at this case. I know there can be arguments that can be made that you are going to take jobs from one area or the other. It is not. It really gets down to that. It really gets down to trying to give this company an opportunity to compete fairly. And if indeed by their competition, if they compete fairly, if their competitors are required to compete fairly, that means they may not be able to hold jobs. That is the way the cookie crumbles. But indeed they are able to continue and to hold jobs, that is the way it is.

No one can give a lifetime guarantee to these jobs. That would not be the kind of system we would want. But we can say that under the law, your competition should be required to meet the same standards of conduct that you

are. While we cannot have a company breaking the labor laws, bringing in children to work, how do we think Smith Corona is going to lower its cost? We would run it out of town on the rail. Why is it OK for a foreign competitor to break the law and sell at below cost? Why should they not be run out on a rail?

Indeed, the courts have come up with fines. They said, yes. OK. Then we cannot enforce them. They move. They jiggle it. They jiggle a little bit. The same company, the same exact product, does the same thing. They just change the distribution method a little bit, and they assemble it.

So I would hope that fairness, I would hope that a sense of collegiality in that we do not try to one-up each other. That is not what this body has been about.

We have our disputes. We have our political partisan votes. We understand that. We know we have to adhere to particular ones. That is not this case. This does not involve that. It is a case of what is fair.

I hope my colleagues will go back to the conferees and say: Look, let me tell you something. There is no way that DANNY ROSTENKOWSKI killed this provision. That is nonsense. It is nonsense. Maybe he agreed to take the fall. Maybe he agreed to say, OK, you know, I am not going to go along with this.

But don't you tell me, nobody can tell me that ROSTENKOWSKI did not like this provision because it was going to help the people in Cortland and Syracuse, NY.

Why? To get an opportunity to see to it that the tariffs that were laid against a company for unfair dumping will be enforced. I do not believe it.

If ROSTY came over, and took me in a room, took me aside, and said: "That is all right, Alfonse, I killed it," then I would believe it. But he would not tell me that. And that he is covering up for somebody else, for some other little kind of thing, this is nonsense. Come on. We are grown people here. Now he has put too many things in too many bills to be opposed to this; too many, too many.

If you think that this provision offended his sensitivities, why, I can tell you something. I can sell you that bridge. I can sell you more than the Brooklyn Bridge. I mean it is just not credible.

I have not gone into any kind of specifics because then I would be crossing that line. I do not want to cross the line.

My good friend from Kentucky is saying: All right, come on now, do not get too absurd here. But it is an absurd situation that we find ourselves in. It is an abdication of our responsibility, and it is an abdication of things that are fair.

I do not think we went out of our way to do those kinds of things. Is it

because the Senator from New York is championing this cause? I will withdraw from it. Let somebody else take it up. Let someone else take it up.

By the way, my distinguished colleague from New York, Senator MOYNIHAN, has been most eloquent and has been certainly involved as much as this Senator in propounding this request for jobs for fairness.

Look. If we had a chance to attract, by the way, 875 jobs paying \$17 an hour, we would have a bidding war. Every one of our Governors would be saying: Come here, come here. We would have press releases, saying: This way. We got the jobs. We do not want to lose them.

The Senator from California asked: How much would it cost for job training? You tell me. Would it cost \$7,000, \$8,000, or \$10,000 per person? At least. Then we do not know at the end of that if we are paying \$10,000 for a job training, and you multiply 10 times, that is over \$8 million for the first year.

How many of those people are going to wind up on social services, home relief? How many of those people will never pay Federal taxes again? Never pay State taxes again? How many of those people are going to be forced to sell their home and leave the region?

If that is what we would like to see the people leaving because of these economic situations, how many businesses will no longer operate because they do not have the 875 factory workers who were there coming by? Whether it is at the deli, whether it is at the coffee shop, whether it is at the automobile repair shop. So when we talk about 875 jobs, remember the statistics is at least another 500 jobs in related areas of commerce, in industry, that will also be lost. We are not talking 875. You are talking closer to 1,500 jobs.

That is what we are talking about. That is a little tiny county. Indeed, only one-third of those people come from that county. But they all come from the environs. If they do not come from Cortland County itself, they come from Madison. And it is a rather rural area. I have to tell you that is a hint. But that would be a hint if the Senator was going to—for example, if your community was Princeton, NJ, which is an affluent place, very affluent, this Senator would be mindful that it would be wrong not to stand up for people who are having this done to them because they come from New Jersey. Or if they came from California, it would be wrong to turn our backs on them. If they came from Texas, we would have to sing a song, but it would be wrong to turn backs on them if they were losing these jobs, not because they were being outproduced, not because the competitor had a better product, could put it out there cheaper, but because they were breaking the law. It would be wrong to bring in forced labor and have them operate this plant and then com-

pete and beat out Brother. We would not countenance it.

Why is it not wrong and why is it that we do not take corrective action to keep Brother from breaking the law? I still have not heard that answer. This is not a question that one company is headquartered at X place as opposed to Y place. Do you mean to say because a company is headquartered in your home State, you turn away and allow them to break the law, and that is OK, we have to be a supplicant for them? If they were pumping toxics into the lake, you would look the other way because they are from your home State, and, therefore, I should not worry that they are polluting the lake in another community, because they are headquartered in my State.

It is the same analogy. We may not want to look at it that way, but that is exactly what it is. Brother should not be allowed to break the law simply because they have an assembly plant in Tennessee and because they are headquartered in New Jersey.

Now we are getting a little more specific about it. I hope it does not come to that, but if it does, then we are going to have it out. I am going to tell you we are not going to have a tax bill, not unless we are willing to stay and stay and stay and stay and stay. Then I suggest the other people do not want a tax bill. They do not want it. Let me tell you the conferees were told this early on, and I happen to know that Senator PACKWOOD told one of the conferees before the conference broke up, that if you do not include this provision, remember, the Senators from New York have given warning. We did not wait for this to take place and come back here and people would say: Why did you not tell us? We did not know. They knew. They knew. They knew.

Do you want to play hard ball politics? Is that what it comes down to? That is what it comes down to. The people from New York, the hell with them and their jobs. Is that what we are saying? Because that is what we are saying. That is what is being said right here. OK, we are going to repeat it over and over and over. If it embarrasses people, then so be it. But we are not going to do business like it did not happen, because it did happen and people were given warning and the opportunity.

If there are some provisions in this bill that are unfair, that are illegal, that should not be there, I would like to know it. But not one time was this discussed, not at one point was it said we could not do this because it violates policy. As a matter of fact, that is why I said "roller coaster." Oh, boy, absolutely.

Mr. SEYMOUR. If the Senator will yield, I heard the Senator say earlier that he had gone so far as to contact the White House to get it cleared through them; is that right?

Mr. D'AMATO. That is in essence correct, that I met with representatives of the White House, the Commerce Department staffers, to review these provisions.

Mr. SEYMOUR. I am sure that was no easy task, just that alone.

Mr. D'AMATO. That is a fair statement.

Mr. SEYMOUR. And the Senator met on numerous occasions with members of the conference committee?

Mr. D'AMATO. No. I met with Senator MOYNIHAN and his staff, and he is a conferee. I discussed this matter on numerous occasions with Senator PACKWOOD and other Members on the Republican side, the distinguished minority leader and, of course, the distinguished senior Senator from New York [Mr. MOYNIHAN] who is also a conferee. So it was no secret to the conference as to what we were attempting to do.

Mr. SEYMOUR. Do you have some feeling that perhaps this might have something to do with the fact that there will be an election about 4 weeks from yesterday?

Mr. D'AMATO. I do not think so.

Mr. SEYMOUR. If you had all that agreement, Senator, what possibly could have gone wrong? Was it a clerical mistake?

Mr. D'AMATO. I want to be fair to all involved here. I do not believe it had anything to do with an election. I absolutely reject that. That is not the case. But I do believe it has to do with parochial interests, as I read before in some reports, and I think sometimes we can become so parochial that we lose sight of fairness. And I can understand that. I think it was that parochial interest which led the conferees to come down on the other side, not elective politics. That is a lot different.

But in the final analysis, it is so devastating to these people. It does not matter how it happened. The patient is going to be dead. It does not matter if you did it intentionally. That is not good, but if you created a grievous error by not paying attention or you just—it is avoidable, you see. If it was not avoidable, then we would understand. But this is avoidable. We still have time, and we can still deal with it.

So I think what it is is the politics of competition. We have a number of dollars to give out in the highway project, mass transit project, housing project. There is competition. The needs are relatively the same. We can argue them and debate them, and so we come to reality. The majority says, look, we have to take care of X, Y, and Z. We understand that, and we make our accommodations. We understand that. That is give and take.

This is not that kind of situation. We are not talking about whether the military base is going to be in Texas or in New York, and one can make arguments for both sides, and reasonable

people can disagree. This is not close. This is a question of whether or not we are going to give to our citizens fairness, equal protection.

Let me ask you, if we are going to give our people equal protection, should the people in New York be protected as well as the people from any other State? Due process, all of them?

By the way, those who live and work in New Jersey for Brother and who live and work in Tennessee and work for Brother there, they should not be disadvantaged. Yet, we are all operators of the law. Nor should they, because they have a Representative with clout or some power here, have the sins of the parent forgiven and wiped out so they can just move along.

That is not what this is about. It is about fairness. So when my good friend asks the question about politics, it is not the politics of elections. It is the politics of power, the politics of just looking the other way.

I have a letter here. Somebody says I should read it. Staff tell you lots of things. So they told me to do this. I do not know the content of this letter, but I hope it is good:

The Honorable AL D'AMATO, U.S. Senator, written from P.O. Box 3861, Portsmouth, NH, October 6.

Here it is 12:30. I have to be up by 6:30. Yet, your presentation on the floor is captivating and right on target. The fight for the little guy is always an uphill battle and not always won. But without the effort, how can one look at oneself in the mirror and say, "At least I tried." Keep it up and you have this New Hampshire resident's support.

Sincerely,

PETER P. PERCIANO.

That is a pretty powerful note. You know something, the fight for the little guy is not always easy but you know something: tonight I am going to ask for the indulgence of all of my colleagues and ask that they bear with me. I know GEORGE MITCHELL will. I have worked with him for 12 years and he is a great, good, and a decent man. I hope that our majority leader and some of the others take a look and maybe urge upon some of our colleagues even at this late time to see what can be done to deal with this obviously difficult situation, and from the bottom of my heart I know what I say in that regard it is true. There has never been a time when this Senator seeking advice and counsel from the distinguished majority leader has ever come up short.

It may be tough, but maybe we can do it. I do not enjoy the acrimony. I enjoy a good battle at times, and this is not a win or lose. I think it is a win or lose for all of us, though, and I do not know if people, I do not know that Peter P. Perciano saw that or anybody saw that. Probably not too many people are at home seeing it. I did not really plan on coming down here until I heard when I came back from dinner that conferees had come to this decision.

You know what it is all about? What is our service about? When it is all said and done we are all alone with ourselves. And we know and we are accountable.

I just think that there is some way that we can make a difference here and we can really serve a noble cause and feel good that we made a difference. I like to think maybe, and I do not know what the future is going to hold for me. Talking about politics, I am in a tough race. I think I am going to win. I like the battles. But you do not know.

But I tell you this: it is all nonsense, winning or losing; that is nothing. It is what have we done with that opportunity that we have to make a difference and that is real.

So if I should go home and think I made a difference that is pretty good. I think I have in certain cases; maybe people think I could have done better and done more or that the things I did not do outweigh the things I did.

But we have to live with that. I have to tell you that is why it is easy for me when people on the other side come up and ask for help, and where I can and where I could, because I presume that my colleagues when they come to this Senator, whether they be Democrats or Republicans, and ask for consideration they are doing it because it is important to their constituents. They are their elected guardians and representatives, and they come to me with something that they think is important.

I do not try to substitute and get into the nitty-gritty of every one of their petitions, because you just could not do that. I have to tell you, you have to look pretty far and wide and pretty deep to find cases when I have not attempted to, and it is not because maybe I like that colleague but because I credit him with coming to me on behalf of a cause that is important for people and it is in the interest of fairness, not a business of log rolling. It is not going to give me anything other than; probably will give me more than all of the other achievements or any other achievement. You know, if you can save a life or make a difference, boy, that is a pretty powerful thing.

And each person in his way and he does not have to be in elective office, he can do it, and people make some profound differences on others.

One of the reasons I undertook public service is that I thought maybe I could make a difference. I think sometimes you can lose your way and you can lose that sense of it, but, boy, I tell you we could make a difference here, and I think we can do it in a way maybe quietly tomorrow morning, you know, seek the counsels of the wise men; keep me out of it.

Mr. GRAMM. This is tomorrow morning.

Mr. D'AMATO. This is tomorrow morning but we still have a couple

hours to go, and we have some pretty talented people; we really do. Senator BENTSEN, Senator DOLE, the majority leader, ROSTY, a couple others; Senator MOYNIHAN, Senator BRADLEY. They can find a way to deal with this and to deal with this in such a way that the little guy does win, that we make a difference and that is what this is about. That is really what this is about.

So, even at the 11th and half hour and I spoke to Robert Thompson, I did not have courage to call him back—he is the chairman of the board of Smith Corona—because I tell you something. He is a pretty big guy and kind of tough guy and very straightforward. And when I spoke to him just before I went out to dinner, which was about 8 o'clock, he really sounded broken up and almost distraught when I told him that it had not been kept in the conference and had been cut out.

I told him, "Look, you know," and I was crushed—I was not crushed, but I had an inkling that certain things were going on, because we were not getting answers back. We were getting different stories back. I said to him: "Look, you know, it is not over and we are going to keep trying and it is not over."

It is not over until and unless this body really decides that maybe it has more important things to do and there are important things. I do not mean to minimize those and use that as the vehicle by which to kind of look the other way. We cannot have a dog in every fight. I heard that and I know that. I have not asked people to put a dog in every fight. But I do ask that the leader and possibly some others take a look at this and see if we cannot do something in a way that will make people, every one on both sides, feel good about the situation and, more importantly, get these people some help.

I do not know if we want to do things.

Well, I guess some Senators on my side would like to know how much longer I intend to speak. I do not know if you have some other business, and I guess that I have to get some advice as to whether or not if I yield the floor, whether or not we are going to use the ability to keep this going so maybe some of my parliamentarian friends here would let me know, because if I give up the floor then there is a unique parliamentary situation; they can cut me but they cannot cut me off provided I do not yield the floor. If I yield for a question I cannot physically leave the floor.

So that means I have to keep talking and that is what I will do. I have been very blessed, although I almost lost my voice here, with great family, and I have pretty good stamina. I do not know if I am the strongest of them all, but I think I can keep this thing going to at least 8 o'clock or 9 o'clock unless we can come to some kind of agreement.

Mr. DOLE. Do you want me to get you some more water?

Mr. D'AMATO. You do not want me to get too much water. I can get a couple of throat lozenges. If somebody at some point in time can say to me maybe they are trying to work out an accommodation—the record is 24 hours 18 minutes. My gosh I am not trying to set a record. I just want to get a piece of legislation passed.

If we could do that, and my parliamentarians stay around and give some advice, why then, I do not think the leader would do anything in any mean-spirited way to cut me off or anything; would not sucker me into anything, put it that way. I know that.

But, look, I did not say that I would avail myself of the parliamentary prerequisites just to hear myself speak. And I am still willing and indeed I am more than willing, I am anxious, to make it possible for us to try to work out an accord. And I do not think that is asking too much. I just really do not.

Again, if my colleagues would explain to me how what we have asked is upsetting to the conference, or would violate the spirit of the conference, or would unduly disadvantage someone, why then I could understand. But that really has not been the case. No one has really explained that to me, or indeed given that kind of advice to Senator MOYNIHAN or to our staff. Indeed, we have labored over various methodologies for dealing with this.

But, I would really hope that we could still work out something. I am getting lots of telegrams pouring in here from colleagues. One said, "You are great, but I'm going to sleep." So that was the last one. That was Senator anonymous—DOMENICI.

Senator GARN is saying, if he has not: Alfonse, come on. I want to catch a plane. He has not said it yet, but he generally says it. He has kept me from making all these speeches in the Banking Committee. And usually I just submit my statement in its entirety, and JAKE is very happy when I do that. Now I am going to have to ask him for some more statements to make.

But you know I do not want to read just anything. I would like it to have some relevance.

So let me read to you this letter that I got on July 21, 1992. It comes from Mr. Thompson. He says:

DEAR SENATOR D'AMATO: It is with great sadness that I advise you that the last U.S. plant of the last American consumer typewriter company, Smith Corona, is forced to phase out its manufacturing operations at its Cortland, New York, facility. You are well aware of the long, lonely, expensive and often bitter struggle to combat the predatory pricing, dumping and circumvention practices of our Far Eastern competitors. Even though our charges have been substantiated, and we have won in all of our main struggles, our Government has been politically unwilling to support these findings.

And you know, that is the sad thing. Our Government, even when it finds a situation that cries out for fairness, turns its back.

You know, I have to tell you something else. I am going to give you a little thing that I am concerned about. Today we have this situation now where, as Congressman and Senators, you cannot even write letters to the agencies for fear if you are asking them what they are doing that you are going to be accused of interfering with the bureaucracy.

If you want to talk about a Government that is coming into this incredible thing, it used to be, you know, in Europe that people understood and knew that the bureaucracy was all powerful. Forget the elected officials. They did not mean a darn thing. And we are now having that kind of a situation here.

And of course in the commerce and trade area, you have this myopic group that just came down and free trade became the symbol and it did not matter and people looked the other way when it, the law, was being violated.

And as I look around and I see my colleagues, how many of you have experienced or seen situations that really cried out for some help? And if you went and you asked commerce or trade or whatnot, they turned the other way with a deaf ear.

So, if I might, we understood that we could not look to U.S. trade. Now, the irony of this particular situation and the thing that is so frustrating is that we worked with commerce, trade, one group after the other to try to bring this about. And we were not getting there very fast, I have to tell you.

So my friends understand when they ask me what was happening, I have to tell you it was not easy. It was not easy. And when the people at the Commerce Department and the White House—I have to tell you, we have some terrific people who finally said, "Look, let us see if we cannot do something so that we do not violate the GATT provisions." And when they met with us and we began working this out—and we had two or three drafts and they were rejected a few at a time—and we finally came up with an approach that would not violate GATT, well, I will tell you, that was a great victory. That was a great and terrific victory.

And I had the support of Senator MOYNIHAN, not only his support and encouragement, his staff worked on this. If you want to talk about bipartisan, this was a totally bipartisan effort to do what was right.

And so I have to tell you when I found out tonight that this last ditch effort to help Smith Corona fell on the deaf ears of my colleagues, I just felt that we had to come back and bring this situation to the attention of the whole Senate.

And that we had to talk about fairness. If we are talking about political power we do not have it. But I think the power of the little guy, and I think the power of the people in the long run will persevere.

Let me tell you about a little guy. This was an article entitled "Jobs Move to Mexico."

"Chris Torbitt, Marathon"—that is Marathon, NY. This is a marathon—maybe we are doing it for Chris. " \* \* \* who has worked for Smith Corona since he was 16 years old said Tuesday's announcement was inevitable."

"How can we compete against the Japanese," he asked. "Everybody knew it was going to happen eventually."

#### MY WHOLE FAMILY DEPENDS ON IT

Florence Brooks was feeding her 28 beef cows Tuesday morning when she heard the news: Smith Corona, her employer for the last 20 years—and Cortland County's largest employer—is moving its manufacturing operations to Mexico.

"I was up in the barn, and my brother yelled it out the door. He had heard it on the news," Brooks said Tuesday. "I was just sort of stunned."

Smith Corona plans to lay off 875 of the 1,250 workers at its plant in Cortlandville, which is the company's last domestic factory. The company will keep 375 workers, most of whom will be involved in engineering product design and customer service.

"It's pretty upsetting because my whole family depends on it," Brooks said as she headed into the sprawling Route 13 plant to work the 3-to-11 shift p.m. shift on a wordprocessor assembly line. She lives in Richford, Tioga County, about 25 miles southeast of the Smith Corona plant.

Brooks and other workers at the plant said Smith Corona's plans would leave them unemployed and likely mean harder work for less pay in the future. The workers are not unionized.

"I make nearly \$13 an hour here. Where am I going to find a job like that?" Brooks said. She said she supports her fiance and their young children.

Don Cree, a quality inspector who has worked seven years at the factory, said he and his wife may have to depend on her paycheck for awhile after he loses his job.

"My wife has a pretty good job, so I'm not crippled, \* \* \* but still it's tough," Cree said. Assembly line worker Patricia Leonard said she may have to move out of her home in Genoa to find as good a job. She said she has worked 20 years at the Cortlandville plant and makes more than \$10 per hour.

"I make good money here," she said. "I may have to sell out and leave the area."

Leonard blamed high state and local taxes. "The taxes are killing us all. Pretty soon New York state's gonna be a ghost town," Leonard said before she hurried to punch in before 2:30 p.m.

Other workers joined company officials in blaming the federal government. Smith Corona executives said federal trade laws have given the Japanese typewriter companies such an advantage that the company cannot pay the salaries American workers demand and remain competitive.

"How can we compete against the Japanese?" asked Chris Torbitt of Marathon. He has worked for Smith Corona for 10 years, since he was 16 years old.

"This is to be expected if the government ain't going to protect our jobs," said mainte-

nance worker Warren Greene, a 15-year veteran.

Now, listen to that. Here is a fellow, his first job, his only job. And he says, "This is to be expected if the Government ain't going to protect our jobs."

You know, he is right and he is wrong. He is right to expect that the Government insist on fair play. He is right to insist that the law be adhered to. He is right to expect that his Government cares every bit as much about him and his security and his welfare, and gives it more than political rhetoric.

You know, I do not blame him for being annoyed. I do not blame him for being angry. And I tell you something, I wonder how it is and why it is that the Smith Corona people did not move their plant out. It is because, you know, there are some corporate executives and corporate families who do care and have a conscience about their community. And they stayed here. They endured. They won lawsuit after lawsuit after lawsuit after lawsuit, only to no avail.

And now I have to tell you, it is pretty rough for this Senator to have to sit by and endure, when I know that we really as a body collectively know what should be done to remedy this situation. And what could be done is not being done. That is wrong. That is just plain wrong.

Let me ask you. How would you rate, if you were a teacher, a student given a course in government, and given this dilemma of a company that was going to have to leave because it could cut its costs by \$15 million a year and therefore compete? And, if there was an opportunity to keep that company from leaving or if we would simply allow it to leave and put \$10 million a year for job training? If that student said that you should allow the company to leave and simply make available job training for the displaced workers instead of seeking a legislative solution that might permit that company to stay and compete, what would you give the student who said let them leave and bring in the Federal Government for job training? What would you give him?

Would you pass him? Would you give him an A; a B; a C, or a D?

Or would you flunk him? You would flunk him. And that is what we give this Congress, the Senate and the House. Flunk them—F, F. That is what they deserve. You would rather pay millions—can you imagine that, millions for job training rather than to do what is right.

I will tell you something, the people who oppose this, they cannot even conspire a reasonable retort. There is no way they can answer this—no way. You cannot even defend the inaction of this Congress. Flunk—you would flunk the student. Flunk him—F, F. So when we

get up and we talk about jobs, remember, you know what it is, in Italian do you know you say? Chiacchierone, a parrot, just talk. That is what it is, chiacchierone. Yes? A parrot. A parrot.

Do not believe—whoever is watching the show now they have to be nuts. It is 2 o'clock, what time is it? Two o'clock? My gosh, you should go home and go to bed. If you have a job to go to. That is something. You may not have a job. If we keep operating this way, forget about it. Forget about it. I would have to employ you in a Government job because there are more Government jobs than manufacturing jobs, so you have a Government job. Come down here. You can do a better job than we are. I have to tell you, everybody should run, really. This is fantastic.

So, you would have to flunk. You know, it is as a matter of being—chiacchierone is kind of nice. It just talks a little too much. We talk much too much, and we get paid for it besides. It is incredible. Incredible.

Jobs. Where is that article in the New York Times? Both candidates talked about job training. Well, this is terrific. Now they will be able to vote for more money so they can give job training money to the people in Cortland instead of both of them saying it.

I want to tell you something. I do not know where Governor Clinton is, but if he is around where he can watch this thing, maybe he can call over here and say is it true, is it true Congress is going to go out of session and they are not going to give us money for job training.

He is concerned about free trade with Mexico, and I believe him. So I hope maybe he could call and say, "Fellas, let us do this on a bipartisan basis. If, after all, President Bush is for this, we should not appear that we are opposed to it."

But I have to ask you, who controls the House? Who controls the Senate? And I tell you this. I think the exercise of political power and leadership in this really does not put us in a good light, because nobody has even attempted—

Mr. SEYMOUR. Will the Senator yield for a question?

Mr. D'AMATO. Certainly.

Mr. SEYMOUR. On that particular point again, listening to the Senator try to work as hard and diligently as the Senator has now for some 4 hours to protect 875 jobs, because the Senator was unable to realize the commitments the Senator thought he had when he went into conference committee—as a matter of fact, it is my understanding that that conference committee really did not meet as a committee; some of the leading members met as a committee, and they decided what was going to be in that bill or not in that tax bill. We now have a bill that has come over

from the House that causes me great concern for my State. It is H.R. 429, the water bill. And we had a conference committee. In fact, I was on that conference committee, a little bit different than what the Senator had experienced. We had one conference committee meeting, and then the chairman of the conference committee laid out his idea of what the bill should be.

Mr. MITCHELL. Mr. President, parliamentary inquiry. Am I correct that the Senator may yield only for the purposes of asking a question?

Mr. D'AMATO. Let me say I—

The PRESIDING OFFICER. The majority leader is correct.

Mr. SEYMOUR. Mr. President, I was about to ask a question.

And so I guess what I am trying to ask here, Mr. President, is if perhaps the Senator had the same experience with that conference committee on the tax bill as I had the same experience on the water bill. It sounds similar. Is it?

Mr. D'AMATO. Very similar. Very similar. But let me tell the Senator why in certain respects this was even more unexpected. Because heretofore my colleagues on the Democratic side of the aisle have been most willing to entertain legislative relief for cases of a similar type and kind. The objection did not come from the Democratic side of the aisle. Traditionally and historically, the objection has been raised by a number of our colleagues that are called purists on free trade who do not want to look to see if there are any kinds of mitigating circumstances. It is one thing if your company cannot compete with another and losing money, and it is because they are putting out a poor quality product; it is because they are charging too much; it is because they are behind the times. We understand that. And therefore a foreign producer comes in and beats their pants off. They are not entitled to Government help. The competitor is paying fair wages. The competitor is charging a price which is commensurate with what its costs are. It is not dumping.

That is competition. And then we say, well, productivity moves to that area which can deal with that. We oftentimes complain—and that is another issue, another question—and say but we want access in their markets with the products and goods and services that we can produce as effectively or efficiently or in some cases cheaper.

This is part of the system. That oftentimes has not been the case. But in this situation we have a clearly defined pattern of illegal activity. In this case, we constructed a law which did not say we are going to give a preference to our company because it is an American company. Indeed, our law must deal with the business realities that confront U.S. industry today. Many companies in the United States import source parts from a number of coun-

tries. Where a pattern of circumvention is occurring the law must be able to reach it whether the underlying parts originate in the same country as the finished product that is subject to the antidumping order or not. If not, we should tell business and the workers in America that problems of circumvention are not capable of being addressed. It is that simple. It is that important.

It is important that the Congress address the circumvention question now.

Now, tonight we have a situation where unless we do something, it is going to be too late for these people.

Now, let me deal with the issue of disingenuous—and I say disingenuous— attribution for the responsibility or for the acceptance of why it is and how it is that this language which would bring about fair play was dropped out.

You see, language which was broader, which did exactly and even more than what this language would have done, passed the House of Representatives. And let me read you this. It passed the House of Representatives in April. And I have to ask the question, how is it that the House of Representatives, Chairman ROSTENKOWSKI, was willing to pass this legislation in April but suddenly we use him and find him as the convenient foil to say no, I am going to stop it now? Indeed, this language was sponsored by the majority leader, Congressman GEPHARDT. Let me read it to you.

It is a press release: Smith Corona Applauds House Efforts To Plug Trade Loopholes Such as "Phantom Factories." New Caanan, CT, April 30, 1992.

In response to today's introduction in the House of Representatives of a bill designed to make it more difficult for foreign manufacturers to outwit U.S. trade laws, G.H. Thompson, Chief Executive of Smith Corona Corporation, issued the following statement:

This week several Members of Congress took aggressive steps to firmly plug loopholes in U.S. trade laws allowing circumvention of antidumping duties. For Smith Corona and other U.S. manufacturers who have been victimized by companies that ingeniously ignore fair trade laws, Congress's action is a welcome sign of strengthening American resolve.

Smith Corona is one of many American companies fighting foreign competition on an unlevel playing field. Despite Congress's best efforts to ensure fairness with tough antidumping and countervailing duty laws, the 1988 amendments to the Trade Act miss the target as foreign companies cleverly take advantage of loopholes by putting up phantom factories to assemble parts made off shore.

Mr. SEYMOUR. Will the Senator yield for a question?

Mr. D'AMATO. Yes, for a question.

Mr. SEYMOUR. Mr. President, as I understand the Senator gave forth on this current reading, is there not some agency, the U.S. Trade Representative—who is in our great bureaucracy who has the responsibility to look out for these dumping situations that

could possibly persist over such a long period of time?

As a matter of fact, I heard the Senator say earlier this evening that there had been four, five, six, seven, eight attempts to stop this dumping. Is there not somebody in Washington, DC, in the Federal Government, whose job it is to say, "This is unfair; we do not want you doing this to one of our American companies," and risking the loss that the Senator is now faced with in the State of New York of some 875 jobs, a tremendous loss to a city in the Senator's State? It just seems to me that the appropriate agency—and I think the Senator in his diligence probably has already contacted them, but perhaps for my edification the Senator might be able to enlighten me as to whose job it is to look out for the little guy, to see that a Japanese competitor or some other foreign competitor does not dump and continue to dump and ultimately leading a United States Senator who is interested in protecting 875 jobs—and, my gosh, that must seem like very little in the great State of New York—doing what he can to protect those 875 jobs.

And so my question really has to do with who would be the appropriate Federal agency that one would appeal to? And did this company, Smith Corona, try to do that at all?

Mr. D'AMATO. Yes, they did. As a matter of fact, the U.S. Trade Representative and the Commerce Department are really the groups that should be aggressively pursuing a policy of free trade but fair trade. I say free trade but fair trade.

Now, I do not mean to be disparaging of their role. And, indeed, I have to say that, as it relates to this particular legislation, we have received very fine support, rather unexpectedly, but particularly from those at the White House who did intervene to that point of saying, "Let us look and see if we can handle this," because all too often and heretofore companies in a similar position have faced an impregnable wall, kind of like what I am facing here tonight; an impregnable wall of silence, an impregnable wall of indifference.

It does not do my any good, does not do the people of Cortland any good if you are saddened by their plight but you do not do anything to address it.

Then we have some other kinds of crazy laws, really whacky, just really incredible. You can prove a case, you can prove the competitors are breaking the law, violating the law. It has to be damaging to the industry. You have to be out of business. I never heard of such nonsense.

So that even when in some cases you prove what these people are doing, you have to prove that the industry is being so damaged before you can get any relief. Now look that is whacky. That is wrong.

I have to tell you something. If the people hear some of our colleagues here in this Congress—and I respect them, and they sign off on that, they really do. They sign off on that. I do not understand that. Maybe I come from a different world. I just do not understand that if someone is doing something that is wrong, you mean to tell me you can come up and smack someone, but unless you show it is really going to be injurious to them, that is the way the law is that it has to really be injurious to their body. If you are going to hurt them, you have not committed the crime.

In essence, what they are saying is you can come in, commit these violations of law, all kinds of incredible things in terms of trade practices, but unless you show that the industry is in danger or in real hardship, or, I guess, you have to start losing money before you can even get some of these laws effectuated. Nonsense.

But we have had this policy. You cannot break through it until recently. We met stonewall after stonewall, and we helped Smith-Corona, and the reason that we tried to, indeed, my Congressman colleague, I say my Congressman, because I grew up in the same town, and worked together for many years—Congressman MCGRATH sponsored legislation to deal with this.

By the way, here is one of the great ironies. Here is a letter dated May 20, 1992, and it is written by none other than DAN ROSTENKOWSKI, chairman, and he is writing this letter to Congressman MCGRATH. That is why I said, and I laughed, that the opposition to this legislation really comes from this body.

You cannot tell me that any Congressman from Tennessee in the minority is stopping this legislation. That would be the first time in the history of DAN ROSTENKOWSKI being chairman of that committee that that is what is taking place. That is balderdash. I do not think that is an offensive word. It is unbelievable. It is not credible.

Can you imagine DAN ROSTENKOWSKI rolling up to some junior Member from Tennessee in a minority party who is not even on the committee? I mean, he will not roll over for Presidents. He does not roll over for leaders. You think he is really going to roll over for a minority Member, for the distinguished Member of the House of Representatives from Tennessee.

I really whistle a song from Dixie. That is incomprehensible. Let me tell you why. He was not rolling over on May 20, 1992.

He writes this letter:

DEAR RAY: I apologize for the delay in responding to your letter seeking my views on legislation you have sponsored which would strengthen the existing anticircumvention provisions of the U.S. antidumping laws.

In response to your request, I have asked the Trade staff of the Committee on Ways and Means to work with your staff on this

matter. As you know, the work done by our staffers I was pleased to include in H.R. 5100 which I introduced on May 7 with your sponsorship. Most of the provisions on anticircumvention you have included in H.R. 5045, your own legislation on this matter.

I recognize that our proposals to strengthen the law on circumvention have provoked a lively debate on the subject at the request of the administration.

You see here is ROSTENKOWSKI. He says I understand that our pushing for this has had a lively debate with the administration. Yes. That is true.

It is not credible. But now to come forward and to blame ROSTY—by the way he is a terrific guy. He is. He will take the blame. He is not going to give up anybody. He is not going to say, hey, listen I did this or because of, whatever. It was on the committee on the Senate side that really did not want this. It is not "we do not want you to take it."

Do I believe that if the press calls Congressman ROSTENKOWSKI that he is going to for one second to back out of it?

No; he is a trooper. He is from Chicago. When he gives you his word, he keeps his word. When he makes a deal, he keeps the deal. He is not about to go back and give anybody up. We would be kidding ourselves, and I do not have to be a magician to figure it out. It is not hard to figure it out.

So the fact of the matter is the people can blame the Congressman all they want but the blame is here. The blame is here.

Mr. SEYMOUR. Mr. President, will the Senator yield for a question?

Mr. D'AMATO. Certainly.

Mr. SEYMOUR. I ask the Senator: In looking over statements that the Senator made on July 30, 1992, in that statement the Senator says it is absolutely necessary in order to give the 875 workers in Cortland, NY, and other American workers a second chance on a level playing field; is that what the Senator said?

Mr. D'AMATO. That is correct.

Mr. SEYMOUR. Did the Senator also go on and say that without action in this amendment and without a strong commitment to our U.S. fair trade laws, companies and workers from all across this Nation will end up like Smith Corona. And you have Senator MOYNIHAN joining with you in this; is that correct?

Mr. D'AMATO. The Senator from California is absolutely correct and that is why I said this was an action, it was based not in partisanship and I know some people may be saying why are you doing this? I am doing this because it is so right for us to be doing this.

Senator MOYNIHAN is on the tax-writing committee. He is the No. 2 person on it. He studied this issue. I went to him. He said, right, we have to work on this. We did.

ROSTENKOWSKI, he says, I think we can use this debate to help advance our

legislation initiatives in this area. I look forward to working with you on this important trade matter with legislative consideration.

This is why we are here. And that is why I am fighting, because, as I said on July 30, this is our last chance. Help these people. Do not let us adjourn this Congress and do business as usual and send them out on the unemployment lines.

Mr. SEYMOUR. If the Senator will yield, it just is mind boggling. It is mind boggling to believe that we are about to engage and have already begun engaging—and I am sure the Senator has himself engaged in some discourse on the North American Free-Trade Agreement and President Clinton wants to be President Clinton and President Bush and both are out talking about the potential loss of jobs. The only difference I see in what the Senator has been talking about and what he is trying to do with this amendment is he is dealing with the Japanese and they are talking about Mexico. Is that right?

Mr. D'AMATO. Yes; the Senator is right. But the tragedy and the irony of this whole thing is that while Mr. Clinton said, look, I want to see it that, you know, we do not lose these jobs unfairly, and I am going to look at this thing, here is an opportunity to keep us from losing 875 jobs, and you know what is going to be in the minds of people. What is going to be in the minds of people is that as a result of this treaty that we are negotiating, that somehow we are going to be losing these jobs because of that treaty, because they are going to see these 875 jobs moving down to Mexico.

In the minds of the average workers in this country, he is going to attribute that loss of jobs to Mexico somehow unfortunately with the treaty and that is not the case.

But that is what will be the perception. More cruelly, more cruelly, more accurately the Congress by adjourning and voting on a tax bill without including this provision is absolutely belittling itself. Every Member that goes out there and makes a statement, people should vote against them. They should ask, let me ask you something: Did you vote to give the people in Cortland a chance to keep their jobs?

I will tell you something. If those people came from a different State and said to me, Senator, that factory was going to close in Texas, they were being competed against unfairly, did you vote to give those people a chance? If I did some hoofing and woofing and would say, why those jobs did not matter, they did not really, that was not in my State, they should vote against me. They should vote against me.

I have to tell you, I hope that somehow the American people get to find out that the Congress was so busy, so busy doing their thing that they did

not have time to keep a little provision that the chairman of the Ways and Means Committee wrote to my distinguished colleague who has just come on to the floor from the House Ways and Means Committee, Congressman ROSTENKOWSKI, to Congressman McGRATH and say just give us a chance to save some jobs.

This is good. We should have a lively debate with the administration. But we finally got the darn fools over there opposing today. Things come around. I am not talking about the House. I am talking about the administration. And say, "Hey, here is a bill; take this bill."

What happens, miraculously, suddenly, we are supposed to believe that Congressman ROSTENKOWSKI, himself, switched his position. Anyone who knows DAN ROSTENKOWSKI knows something else. This guy does not switch. He will carry someone's else water. He is not about to give anybody up. But he does not have to tell me. I can look him in the eye.

He comes from Chicago. I was in Brooklyn. We kind of know these things. I do not even have to talk to him. You know what? He is taking the heat for some people from here because somehow it does not matter. It does not matter because maybe these people come from his little town in Cortland, NY. They are only little people. You know what? Like most little people, they have taken this beating. This is a beating, and they have taken it in almost stoically. You know, it is, what can we do?

You know, it is like, what can we do? One lady says: I will sell my house, and the other says: I will have to move. People say where am I going to go? Boy, oh, boy, I will tell you what. You talk about people power. They should be down here. They should be down here. I will tell you something. They should find out some of the Members who do not give a darn, and they should be at their house. Yes. They should be there.

These unions, they all talk about them. Where is the UAW? Where in the heck are you? Where are the great unions that are going to stand up for the little people? They are a bunch of baloney artists. UAW—that is take care of yourself. That is what you want to do. Why do you not stand up for these little people? Because they do not belong to a union?

Call up some of these guys here. Do not let us go out. Call up the Congressmen and Senators and tell them: How dare you leave and throw those jobs out on a scrap heap and treat the people like they do not count. Because that is what they are doing. That is what they are doing. AFL-CIO. What a lot of hokum. You guys are a bunch of political you know whats. I cannot use that word. You care about how much you get paid. You care about how many

conventions you go to. You care about how many perks you get. Why do you not stand up for the little people and wake up? You big baloney artists, come on. I am not out of order.

Mr. FORD. I did not say anything.

Mr. D'AMATO. You were about to.

Mr. FORD. But I will.

Mr. D'AMATO. Kirkland, stand up for the people. Stand up for them. Come on down here. Get on the telephone. Call some of these people up. That is right. You can still save their jobs. We will call it the Lane Kirkland bill. It shows great power. You are talking—you are against this manipulating of trade.

Let me tell you something: Car truck car. I brought it up on this floor. I did not tell DON RIEGLE from Michigan, hey, that was my bill, you cannot take my bill. I brought it up on the floor and had the chairman oppose me, because he said that is a revenue measure, and it has to come from the other side, so we pulled it down. Truck car truck. A truck became a car and then a truck so they can escape a tariff. That was terrific. We owe that to that master genius who helped this economy. You know who that is: Brady. You know where we are going to wind up because of that guy, Secretary Brady. You wake up. Incredible. Truck car truck. How a truck could become a car for taxation purposes so it could escape the tariff. The USTR people know about that. Willie von Raab was the only guy. He was dumb. They said: This, Willie, is a car. He said: No, it is really a truck. He did not get the wink, so they canned him. Incredible. Truck car truck.

Let me tell you something. This is job, job, job. Why should we trade an American high paying job? Why? Why? I will tell you why. Because Brother is located in New Jersey. So let me tell you fellows, if you want to break the law, open up a corporate headquarters in New Jersey, and then you can engage in this stuff and if you build an assembly plant, which is not really a plant, but a screw plant where a bunch of people screw things together, you put that in Tennessee. If it just so happens that it is a company that does business in New York, I guess it is easy. I guess it is easy. We can all look the other way.

Well, you know, I just might be able to keep on and be a big surprise for my friends. I thought that I would end this about 8 o'clock. But I am feeling a little better. I have great kidneys, and I have some of these lozenges here, and, Lord knows, would it not be wonderful if my colleagues could all get up and have breakfast and come in here, and the first thing they hear is my dulcet tones. Would that not be a wonderful thing? God, that would be a nightmare. Most of them could not go to bed if they thought they had to get up and hear ALFONSE in the morning here.

Of course, I will look a little better and grow a little fuzz here. But would

it not be nice if a couple of union leaders just came in from all of their work, or their convention, or whatever, and say what is that going on down there and hear me say that you have a chance to save some jobs for Smith Corona, and I think you are a bunch of phony baloneys. If you really cared about people—my God, just the internationals that you have here, you will begin to call up and find out, is that true that the Democratic leadership of the Senate would not go along with a provision to save jobs, that would not cost taxpayers one penny, and that only sought to give the ability to the trade people to have the laws pursue? Can you imagine that?

By the way, this does not say that the plant in Tennessee is out. It does not say we are going to take jobs away from anybody. All it says is that if you break the law, violate the law, then we are going to pursue you, and you can actually bring a tariff case against them. Can you imagine that, if you have a corporate headquarters and a foreign corporation that sets up a foreign headquarters in certain States, and you decide to set up these little phony assembly plants in other States, that you can get a pass; you do not have to follow the law. You do not have to follow the law.

Let me tell you, DANNY ROSTENKOWSKI, I know him. I did not grow up with him, but I grew up with people like him, and I tell you something: He did not drop this thing out on his own. He was asked to take it out, and he was not asked to take it out by some minor leaguer on the minority. He did not listen to him. That is nonsense. He took it out because over here on the Senate side, they wanted to cover up, and he took the heat. He took the heat.

I do not even know if he is taking the heat, because he did not tell me he did it. I do not think he would tell me that anyway. I think he would tell me off the record what happened, and on the record he is a man. We are not being men, but we are doing business as usual. That is what we are doing. My colleagues who want to partition out illegality—and that is what we are doing—and look the other way, as the law is being broken and treat this thing like this is the project for where a government contractor is going to go, or where a new prison is going to be built, whether in my area—today people even fight for prisons—or where a new military installation is going to be built.

This is not the case. I have to tell you something, and again I appeal to some of my friends. Believe it or not, I have a friend on this floor who is not a Republican. I consider him to be a friend. I hope that we can make a difference. I hope that we can say to our colleagues, why do you want to do this? Why make this a battle of party loyalty? Why should this be a battle be-

tween the Senators from New York or a Senator from New York and colleagues that come from other States on a partisan political matter? That is not what it should be about. It should be about some element of fairness. The situation is: What is right? By the way, how would Brother be disadvantaged? I want to know. This great manufacturing company called Brother. Would we be disadvantaging them by saying that they have to adhere to the law?

I did not know that was so bad. Imagine. And I have colleagues here who say they do not want a foreign corporation to adhere to the law, because they are headquartered in their State, or because it might cost jobs in another State. The fact that jobs will be lost irrevocably to this Nation, that U.S. citizens are being disadvantaged, that we will have an exodus of jobs, apparently, does not matter. As I said, if this company was polluting a lake or a stream, would the same logic be employed?

If they were headquartered in my State, would it be acceptable for them to pollute a lake in someone else's State? You would not buy that for a minute. You would say, wait a minute, the environmentalists will be down on you. We do not have them here to scream and yell at Smith Corona, and we have to appeal to the labor unions. Anybody who is watching who belongs to a union, you ought to call up your union leader and say to them: How is it that we are going to let them pass a tax bill, or any legislation, that does not have a provision that says that you should see to it that this foreign corporation adheres to these circumvention provisions, these antidumping provisions, and is not permitted to break the law?

If that is what unions are for—by the way, I did not know unions only stood up for their own membership. I thought the AFL-CIO also stood up for people—they were for working people and what was right and to have the law enforced. As a matter of fact, they would have undertaken all kinds of causes. Here is a cause, and I wish I thought about it before.

But, you see, I was caught short. I really thought that this provision would be included. I really did. So, at about 8 o'clock, my staff told me that they had received the word that it was definitely outskye, and I did not call Thompson and tell him it was definitely out, because I had spoken to him earlier, and I was concerned and told him it did not look good, but I still thought maybe we had a chance. But I have to tell you that here is a chance to use your power. Of course, you could opt for the job training program and spend \$10 or \$15 million a year trying to train these people, and I guess some people like that. I have heard this contention. Tonight I was asked what would you do to help the economy and, you know, right away, "job training."

Hell, these people do not want job training. They have a job and they do a good job. They have increased their productivity.

By the way, for those who do not know, these workers produce a better typewriter, a cheaper typewriter, a more competitive typewriter than Brother, the Japanese company. So why are they losing out? Because Brother breaks the law. Brother dumps what Brother sells.

As a matter of fact, it sells in such a—so markedly below cost that one of the dumping orders was actually a 60-percent order—60-percent order. I am reading here.

Congressman SOLOMON offered an amendment to the proposed rule on H.R. 11, the urban tax bill:

At the end of the resolution, add the following:

Upon the adoption of the conference report the House shall be considered to have adopted the concurrent resolution (H. Con. Res. 380) introduced by Representative Solomon of New York on October 5, 1992, directing the Clerk of the House to make corrections in the enrollment of 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.

Explanation: This amendment to the rule provides for the automatic adoption of H. Con. Res. 380, introduced by Rep. Solomon on Oct. 5, 1992, and originally sponsored by Representatives McGrath, Levin and Gephardt as part of H.R. 5100, the Trade Expansion Act of 1992, which passed the House on July 8, 1992, by a vote of 280-145.

By the way, this is the thing that DANNY pushed and supported—280 to 145—

The provision would blunt efforts by foreign manufacturers to evade anti-dumping duties by establishing plants in the U.S. for assembly of foreign made parts into products for sale here.

Did we get a vote on it? Failed? What did we lose by?

We lost very closely. But let me tell you something, if they want a tax bill maybe they will bring it up for reconsideration. I do not know.

Because I have to tell you something, I do not know when they intend to go home. But I do not intend to yield on this issue. And, if they want a tax bill I have to tell you something. Maybe if we keep in long enough—I guess I have to yield at some point. But there are others. I think there are other Members who are willing to be supportive of my position. And I have to tell you I am truly, truly impressed. I say to my colleagues from the other body who have taken the time to come and to be here, and there are a number of Members—more Members than I have seen here before. I do not know what they are doing up at this hour. But I thank them for coming and, I think, adding their support. I know that is why they are here.

And I thank the gentleman and my friend and colleague, Congressman SOLOMON, for attempting to bring about a solution to this.

I still appeal to my good friends on the other side of the aisle in the Senate. I want to tell you something. This should not be a battle of winners or losers. But it should be a fight to make everybody a winner.

I tell you something, we can go home making this body and the House look a lot better by doing what is right. That is what that legislation was about and that is why we worked and crafted it and we toned it down and we did everything that was possible. I have not taken to trying to say take a look at this bill or that bill.

Well, I just got a call—it is 2:45—from the CEO, from Mr. Thompson. He called and he said he is with us 100 percent. He will stick with his commitment.

I think, you know, here you have a CEO. I do not know many people like that who would say this. Every day that he delays making the move, or signing the contract to make the move, is costing his company tens of thousands of dollars. You must say come on, stop it.

He has to give termination notice, et cetera. He has to give 60 days. He has to do all those things. And he has not done that. So we are talking about chalking up big costs. You do not do that if you are the evil manipulative corporate ogre. You just do not do that. And that is not what he is doing.

He is really trying. He has gone out of his way. If he goes out of his way and he is willing to go to his board of directors and he is willing to keep that company here, by gosh, I do not know why we do not have some courage to do the same? I will tell you something, I am sick and tired of hearing all these people complain about the Japanese beating this one in, or the other foreign company. Do you know why? I do not blame Brother. I do not blame them. If we are a bunch of damn fools to let them get away with this, if we have a circumvention policy that is not enforced, if we have rules and laws that are not enforced, why should they not do everything they possibly can? I think that is exactly what is happening.

So they are doing everything they can to ensure their profitability. So I do not for one second blame Brother. I think the administration has been slow to respond over the years. But that is no excuse.

Mr. BAUCUS. Will the Senator yield to a question?

Mr. D'AMATO. For a question, yes.

Mr. BAUCUS. I would like to inquire of the Senator, how many Smith Corona jobs are involved here? As I understand it—I share the Senator's concern about jobs lost.

Mr. D'AMATO. About 875 manufacturing jobs.

Mr. BAUCUS. Will there be any spin-off jobs lost too? In addition? I wonder how many would that be?

Mr. D'AMATO. That would be an estimate but you would be talking in the area of a little more than half that number of spinoff jobs that would be lost; yes.

Mr. BAUCUS. I wonder if the Senator from New York would tell me just how many jobs he thinks might be lost—not in New York—but, say in the State of Montana, if Montana is unable to pass a wilderness bill this year?

Mr. D'AMATO. I do not know how many jobs will be lost if the wilderness bill is not able to be passed. But I am always willing to learn. If the Senator had a proposal by which we could help preserve jobs and pass a wilderness bill, why, I would probably be supportive. I am always.

I have, as a rule—I think the Senator knows it, I must say to the Senator—I do not think but on a few occasions a Senator has ever asked me to look at something but I have always examined things with an eye toward accommodating that Senator on the basis that in most cases I have found them to be conscientious and concerned about legitimate and real needs for their constituents. I would think that would be the case of the Senator from Montana.

Mr. BAUCUS. Mr. President, will the Senator yield to another question?

Mr. D'AMATO. Certainly.

Mr. BAUCUS. I would like to inquire of the Senator, just what happened here? That is, I hear the Senator say that there is, apparently, a provision that is not in the tax conference that the Senator would like to be in there. I wonder if the Senator could just tell me again very briefly what that provision is and why that would have the effect the Senator believes?

Mr. D'AMATO. We had a provision that was first placed in the tax provisions of the energy bill. As the Senator knows, the committee dealt with that in different ways, dropped that provision out—the same committee, the tax writing committee. We had submitted to that committee in the interim, and advised them through Senator DOLE, through Senator MOYNIHAN and myself, of legislative language that would give to the Commerce Department the ability to follow the circumvention cases that heretofore they have not had the ability to follow. Because the order lays against the country, Japan. And what Brother would do was switch its methodology in terms of having the product manufactured in different countries, thereby circumventing the order against Japan itself.

Now, it was with that purpose and intent that we dealt with this problem, recognizing that there were a number of Senators who were tremendously interested in this problem but who did not want to have legislation vetoed on the basis of being opposed by the U.S. Trade Representative or the White House; or on the basis that this legislation would create GATT problems.

GATT being the international tariff agreement.

With that view we sought and received assistance of the White House and were able to finally get them to sign off on language that would deal with this problem. It would give to the Commerce Department the ability to follow through on these antidumping cases where heretofore they were stymied, and see to the tariffs that had been imposed, the imposition of the tariffs on Brother.

Mr. BAUCUS. I appreciate that. If I might say to the Senator, I think the Senator makes a very good case. And as a member of the Finance Committee, and also as a Member of the conference, I would be willing to look at the Senator's case. I do not know that this Senator can effect any change in the outcome. After all, we are at this late date in the proceedings here. But I think the Senator makes a good case.

I wonder if the Senator would think about, again, the question I posed earlier about the economic impact on the State of Montana with jobs lost. I might say to the Senator, according to the Forest Service if there is no wilderness bill passed, in the State of Montana at least 400 jobs are in jeopardy. We do not have a lot of people in Montana. We have only—400, that is 400 jobs out of the total population in the State of Montana of only 800,000 people.

Mr. D'AMATO. I would certainly be willing to look at this in a broad view. I think it is only correct, as the Senator mentioned. I recognize that what might be 875 jobs in one area might pale in consequences to the dimensions of a loss of a much smaller number of jobs in a smaller State with a smaller population. I have great sensitivity to the Senator's plight.

Let me say this. I did not for a very specific reason mention any of those inclusions in the tax bill that may have dealt with problems unique to my colleagues.

As a matter of fact, I understand that. I appreciate it. And I would want to help. When we talk about preserving jobs, I see some good aspects in this bill.

I was always opposed to that luxury tax. I voted against that in 1990. Some people did certain things. I voted against that bill. I said that bill is going to cost us jobs.

Mr. BAUCUS. Mr. President, if the Senator will yield?

Mr. D'AMATO. For a question, yes.

Mr. BAUCUS. I remind the Senator that the Senator did vote for the Montana wilderness bill and I appreciate that.

Mr. D'AMATO. No, I understand that.

Mr. BAUCUS. I very much appreciate the Senator's support for the bill.

I might ask the Senator, here we have two propositions. One is that offered by the Senator from New York, namely that somehow the conference

be adopted as amended to accommodate this change, to address the jobs in the State of New York. I wonder if the Senator would also be equally sympathetic to the Montana wilderness bill problem we now face. In this case we can pass a bill in this Congress that will directly affect jobs. We are here just on the verge of doing so. So I would ask the Senator if he would be willing to yield to the Senator, without the Senator's losing the right to the floor—if he would be willing to yield to the Senator from Montana for the purpose of posing a unanimous-consent request, so the Montana wilderness bill could be passed tonight?

I understand the Senator's concerns. He is worried about his people in the State of New York, just as Senator BURNS and this Senator from Montana are worried about job loss in the State of Montana. It just seems to me what we ought to do here is find ways to protect jobs in both New York and the State of Montana. And we have an opportunity to at least address the jobs in the State of Montana. As I said to the Senator from New York, as far as this Senator is concerned—and I believe, frankly, the Senator has made a good case, and many Senators tonight have listened to the Senator from New York.

Mr. D'AMATO. I do not know about that.

Mr. BAUCUS. I think they have. Maybe not here but at home watching C-SPAN. But without the Senator losing his right to the floor, because the Senator believes very strongly in his case—if the Senator would yield solely for the purposes of a unanimous-consent request, so that the Montana wilderness bill could be brought up and passed?

Mr. D'AMATO. Let me say I would not be able to do that. I am not in that position. And I want to tell the good Senator the reason why. It is not because I do not want to accommodate the Senator. It is because I find myself in a position where I will have to do everything I possibly can, in a parliamentary manner. And I understand that my colleagues, and even indeed those on my side of the aisle, at some point in time might lose patience with me.

I am going to have to press this matter as far and as long as I can endure. Then I will be hopeful that there would be some who would wake up to the call. I might even have some who would join with me in this endeavor. If that means I have stop all action, no matter how reasonable, no matter how necessary, to somehow get an address of this problem—then that is what I will have to do.

I—it bothers me. As a colleague, there is nobody who has ever had—which I cannot say about myself—a disagreeable, nasty word, other than the highest of respect for my colleague from Montana.

And I told you that. My colleague from Montana is a gentleman. He works his heart out for this constituents. He is a caring person. And I do not do this lightly; I want the Senator to know that. I would hope that maybe we could get some colleagues who would say: My gosh, let us take a look at this situation and become involved. And maybe have a dog in this fight now. And I hope the Senator does not become annoyed with me, or angered at me, I really do.

Mr. BAUCUS. I hear the Senator, and I appreciate what he is saying, but I see my colleague from Montana, Senator BURNS, on the floor here, too, and I am sure he too would make a request that this is an opportunity to pass the Montana wilderness bill.

Mr. D'AMATO. I understand that.

Mr. BAUCUS. I urge the Senator to reconsider so that we can do whatever we possibly can to help preserve and create jobs in our country. And here is an opportunity to help save 400 jobs in the State of Montana by the passage of the Montana wilderness bill.

Mr. D'AMATO. I will consider it. But again at this point in time it is not my inclination to do so.

The reason I say that again is because there are going to be lots of good things in these final hours that are going to come up. There are going to be some things come over from the House. And there are going to be some things that I may be totally in favor of, as I was the Montana wilderness bill. It is my intention to attempt to thwart any action unless and until we get it resolved favorably of my request as it relates to Smith Corona and the 875 jobs.

I gave this body notice. I spoke as a supplicant. I spoke so you could barely hear me. It was a whisper. I was approached by elder colleagues and statesmen and leaders of this Senate in a manner in which I was obsequious, and for that I am ashamed. But I did it because I was fighting for the jobs of these people. And I should have known better.

I was treated in a cavalier manner. I do not care for myself, but I care for those jobs, and I care for those people.

And I do not address that to my own stupidity. Ridiculous. My own stupidity, to be treated in a cavalier manner. These lives, push them aside. Push them aside.

Well, Kirkland, wake up. You care about these people. Get on the hotline. Get on the hotline. Stop the nonsense about: I am worried about the jobs that are going to go to Mexico. Here is 875 jobs that are wiped out. They are going to Mexico. And he can stop it.

All we want is fairness. Fairness. And then if the President does not want to sign the bill, that is him. Then he takes on that responsibility.

I do not understand it. He is probably not going to sign this bill anyway.

I want to tell you something, in terms of a political tactic, those who

oppose this introduction, they need a basic lesson in Politics 101. In terms of morality, oh, yes, you hear statements, the great piousness. Incredible. Piety comes in many different ways and many different forms, many different varieties. But I have not seen too much of it. I do not think people look for it. But they do some old fashioned integrity. You make a deal, you keep a deal. You stand up for what is right.

You do what is right. You do what is right.

Boy, I tell you, I was snookered. I was snookered. I was so happy with my friends; they let me put this thing in the energy bill. Oh, boy, we are going to get this thing passed. It was a lot of nonsense.

Well, Senator PACKWOOD, he gave the conference warning. He said to them before they broke up: do you want a tax bill? If you want any hope for it getting through, you better deal with this provision.

They did not talk about it for 5 minutes. Not even a 5-minute discussion, nothing. Nothing. That is the lives of 875 people. We get so high and mighty, so taken with ourselves, so taken with our importance. What are the jobs of 875 people in Cortland, NY? What are they going to do? Forget about it.

That is not public service. That is not what we are about. That is not service to the people.

Mr. SEYMOUR. Will the Senator yield for a question?

Mr. D'AMATO. Yes, certainly.

Mr. SEYMOUR. Mr. President, I want to ask if what has happened to the Senator here is the same thing that happened to me in another conference committee. We had a conference committee on Senate bill 2016, the water bill, that was passed by the Senate as a matter of fact. The conference was called to have that bill compromised into a House bill, H.R. 429—two different approaches, and that is how it ended up in conference.

The question I wanted to ask the Senator is if the conditions under which the Senator is laboring now on behalf of 875 families in Cortland, NY, is similar to the tens of thousands of jobs that I am trying to protect in California with water, and the fact that the conference committee did not attempt to work these things out as I have heard the Senator propound. The Senator has attempted to try to get things worked out in the conference committee. And in fact I was led to believe that conference committee was going to agree with the amendment that the Senator had included.

I would just like to raise the question of whether the Senator was afforded any different opportunity in that conference committee than I was afforded in this conference committee on 429 and Senate bill 2016 in which they were considering the Central Valley water project in California. I wanted to know

if in the conference committee experience the Senator had—was the Senator involved, was the Senator consulted, was the Senator asked prior to this amendment that the Senator fought so hard for to try to preserve these jobs, was the Senator asked before the conference committee decided to strike this provision that would have saved, as I understand what the Senator said, would have saved those 875 jobs, was the Senator at all, in any way consulted before it was removed?

Mr. D'AMATO. No.

Let me, if I might, give my colleagues a perspective on this. The fact is that the people on the Tax Committee knew for weeks, weeks before the Senate acted on the tax bill of mine and Senator MOYNIHAN's interest in dealing with the problem that confronted Smith Corona—and indeed it had been a national story, national news, when Smith Corona had indicated that it was closing this manufacturing operation.

And I do not know if the Senator recalls the splash it made on TV right across the country, because most people grew up knowing Smith Corona. You had Royal, Smith Corona. It was one of the two great typewriters, American typewriters. And so it made an impact when it said the last manufacturer of typewriters in this country is leaving, devastated.

We set about to ascertain what if anything we could do. And I have to tell you to his credit Mr. Thompson did not come and promise us the world. We made it clear that if he could see after 10 years of battling for fairness, for justice, after 10 years if he could see any opportunity by which he could deal with this dumping problem, that indeed our actions would not be in vain.

Now, let me tell you what he did. He did not go to the people and tell them that because you see he did not want to give them false hope. I feel badly because in some way I have contributed to the feeling of those people they would get justice. I think it is a terrible thing when you bring somebody up to feel maybe they are going to get justice and then you pull the plug on them. You are better off not letting them believe that that is going to be the case. That is bringing up and just dropping them down.

That is what we did. That is what we did.

And so after working for weeks on this, why we then got an amendment in language that the administration could sign off on. Now, remember, heretofore opposition had come from the administration and from those on both sides of the aisle who said we cannot adopt legislation that will trigger an administration veto. We dealt with that.

That would be anti-GATT. We dealt with that.

So we had every expectation that our friends would say: My God, this is fantastic. We embrace this.

Do you have a promise? No; I cannot tell you.

As a matter of fact, maybe I am naive. I mean I think it might be an affront to go to somebody and say: Do you promise that you can support this? But we got it accepted.

Senator PACKWOOD offered this amendment on September 26.

Mr. PACKWOOD. Mr. President, I send an amendment to the desk on behalf of Senators MOYNIHAN AND D'AMATO and ask for its immediate consideration.

The amendment dealt with this problem. And that amendment was accepted. Nobody raised any objections.

Let me say, indeed, Senator BRADLEY said that he realized the hour was getting late and "the Senate is now accepting a serious amendment in an attempt to pass the tax bill but I feel compelled to object to its inclusion."

So I want the RECORD to be accurate. He did raise that. "This is a private relief bill." It is. It is. It is one that seeks fairness.

"These two companies have been locked in something of a Hatfield and McCoy dispute for years." I do not believe that to be the case.

If you say that the two companies are competitors, yes. If you say that one has been breaking the rules regularly, the record demonstrates that.

The amendment was agreed upon.

Now, when we adopt the tax bill—and this is the bill. Let me tell you, we are going to read every single line of this bill before we get out of here. And I do not think I have to stand—I know I cannot sit down now because then I would lose the floor. I have to stand.

Mr. FORD. That is right.

Mr. D'AMATO. And I feel good. I can stand. When I was a kid, I used to stand all day and all night and get up the next day and go to school and do these things, nothing hard.

And I never had any Congressmen come over to watch me. That makes it even easier. It is not bad.

When I do it, Congressman SOLOMON and Congresswoman MOLINARI, and I have to tell them they all are my good friends. I see RAYMOND, Congressman RAY MCGRATH, and I see Congressman PAXON. And who are the rest of my Congressmen friends here? Congressman LENT. He was the first Congressman who ever supported me back in 1980. You know, when I started out to run for office I never forgot the time I went home and I said, "I am going to run for the Senate." My mother said, "Oh, that is good." My kids said, "Will we go down to Washington?" My father, what a great guy, said, "You are going to run for what?" I said, "United States Senate." He said, "Son, you should run to see a psychiatrist."

I have to tell you, when I started out going to talk to people and asking them to support me, everybody agreed but my papa, and then I met this one poor unsuspecting fellow. I remember

him when he came out of law school. He used to run track, too. He was the local village judge over in East Rockway. We, in those days, were known as the clam diggers, East Rockway, a little more affluent than Island Park, and that was the little village I was raised in. We moved into the village in 1945. We still live there. A great people, working families.

But I knew NORM, Congressman LENT, and I campaigned with him when he ran for State senate. He was my State Senator. He was never supposed to win. O God, I tell you something, he was indefatigable. He was incredible. You talk about work, energy, fighting. Gosh, he passed more good legislation as a State senator in terms of health and health care. He carved himself out a reputation.

Then I tell you something. You talk about the giant killers. He took an Alard Lowenstein. Man, nobody gave him a chance. What a race. They debated up and down South Shore, Long Island. They drew a crowd. It was theater, it was fantastic, fast, fabulous. Gosh.

And, by the way, the organization, we had a machine kind of like the Chicago machine, only we were better in those days. It is not quite tuned up.

But he was a product of that machine. They gave him his first chance. But when he came to running for Congress, they did not want him. They had another fellow all picked out. Old NORMAN, I got to tell you, the clam digger instinct in him, showed up. He said, "I tell you, I am running no matter what." Yes. Guess what? Just like most machines, if it does not have the goods, you cannot sell it. They backed it and he ran. It was a good thing. We would not have won otherwise. He won that race by about 10,000 votes and was absolutely incredible.

I know, the last 22 years—I have to tell you something. I think Members even in this body, Democrats and Republicans, have come to know Congressman NORM LENT as one of the finest Congressmen, true to his word, committed to his course of action, committed to his constituents, and never afraid to even take on a cause that might create a lot of discomfort for him personally at home with the constituents, with the voters. He has been my friend, and I tell you something. It was a testimony to friendship over good judgment when he supported me back in 1980 in that primary, because people used to say, "What? Are you crazy?" He would say, "You be surprised, you be surprised."

He was the only Member of the Congress to come out and support me in that Republican primary. Indeed, that was difficult, because we ran against the organization, statewide. It was a great and noble man who was ending his career; it was not a nice race at times, and indeed, I am sometimes

sorry, and I am, for some of the kinds of things that you get caught up within political campaigns and rhetoric.

But I tell you something, during the toughest times NORM LENT was there, and I look over tonight, and here it is 3:22 in the morning and here is my friend. He is not running again, which is a great loss, and there he is once again, my Congressman, my friend, NORM LENT.

You know, I wonder how many of us really use the opportunities that we have to their fullest. Probably none of us. But we can certainly try to improve upon how we have done and what we do.

When I told my papa—and he tells most people this story. You know, when I ran I said to my Papa, "I am trailing 67 to 4. I cannot go down much." He said, "You will be surprised."

And then later on—by the way, when he saw me undertake this race, there was nobody who worked harder, nobody who sent out more do-me-a-favor cards and called up his friends and relatives and people that we had known for years and years and years than my dad. He gets the credit for making a series of great commercials and helping elect me—and it did elect me. My mother was shopping in the grocery store and carrying her groceries and turning to the TV camera and saying, "Vote for my son AL, he will be a good Senator."

But I tell you the most profound impact on me personally was when my dad said to me shortly after the election before I came down here, "You know, son, only in this country could this take place. ALFONSE, it is a marvel how ALFONSE M. D'AMATO born in Brooklyn, a family of very modest means, becomes a U.S. Senator." He said, "You have an opportunity now to do something very few people ever get an opportunity to do." He said, "Do not be afraid. Be different. Stand up for what you think is right. Do not just say that which is the most popular."

I have had occasion to reflect upon that, and I have mentioned this story to some of my colleagues from time to time. It has come to mean a lot more to me as time goes on. It is poignancy. I am a particularly lucky guy, because my papa is still here, still enjoys good health, and I am still able to thank him for having given me that message. If anything that I have not done that is to my regret, it is to be more faithful in carrying out that admonition.

Let me say that, besides our New York colleagues—Congressman SOLOMON has given me a little note—we have a number of Congressmen here: Congressmen NUSSLE, of Iowa; KASICH, of Ohio, HOUGHTON of Corning, NY, a great Congressman; Congressman DELAY, from Texas, who I have an opportunity to work with in the Appropriations Committee; Congressman SAXTON, of New Jersey. He has not complained about

doing what is right. I do not know, Congressman GILCREST, of Maryland; and Congressman SANTORUM, of Pennsylvania, he is young, this young guy with hair and everything. You want to stand next to that fellow. Everybody moves away from him.

I want to thank my colleagues really for coming on over here. I guess there is not a good show on the late show tonight. The football game is ended. Why not come on over?

But, that is what I am doing here. This is not popular, and it is not going to endear me to my colleagues. For example, when Senator BURNS, the Senator from Montana and Senator BAUCUS, came with jobs, I have to propose something to the old fox, he will know who I am referring to, because he might be upset by that. But I mean that in the fondest way when I call him "the fox." Maybe our leader can find a way to try to blend that Montana need with the wilderness and creating a job opportunity and the needs of some of the people up in Cortland, NY. Maybe we can forge in these closing hours a compromise and maybe there will be some other areas.

I know Congressman HOUGHTON, who has been working with me on this matter, would certainly like to see that. I think everybody here would like to see that. I cannot believe that my good friend from Kentucky would not want to see something like that if we could not work it out.

And that is what I have been talking to. I figure maybe if I get this thing so protracted, at some point in time you are going to recognize that I have only been sipping this glass very slowly notwithstanding that the glasses continue to go. Why, I think we can keep this party going for quite a while, and I recognize my friends are going to put me through that test.

Having said that, at some point in time in the morning, people are going to want to begin to do things because they want to go home. They have campaigns to run. Me, I am not worried. You know, really I have a hanger this year, and it is an early one. I just tell people, "Do you want someone who is going to fight for you, or do you want that typical old big-talk politician who says we need more job training?" Hell, that is what I hear the two candidates running for President saying. People do not want more job training, they want to keep the jobs they have. They want to keep the job they have. This is a chance to keep the job they have.

In all of this book, here, look at this, look at this page, this is the tax bill. All they had to do is put in one little page. Where is that page? You wrote the bill. One little page. Smith Corona, one little page, slip this in here.

(Mr. BRYAN assumed the chair.)

Mr. D'AMATO. We have done that before. Just slip this in; it is two pages. Slip this in here. How many slips have

we seen? What, I did not know that was in there. They took one guy's television station away from him. They slipped it in, and nobody even knew. A television station. That was a good one. The Senator from California may not be aware of that. That is true. On that appropriations bill, we were slipping everything in—a bridge, a railroad. You know that, and the master is on this floor. He is not saying a word, but he has slipped a few things in there. I got a little smile from him. I hope he is not mad at me.

Mr. President, I hope we find the way to win this battle. I would be willing to put 99 other Members' names on this bill and drop mine off. I would be happy to. If you want to change the language around a little so that it accomplishes the points of keeping the jobs, I would be happy. But I have to tell you that until somebody can explain to me more than just the corporate headquarters for the competitor is in my State, and the screw plant is in my State, well, I am not going to back down.

I may be beaten, but I have been beaten before. I remember when Nicholas Brady sat next to me. I have a great insight into him. We had an issue on industrial revenue bonds. He had been one of those temporary Senators, thank God. I can say that now, because he is not a Member of the body. He was sitting next to me. So he said to me—this is incredible—he said: You know, they are going to beat you on this, Alfonse. This is preserving industrial revenue bonds for communities.

If you had been a mayor or a State senator, as my colleague from California, or a town supervisor, you begin to understand how these industrial revenue bonds were important to creating jobs and job opportunities, particularly in the early days when we got in with that 14, 15, 16 percent interest rates. If you could get that bond to drop that interest rate two, three points, because of the favorable tax treatment that it received, why, obviously, you could attract and—there were some abuses, no doubt, but it was a pretty good policy in creating jobs.

In the final days of UDAG, that was a pretty good job, too. Let me tell you something. They told me, Alfonse—in those days we controlled the majority, we being the Republican side—“Alfonse, they are going to beat you,” he said. I was incredulous because, you see, I did not understand that kind of talk. We understood we were going to get beat. But that was something different. On a football field, in a track meet, I can bop you. But not that. It was such a terrible thing to lose a legislative skirmish, and that you would take that as some kind of rebuke to you personally, or to your person, because that is not what this is about. I understood that.

Some of my colleagues viewed this whole thing a lot differently. So I have

to tell you that I hope that whoever wants to beat me, they can beat me, but I hope they do not get any pleasure out of the fact that it is not really me in this situation. It is the 875 families that come up on the short end. More important, or maybe not more important—it is them in the long run. But before this is over, I want them all to know that they will have had an opportunity to make a difference. They will have had an opportunity to help people compete, have a fair opportunity to keep their job, or they will have consigned many of those people to the unemployment rolls. Lord knows what their family's misery will be as a result of our failure to deal with this situation.

That is tragic. Now I read this document, and listen to what it says. This is terrific. This is the tax bill. They could not include saving our jobs. This bill, if you want to know, when you drop out our provision that would help keep jobs, I think it is just nonsense. I do not believe them. Because if you really meant these purposes, to all of those who signed this, why would you not include this language? All we want is fairness. We want to be able to enforce an order when a company breaks the law. You have to make a finding, and there must be a finding that they have broken the law; is that not correct? I hope so. You have to first break the law.

It is only when you break the law—the dumping—that this comes into play. Really what it says is that we will be able to impose the tariff, which is the penalty for breaking the law; whatever the tariff is, 40, 50, 60 percent. That is all we want. But I guess if you are a law breaker and you come from New Jersey or you are headquartered there, what we are saying is, hey, that is OK.

Well, what is going to happen if that happens in your State, somebody breaking the law, and they are headquartered in another State? You look around and they take jobs from your State. I guess we will say, hey, you know, after all, that is a powerful member. That is a powerful member. You cannot do anything. You have to protect this constituent. Absolutely. You see that your constituent is treated fairly, but not that your constituent has an opportunity that comes about as a result of their not being equal application of the law.

The summary of the contents of H.R. 11, Statement of the Managers, is this not interesting? One, economic development in distressed areas. Enterprise zones. I guess that is important. We want to help economic distressed areas.

I can tell you how you can do a better job of helping economic distressed areas. You know how you do that? You keep areas that are not in economic distress from becoming economic distressed, and then you do not have to

give them job training, tax reductions, all kinds of relief, beg other industries to come in, and get down on your knees. That is how you deal with the problem. Incredible. Incredible. Incredible.

I will give you an easy way. You have a chance to save 875 jobs. No, we will wait for it to become a blighted area. We will wait until the people have to give away their houses, and when they have to give away their houses and all go on social relief, we will make it a blighted area, and it will be an economic enterprise zone, and maybe we can get a foreign company like one from Japan to come in and take them for 10 cents on the dollar and put them to work in a screw plant and pay them \$6 an hour. Why not that? And hopefully, they will take the jobs from the guys in the other State who watched us being disadvantaged now, because they came from their State as a headquarters. Fantastic.

Lane Kirkland, wake up. Wake up. It is 3:40 a.m., wake up. Time to get up. Get on the phone, and call up all of these guys. You call up these guys when you want to see elections go a certain way. How about helping these people in Cortland. How about getting on the phone and jingling up a couple of Senators. Incredible.

Economic growth incentives. Well, what are these economic growth incentives? I wonder what they are. Let me see. We have to look at page 48. Guess what? Guess what they finally found out? Can you believe this? After the masters of the fleet have run the fleet up on the rocks, up on the rocks, now they want to give us economic incentives, and how we should get up and say, thank you, masters, thank you.

I remember the same people over here saying how IRA's were no good. You have to give us IRA's, individual retirement accounts, IRA's. By the way, when do they kick in? 1994? 1995? Is that when they kick in? That is a promise of a promise of a promise. If anybody ever relied on our promises—we pass laws and we tell people we are going to do things, and we change them anyway. But we are going to get IRA's in here in 1994 or 1995. Oh, yes. This is incredible.

But, anyway, we modify the IRA's and have special IRA's and penalty free distributions, extension of certain expiring tax provisions; inclusion for employer provided education assistance; inclusion for employer provided group legal services; deductions for health insurance costs; qualified mortgage bonds, and mortgage credit.

Most of this stuff we wiped out, you know, in the 1986 Tax Code, or most of these things we imposed upon you in the 1990 bill. Now the same people who brought you those disasters want to try to take credit for repeal. Of course, they could not do this in April, because maybe the economy would have started

to turn around. And how good would that be? You would not want the economy to improve, because if the economy started to improve, then you would not be able to complain about how bad the economy is.

But here we are just ready to go home, and we get this package. And I want to tell you that the only people who might know what is in here is staff, because the conferees do not know. Staff. If you think the conferees know everything that is in here, and that the staff knows everything that is in here, you are wrong; they do not. And we do not. But we are going to be called evil, bad contemptuous people if we do not vote for this whole thing, because they told us it is good, it is good for you.

But to help the people and save their jobs in Cortland is bad for you. I do not know why it is bad. I want to tell you something else. If staff wanted to, they could have put this provision in, and they would have passed this thing, and nobody would have known. My friends in the House would not have known, and my friends in the Senate would not have known. That is, if they wanted to do it. Sometimes they do those things.

I have been here when they had an amendment in the bill that suddenly, after conference, somehow mysteriously did not get recorded. I want to tell you something. When there are thousands of amendments, when that takes place and it turns up that that is my amendment, I really wondered. That was incredible. This one, I must say, at least it was done on the up and up. At least it was not dropped out by an incoding error that did not somehow get in. But I had one of those, and we will discuss that at another time. It was last year in a different bill.

This one, at least just before the conference closed, or right after it closed, we were told it was not accepted. At least we were told it was not accepted.

I do not believe there was any debate on this. I know some of my friends here were conferees. Maybe they can enlighten me if there was any debate on this provision, but I do not think any of the conferees got into a room and had much of any of a discussion on this. So the people of Cortland are left out. Out.

Mr. SEYMOUR. Senator, I am taking a look at your amendment that you have been talking about now since 8.

Mr. FORD. Since 8 p.m.

Mr. D'AMATO. Since 8 p.m., yes.

Mr. SEYMOUR. Almost 8 hours.

Looking at your amendment here, I have questions relative to how this directly applies to Smith Corona. And, well, let me just read part of this paragraph to you, because I think it will make the question more clear for you. It says:

Merchandise sold in the United States is the same class or kind as any merchandise that is the subject of an antidumping duty

order issued under section 736, on May 9, 1980 or August 28, 1991.

I just want to make sure, Senator, that this applies only to Smith Corona.

Such merchandise sold in the United States is completed or assembled in the United States from parts—

Oh, I see, it is components produced in a foreign country.

Mr. D'AMATO. That is correct.

Mr. SEYMOUR. I see.

Mr. D'AMATO. If the parts were produced here in the United States, it is not applicable. It is only where they are produced in the foreign country and subject of an order. So that when we talk about trying to craft this narrowly, when we talk about trying to keep real competition, this is not an endeavor to circumvent the process of competition but, rather, this is an endeavor to see to it that fairness is maintained, that we do not have a historical supplier who merely shifts his manner of distribution and changes the impact of the order, of the dumping order.

That is exactly what is taking place.

Mr. SEYMOUR. Senator, the members of this conference committee—do you suppose there were some members of the conference committee that were concerned about the North American Free-Trade Agreement and what antidumping protections might be afforded under that agreement? Perhaps some of those members of the committee, could they maybe have overlooked the fact that this is an exact duplication of that kind of concern? Is it possible they could have just overlooked it?

Mr. D'AMATO. I find it difficult to really understand how they could evidence, on one hand, a concern that, as a result of entering into the North Atlantic, or the NAFTA Treaty, that somehow that would create unfair competition and not be aware that this was the provision that deals with exactly their concerns. Indeed, it went beyond. Because what it did was it dealt with illegal activity—illegal.

Mr. SEYMOUR. Amazing.

You say over here, Senator, "Factors to consider." My question would have to do with, again, trying to make this a very narrow amendment. You are talking here about factors to consider in determining whether to include parts of components or merchandise assembled or completed in a foreign country in the relevant antidumping duty order under paragraph 1. "The administering authority shall take into account such factors as the pattern of trade, whether the manufacturer or exporter of the parts of the components is related to the person who assembles or completes the merchandise."

It sounds to me as you are going through this amendment, you are trying to make this amendment so narrow it would not fit through a keyhole, it could only apply to this one particularly abusive situation that has been going on for years? Is that correct?

Mr. D'AMATO. That is absolutely correct. What we are attempting to do, as the Senator has indicated, is to deal with a situation where we have an order, where we see somebody in attempting to avoid that order—and point exactly to the order—is now bringing in their parts from other countries; the same parts, same manufacturer—no manufactured content here in the United States.

So, it covers the Smith Corona people. So it does not open up the door to the multitudes of other situations. And it is one of the reasons that we were able to get the administration to agree not to threaten to veto on this basis.

That is why I think my colleague from New York [Mr. MOYNIHAN] and I, held some hopes.

Mr. MOYNIHAN. Would the Senator yield for a question on that point?

Mr. D'AMATO. Certainly.

Mr. MOYNIHAN. Is it not the case that the administration having observed the genuinely predatory practices of this Japanese firm, which we have more than once come to this floor about, which we have legislated about, over and again—we have said there are rules of the trading system which have been in place since the 1980's and the beginning of the multilateral trade agreements and the reciprocal trade agreements, under Cordell Hull and Franklin D. Roosevelt.

As my friend has heard me say many times, I learned—it is a curiosity that I learned the subject of antidumping duties from Harry Hawkins, who was the negotiator of the reciprocal trade agreements with Cordell Hull.

Those were no small things. If you wanted to make a list of five reasons, five events that led to the Second World War, the Smoot-Hawley tariff, for one, would be such. And so antidumping is not an arcane subject in the field. There are not many persons outside of international trade law who would know much about it. But it has a 60-year set of precedents. My friend is a lawyer. He knows about things like that.

And we had the most extraordinary case of it in this instance: A firm, American firm manufacturing a good product, competitive product. By any standards it is a product that could be handled in international trade and certainly within the American market. It happens to be the last portable typewriter manufacturer in the United States. But—

And suddenly there is this wave of imports that come in, clearly below manufactured cost. An antidumping procedure is—the company plays by the rulings. They go to the Federal Government and ask for relief under the trade laws. And they get it. They are told this is clearly the case, dumping is taking place, and a supplementary tariff is imposed on the Japanese import. Whereupon that firm adds

a tiny component—12 cents worth of component to its product, the equivalent product. And our trade officials say that is not a typewriter. That is not the old typewriter, it is something new. And it pours in.

Mr. D'AMATO. The Senator has quite aptly described the kind of circumvention—just one of a litany of these things that have taken place. In circumvention cases, cases dealing with dumping—dealing with dumping—the Smith Corona people have won every one of them. And I think they have every right to say that the Government has failed to respond to their legitimate needs. And that is to provide fair competition.

You know, if it was a wave of products that came in that were better, that were more competitive—that they were just plainly better, that is one thing. But here that is not the case.

My distinguished colleague pointed out quite aptly that in this case the foreign competitor, Brother, was dumping. In one case I believe they found the price cutting below what it cost them to produce so egregious they put a 60-percent tariff on.

Now, that is incredible. That is how egregious and outrageous that dumping was. You cannot compete, I do not care how fine, how good a manufacturer you are, against that kind of illegal activity and that kind of activity should not be countenanced.

Mr. MOYNIHAN. Can I ask my friend this? It is not the case that the Smith Corona firm—it happens to be in Cortland, in up-State New York—but that happens to be where typewriters were first manufactured in the United States. I think the typewriter was invented in Wisconsin or something like that—Syracuse was the center at the turn of the century.

Mr. D'AMATO. Certainly.

Mr. MOYNIHAN. Years later, what remains of the industry is located about 25 miles south, in the town of Cortland.

This process began in 1979, I can make a point. The Senator will know. This is not an antiquated product or an antiquated production. The Senator from California should know, these are brand-new facilities, good machinery, good engineering, competitive. It is just a Japanese firm has decided to put it out of business.

In 1979 this had begun. In 1988, I think this Senator at the request of Lee Thompson, president and chairman, then and now, amended the Trade Act of that year to get response to this.

Mr. D'AMATO. The same company.

Mr. MOYNIHAN. The same company. It is not the case that we have watched while the American Government really never got angry about this? We never said: No; you cannot do this. This is a violation of the trade laws, of all our standards: No; you are asking for trade war. You are associating yourself with illegal activities.

More, this was a case, an occasion for indignation as well as just response.

Mr. D'AMATO. My colleague, the senior Senator, as always, goes to the point. You are absolutely correct.

This should have been a case of indignation. And rather than it being a situation where there were those who were more interested in the application of the technicalities that made the Smith Corona people have to hop over the hurdle, and a higher hurdle, and a higher hurdle, and a new hurdle, and another hurdle, they should have shared the Senator's feeling of frustration and said: OK, fellows, we are now going to help you. We are going to suggest either administrative actions that we can take to deal with this breaking of the law, or legislation to correct this deficiency.

None of that was forthcoming. Indeed, were it not for the fact that the chairman of the board facility, after the last go-around and the last circumvention by Brother, finally in desperation said that is it. That is it. We are moving. We are moving. We are going to Mexico.

And then a whole wave of indignation. The first wave kind of came from the public, you know. They did not know the history of this thing. I think the public should have been angry at us, angry at the Government, angry that we did not take them on in a more aggressive way.

Every time we tried—and there were a number of attempts—we would run into this business, if you do this—because the only way we could do it, as the Senator knows, is to attach it to a revenue bill because this involves tariffs.

Mr. MOYNIHAN. Exactly. Exactly.

Mr. D'AMATO. Whenever we did that the administration would say we are going to veto that bill. If you do that, if you have any provision in there that in any way breaks with GATT, given the temperament of our colleagues on both sides of the aisle not to endanger free trade—and I do not presume to speak for the senior Senator, my distinguished colleague—but I know he is for free trade. But we talk about that in the totality of there being equity, fairness, and legal responsibility that flows both ways—for our actions.

So here we have the situation where, instead of the Government being profoundly—and the people at U.S. Trade and Commerce, saying what is going on? This is an outrage. This is wrong? There was almost a sit back attitude. Well, you know.

When one measures the fact that this is a fine product and that it is competitive, and if sold at the same prices that Brother sold its product without undercutting, it would be no doubt that the Smith Corona share of the market would soar, that the only reason that Brother has raised its share of the market is because it has broken the law

and practiced predatory pricing, and that it is selling below cost here in the United States, below what it cost them to manufacture it and sustaining an artificially high price where there is no competition.

Mr. MOYNIHAN. Will the Senator yield? Is it not the case, we are not bringing this up for one time, a new event?

Mr. D'AMATO. No.

Mr. MOYNIHAN. We are bringing up a pattern of predatory trade practice, illegal practice that goes back to the 1970's.

Mr. D'AMATO. That is right.

Mr. MOYNIHAN. What is it that makes our Department of Commerce and State Department incapable of indignation in these things? Do they not see that this is something that you can understand?

I might say to friends, and I might say to Senators here, and I say to the Senator from New York, this is not a hard thing to understand. The town of Cortland is a lovely town in a lovely valley in central New York, 20 miles away—20 miles, no. It almost adjoins the town in which David Harum lived in the great sagas of harness racing. If you were old enough to watch Will Rogers playing David Harum, you are old enough to remember part of American folklore. There is only one manufacturing activity of any consequence in this valley, this place.

Mr. D'AMATO. That is correct.

Mr. MOYNIHAN. It is a good product, and it is being destroyed by Japanese capitalism with an unacceptable face.

Mr. D'AMATO. Pernicious. Might I suggest the word pernicious.

Mr. MOYNIHAN. This Senator has been through a fair amount of trade issues in 40 years. If I might say, I was involved, there were three of us who negotiated the long-term cotton textile agreement for President Kennedy in 1962: Mr. Blumenthal, later to become Secretary of the Treasury under Mr. Carter, Hickman Price of the Department of Commerce, and myself, Department of Labor. And we had to look at some tough trading practices from Japan in those days. They were still producing textiles. But never anything like this. I mean I have been through it for—it will be now 30 years ago that we came back from Geneva with the long-term cotton textile agreement which was the condition of the Kennedy round which was to try to open trading practices.

I do not know how the Senator keeps his disposition so equitable.

Mr. D'AMATO. I might suggest to my colleague that it has been mellowed by the passage of about 6 or 7 hours and so consequently that has brought my disposition, at least the rhetoric, to a more reasonable level.

Mr. MOYNIHAN. Or tone of voice—voice level.

Mr. D'AMATO. Voice level.

Having said that, it is outrageous.

But what I find so difficult to understand is that we are all here for a relatively short period of time, and our life is here and goes and we measure it as nothing. And if during that period of time we have an opportunity to deal with an inequity that cries for relief, then all of us have a responsibility to respond.

Here the situation is so clear. Here the situation has been manifested by a pattern of illegal conduct, totally illegal.

Now, you may hear from one of my colleagues that in a recent case the Court of International Trade, which in some cases has less than distinguished jurists, just recently came down with a decision that the so-called screw plant, which is the phantom operation—and it is—is really a manufacturing plant. They sent a junior attorney to argue a man-size, difficult case against the most distinguished barristers and a rather neophyte judge came down with a rather astounding opinion. Having said that, the case is on appeal.

Notwithstanding later during the day we will hear eloquent argument that this puts to the test the question of what we attempt to do here today, the plant in Tennessee is a facade. It is not a legitimate manufacturing plant. Anybody who attempts to create that is attempting to really bring about a myth. You cannot make something a manufacturing plant if it really is not.

Second, this should not be a question of political power or political might. This should be a question of whether or not this body has the courage to do what is right because it is the right thing.

Mr. MOYNIHAN. Could the Senator respond to a question. As a member of the conference on the tax bill, H.R. 11, it is my understanding—I wonder if it is not his understanding—that as of noon yesterday the measure was agreed upon. The Senator and I were on the floor Saturday.

Mr. D'AMATO. Correct.

Mr. MOYNIHAN. With fair notice. The Senator negotiated with the administration an agreement. It may be the only part of the tax bill which the administration agreed to accept.

Mr. D'AMATO. That is the ironic part of this whole thing.

Mr. MOYNIHAN. And then it disappeared on us. The staff was not forthcoming. We were just told: Sorry, it is out.

Well, why? Who? We are not, as they used to say in intelligence, on a need-to-know basis. Our duty was to sign the conference papers, which the Senator did not sign, the first time I can recall in 14 years in this body where I have not signed the conference papers on a tax measure which has a great many things which I think the Senator from New York and I both very much hope to see in law.

Does the Senator have any idea what happened? Has anyone told him? I know that at about—let us see, where are we? About 6 last evening we were voting on the cable television measure, a vote to override in response to a Presidential veto. And we had been, we had received information that the—we had been told in our offices that a second, I think the second-ranking Republican member of the House conferees would not sign the conference report if this was on it.

Mr. D'AMATO. We were on the floor together when we got that information.

Mr. MOYNIHAN. We were on the floor together. And a very distinguished friend, the Member of the House from Long Island, Mr. McGRATH, came over and said it is not true. Not only has this Member of the House not said he would not sign, but he had signed.

Mr. D'AMATO. That is right.

Mr. MOYNIHAN. Already signed.

Mr. D'AMATO. Plus the other two members—

Mr. MOYNIHAN. What is this? How do you explain this sort of information? Why did the staff of the Senate Finance Committee not, right away, ascertain it was not true? Later in the evening, I will tell you, our staff was informed by Finance that we had been lied to. "Lied to" was the term. That is a word I have not heard in the body. You do not hear it very often. Is it acceptable that staff lie? It is not acceptable to this Senator. Does the Senator from New York think that staff members should be allowed to lie about the actions of Members of the Congress? There are a lot more of them than there are of us.

Mr. D'AMATO. I think it is outrageous. I have raised my concern. I think that staffs, first of all, when they attribute actions to Members which are not correct and motives—

Mr. MOYNIHAN. May I ask the Senator, is it not correct in not too delicate a way to say untrue?

Mr. D'AMATO. The Senator is absolutely correct.

Mr. MOYNIHAN. It is not true.

Mr. D'AMATO. We were lied to. But what made it even more painful was that I think a number of our colleagues were put into awkward positions and really did not know how to act, and were it not for the Congressman who had come to both of us on the floor and said look—

Mr. MOYNIHAN. Spoke to the majority and Republican leader first because neither of us had arrived yet to vote.

Mr. D'AMATO. This is not true.

And by the way, when it was said that two of the Members would not sign the conference report and it was attributed to our legislation, the fact is that the two said they would not sign the report regardless. Our legislation was out of it and they would not

sign the report, and it had nothing to do with this legislation.

Mr. MOYNIHAN. But was it not the case that we were told it had?

Mr. D'AMATO. Absolutely. We were told that they were not going to sign this—

Mr. MOYNIHAN. How much lying should go on about a subject of this consequence, involving matters of this importance? A great debate on trade is taking place here. Why are people lying?

Mr. D'AMATO. I came to a conclusion, and I have advanced it, and my conclusion was that in addition to that, people were able to get our distinguished colleague in the House, Congressman ROSTENKOWSKI, to play the bad guy here.

If one were to look at the histories of this legislation and this proposal, I have a letter of May 20, 1992, which Congressman ROSTENKOWSKI wrote to Congressman McGRATH in full support of the provision that goes well beyond this provision. Yes. He says:

I think we can use this debate to help advance our legislation initiatives in this area.

That was H.R. 5100. By the way, I understand they call DAN to stand up, and he will say, "Oh, yes, I did not want it in." This comes about as a result of those who simply say, "Look, we are not going to play by the rules here in terms of having a fair trade law, because it might disadvantage an assembly plant that is located in my area if the laws apply fairly." Imagine that. And I likened this to imagine if we had a company that was headquartered in New York that was polluting, sending toxins into one of the lakes in Vermont. Would we then take to the Senate floor and say, "Wait a minute, this corporation is headquartered in New York, we are going to defend it."

What is the difference here? I will tell you what the difference here is. We allow a corporation that is headquartered in New Jersey, and it maybe has an assembly plant in another State, to break the rules and break the law, and I believe our colleagues here have found a convenient way to get someone to stand up to foil this legislative relief which we seek. They do not want to debate it. They do not want to have it out on the floor. They try to circumvent it in a manner and not take responsibility, and I think for our colleagues to go along and join in this subterfuge is wrong. That is what our colleagues are doing. They are joining in a subterfuge.

Now, look. It is too easy to just say that this is about a battle between two companies and we should stay out. That is not the case. We should not become involved in attempting to advantage one over the other. That is a fact. But we certainly should not be afraid to say that the trade laws should be enforced, and that is what this legislation does. The trade laws shall be enforced.

There is an order outstanding. We will follow that. We are not going to deviate and make these little shifts and find a new way of bringing a product in when it is the same product and it is the same company and it is the same content which is all foreign, and then have you disqualify the order because the order was made against the country of origin, in this case having been Japan. That is wrong. That is just simply wrong.

I want to tell you, I would not want to try to defend that kind of illegal conduct or activity on this floor. I think there are probably some who are much more eloquent, much more artful, and they may attempt to do that. But to date no one has attempted to do that. We have not met any arguments to contravene or any facts that would indicate that we are seeking something that is unjust. What we had was a group who hoped that the administration, in its usual practice and response to these kind of cases, would stop it.

So, I repeat to my colleagues. You know there are going to be some important matters. Some people call them cats and dogs. Those cats and dogs should not be characterized in that manner. One case, there is an important bill, an important bill that my colleague from Montana seeks and both my colleagues seek to have enacted. There will be undoubtedly other legislative initiatives, some that have been worked upon for years, some that would undoubtedly benefit people. And I have to tell you, if the House does not carry, and they are going to go home and they are just going to say, "Here is a take-it-or-leave-it outfit," they had better be prepared that any bill that comes over here from the House that needs unanimous consent, or any other piece of legislation, this Senator is prepared to do whatever he can to withhold it.

Mr. MOYNIHAN. I wonder if the Senator has heard the news of the vote on H.R. 11 on the House floor? The vote was an astonishing vote. The bill passed by a mere six votes, which is a comment, I hope, in part upon their dissatisfaction with the exclusion of the measure which my friend is so gallantly opposing. The vote was 208 to 202—208 to 202—on a tax bill that, with the enterprise zones and all those other provisions, Medicare provisions, all manner of things—that bill I think is about 1,000 pages long—and that is the measure of the House's view. I wonder if he thinks that the House was upset and influenced by the extended debate that has been going on tonight, if that is not a reflection of the way the House feels about this matter, that the Senate might do the same?

Mr. D'AMATO. I think it had a great deal to do with that. As a matter of fact, I understand there was an attempt to put this provision in it. It was defeated very narrowly. I note with

some source of satisfaction that we must have had at least 15 to 20 Members at some point in time, Democrats and Republicans, who came to the Chamber and urged us to continue in raising our voice in objection and working to bring in this legislative relief. Congressman SOLOMON sought, in the Rules Committee, to get a change, and he lost on the floor by some 20 votes. That was to get this provision included.

Mr. MOYNIHAN. Yes.

Mr. D'AMATO. And I think that is a measure of why so many Members voted against it, because who would have voted for it had this measure been included in the bill? I daresay that probably a good percentage of the New York delegation and others have felt strongly about this issue of fairness.

Mr. MOYNIHAN. I do not remember, and I am 14 years on the Finance Committee—I see the very able Senator from Montana is here and has been almost as long as I have served. I have never heard of a bill from the Committee on Ways and Means, a major bill, the biennial, the bill of the 102d Congress, passing by 6 votes, 208 to 202. Four Members reversing, changing their vote would have changed the outcome. That says something is the matter, and I hope that someone would notice. I am going to find out and tell the Senator just how the New Yorkers voted. This is a Presidential issue.

Mr. D'AMATO. I think it is.

Mr. MOYNIHAN. The administration said it would sign this bill.

Mr. D'AMATO. One of the reasons for what I said before is that if there was anything I felt sorry for, it is that maybe I was not more persistent, because I really felt that our colleagues understood it.

Mr. MOYNIHAN. We had an agreement and we were lied to.

Mr. D'AMATO. We were lied to. And I also think we were deliberately dropped out of the energy bill, because that was the bill which certain people saw as a bill that would pass, and, consequently, if our provision was included in the energy bill, as initially it was, it was under a different form that we sought to have the language changed to comport with the language that the administration had agreed with, and, if Senator MOYNIHAN recalls, this had been done earlier. We both supported this legislation, and we got it into the energy bill earlier and it was dropped. That is what is called a two-for. That is what is called two-for.

Mr. MOYNIHAN. It was dropped on the House side.

Mr. D'AMATO. Yes, and our colleagues did not insist upon it.

Mr. MOYNIHAN. The Senator does recall my reporting that our colleagues were misled in this matter and so state, which is unprecedented in my view.

Mr. D'AMATO. Here we have a situation where the people of Cortland, the

people who work in the factory at Cortland, a good factory, a productive factory, a competitive factory—let us understand this. We are not on this floor saying give us a handout. As a matter of fact, we say we do not want any handouts, do not give us any handouts; just see that we can compete fairly, that is all, just make sure that the other guy is not allowed to break the law and will compete. Win or lose fine, that is how we will compete.

If it does not take place, everybody who says, "I want jobs," they are running around, "I want jobs." The House Members, "We want jobs for our people." Here is a change to keep jobs. When I said what would we pay to bring in 875 to pay \$17 an hour, my gosh, States give these bonanzas that come into my State. We give tax abatements, they give low-cost energy. That is what they are doing to attract jobs. Why would we not want to make a small effort to see that it is fairness?

I understand Mr. Thompson is going to come down and be here with us and answer any questions that people might want to ask. He is prepared, and he called at 2:45, having seen this, and said that his commitment is one that, if we get this legislation passed and signed into law and the Commerce Department indeed does follow through, that he is ready and willing.

Mr. BAUCUS. Mr. President, will the Senator yield for a question?

Mr. D'AMATO. Yes.

Mr. BAUCUS. I ask the Senator, will he reconsider the request he made earlier this evening to make one small effort to save jobs? Earlier this evening I was on the floor and I asked the Senator from New York if he would think not only about the jobs in New York being lost here or potentially lost, but, also, the jobs in the State of Montana that are potentially being lost because of the failure of this Congress this year to pass a roadless wilderness bill, that is, to designate acreage in the State of Montana.

Mr. MOYNIHAN. Say that again.

Mr. BAUCUS. Roadless wilderness.

Mr. MOYNIHAN. Wilderness.

Mr. BAUCUS. As the Senator knows, not many years ago the Ninth Circuit Court of Appeals essentially ruled with respect to National Forest Service lands that are designated roadless for all intents and purposes. The Congress must decide which roadless acreage should be designated wilderness and which acreage is released back to the plans. That is because earlier environmental impact statements that the Forest Service attempted to adopt and write were declared by the ninth circuit to be insufficient, and the Forest Service decided it just did not have the resources to rate EIS's for all the national forest roadless acreage; therefore, it went to Congress and said, "Congress, we do not have the resources or the money, the time, the

wherewithal to make these decisions consistent with the standards required by the Ninth Circuit Court of Appeals, so, Congress, can you make the decision for us?" And in States across our country, I think with respect to 26 States, the U.S. Congress has acted. There are two remaining States where Congress has not acted. It is the State of Idaho and the State of Montana. There might be one other State, I am not sure. But at least with respect to Montana the Congress has not yet acted.

The Senator will recall not too many years ago my former colleague from Montana, Senator Melcher, worked very assiduously and all hours of the day and night to develop the wilderness bill with this Senator and the Montana delegation that passed the Congress, and President Reagan vetoed the bill.

And we are here now, 4 years later attempting to save jobs in the State of Montana, because if the wilderness bill does not pass then the U.S. Forest Service is virtually unable to put timber up for sale in various lands.

So I am asking the Senator, if he will yield, without yielding the right to the floor, for the purpose of a unanimous-consent request to pass this bill. I have notified my colleague from Montana of my intent to do this, and my colleague who was on the floor last time I made this request.

It is a very simple matter, an opportunity to save at least 400 jobs in the State of Montana by the estimate of the U.S. Forest Service. I am wondering whether the Senator would yield for that purpose, and I must say if he does so, he would be helping 400 jobs in the State of Montana. We are not a large State. We are 800,000 people. If this legislation does not pass, I must say to the Senator, that 400 jobs are in jeopardy in the State of Montana. It is an action we can take very simply.

Would the Senator again ponder this possibility and potentially think kindly about this request so we can save 400 jobs and then get on to the matter being addressed by the Senator from New York, that is the conference report? There might be a solution to this conference report.

Mr. D'AMATO. Here is the problem that I have, and I certainly think kindly about the suggestion. But the problem I have is that I have let too many bills go through already, because I was euchred. I was euchred into thinking that we had an amendment in the tax bill that, because we had a sign off by the administration, we were going to get passed, because the fellows, those of my colleagues who are so much concerned about there being free competition and that there be no impediment to that, that they had signed off, that we were not going to have any problem. And then when we run into a situation where the staff is concocting stories, where we do not get the straight

story, when we are told it is this, and that one, and the other one, and today I can only suspect and I do suspect what took place. That is wrong.

Here is the problem in a nutshell: I have even less leverage. I am counting on the fact that this legislation comes over here and it is going to be good legislation and is going to be necessary legislation, that when I insist on doing everything I can to stop it, that at some point I am going to get somebody in this body and in the other body that says: Come on, fellows, let us do what is right.

I want to tell you something else. I do not want it attached to the tax bill. I want it attached to something else. I want it attached to something that is going to be passed and judged on its own merits. I wanted it on the energy bill. I got euchred on that one. We both did.

Mr. MOYNIHAN. This was in the energy bill.

Mr. D'AMATO. Yes, and it should not have been dropped. People are playing a little footloose and fancy free, and we are going to fight, if I have to get everybody in here absolutely wild because he or she has their favorite bill. All I want you to do is look at our legislation and tell me why it should not be passed. If you are going to stay—

Mr. BAUCUS. Would it not be better if we find ways to help both New York and Montana, rather than ways to stop both the creation of jobs in New York and the State of Montana? I voted for the New York City so-called bailout bill, and that was not popular in my part of the country. But as an American, I thought it made good sense.

Mr. D'AMATO. I am not questioning the Senator's motives.

Mr. BAUCUS. Why do we not find a common cause to help the State of New York as well as the State of Montana, who very much would like to see a wilderness bill passed.

Mr. D'AMATO. I will respond in this manner. When the majority leader was here earlier on, I said and I repeat, I know our majority leader. I have been there. I know GEORGE MITCHELL. He is a good man. He is a good person. I appeal to him, and I still do, to attempt to find a way to deal with this problem. I hope that we can.

It would be my hope that some of my colleagues on both sides of the aisle would come to recognize the cause that Senator MOYNIHAN and I espouse as not one being biased, political, or seeking unfair advantage, but rather seeking what is right. If that can be done, we can fashion—no one can tell me that even in these closing hours that we cannot fashion an absolute legislative solution that will come from the House and come here to the Senate and be adopted and then we can get on with the business, the important business of jobs in Montana and jobs in other areas and all of those other considerations.

Mr. BAUCUS. I ask the Senator to consider this. I understand the Senator's point. But we know that probably the other body will adjourn sine die sometime between 10 o'clock and noon of this day. There is not the opportunity for the Montana wilderness bill to be part of the package that the Senator is talking about. Even though the Senate will be in session through Thursday, the House will adjourn for all intents and purposes within 5 or 6 or 7 hours from now. I just again plead with the Senator to reconsider this request, as that we can find a way to save jobs in both the State of Montana, as well as in the State of New York.

Mr. D'AMATO. I am most sympathetic to the entreatment of my colleague, and you make it hard. I have not found a person who is more distinguished of character and a finer gentleman than the Senator who I address at the present time.

Let me say that indeed, you have many friends and colleagues and indeed, if we are in the same boat, maybe we can get—maybe I am not able to approach this in an artful manner and in a skillful manner and in the manner that carries the support and favor necessary to make this possible. I do need the help of others. Maybe if it is only because we keep to a course which is rather autocratic, and I understand it.

Let me suggest this: Early on, before we came to this position—and I do not mean today—but as recently—and we did before, we told staff, Senator MOYNIHAN and I told directly to our own staffs that we were serious about this, that they would endanger the bill if indeed this provision was not in it.

Let me say that I have gone beyond. When I see a provision that was in the energy bill dropped out, I know why. Because that is a bill that is going to be signed. I will be doggone if I am going to allow any other legislation to go through, and we all sink or swim together. That is it.

If people want their legislative relief, they are going to have to go to the various people who run this place, or you are going to have to wait until I drop and fall down and go through the cracks. We are not, as far as I am concerned, going to allow anything to go forward as long as I can keep the floor. I have to tell you I feel good. I have lost my voice a couple of hours ago, but I feel good.

Mr. SEYMOUR. If the Senator will yield for a question, the question I have has to deal with the issue that the distinguished Senator from Montana is talking about—and the Senator from New York has been talking about going on 9 hours—that is, jobs. It seems to me that the only people here on the floor at this wee hour of the morning are people who have something to lose. We all have the same thing to lose: Jobs.

The Senator from Montana has 400 jobs there that you are concerned

about. Senator D'AMATO has 875 jobs in Cortland, NY, he is concerned about. I am concerned about tens of thousands of jobs in the State of California. And I find it unfortunate that we are here at 20 minutes of 5 in the morning defending jobs in each one of our States.

Senator BAUCUS wants the Montana wilderness bill for 400 jobs. Senator D'AMATO wants a two-page amendment that he feels is appropriate. I am not even asking that H.R. 429 be set aside or anything else. I am just asking to gain the floor so that I might have the right of every other Senator to filibuster this bill that I believe is going to cost tens of thousands of jobs in California and a \$4.5 billion a year hit on the California economy.

So it is unfortunate that here four Senators stand trying to protect jobs in their States, and the only way we have to protect them is to stop the course of business of the House. So I say to Senator D'AMATO that I think he has the right idea here. It has come time now to just stop all progress in the House until appropriate attention is paid to the one single issue we all have in common, which is jobs.

Mr. D'AMATO. If I might respond to my good friend's question from California. We can end this. I want to say something that, I hope, eases the fears of my friend from Montana. I have been informed that the Senate has not passed any adjournment resolution, and so the House cannot go out until we do. The most the House can do in that case is go out in recess for 3 days. I have to tell you it does not bother me.

Mr. SEYMOUR. It does not bother me.

Mr. D'AMATO. If we have to get their attention and get the attention of this body to act in a responsible, appropriate manner, on your issue, and I commit myself to being with you, Senator BAUCUS, but I have to get this done. I have to get this done.

I have to tell you that I know that the leadership of this body, if it wants to—and it may be tough—it is not easy. There are strong egos and strong personalities. People can rationalize, and we often do, this Senator included; but if we treat this as a matter of fairness and equity, I cannot see now, and I hope this is a lesson to me. I would hope at some point in time, even if it meant my State might be disadvantaged but it came to doing the right thing, we can say: Wait a minute, we cannot put somebody out of business because somebody in our State is headquartered there, but their people are applying standards of conduct which are not fair to somebody else.

Mr. MOYNIHAN. Would the Senator not agree that we were not just talking in this case of one town, one plant, one firm? That is was the understanding, was it not the Senator's understanding, that on the House side the chairman of

the Committee of Ways and Means had earlier introduced a trade measure that had to do with, again, these predatory practices of the Japanese, which they are going to have to learn that there really is a limit to our willingness to put up with such clearly illegal behavior, even if our Government will not, Congress will not.

Even if our Government will not, Congress will.

I have a letter here from Mr. James Houghton, who is the President, chairman of the board of Corning Glass in Corning, NY, which is—

Mr. D'AMATO. Right down the road.

Mr. MOYNIHAN. Thirty miles from Cortland. An extraordinarily productive, scientifically high technological firm. Fiberoptics is only the most recent of the technological breakthroughs that have come from Corning.

And this letter speaks of 2 million television sets with Japanese tubes, and the term which was new to me—as I say, I have been involved with the antidumping issue since—I was learning the subject at the feet of Harry Hawkins, who was with Cordell Hull—working on the reciprocal trade agreements under Cordell Hull. Mr. Houghton used the term "diversionary dumping," a pattern of sending materials to Mexico—in this case, tubes—and having some little addition there and bringing them in as if from Mexico. When in fact they are from Japan.

Mr. D'AMATO. That is very analogous to the situation we have here.

Mr. MOYNIHAN. Yes. The chairman of the Ways and Means wished to do something about that on the House side. And the measure we had agreement on as of yesterday noon included this diversionary matter, which the Zenith Corp., and Corning asked about. Again, a phenomenon. The American Flint Glass Workers Union, an old AFL craft union in Toledo, OH, on behalf of the workers in Corning and elsewhere, filed a diversionary dumping case. Again, there is something tone deaf in the Commerce Department. I really do not know what their processes are. I wish I could. I used to.

As I say, I negotiated the long term cotton textile agreement in 1962 for President Kennedy. It was Mike Blumenthal, Mr. Price, and myself. I was assistant Secretary of Labor. To say I, I meant the three of us. But it was a very protracted negotiation and an essential one. It was the condition on this floor of the Trade Expansion Act of 1962 which became the Kennedy round.

And the Commerce Department in those days could hear you. I do not know what has happened that they do not. I mean, somewhere there is—the bureaucracy has gotten behind the curve.

The United States, from 1934 shall we say to 1964 took the lead in the world on opening trade in the aftermath of

the Smoot-Hawley tariff and all the disasters that we helped inflict. And then the British went off—the British dropped free trade, went to Empire Preference; the Germans, the Japanese, they became the greater Southeastern Co-prosperity Sphere; a whole trade war which led to world war.

In response to that we began the negotiations which eventually, in the end—the international system that was put in place in San Francisco in 1945, the United Nations, had a series of satellite organizations: UNESCO, the International Labor Organization—and there was to be the International Trade Organization, the ITO, parallel to the ILO. It was to be headquartered in Havana. And it would be there to this day excepting the Senate Finance Committee said no.

But the Senate Finance Committee, and the Congress, typically was restraining the executive, which wished to go forward in trade matters. Which at that time the United States was astride the world as nothing that had ever been seen.

If you wanted to make a television tube in 1945—and you could—you had to make it in Corning, NY, or Elmira. Those were the only places in the world that made them. If you wanted to make an automobile you had to hire somebody in Michigan. That was the only place where automobile plants were running.

And somehow the Commerce Department has not come abreast of the fact that this is no longer the case and that, not just this world of mobile capital and technology and so forth, but also there are governments which shamelessly set out to destroy American producers in the aftermath of which they have a monopoly.

Mr. D'AMATO. The Senator is correct in making the point as it relates to these kinds of activities that have taken place, and that we have seen so vividly, decimate—decimate the industrial base that Smith Corona once enjoyed.

Mr. MOYNIHAN. Would the Senator agree that when Smith Corona closed down, if it does, that is it. Just as in 1945—it was a rather complicated, hard to pronounce economic term called monopsony—which describes that situation. In 1945, I said, if you wanted to manufacture an automobile anywhere in the world, if you were of a mind you wanted to manufacture an automobile, you had to hire somebody who lived in Michigan. That was the only way—or Ohio. The only plants that existed, that were running, were there.

When this happens if you want to buy a portable typewriter in the United States you have to hire somebody who works in Japan. And they would have brought that about, not through the trauma of international war and such, but simply by illegal trade practices—illegal under any understanding of the

GATT. We never got an ITO, but the General Agreement on Tariffs and Trade emerged, as they say, in Geneva in the course of negotiations. It is still largely informal. They have the old ILO building in Geneva, but it used to be a staff of seven or eight people.

But the absolute central propositions to the GATT were those set out in the U.S. trade policy in the 1930's.

Mr. D'AMATO. My colleague is absolutely on target. The practice that we attempt to deal with in this legislation is illegal.

Mr. MOYNIHAN. Yes. Yes.

Mr. D'AMATO. And it is only because we have not had the steadfastness of purpose, it is only because we have had the indulgence of some at the Commerce Department—it is only because there have been those with great power and influence, who have been able to manipulate the system, manipulate the system; distort the purpose and the intent; operate between the cracks—that we find ourselves in this situation where industry after industry has been systematically pillaged. And they have had to rely on the kinds of things now that Smith Corona is thinking about, for survival. Move offshore, 875 jobs—poof.

There is another part of this and that is the part that the rest of corporate America plays. Because you see there is a good part of our manufacturing base in our successful corporations that do business with these pirates. They do business with these people who are illegally dumping. They do not want to jeopardize this relationship.

So it is a kind of quiet tugging, when the Big Brother powerful corporation who does not want to endanger or infringe—and I am not in a position to say that they get calls from their associates, their foreign associates, but I suspect they do, who tell them you better speak up and you better do something about this. Because I have to tell you something. I have received—and I wish I had the courage that my friend and senior colleague from New York had when we got similar letters, in terms of responding to this one corporate fellow when he was telling us how erroneous we were in dealing with this situation.

Incredible. He came in as a supplicant for the continuation of this kind of action—major, major corporation. Incredible—American. We cannot have that kind of thing. It is wrong. It is wrong. And then think that we are going to be able to provide—I do not care who gets elected, Democrat, Republican—if we permit this kind of policy to continue and look the other way.

Mr. MOYNIHAN. Would my friend agree, it may be less important who gets elected than who is the next Secretary of Commerce? Mr. Houghton in Corning, who is not notably associated with leftwing causes, writes. He says of the Commerce Department:

We have repeatedly and unsuccessfully asked the Commerce Department to help to address this problem. While the Commerce Department clearly has the authority under the law to rule in our favor, they chose instead to reject our request.

Mr. Houghton is an eminent citizen of our southern tier, as we say. He gets no satisfaction out of the Commerce Department.

Our Smith Corona got none. There is something lacking in energy in that system. It is as if they—I do not know. I do not know whether it is just a bureaucratic entropy—it happens—or if they are still caught in a time warp and are trying to get a free trading system going as if this were 1937. It is not. Or 1947—it is not.

Mr. D'AMATO. I think it is almost laughable, I have to respond to my colleague. It is like they are trapped in this time capsule and they really do not see with clarity what is happening.

I think they are good people. I do not question their motivations. But I think this.

I think when we put them all together and put them in this atmosphere and all we hear is free trade, free trade—I know my colleague is not talking about going back to the days of Smoot-Hawley. We are not talking about that.

Mr. MOYNIHAN. No.

Mr. D'AMATO. We are saying, if you are going to stop that kind of reaction, and it is building, you hear it, you see it, you know it—people who believe in free trade now have to harmonize it and put caveats in it. Yes, but it has to do this and that and the other thing because people are saying, what are you talking about? Free trade? Free trade? They are buying us up and they are leasing it back to us. And we get the low-end jobs.

That is effectively what has taken place. So, you know, we will reach a mentality analogous to the days of the Know Nothings, when they are going to say stop it all; no more; I have had it. Then we will be back in those days of Smoot-Hawley and stop anything and everything from coming in. It is going to be just America.

Then my friends who make the argument if we continue in this way we are going to cost the taxpayers more money, they might be justified at that point in time. Boy, that is the path we are headed, that is the path we are going in.

Senator MOYNIHAN and I talked about fairness and that is what we want. He is one of the most eminent, as it relates to understanding the history of trade.

When we got up on this subject, when we raised this issue together, he gave a historical perspective that my colleagues should listen to. You know, what a wonderful way to end this session, to cut out these provisions and put them on a bill that has to pass? Find that legislative vehicle, pass it,

give a real holiday present to those who are working and if given a fair opportunity will be able to continue to work and provide jobs and hope and opportunity for themselves and their family, future generations.

When we take a look at this chart we are going to see what those 875 jobs produce. Because for every 100 manufacturing jobs there is the creation of 64 nonmanufacturing jobs. So 870-some-odd jobs, take them out, you affect more than half—you affect more than 500 nonmanufacturing jobs.

Look where these jobs are. Every 100 manufacturing: 45 in wholesale and retail trade, entertainment and recreation, we can understand that; 7 transportation; 3 finance, insurance, and real estate; 3 in business repairs and services; 3 in construction; and there are the 3 jobs—this is a pretty good ratio—jobs in public employment. That is a good ratio. 100 private sector jobs, government jobs.

Now, that is how we reverse the statistics that indicate that we have almost, we have more people today in public service, who work for governments than manufacturing.

Mr. MOYNIHAN. Right. That is right.

Mr. D'AMATO. That is incredible.

Mr. MOYNIHAN. This is your first stop.

Mr. D'AMATO. And instead of saying let me find some job training programs for people, we will pay about \$10,000 a year, displace 875 people. I think that comes to, that would be close to \$10 million—\$8,750,000, I think, if you multiply that, 10,000 times 875. I think that is what it is. Imagine spending close to \$10 million a year on job training and not really being able in most cases to find people in that region any kind of meaningful employment or certainly employment that will not pay nearly the levels they are receiving. So we will be spending millions of dollars of taxpayers money, we will be taking income-producing, taxpaying people off of those rolls, both at the State level and at the Federal level. I have to tell you, what would we do, as I said before, to keep, or bring in 875 new jobs?

Mr. SEYMOUR. Will the Senator yield?

Mr. D'AMATO. Certainly, for a question.

Mr. SEYMOUR. For a question. If my math is correct, and I follow the Senator, there are 875 jobs, and for every 100 new manufacturing jobs, you create 64 new nonmanufacturing jobs.

Mr. D'AMATO. Right.

Mr. SEYMOUR. If my math is correct, really what the Senator is talking about is 1,435 jobs. And if in fact it costs the Government to retrain these people about \$10,000 a job, you are talking about \$1.5 million a year.

Mr. D'AMATO. About \$14 million.

Mr. SEYMOUR. Right.

Mr. D'AMATO. Fourteen million.

Mr. SEYMOUR. At this early hour the Senator's math is ahead of mine. Fourteen million dollars a year to retrain these people when we could keep them working.

Mr. D'AMATO. Yes. Sad.

Mr. SEYMOUR. Is that right?

Mr. D'AMATO. That is correct. My friend and colleague from California is absolutely correct. And that is why the frustration.

And I say here we have a chance to give these people, give that company an opportunity. I do not know whether they are going to make it but certainly they should be given a chance.

I do not know if the Commerce Department is going to follow this law to the point where they really go after these circumvention cases but at least we give them a chance.

I do not know if the Smith Corona board of directors and Mr. Thompson is definitely going to keep those jobs. I believe him, though. I believe that if he sees there is legislation and that we are really going to go after those people who are violating the law, then he can compete.

Now, I have to tell you something incredible. When he sat down with me, they told me he was going to say it was an old plant, antiquated, they could not keep up. He said: "Senator, let me tell you, we have the best workers."

I believe it. I went up there. I saw those people. They are good people. They were not raising heck. These are the kind of people who, day in and day out, get up; they do their job; they raise their family; they pay their taxes; they are abreast. They do not make demonstrations. They ought to. They have every right to. They have every right to say: Why do you not protect us under the law?

Equal protection. I hear that equal protection, equal protection. Here is a chance for us to give equal protection. Let us give these people equal protection under the law. Let us say not only to 875 jobs, but as my friend points out, the more than 600-plus other jobs that will be lost as a result of our failure to stand up and to give equal protection. That is what we should be doing, giving equal protection to the workers of America, wherever they are, in whatever State they are. In Montana, in New York, in New Jersey, in California, you name it, they have a right to that protection.

They do not have a right to avoid real competition. They have a right to say that there is a level playing field. They have a right to say to these competitors from outside of this country, or any place, not to break the law.

This is to me so mind-boggling. And you know we can make a difference.

I have to tell you something. I wonder if there is real people power. I wonder if there is real people power, because if what Senator MOYNIHAN and I say is true, it would seem to me people

would take the time out to get on the telephone and call their Senators and say: Why do you not stop this business? Why do you not stand up for what is right. Why do you not stop giving us this business about, oh, I am for jobs. I am for job training. I am for more of this. Why, any darn person is out for more job training.

Public works. I want master public works. Well, where do you think we get the public works dollars? You have to raise taxes, raise the deficit. Is that the real kind of job you want, or do you want productive jobs that can compete? And they can beat the Japanese if they are head to head. They will beat them any day, any time.

Let me tell you what they did at this plant. They increased their productive capacity 700 percent in 12 years.

Congressman, it is good to see you.

In other words, this is not an old, antiquated plant; it is modern. It is effective. They invested millions in it. They trained their workers. They sent them to school. They gave them courses so that they could compete.

And do you know who these people are? I will tell you who they are. I read your the names. You will know. They are good people. They are humble people. Humble people, working people, working class people. They represent a microcosm of the greatness of this country. It is a cross-section of America. It is great.

Why do we turn our back on them? Why do we? What a hollow victory. I am going to tell you something. The bill may not go through. Our legislative efforts may not go through. I want to know and I want to ask those who have been involved in holding it back, blocking, thwarting it, how do they really feel?

(Mr. GRAHAM assumed the chair.)

Mr. MOYNIHAN. I wonder if the Senator would not agree that this bill passed the House by 6 votes. I remarked earlier—he agreed—that in 16 years on the Finance Committee I have never known a tax bill of this consequence come this close. Of our delegation of 33 Members of the House, 23 voted for the bill, only 10 against, which indicated the New York delegation could have killed the bill in the House and still can. Only 10 persons, Mr. LAFALCE, Mr. MCHUGH, Mr. OWENS, Mr. HORTON, Mr. LENT, Mr. MARTIN, Ms. MOLINARI, Mr. PAXON, Mr. SOLOMON, and Mr. WALSH, vote "no". I do not see how on this side it is not a Republican or a Democratic thing. On this side we have the votes to pass this bill, but do we want to? What kind of message is it, what trumpet sounds with a margin of 6 votes in a body of 435? That is scarcely a statement that here is a measure that the Republic needs and cannot delay enacting.

Mr. D'AMATO. I agree with my colleague. That is one of the reasons that I said that not only am I prepared to

stop this bill but any bill, any bill, no matter how inconsequential it may be, no matter how substantive it may be, no matter how necessary it may be, because if that is the only technique, then shame on us. Shame on us. But if that is the only technique that we can employ to get a matter like this considered, which is a matter of fair play, I should have employed it sooner. I am sorry that I did not get my hands on that energy bill sooner and started even before that bill came up.

Mr. MOYNIHAN. The measure, the energy bill was amended to this purpose. The Senator did that. We united. And the body has been on notice that we care about this matter.

Mr. D'AMATO. My colleague is absolutely right. We gave good and sufficient notice. We gave it long before we came to the floor Saturday. And Saturday we came to the floor and together we said if you do not try to work with us in addressing this measure as it relates to jobs, why, then be prepared.

And I have to tell you, I am generally more overstating, generally more overstating, but Senator MOYNIHAN was very specific in his comments. He was there. When asked, "Would you filibuster?" He said, "Yes, I will do it."

Now, look, I do not know how many people are waking up to this, and I do not mean back in the hinterlands and at home. But I hope my colleagues here understand. I have a lot of things I was supposed to do, I think four or five cities today, or four tomorrow, a whole bunch of things on Thursday including an important fundraiser—I should not say that but this is—

Mr. MOYNIHAN. The Senator is going to be grand marshal of the Columbus Day Parade, is he not? Is it possible we might still be here on Monday?

Mr. D'AMATO. That is a good possibility.

Mr. MOYNIHAN. Then you will not be able to be grand marshal.

Mr. D'AMATO. That is correct.

Mr. MOYNIHAN. That I think to be unfair. That is unjust and cruel and unusual punishment, I believe.

Mr. D'AMATO. It will be the first parade in more than the 12 years that I have been here that I have missed. Columbus is this very special occasion, and I look forward to marching with my colleagues. We talked about it earlier.

Mr. MOYNIHAN. Yes. You told me you would not be wearing a top hat.

Mr. D'AMATO. That is correct. I know some Congressmen march with top hats, and Senator PAT wanted to know if I would be marching with a top hat.

Mr. MOYNIHAN. Grand marshal.

Mr. D'AMATO. That is the grand marshal. I told him no. But I would forgo that. And let me tell you, I will forgo the pain of continuing gladly, if I can get the kind of assurance that

there are several people here, our distinguished colleagues, both the majority and the minority, who can say we are going to work this out.

By gosh, we are going to do this. We can do it because it is the right thing. And then pass the legislation in both Houses. And then when we go home, no matter what the political situation, we can say we did our best and did a good job and we made a difference in some lives, in the lives of—we call them little people.

They are not little. We should not say that. But let us put it better—the person, the good and decent citizen, the hardworking citizen who meets his responsibilities and because he or she does, because they do somehow we overlook them.

They are taken for granted. And I tell you, there is a cry out there. The phenomena of Ross Perot, why is it? How was it? Why was there such a gravitation? People said we want somebody that is going to tell it the way they see it.

I am tired of just hearing the rhetoric. The system is broken. It is not working. That is true.

Mr. MOYNIHAN. There is no reason this system could not work if the trade laws were enforced with anything like the energy that you associated with what Hamilton described as good government energy in the executive?

Mr. D'AMATO. Energy?

Mr. MOYNIHAN. Here is a letter from Corning, Mr. Houghton saying the Commerce Department could do this on television tubes. They do not.

We have gone through this with typewriters. The Senator has been to this plant more than once. I have been there more than once. It becomes an issue of, if they can do that, what else can they not do? Some things rise to a level of symbolic importance as well as a substantive one. This is just such a clear case of a Japanese predatory government encouraging capitalist destructive market behavior. They do not want to produce cheaper typewriters. They want to produce a monopoly. That is all this is about.

Mr. D'AMATO. Mr. President, I want to tell you that is exactly what this is about, a monopoly. We go back to the days of Teddy Roosevelt and we go back to the days of the antitrust laws and we say, "You are not allowed to do this to create a monopoly. You are not allowed to cut your prices in one area so you drive everybody out of business." And if you are a big plant, you can do this, or a big retailer. I will not even mention the names, because we grew up with them as kids, and somehow we even recognized we were being taken advantage of.

That is what the laws were there for. How we misuse this concept of trade. How we misuse it. It is wrong. It is absolutely incredible. Free trade says, "under the prevailing provisions of

law." Dumping, predatory practices, which do not allow for competition, which are brought about to drive Corning out of business, to drive Smith Corona out—and, boy, are they doing it. They are doing it; they are that effective. They are doing it.

Let me tell you the consequences of this. Oftentimes they only lost 875 manufacturing jobs. And, of course, I have to say again, Senator MOYNIHAN goes right to the heart of it. What a devastating perception, devastating to the last manufacturer of American typewriters. We now manufacture in Mexico, that is what they will be doing.

You know we can stop it. Why not stand up?

It is not only 875 jobs in Corning, not just the 600-plus jobs in this manufacturing area in addition that are produced. It is not just them. You know what it is. You know what it is. It is defeat of American technology, American labor, American work ethic. It is saying, you cannot compete, you are relegated somehow, and we are loaning ourselves to that. Is that not sad?

Mr. MOYNIHAN. The Senator would agree that the irony and the imagery is compounded. This measure was not just a measure to deal with the last typewriter production lines in the United States. It also was combined with a measure on television tubes from Japan. Probably the first large act of predatory pricing by the Japanese designed to knock out American production capacity was in television sets. The Zenith was very popular in Elmira, not many miles, 40 or 50, from Cortland. They are put out of business by the Japanese. Not for the purpose of just selling a better product, but for the purpose of eliminating the competition by low prices; whereupon, you raise prices. As economists say, you maximize your return in terms of the market.

Mr. D'AMATO. Market with no competition.

Mr. MOYNIHAN. A market with no competition. You decide one price will produce the largest profit independent of competition. There is one.

And we have invoked these measures here, and the House had agreed, and then we learn something. I said to the Senator earlier I have not heard the word, you do not hear the word "lie" very often in this Chamber, but we were told, the Senate negotiators had been lied to, lied to. That is a strong word.

That is not the basis of good-faith negotiations. You cannot have legislation based on that order. This legislation having passed the House by six votes, I observe that 79 Democrats voted against it. Even the one Independent from Vermont [Mr. SANDERS,] voted against it. One hundred twenty-two Republicans. Almost as many Democrats as Republicans voted no. That is bad

enough. Then with this, what has been served by a year-long crafting of this vast enterprise? It is easily 900 pages.

We shall have labored to no product, to no avail, and I do not know but that we will deserve what comes of this, the futility. Here we are, it is 5:22 in the morning. The Senator has been heroic with stamina beyond my understanding. And this was resolved yesterday noon. There was no problem. It was understood. It was a perfectly straightforward grievance. It did not do anything to enable the U.S. Government to act. It did not levy anything. It did not increase tariffs. It did not change the basic understanding of international trade. It simply said you cannot do that kind of predatory thing, and the U.S. Government is—I do not know that we even needed the statute. We needed to wake them up in the Commerce Department.

Mr. D'AMATO. I think there is another sad part of the story. I do not know how often any of us had occasion or opportunity to hear it. It is a question of the tail and the dog. In this case, I do not believe it is the tail wagging the dog. I think in this case maybe we may have reached a point where our political will has become so emaciated that we no longer have the stamina to stand up to the dog. We are now the tail. And the dog will not allow us to even wag it.

We cannot even ask to have the liberty and freedom that this animal has. We have to be considered violating some spirit—and, by the way, if we do this and if we insist on fairness, if we insist on the law, Lord knows what they will do to us. You know, they may not buy our bonds. Oh, yes. I have heard public officials, I have heard people over there at the Treasury. You know, if you start with this, if you seek fairness, the right thing, we may be in big trouble. They may not buy our bonds. How many times did you hear that? How many times have we heard that? You cannot push for what is right. If you work for what is right, these people are going to give you trouble. Let me tell you, powerful, power, money, use it, you better believe me. They know how to use power, and they do.

What do you think this bill is held up for? You really think that, if we had an honest vote on what is right on this bill, we would lose? No way. We will lose if everybody wants to protect some one side or other, but not if you voted on the issues or on the merits. No way. No.

Let me tell you, my distinguished colleague from New York, Senator MOYNIHAN, is right. Eliminate competition, they do not want any competition, you knock them out, then charge whatever you want and they got us, we are down.

By the way, it is almost symbolic, it is symbolic. You really want to talk

about a great country, a great Nation. How many people now, 300 million people, and we have one typewriter manufacturer. What, are we serious? We have to grow very well.

Mr. MOYNIHAN. If I could ask this question about what the Senator is trying to say to the Senate. There is a substantive issue here, but it is very real to us in New York. It is certainly real to anybody who lives in Cortland County.

But there is a larger statement being made. First of all, the television aspect. You have a pattern. The television was invented in Britain, the United Kingdom, but first developed—well, certainly very quickly on, the United States was producing television sets and had television broadcasting; in 1939 I think was the first one. We did all that technology, and now the production of television sets is almost exclusively in Japan, as a pattern of state-directed policy to destroy American competition and then have a monopoly. Certainly typewriters. I think the first typewriter, if I recall, was developed in Wisconsin. But it was very much an American idea, still sort of a 19th century one. You can spell "typewriter" on the top row of the keys. That is how the salesmen did it.

Mr. D'AMATO. May I address, Mr. President—and I have to tell you I know my distinguished colleague is posing a question to me. Before I respond to it, I have to tell you I never cease to be amazed at the absolute storehouse and treasure house of knowledge, and it is enjoyable, and it is fulfilling, and it is educational, and here we are involved in. It is totally just wonderful.

Mr. MOYNIHAN. You spell "typewriter" on the top row of keys. In the museum, you will find wonderful old typewriters, old 19th century machines, very nicely brought up to date in this portable.

I remember seeing an example of this particular portable, and it had a little decal on the front of it that said, "I am a very smart typewriter," and it said, "And you are a very smart typewriter. You read the manual. It knows how to spell. It does not punctuate very well, but that is harder than spelling. But there are words, you know, that big vocabulary of frequently used words which, if you misspell it, the typewriter will correct the spelling. It is these kinds of little device, the little computer-driver device, so you have a very handsome machine made in very handsome circumstances, which is one other thing about Cortland. As I say, just over the town line is the town where David Haram lived, that great American folk figure of harness racing, and that lovely valley and that plant. You can miss it. You can think of it as a very, very large dairy farm from a distance, set in green fields. It is one-story, air clean, efficient, everything

you would want. Except along comes a Japanese firm, and they have learned something. They did not used to do this from Tokyo.

They will now have headquarters here, and assembly plants there, and the next thing you know this is a complex issue. I think that the Senator surely would agree that if we let this sort of thing happen to us, we will end up with about a third of our work force unemployable or unemployed. This is not simple work, but it could be done elsewhere. If you allow people to destroy a perfectly profitable activity here, simply with the purpose of making more money by making these jobs leave our country, if we do that, about a third of the present American work force is absolutely vulnerable to this kind of predatory practice. And it will put them out of work, because they cannot profitably manufacture in monopoly circumstances, and foreign assembly circumstances. You can make more money. I do not think the Senator thinks that is a very wise course for this country.

Mr. D'AMATO. It serves no purpose and it is counterproductive. It is alien to everything that we are taught. We are taught to compete and to fight and to fight hard.

We have seen the battles between the domestic producers of various products, whether it be the Big Three in the auto area; but there is an element which we call fairness which was rooted in law and which we are omitting, and I do not know why.

I think I do know why, and I think the Senator touched on it. We lack energy. We lack the ability to say wait a minute, this is going too far. Wait a minute, this is breaking the law. Wait a minute, I am not going to call a truck a car because it can help—why did I introduce that? Because that was one of the clearest examples of the kind of thing that makes a mockery of the law. If it is a truck, it is a truck. It cannot be a truck for one purpose and to escape the taxes, the tariff, become a car. And then so it does not have to meet the emission and safety standards and the miles per gallon standards, it becomes a truck again, because the standards as a car are much higher and for the luxury tax purposes, they can escape those. Talk about manipulation. This is worse. This is worse.

You are putting people out of work. Shortchanging the taxpayers, and we do it here.

Mr. President, I was going to make the speech, and I was prepared to take on the administration to say enough is enough is enough and it is not good enough when you talk about creation of jobs and opportunity and then turn away. You know what, they met our test. They met our challenge and said yes.

Mr. MOYNIHAN. Yes; they did.

Mr. D'AMATO. Now that problem is in the Congress. We are the problem. We have to deal with this. If we are not going to deal with this, and I do not get the assurances we are going to deal with this in a way that this is going to bring this into law and enact it, we are not going to deal with anything. We are not going to deal with anything. I think the Senator and I can go on and spell each other at times and we have not even started. We can make people read every bill and not agree to anything. I have not even suggested an absence as it relates to a quorum. That would not make too many people happy. I wonder where they are at 20 minutes to 6.

Mr. MOYNIHAN. We could ask the Sergeant at Arms to compel the attendance of Senators.

Mr. D'AMATO. We could get into that and keep us into that until we got everybody out of bed. I do not know what time they will come on down here. We do not intend to do that. But let me tell you something, manufacturing jobs, what they mean to a community. Aggregate personal income. We multiply this up in Corning by 8, almost 9, each 100 jobs, \$1,948,000. Each 100 jobs mean 7 new retail establishments. Each 100 jobs, 64 nonmanufacturing jobs. Each 100 jobs—when you lose those, you lose these number of people and you lost this kind of revenue. Family units, 102. School enrollment, 61. Look at retail sales. It is \$1.477 million for 100 jobs.

So it has impact and it has meaning. It has substance.

But more important, we have an opportunity to say to the little people—and I do not mean to say little people to demean, but I am talking about the good people, working people who do their thing and pay their taxes and they do not have a lobbyist. They are doggone lucky that they have a corporate environment up there that fought for 10 years and did not give up.

Let me tell you something about this business. These jokers over at Brother's are smart, tough; they have fancy lobbyists and everybody on the payroll. They are hitting this one and they hit that one. They are at this thing. I want to tell you something. They finally got a little bit wise and said: Let us open this little make believe phantom plant in Tennessee. Let us add a judge up in New York and they did not know what a phantom plant is. The lawyer that presented that case did not do such a good job. It is one of those phony operations, a phantom plant. There is no real manufacturing, no real content that comes in that is American.

But before that move to Tennessee, there was another attempt, and a successful one, at circumvention that this corporation engaged in. They wanted to get around those antidumping duties. So what did they do? When they began their operation, initially it was

in Japan. So they had a circumvention order and they moved their plant to South Korea to avoid these antidumping penalties placed on it as a result of another case that was successfully litigated against them and in order to circumvent that order.

As you know, or may not know, the same manufacturer, same product, same suppliers, no longer are in South Korea, no longer in Japan, but they moved to Thailand, and they moved to Singapore, Malaysia, and so they just bounced around. So when the order comes down against the country, they say, it was not manufactured there. Now we have this ruse that it is in Tennessee. Parts still come from Malaysia, Singapore, are shipped to Tennessee where the only content is the wrapping and the box.

Mr. MOYNIHAN. I wonder if the Senator would not agree to this? The States, even as the whole object of the reciprocal trade agreement was to see that countries stopped predatory practices, States have to do the same. New York State has taken the brunt of this impact: in Corning, Zenith in Elmira, Smith Corona in Cortland. And I guess it was originally the L.C. Smith Shotgun Co.

New Yorkers, we cast 23 votes for that bill, our delegation, and only 10 against. If three of our Members had said, all right, Tennessee is more important, and other places are more important, three switching the vote, the bill would have been a tie vote. There were only six votes. Our delegation, if somebody divided, the bill would have gone down. That is not much recognition.

The Senator has heard me say that, and I think he agrees, in this body, we have a problem of apportionment. There are 13 States in the United States that have 11.5 million persons altogether, and they have 26 Senators. This arrangement would be instantly declared unconstitutional by any Federal court, excepting for in this case it is provided for in the Constitution.

We have trouble, the two of us, representing 18 million people. There are 26 Senators representing 11.5 million.

But on the House side we have our share. It is apportioned by the popular body. We could have killed this whole bill just like that. And we could continue to do so.

The Senator has heard me say that it is a big shift in my thinking that the outcomes for a State such as New York that emerged from the Congress, simply have long ago ceased to be something our economy can sustain. I mean, it was one thing—in 1940, New York City cast 7 percent of the vote in the Presidential election. And we were in a situation where you could think of a policy of having the Federal Government allocate resources through the tax system and the system here on the floor. And you could afford to allocate

resources away from New York. But not in a context where something like this happens and no one cares at all.

Mr. D'AMATO. The Senator is correct.

Mr. MOYNIHAN. We could have killed this bill, and I wish we had.

Mr. D'AMATO. I certainly concur in the Senator's feeling of frustration. I think that had we been given the honest straightforward information as to where the battles lie—

Mr. MOYNIHAN. We were never told. We had an agreement, and it was broken.

Mr. D'AMATO. We could have dealt with the situation and we would not be now getting ready to have all of our colleagues come back and find out that there has been no progress made, that indeed, if anything, we are regressing. Members are going to be saying that I have to get home, and I have to meet my obligations, whether they be a Columbus Day Parade or whether they be—

Mr. MOYNIHAN. Does the Senator think we are going to be here on Monday?

Mr. D'AMATO. I think there is a good chance.

Mr. MOYNIHAN. As a grand marshal would know.

Mr. D'AMATO. I will probably have to call mama and ask her if she will take my place in the parade, and she will probably be much more warmly received. Certainly, she will not get much of the salutes that sometimes come with the office that I have received from time to time in a parade.

Mr. MOYNIHAN. And parades, they are hazardous duty.

Mr. D'AMATO. Particularly in our State, I think. I do not know if they are usually, if they manifest the same kind of outpouring of political sympathy and scorn, but that is part of the great process of New York, and it is quite different.

So I will probably be here, along with my distinguished colleague, the senior Senator from New York, because I think there are just a lot of bills, a lot of things that my colleagues are going to want to finish and that the calendar will demand. I have not gone over them. I am going to ask my legislative genius here to look over some of those.

There is a GSE bill they are going to want to take up dealing with Government securities, and so forth. There is a housing bill. I worked on that bill. There are a lot of good things in that bill, a lot of good things.

For example, we deal with some of the critical problems of the mix of seniors and those people who have disabilities, mental disabilities in particular. We attempt to deal with them so we do not have these divergent populations that sometimes really have provided tremendous problems for our seniors. So we try to take care of those who are mentally disabled and do it in a way

where we recognize that and see that we give them the proper kind of shelter, but just do not willy-nilly, mix them in with the senior population.

Sometimes you have these young adults who are 21, 22—it is just a heck of a problem.

So we have housing, we have GSE, we have foreign operations, we have the energy bill, we have the matter of concern to my good friend—

Mr. MOYNIHAN. The Montana forest bill, sure.

Mr. D'AMATO. The wilderness bill. There is no doubt in my mind that there must be tucked away in the nooks and crannies of the various legislative leaders other matters that generally, in a rather perfunctory fashion in the closing moments, find themselves coming back and forth.

I was here on those occasions. I saw more bills going back and forth. We did more bills when we were out of session—we were not really out of session. The majority leader and/or his representative and the minority leader and his representative—and similarly in the process in the House. The clerk over there calls them up quicker—it is like an auction. They go through these things, boom, and they send them over here and we send it back there.

And, you know what. There is nobody around.

Now, guess what. Surprise—we are going to be here.

Mr. MOYNIHAN. Yes; you are going to be here.

Mr. D'AMATO. There is not going to be nobody here. They will be sending it back and forth. People are saying, "Why are you doing this?" I am telling you why we are doing this. We want this problem fixed.

Mr. BAUCUS. Will the Senator yield for a question?

Mr. D'AMATO. Certainly.

Mr. BAUCUS. I ask of the Senator, how long does the Senator intend to speak on this issue?

Mr. D'AMATO. Oh, forever. You mean at any one time?

Mr. BAUCUS. I mean how long does the Senator anticipate forever to be?

Mr. D'AMATO. I said 8 o'clock. I did not know that I would have my good colleague from New York here to join me and to raise some of these questions, and my friend from California. I think we can go, you know, to 10 o'clock, 12 o'clock, 1 o'clock. Then it might begin to get a little problem here and some other places.

But we are going to do this. This is not done for the sake of simply getting up, going through some kind of rote. I am not speaking to my colleague—I want others to know. Look, let me tell you something, when I tell you I am not going to be rolled, I am not going to be rolled. So, in the parlance that those parliamentary observers will understand, I do not intend to be rolled.

I said it before. I do not do this often. I do not do it often.

Mr. MOYNIHAN. The Senator will agree that we had an agreement noon-day yesterday. And it was not until—I tell my friend from Montana who is a member of our committee—

Mr. BAUCUS. I understand, but I might ask the Senator again, I just checked with a Member of the House about an hour ago, and I am again informed it is the intention of the House to recess, adjourn, whatever, by noon today. That is 6 hours from now.

If the Senator intends to keep the floor, I am wondering, how are we going to solve this impasse if by the time the Senator yields the floor the House has adjourned?

Mr. D'AMATO. Let me say this. If, indeed, we have the will, we could find the way.

Mr. MOYNIHAN. We could ask the House not to adjourn.

Mr. D'AMATO. If my colleagues here come up with a suitable methodology of getting the House to act in concert with the Senate, and the House can put this bill up on its own vehicle—it provides the revenue, put these tariff measures on, it does not cost any money—sends it on over and we act on it, you know, terrific. Those things can be done. And I believe in people, and if people give me the assurances, and so forth, that they will take a certain course of action, of course, I will then yield the floor. We want to accomplish this result.

Mr. BAUCUS. I asked the Senator this question because I know the Senator from New York has been dealing with this issue for some time. I really do not know how long it has been. Has it been a year?

Mr. MOYNIHAN. This Senator amended the 1988 bill.

Mr. BAUCUS. That is the point I would like to make. I would like the Senate to deal with this issue very quickly so there is time for the House to take it up. This is an issue that has been around for 12 years. We, in Montana, for 12 years have been trying to get this matter resolved. Finally, this year we have it resolved—I think we have it resolved. I just again beg the indulgence of the Senator to let this bill come up now. It will just take a matter of 30 seconds—less than a minute. The Senator will then have earned the good will of the Senator from Montana to try to help the Senator from New York find a solution to his problem.

Again, I just ask the Senator from New York if he could, again, see if he could find a way now—there is no time like the present—to allow us to take up this bill which we have been working on for 12 years.

Mr. D'AMATO. I would be delighted to.

Mr. BAUCUS. The Senator will not lose his right to the floor. The Senator would still have his right to the floor.

Mr. D'AMATO. I understand what my friend and colleague says, and I would

be delighted to accommodate him. But let me say this to him.

I said it would be my intent—you know, I am only human. I do not know how long I am going to be able to hold out. I did not start the night thinking, you know, that I was even going to begin doing this thing. As a matter of fact, I had just come right from dinner and came over here.

I was distraught, angered, annoyed, hurt, frustrated. I felt terribly—I want to tell you how badly I felt. I will tell you how badly I felt. I could not even talk. I could not even call. I could not even call the chairman of the board, Mr. Thompson. He did not need me to call him. He did not need me to hold any parties for him, because he was crushed. Because he was crushed. You know why? Because he really cares for those people. He really cares for them, and he was prepared to go back.

I was crushed. And then I said—I will tell you what I said—I said, Doggone it, this comes of my almost being a little subservient. Oh, Senator so and so—I will not tell you who—oh, baloney. I was not elected to do that. I was elected to be good to people and be respectful of people and I tried to be. But let me tell you something, when being nice is being taken advantage of and being treated in a manner in which my people find themselves being treated, being washed down the drain, doggone it, no way. You want to have a fight? We will have a fight. I do not mean yourself.

Let me tell you, I need you. I need the Senator from Montana. I need the Senator from Montana to become an advocate for this cause, to say, you want to know something, I do not blame Senator D'AMATO and Senator MOYNIHAN for saying no way are we going to let any action take place. No way. No way. Because, you know what? They are right.

If you did not believe in this issue and you said to me I was wrong, I would respect you. I respect you at least on that. You knock me out on the issue, by gosh, I understand that. Do not give me this stuff about it is a fight, the Hatfields and the McCoys, we are going to take the jobs from here to here. That is hokey, that is nonsense.

See, I do not mind. We get into some battles. I want more for a highway here. You say, no, we have more for a highway over here.

I want a formula because it will help this, and I say I have the ridership, and you say, "Wait a minute, we are way out in the boonies, and we have to get people, too, so you have to take care of our transit needs." I understand that. I understand compromises.

This is not a compromise. We are seeking justice. How do you compromise justice? How do you compromise fairness? How do you compromise people's lives? These are people's lives.

I do not direct this at you, but I want the Senator from Montana to feel this way to the point that he says, "Do you want to know something? I did not know anything about this thing"—and I do not think you really did. You may have heard about it.

Mr. BAUCUS. The Senator from Montana is suggesting another way to earn the support.

Mr. D'AMATO. Here is the point. You are my friend. You can be most benevolent, charitable, as it relates to this particular legislative initiative that we are attempting to accomplish here, which is to save the jobs of the people of Cortland. They are out now—they are out. They are gone.

If we adjourn, 12 o'clock—OK? And that place over there, do you know what they have done to the people? They told them—we have a little thing in Italian—we do not give a damn for you. That is what it means. That is what it means. The kids say "in your face." These things do not change too much. That is what we are saying to the people.

I did not stay up all night, I did not sleep many nights, many nights. I feel better today than I have in a long time because I got it off my chest. I had a chance to say what I really think, what I really feel. I spent sleepless nights thinking about what we are going to do to try to deal with this.

If I told you, oh, my gosh, the ambience from the meeting with the people at the White House—I was pretty good: Artful, nice, I did not get annoyed, I did not cuss anybody out, I did not say, "Why don't you wake up, see America slipping down, going through the cracks? Let us think about what we should be doing." I really just—I tried, and we got them to come around.

Then my own colleagues betrayed me. But you see, it does not matter, because I have lived in all kinds of circumstances. I lived in a room over the Varsity Restaurant in Syracuse, NY. You see, I have a little affinity for those people. I worked my way through law school as a janitor cleaning toilets. It was demeaning. I understood a little bit about life.

I want to tell you something. I want to tell you something. It gave me some respect for hard-working people who do those kinds of things day in and day out, people who are taken advantage of. Nobody says hello. Nobody talks to them. I learned that.

I met my wife—brilliant.

Mr. BAUCUS. I say to the Senator from New York, though, at this point I understand what the Senator is saying in several respects here. New York is losing congressional seats. Montana is losing one of its seats. We will be down to one.

Mr. MOYNIHAN. Half your seats.

Mr. BAUCUS. A 50-percent loss in congressional representation, basically because of lost jobs because the econ-

omy in our State is suffering so much. So I am very sympathetic to the situation in New York, and a lot of this is due to international competition. Canadians, for example, dramatically subsidize their soft wood lumber production in a very extensive way and a way which essentially results in between 30 percent to some 20 percent of the soft wood consumed in the United States being Canadian lumber, all of which is subsidized at rates much, much greater than is United States lumber production supported by the United States Government. The forest products workers in the State of Montana are hard-working people trying to make ends meet, just like the State of New York, just like the Smith Corona plant the Senator has been speaking about so often tonight. I just urge the Senator again tonight—there is an opportunity here, very briefly, in about 30 seconds, to save 400 jobs.

Mr. D'AMATO. If I might answer my friend, let me say this to you. I want to save those jobs, and I will do anything and everything short of giving up the ability to exercise the maximum amount of leverage that I possibly can. If that means I have to stay here until I fall down, then that is what I am going to do. If that means that I have to—whatever I have to do, I am going to do.

Let me tell you, I did not go through what I went through and I did not make the sacrifices I made to come here to be assuaged out and to be copped out and to cop out myself on what I know is right.

I have to tell you, too, I owe it to myself. I came down here and I said, "By God, Alfonse, you are just not going to do this. I went through too much. There are too many good people and they have been taken advantage of." And I am not giving this story, directing these remarks to my colleague from Montana. I do not want him to think that. That is wrong.

I do not want the Senator to think that. That is wrong. That is wrong. Because the Senator is a friend and I have empathy. If I get some assurance that somehow, some way we are going to do this thing and we sit down and they tell me how they are going to do it, and they tell me about the fellows on the other side, we are going to do it.

Let me say to my friend in terms of their going home and adjourning, they can recess for 3 days, and they may want to do that. But that is what they can do. They cannot go out unless we pass a resolution of adjournment. And I tell you I feel that I will be able to stay here at least until 12 o'clock so that they can go home if they want for 3 days and then maybe we can get some people to get some sense because this is only my first whack at this thing.

Let me tell you, I played all-night poker games, gotten up, gone to class, gone back out, and done my full day's

work. Admittedly, that was quite awhile ago. I will not tell you what I have been doing lately. I have been campaigning. No. But to be candid with the Senator, I am going to do this until my friends and my colleagues say we better address this.

Mr. BAUCUS. I appreciate that.

Mr. D'AMATO. Do you want to know something? I would not want to be a supplicant and an applicant on behalf of these people. I can assure the Senator I am ready—I do not want to impinge upon the Senator personally or upon those people, but let me tell you, we had provisions that would save these jobs in the energy bill. Then we had it in the tax. Then we had people agree to this thing. And the next thing you know, willy-nilly, it is dropped from the energy bill. And we have staffers telling us: "Oh, I am sorry."

At some point in time you have to say wait a minute, I was not sent down here, I was not elected, I did not work to come down here to be an appendage for the administration or the good old boys. No way. No way. And that is what we are doing. We are acquiescing. And if we want to go home and we want to say we can do it—

Mr. MOYNIHAN. I wonder if the Senator would not agree that this is doable. Maybe there has been a misunderstanding. But the Senator from Montana has a very clear, legitimate interest, and Senator D'AMATO and I—we are losing three seats. You are losing half your delegation.

But why are we not hearing from the House that the arrangement which was agreed upon yesterday is agreeable once again? Something happened yesterday afternoon. I tell my friend, Senator BAUCUS, neither of us know. I walked on this floor at 6:15 last evening, 6:10 about that time. The vote on the override of the President's veto of the cable television bill was on the floor. And there was Representative RAY McGRATH of Long Island, who is retiring, unfortunately for us, and he was there to say that Mr. GUY VANDER JAGT wanted us to know that contrary to what we in fact had heard, he was not withholding his support from the tax bill. He is a conferee. To the contrary, he had already signed the conference report. Think about that.

And he told Mr. DOLE right down there; Senator D'AMATO had not quite arrived.

About 2 minutes later you walked in that door and he told you. I said "Make sure you tell D'AMATO." It was so clear. Why do they not just send us a bill from the House side that puts yesterday's agreement in legislative form? We will pass it here and then we go on and do everything else. If not, fine. It is not that much.

Mr. D'AMATO. I would have to concur with my distinguished colleague who raises that question: Why do they not? I think that that is what this is

about. This is about trying to let them know that we are really asking for that which the House heretofore has enacted. It has gone beyond this. It has gone and enacted this provision and more. And that is the shame on those who would attempt to perpetuate this as a story that one Member would hold this up or to attempt to indicate to us that a minority member, not even on the Ways and Means Committee, would have the influence and the ability to stop this legislation from passing.

Now, let me tell you something. I do not undertake this action lightly. I thought about it carefully. And I undertake it only when I find there is no other recourse. And if it means that some of my colleagues are going to get angry at me, riled up at me, and characterize my actions in whatever way they deem, whatever way they feel, that is their right. And I understand it.

But I have to go back to the business of playing fair. Everyone, everyone was made aware of how serious Senator MOYNIHAN and I were when we said that Smith Corona, the issue of the preservation of those jobs, or at least giving the opportunity to preserve those jobs under the law be made possible.

If we went out of session, those jobs would be wiped out, and the Smith Corona people would have no other recourse other than to effectuate a plan of operation which would in effect mean the transfer of all of the manufacturing jobs from Cortland to Mexico. The end of the last manufacturing of a typewriter here in the United States.

I think Senator MOYNIHAN is quite right when he says it is real to those people, it is tragic to them and their families, but it is also real to millions of others. It is a symbol of how it is that a great nation cannot even enforce its own laws, how we look to excuses not to enforce them, how we say you have to pass legislation that deals with the manipulation. And so that is what we are attempting to do. We are attempting to deal with the huge cracks, cracks that have been manipulated and operated by the lobbyists, by the bureaucrats.

You want to talk about a tragedy. It is the tragedy of that kind of manipulation that has created a situation where we have fewer people in manufacturing jobs today than we do on the Government payrolls.

Now, we can continue this practice or maybe we can end this Congress with a more than symbolic message and a message of real hope and opportunity that we instruct—because that is what we will be doing—the Commerce Department by passage of this legislation to pursue those cases where there are these violations of law, to see to it that we have equal protection under the law.

Mr. MOYNIHAN. May I ask the Senator if he cannot conceivably under-

stand why we have reached the point where we have to instruct the Commerce Department in a matter which ought to be elementally their duty, and yet clearly we have to?

Mr. D'AMATO. It would appear to this Senator that over the years we have developed a system whereby the intent of the law has been thwarted by fear of retribution by the Japanese.

Mr. MOYNIHAN. Fear of retribution by the Japanese.

Mr. D'AMATO. Fear of retribution by the Japanese, because if we dare do this, oh, my gosh, what they will do to us, the economic power that they will wield. And so it has become impossible to define in our minds clearly that even where there are violations of the law, dumping—against the law—that we set up this wall which says but if you do this and cross that bridge, you will have GATT problems, you will have retaliatory actions and woe to those who undertake this battle.

We have now built up after so many years of this kind of practice a preconceived condition. It is like Pavlov's theory of the rat. When the bell rings—the bell in this case being the alarm by the Smith Corona people saying: "Hey, there is a buyer here"—there is a certain course of action and conduct, and that conduct by the bureaucrats is to deny it, and it is only when the plant is burned down, and in this case no longer operating, that they at that point will say there is no longer a manufacturing capacity, and even then at that point they will deny the reason for it taking place.

Mr. MOYNIHAN. I wonder if the Senator would answer a question for me. I am going to read, if he would indulge me, the provision which had been agreed to and ask whether he can explain how something this simple could become this complicated. It is now, as I see by the Senate clock, 12 minutes after 6, so we will see what time it takes. This is section 8502.

**ADDITIONAL AUTHORITY TO PREVENT EVASION OF ANTIDUMPING AND COUNTERVAILING DUTY ORDERS.**

(a) IN GENERAL.—Section 781 of the Tariff Act of 1930—

We are still dealing off Smoot—Hawley. I make that point—

(19 U.S.C. 1677j) is amended by adding at the end the following new subsections:

“(f) ADDITIONAL AUTHORITY TO PREVENT EVASION OF AN ORDER.—

“(1) ADDITIONAL AUTHORITY.—

“(A) IN GENERAL.—Notwithstanding any other provision of this title, the administering authority, after taking into account any advice provided by the Commission under subsection (e), may amend any final finding or order described in subsection (a)(1)(A) or (b)(1)(A) to include additional merchandise in order to prevent the evasion of such finding or order or to otherwise safeguard the integrity of such finding or order.

“(B) GUIDELINES.—Not later than March 1, 1993, the administering authority shall develop and publish guidelines that the administering authority intends to follow in exer-

cising the authority granted by this paragraph—

That is their authorities in one sentence—

In developing the guidelines, the administering authority shall consult closely with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

“(2) REVIEW OF PRIOR NEGATIVE DETERMINATIONS.—

“(A) IN GENERAL.—A request to review a prior negative determination may be filed within 1 year of the effective date of this subsection. If such request is filed, the administering authority shall conduct a review on an expedited basis and shall complete the review within 60 calendar days of the request. For purposes of this subparagraph, the term ‘prior negative determination’ means a negative determination made by the administering authority in an investigation conducted under subsection (a) or (b) before the date of the enactment of this subsection.

“(B) STANDARDS.—In carrying out the review under this paragraph, the administering authority shall take into account—

“(i) whether merchandise, sold in the United States, is completed or assembled in the United States or in a foreign country from parts or components.

“(I) supplied, directly or indirectly, by an exporter or producer covered by a finding or order described in subsection (a)(1)(A) or (b)(1)(A).

“(II) supplied by a person who has historically supplied the parts or components to any exporter or producer covered by such finding or order, or

“(III) supplied by a person related to the historical supplier—

It sounds like they are cousins—

or related to any exporter or producer covered by such finding or order.

“(i) whether the difference in the value of the merchandise sold in the United States and the parts and components described in clause (i) is small, and

“(iii) whether merchandise imported into the United States, which has been completed or assembled in a foreign country, contains an essential component of significant value that is of the same class or kind as merchandise subject to a finding or order described in subsection (a)(1)(A) or (b)(1)(A). The standards described in the preceding sentence shall also apply to any investigation pending before the administering authority on the date of the enactment of this subsection.

“(C) EXPANSION OF FINDING OR ORDER.—If, after review, a determination is made that additional merchandise should be included in a finding or order, the administering authority may amend the finding or order to include any parts, components, or merchandise necessary to prevent evasion. In the case of a finding or order which is amended to include merchandise described in clause (iii), the administering authority may limit the application of such amendment to the value of the merchandise attributable to the essential component.

“(D) TERMINATION OF ACTION TAKEN UNDER THIS PARAGRAPH.—Any action taken by the administering authority under this paragraph may be terminated or modified, if the United States Trade Representative notifies the administering authority that the application of this paragraph is inconsistent with the international obligations of the United States pursuant to a ruling under the General Agreement on Tariffs and Trade accepted by the contracting parties to such Agreement.

“(g) CONSTRUCTION PROVISION.—Nothing in this title shall be construed to limit, impair, circumscribe, or diminish in any way the rights and remedies with respect to antidumping or countervailing duty orders or determinations which existed before the date of the enactment of the Revenue Act of 1992 (including any rights and remedies which existed before the date of the enactment of the Omnibus Trade and Competitiveness Act of 1988).”.

(b) CONFORMING AMENDMENT.—Section 781(e)(1) of the Tariff Act of 1930 (19 U.S.C. 1677j(e)(1)) is amended by inserting after the first sentence the following: “The preceding sentence shall also apply in the case of a determination to amend an antidumping or countervailing duty order or finding under subsection (f).”.

(c) APPLICATION TO CANADA.—The amendments made by this section applies with respect to goods imported into the United States from Canada.

I ask my friend whether he does not think that this has become impossibly complicated, a simple matter of plain evasion of a clear obligation that requires 5 pages of text just to say do not do it, do not do what you are not allowed to do under the agreement you entered?

Mr. D'AMATO. I think my distinguished colleague has once again gone right to the heart of this matter. It is unfortunate that we have to seek this kind of legislative remedy and dot the i's and cross the t's in such manner that, when you read this, you wonder what the intent is. The question is, can this be dealt with in a straightforward manner if you violate the law?

Mr. MOYNIHAN. Your contracts, your agreements and treaties are laws of the U.S. Constitution.

Mr. D'AMATO. We are going to go after you. You are absolutely right. And it is preposterous that we have to go through all of this. It is even more ludicrous that we go back to the history of the distinguished Senator from New York of dealing with this back in 1988.

Mr. MOYNIHAN. Yes. That statute applies.

Mr. D'AMATO. Legislative remedies. And here we are 4 years later about to adjourn, about to throw all these jobs out the window, the hundred manufacturing jobs multiplied by eight with all the other jobs related to it. And for what reason? The reason that maybe we want to perpetuate the continued ripping off of American jobs unfairly without fair competition, by the way of predatory pricing. Is that why? Is that why we are here, to say, well, because of one man's misery, because one man has been cheated, because one man has had the law, at least, in the manner that it was never intended, so that he is victimized, that we are going to reward people at the sufferance of these people? That does not make sense.

I have to tell you if you come in and be fair, be square, and compete, we would not be here. Neither of us, Senator MOYNIHAN nor myself, would be

here on this floor saying we want fairness, we want equal treatment under the law. That is what this argument is about. That is what this battle is about. That is what this fight is about—equal treatment under law.

We failed to awaken and arouse in our colleagues a sense of some urgency or sense of our dedication to the burden of seeing to it that the people of Cortland, I repeat, are as important as any other citizen in any other State, in any other part of this country, and they, too, are entitled to fairness under the law, and they must be accorded that. If it means discomfort of others as a result of our continuing to bring this up, then that is the price that we should all pay for our stewardship. I have to say these people are going to be plenty uncomfortable if, indeed, we are not able to get a resolution of this matter.

Mr. MOYNIHAN. May I ask, why cannot a simple measure be sent over from the House incorporating the agreement we had yesterday noon, and be passed here and sent to the President? You have the understanding of the President that that bill would be signed. You have the understanding of the White House.

Mr. D'AMATO. That is right. I think a simple bill can be put together in a relatively short period of time, certainly well within an hour, and can be passed by the House. I know of no opposition from the House. I know there is one Member, I was wrong when I said he was not on the committee. He is the tenth ranking member on the committee, I think.

We understand how that committee operates and how it works. I have to tell you, to have a situation where the chairman of the committee who heretofore had championed legislation that went beyond, went beyond—

Mr. MOYNIHAN. Was it not in a trade bill passed by the House?

Mr. D'AMATO. Yes. Here was Congressman ROSTENKOWSKI writing to Congressman McGRATH saying that, notwithstanding the opposition from the administration, it would be enlightening to take this on, and now we are given to believe that he has just folded up his tent and he has said, "No, I want no part of this." That is inconceivable. I mean, that is asking him to go above and beyond.

But I have to tell you, I would never question his loyalty or sincerity or his friends'. But, you know, I do not believe it. I think it is a good job on his part to take the blame and to shield those who are responsible for this legislation being dropped out of the energy bill and now being dropped out of the tax bill when we had a right to expect that it would be there.

Now, I do not intend to yield. I said initially—and I was not kidding. I know Senator PACKWOOD said before the conference broke up that if you do

this, you are not going to get a tax bill. Some people here do not care. By the way, to defeat this measure, it is not a victory that we can go home and cheer about. I do not know who is going to feel good about the fact that these people lose their job. What kind of victory is that? Who is going to be satisfied about that?

Mr. MOYNIHAN. The bill which passed the House of Representatives, I see our friend from New Jersey is here. He may not know this. Senator D'AMATO will assure you that bill passed the House of Representatives by six votes. I wish the New York delegation voted against this en bloc and that would have been the end of the subject.

Mr. D'AMATO. It may have been. But I have to say to my colleague that I would not have been talking about it before the tax bill came up. I am in great support of it. That is where I repeat that I feel that I was euchered, because we were given to believe that the bill and the provision can be dealt with in the energy bill. It was dropped out, dropped out, because they knew that was the bill that had some what we call muscle power behind it; it was going to go.

The tax bill probably will not go and, if it does go, the President may veto it. So I do not want my friends in New York or Cortland to think that even if we were to get some kind of accommodation on this particular vehicle, that we are going to pass on it. I am intent to get some kind of accommodation on this legislation, because it is right, because let me tell you something: If I had a corporation headquartered in New York and it was violating the law, I do not believe that I would come down to stand here and to defend that corporation and/or its policies simply because it was headquartered in New York. If it was polluting the lakes or the harbors of a sister State, I would not say, "Oh, well, no, wait a minute, that is headquartered in my State."

If it was creating a situation as a result of unfair labor practices, predatory labor practices, that have been proven over and over and over again, I would hope that—and I understand how there are considerations—that I would have the consideration to say, "Wait a minute, this is not the situation where we are talking about fair competition." One is better than the other. One can sell more products than the other. The market can only absorb one. In this case clearly on more than eight occasions, at least eight occasions, they have been found to be in violation of the law.

They duck out of the tariffs and the enforcement of it. They are manipulative. They are manipulative. We should not be part of that process. We can say, well, they have achieved a victory and now they have a plant that really recognizes a plant here in the U.S.A. We really know what is right, what is fair,

and our workers are entitled to fairness. They are not entitled to protection against fair competition, but they certainly are entitled to due process, and that is being denied them. Heretofore, it has been the administration that has been slow and calcitrant to react.

Mr. MOYNIHAN. I wonder if my friend will agree. Let me ask if it is not the case that the Department of Commerce has asserted it does not have the authority to take action against attempts to evade or circumvent dumping orders. We think they do. But they repeatedly say they do not, and we say, "All right, now you do. Here it says so in statute you do." Whether you had to be told again, why the General Agreement on Tariffs and Trade, to say again—I do not want to be repetitive—but the antidumping provisions and countervailing duties are absolutely at the center of the whole idea of the expanded world trade that the United States began in the 1930's in the aftermath of Smoot-Hawley.

When in the aftermath of Smoot-Hawley—obviously, we still have the Smoot-Hawley Act. All references go back to that 1930 bill. We have never allowed a tariff bill to come to the Senate floor yet. There were about 1,200 economists in the United States and 1,100 wrote President Hoover and said do not sign that bill. He signed it anyway, and within about 2 years, as predicted, imports into the United States had dropped by a third but so did exports. The whole world spiraled into that Depression. We came out of it with World War II.

In the aftermath of Smoot-Hawley and the British going into an empire preference, getting off free trade, and Japanese starting the Greater South Asia Coprosperity Sphere, and the Germans going into barter arrangements with all sorts of Central European countries, including Nazi Germany. Predatory practices everywhere: dump, dump, dump.

We said: Wait, stop that. This is one thing we cannot have. Do not do that. Let fair prices regulate world trade and everybody will be better off. All exchanges will be to the mutual advantage of the buyer and seller and the market openly. Do not destruct prices, which is what this does. The Department of Commerce somehow or other said: Us? We? We cannot do anything about that.

Where on Earth were they? In any event, we have a simple proposition that says nothing more than that you may indeed enforce the trade law.

Mr. D'AMATO. My colleague is correct.

Mr. MOYNIHAN. The General Agreement of Tariffs and Trade.

Mr. D'AMATO. That is what we seek. We seek fairness. We seek the enforcement of the trade law. We should never have been required to come to this

point. I think it has been a situation where we have become so intimidated by the power of the foreign entrepreneur, in this case the Japanese, what will they do, how will they retaliate. What parts will they deny us? They have the most powerful corporations on bended knee, oh, do not do this.

Then you find out because they have their own deals with these same guys and they like to be able to call upon them because they are afraid they are going to lose some business. Do you know why we need this legislation? We need it desperately because the tragedy is that Smith Corona, the last American factory, last manufacturer of consumer typewriters, will go out of business. You say to me, well, they will go out of business because they cannot compete? That is right. No one here could compete, in that business or a similar one. If you had a competitor who could sell at below cost of manufacture—well below.

Mr. MOYNIHAN. Until the last remaining American firm goes out of business and that competitor has a monopoly and charges whatever he desires.

Mr. D'AMATO. And that is where we are. We have now reached that point, where we are going to see the disappearance. They will go to Mexico and compete for a while, and because they save about \$15 million and then at some point in time probably, who knows when, they will sell off that operation and then we will not even have a pretext of one.

Imagine that is the way you have to have an operation. You have to go offshore and do that kind of thing. And then there will be no competitor, no competition.

It is a story that is not uncommon, about how we have failed to provide competitive environments right here in our own backyard. It is not about the investment in capital. It is not about the lack of investment or research. It is about U.S. fair trade laws and the exploitation of those laws by foreign countries and foreign companies.

It is also about fairness. While I support free trade goals and believe they are admirable, they must be balanced with the realities of a world trade environment.

Smith Corona has attempted for more than a decade to utilize U.S. fair trade laws to protect themselves from foreign companies, who import to the United States, and sell well below product costs. That is a practice known as dumping.

The American people will understand, because I think we have been so beaten down by the stories that we cannot compete any more, that I have more people coming to me saying Smith Corona cannot compete. Not true. It cannot compete when somebody is dumping and breaking the law.

We all know that in a free market companies cannot sell below cost and survive, over the long run. Smith Corona operated in the realities of a free market economy, and has been forced to bring numerous antidumping cases before the U.S. Government. They won with an affirmation decision eight different times. Smith Corona won eight different times. Not one of those orders, not one, has been enforced. That is hypocrisy. That makes a sham of the law, and that is why we are here, to see to it that we have a law that is enforced so that we can give to our people equal protection. Why is it, if you are a foreign corporation, you can break the law with impunity and get away with it?

Sure, how do they dump and get away with it? Why do they not go out of business? Why does not Smith Corona do the same thing? Because, you see, we do not have markets here in the United States that are closed to others.

Brother comes in here and can compete and indeed they can break the law and compete. Indeed they are doing it and have been doing it. But when they sell their same products and typewriters, guess what, back in their own protected market, where Smith Corona cannot compete, where it has no chance, what price do you think they charge? They make up for the loss, because there is no competition there and they charge whatever they want. So consequently, they get more and more of the market, until there is no competition, and then they can charge whatever they want.

Then they got us. Imagine, here you are and we have seen it: Whose hands do you want to be in? Well, I say it is time to fight, rather than to be in the hands of the foreign companies with no alternative, no one else to look to.

We have seen industry after industry after industry go this way. When were we going to wake up? If not now, then when?

We had opportunities to deal with this here on the floor and we pressed this right up to the last because then we are going to come around and say: Come on, we have to go home and we have to do this bill and we have to do that bill and the other bill.

I am only sorry that I did not wake up to this call just a little earlier and did not prevent the energy bill from going as far as it did. I should have taken action there. I do not know why.

Mr. MOYNIHAN. Would the Senator not agree that as an occasion for the self-reproach here, as of noon yesterday, we had an agreement. This was to be made clear. It is not an agreement to provide protection of an American firm. It is to enforce the rules of the international trading system that the United States put such enormous effort in to putting in place in the first instance. I mentioned that in the original understanding of the world institu-

tional arrangements that were put together in San Francisco, the United Nations, that there would be an International Labor Organization, which the league had. But there would also be an International Trade Organization, and the expectation was that it would be in Havana, and it came to an end in the Senate Finance Committee. One of our purposes there was that antidumping was to be one of the principal purposes of the International Trade Organization, which never itself came about in the General Agreement on Tariffs and Trade.

I mentioned earlier that I was one of the three persons who was sent to Geneva—we were back and forth every weekend for about 9 months—to negotiate the long-term cotton-textile agreement, which was an antidumping provision. More than that, I do not want to suggest—it provided to keep markets from being absolutely disrupted. But with Michael Blumenthal, and Hickman Price, assistant Secretary of Commerce, we did that. And that is what we did to get the Trade Expansion Act of 1962 passed, which was President Kennedy's major legislation of that year, 30 years ago. That led to the Kennedy round. And probably the most important product of the Kennedy round of negotiations was the 1967 GATT antidumping code. That is what we put in place to have the next big opening of the world trade system, because if you get your tariffs down, that means people have access to markets, and if they want to go to a predatory pricing system to do what is illegal under American internal trade law, you have to protect against that, because people will do it.

We see it here. And for some reason, our Commerce Department just does not get it. All we are asking in this measure is to tell the Commerce Department, if you doubt whether you have the authority to enforce the 1967 GATT antidumping code, put your doubts aside. You do. My feeling is that they do anyway, but if they think otherwise, tell them. We are not changing the law. We are saying to enforce the law. It is not our law. It is world law. It is international trade law.

Mr. D'AMATO. The Senator is absolutely correct and that is the intent of this law. When he asks are we not really simply saying here is international law, this goes back to the early origins of dealing with the trade tariff barriers and tariff wars that we had. We have these provisions. We want to see that the people are dealt with fairly.

Mr. SEYMOUR. If the Senator will yield for a question—perhaps some of the conference committee members who stripped this provision from the tax bill—my question of the Senator is: Perhaps they thought that the Senator's amendment was too broad. And my question is relative to the breadth of your amendment, and in reading one

paragraph, I would like to ask you the question of whether or not in your opinion, you were narrow enough in drawing this amendment. The paragraph refers to, from what I understand, to be this Japanese competitor, and it reads—I want to ask you if in fact perhaps your language was too broad. It says:

Such merchandise sold in the United States is completed or assembled in the United States from parts or components produced in the foreign country with respect to which the relevant order applies or supplied directly or indirectly by an exporter or producer, covered by the order, or from parts or components from suppliers that have historically supplied the parts or components to that exporter, or producer, or to any other exporter or producer covered by the order, or from any party related to the exporter, producer, or historical supplier, whether such parts or components are supplied in the foreign country or any third country.

Senator, that language—maybe the Members of the conference committee just felt that was too broad. Did you consider, Senator, every possibility that you would make this so narrow as to fit those 875 jobs that you have been fighting for, now, for going on 11 hours?

Mr. D'AMATO. There was no way we could make the bill any narrower. We talked about us being subject to orders. We talked about the foreign countries who were evading indirectly the orders. We talked about historical suppliers. So if you had different suppliers you might make a case. We talked about people who had the same content.

Mr. SEYMOUR. Will the Senator yield for another question?

Mr. D'AMATO. Certainly.

Mr. SEYMOUR. My question is maybe this was too broad, because this refers to another section when you are instructing commerce, relative to facts to consider. Maybe that is too broad. Because this says, "In determining whether to include parts of components or merchandise assembled or completed in a foreign country." So my question really has to do with the fact that maybe Members of the conference committee thought this was too broad. "In the relevant antidumping order under paragraph 1, administering authority shall take into account such factors as"—and maybe it is these factors that are too broad. "(A) the pattern of trade."

Maybe that is too broad. I would like your response.

"(B), whether the manufacturer or exporter of the parts or components described in 1(b)(i) is related to the person who assembles or completes the merchandise sold in the United States from the parts or components produced in the foreign country with respect to which the order described in subparagraph 1(a) applies.

Or maybe it is the paragraph that is too broad, I would like to hear your response—

Whether the manufacturer or exporter of the merchandise described in paragraph 1(b)(ii) is related to the person who uses the

merchandise described in paragraph 1(b)(ii) to assemble or complete in the foreign country the merchandise that is subsequently imported into the United States?.

Did the conference committee members consider this language, and conclude that it was too broad? That perhaps it covered some other typewriter company, for example, in the United States?

Mr. D'AMATO. I have to say to my good friend from California, I would only have to speculate. Because, you see, we just never had the opportunity to have any kind of reasoned or meaningful discussion. Indeed, even staff—staff on the minority side—was excluded as it related to the kinds of discussions that would give to the Members an opportunity to deal with whatever the problems might have been.

So, indeed, if there had been a deliberate—or a misconception, erroneous or otherwise—interpretation on the part of staff to an amendment, this Senator has no way of knowing. You see, we did not have that kind of interplay that is absolutely—I say interplay, it should not be play—that kind of discourse and dialog between the Members was absent.

Mr. SEYMOUR. Will the Senator yield for another question?

Mr. D'AMATO. Certainly.

Mr. SEYMOUR. Senator, I have to ask if this exclusion from the process in the conference committee—if this is a normal, accepted course of business? I ask this question because I have been here with you most of this time, interested in a bill that impacts my State in which the conference committee—in my opinion—took a somewhat similar action. So my question of you is, this kind of action that took place in your conference committee, which I feel is the same action that took place in the conference committee that I was a Member of—in being excluded from the process and not informed as to what agreements were being reached or not reached until the agreement was made and then only to find out what impacts it had on my State when in fact there was no Senator on the conference committee representing my State—which has a major impact on my State—I was surprised and shocked.

So, is this a normal course of business and conduct in the U.S. Senate, as to how conference committees deal with these measures?

Mr. D'AMATO. I would say to my colleague from California that we have, to the extent—I want to be fair to all involved. To the extent of various conference committees generally, with only special circumstances do they permit a noncommittee-member to address the conference—that would not be unusual. However, note the fact I am not on the Ways and Means or on the Finance Committee of the Senate. So, consequently it would be highly unusual for a Member, other than a mem-

ber on the committee, or a conferee, to address the conference. I recognize that.

But let me go one step further. In this case the conferees themselves were not told of the final decision until it was made. It was a fait accompli—fait accompli.

Senator PACKWOOD was presented with this. He literally had minutes. It was not a question that was discussed; it was not a question if it was mulled over. My distinguished colleague, the Senator from New York [Mr. MOYNIHAN], was a conferee. He was excluded, was not given the benefit of the insight as related to this until literally the 11½ hour, and then he was told it had just been dropped out and that the staff had conjured up a story. And he used more descriptive language to suggest he had been told an untruth; and was.

And so was this Senator led to believe that somehow the Members on the Republican side, the ranking Member said, "No, I am not going to sign it," and the second ranking Member—because of this provision. When indeed he signed it.

Mr. MOYNIHAN. Had signed it.

Mr. D'AMATO. Had signed it. And two other Members who refused to sign it said they would not sign it in any event; regardless of whether this provision was there. And they had not signed it notwithstanding whether this provision we spoke about to protect Smith Corona was in it.

Look, that is not fair. That is not right. And this Senator understands that not everything in this business is fair. I understand it. But I want to tell you when I move over and tell you that I am going to make room so people can get their business done, and we are given to believe—the senior Senator from New York and the junior Senator from New York—that our legitimate issue will be addressed, that as a consequence of the administration agreeing that we saw no obstacle. Yes, a Member could say look, this has some impact—and indirectly it does. It was not going to put to a disadvantage a foreign corporation. It was only going to see to it that they adhere to the law. I do not believe that is disadvantaging somebody.

I think if someone is allowed to do what they want and not obey the law, then everyone else is disadvantaged. So if we say we were equalizing the playing field—true. Absolutely. Right. And that is what we sought, nothing more.

So now we find a situation where, when conferees themselves were not aware of this provision being dropped out and the manner in which and why it was until the last, and really never satisfactorily explained to us, what should a Senator who represents these people—the Senators who represent these constituents—do?

What should this body feel? Today it may be a situation that may or may

not affect them, but there is a certain fairness and a element of how do we conduct business on behalf of all of our people? I think we have to be able to count on this element, that when an amendment is in it is going to be kept in unless or until there is a fair hearing and a fair opportunity. At least—at the very least whoever has decided that they are going to drop it, that we find out how it is? And that we be given an opportunity, at least to have an exchange with those people responsible for making this decision.

I do not care if I am not popular. I do not care if I ruffle some people's feathers. I do not really care anymore. I will tell you why. I tried the other way. I really did. I tried during the process, and prior to this process, to be the nice reserved Senator who went along with the flow. I see that we were not treated fairly.

Senator MOYNIHAN and I—it is not us personally—but it is our people, our constituency. It is the American people. Do you know what? It is the American people.

This is bigger than Smith Corona. We do this in a case where it is the last manufacturer left. Who is being shafted—shafted repeatedly, by unfair, illegal trading practices. Shafted because we have the people in the Commerce Department who do not know which way to move, this way or that way. Maybe they figure the lobbyist will ring and call and who will do this or who will do that—well, so we give it to them. Good.

Now the company say eight cases, eight wins, eight losses. Imagine what it is to win eight times, antidumping cases, to win eight times and every single time after you have a win to be thwarted. It is worse. Better that you lose. They could have made the move years ago. They did not. They stuck it out.

Let me tell you something. I do not know Lee Thompson, I do not own stock in the company, I do not know the board of directors. But I want to tell you something—do you want to talk about perseverance? How many corporations will win eight times, only to be denied the relief, the antidumping relief, the tariffs, because these sons of a guns avoided it. They move to Japan, Korea, Malaysia over here and now we have a factory, a little screw plant in Tennessee. Now the Senators from Tennessee come—save them, save them—come on. What about our people? What about our people? They do not count? Why, because they get \$17 an hour, they do not count? Why, because they come from New York? Maybe they have funny names? Maybe you do not like us in New York? What is it—why?

Fairness. Have the law enforced. If you came to me and you said in the State of California, or the State of Florida, or the State of New Jersey you

had a situation similar, I want to tell you something. I hope I would have—I cannot—I hope I would have the courage to support you because you were right. Even if it might disadvantage.

There are lots of corporations in New York that I have taken actions and they have not been happy with me and they have never forgiven me. Citicorp, a bunch of rascals, credit card interest rates up there—oh, they hate me. They made you think the bank stocks and everything went down the drain when I introduced that thing. They were all credit card companies, the biggest ones of them, Citibank, Hanover. Sometimes you have to stand up, sometimes you have to take a position. You cannot be wedded to this kind parochial thing—whose advantage is it to have this kind of policy continue? If offends you. Eventually it inures to the disadvantage of everybody, in whole body, and everyone that we represent.

Mr. MOYNIHAN. I wonder if my friend and colleague would answer me this question. In the amendment that we had, which you put into the energy bill—and which was dropped—the amendment which we had reached agreement on, and I am a conferee, ranking member of the Finance Committee—we reached agreement yesterday—on Sunday. We are now on Tuesday. I am getting lost in my days. On Sunday noon we had an agreement on this. Does this amendment say anything about Cortland, NY?

Mr. D'AMATO. No.

Mr. MOYNIHAN. Does this amendment say anything about Smith Corona?

Mr. D'AMATO. No.

Mr. MOYNIHAN. Does this amendment say anything more than that the Commerce Department has the authority to review the issues under the GATT antidumping agreement of 1967? The principal procedural rulemaking product of the Kennedy round?

Mr. D'AMATO. Absolutely.

Mr. MOYNIHAN. Which was a measure to expand world trade and to make it possible to do it by protecting nations, that would open their borders, against predatory pricing. That is all it does. Is the word Cortland there?

Mr. D'AMATO. No.

Mr. MOYNIHAN. New York?

Mr. D'AMATO. No.

Mr. MOYNIHAN. Smith Corona.

Mr. D'AMATO. No. We say if you engage in this practice of dumping we are not going to let you circumvent the order.

Mr. MOYNIHAN. I want to ask my friend, does this provision direct the Department of Commerce to do anything about a specific decision?

Mr. D'AMATO. No. But it gives them the authority to. It gives them the authority to, and that is what we seek because for too long what we have been running into is whether you want to call them a recalcitrant, malcontent,

whatever, the administration claims it has not been and does not have the authority to do so. It also claims that to go to certain extremes or to certain lengths that had been suggested in some legislation would be violative of GATT.

Now, we do not believe that to be the case. But notwithstanding, you cannot allow our own law to be violated systematically by foreign corporations. It is absolutely indefensible.

Mr. MOYNIHAN. That is what the GATT agreement on antidumping rules is all about.

Mr. D'AMATO. That is right.

Mr. MOYNIHAN. It is our right and responsibility. When we look those tariff barriers down from that 1930 Smoot-Hawley Act, which is still the base tariff—that is why most-favored-nation treatment is so important because otherwise you have Smoot-Hawley tariff. That is the last tariff bill to pass this Congress, the last tariff in the statutes. Everything else is in agreement under the GATT. And we just this last week provided that the successor States to the U.S.S.R. will get most-favored-nation treatment, which just means they are not getting Smoot-Hawley. But these are the rules of international trade, and absent such rules you will not have international trade. People put those barriers back up again. All we are asking is that the Commerce Department be told, yes, you enforce the rules.

Mr. D'AMATO. My distinguished colleague, the senior Senator from New York [Senator MOYNIHAN] is absolutely correct. And what is vexing is that when we can show the situation as it relates to Smith-Corona, in particular, after they have won eight dumping cases, affirmative decisions eight times; their main Japanese competitor, Brother, Inc., is found to be selling well below the product cost.

Let me give you an example. For example, listen to this: In 1980, the Commerce Department found that Brother was selling portables below cost and called for duties of 48.7 percent. Now, let me tell you, that means that you have been dumping well below cost and that is why the imposition of that 48 percent.

Mr. MOYNIHAN. The same pattern that happened with the television sets that used to be made in Elmira, and the next thing you know there is one place to get them. If you open the Los Angeles Times in the Washington edition right now, you will find that the Los Angeles County Transportation Commission has now voted to buy Japanese rail cars for their blue line under the legislation the Senator and I got through this Congress last November, the Surface Transportation Act. Why are they buying them from Japan? I do not mind them buying from Japan one bit. What I mind is that there is nobody in the United States who can manufacture them.

Mr. SEYMOUR. Will the Senator yield for a question?

Mr. D'AMATO. Be happy to yield for a question.

The PRESIDING OFFICER. Does the Senator from New York yield to the Senator from California for a question?

Mr. D'AMATO. Yes.

Mr. SEYMOUR. I just wanted to follow up the questioning that the senior Senator from New York was raising. I was just wondering if the Senator might expand just a bit on that.

Mr. D'AMATO. Let me say this. What we see here is a pattern. It has all but wiped out the manufacture of typewriters. It is over as a practical matter if you are going to talk about just these 800-plus jobs we are fighting to keep. But look at the ball bearing industry. Do you think that came about by simply the inability to compete or was it because of dumping, predatory pricing practices? How about the small guy who, when he brings his lawsuit, finds himself threatened, and finds people who do business with him threatened, and finds people trying to buy him out.

We have one little guy struggling now. I mean I have to tell you something. Some automobile companies and some others ought to be ashamed of themselves because they will not do business with him, and we have no ball bearing industry in the United States as a practical matter. It is all Japanese. And we find how they have systematically violated the law.

And by the way, under the cloak of secrecy because they have now criminal cases going. That is the best thing in the world for them. You have a criminal case and you cannot discuss the case and the case goes on for 3, 4, 5, 6, years. And you have a case going out there in California, one of the granddaddies of them all, and eventually they will settle and they will pay a fine and that is the cost of doing business. In the meantime, they have totally dominated the industry.

And so you can take in industry after industry this pervasive pattern, this predatory pricing is undertaken. We have lost the stamina to stand up. They have become so powerful in terms of finances and in terms of the power that they control, where they can get American corporations to call up and say: Please stop; don't do this. Imagine that. Imagine having great American corporations beseeching their Senator: Do not go forward with this. Do not do this. You are wrong.

That is nonsense. We are not wrong. And I do not know the talk which goes on in those board rooms or what the chairman of the board of this one Japanese conglomerate or corporation says to the chairman of the board or the hierarchy of the American corporations. We get these phone calls: Do not do this.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. D'AMATO. Certainly.

Mr. MOYNIHAN. Did the Senator say that there are now criminal cases involving trade practices of the sort we are describing being tried in the United States and going through the appeals, processes and such that these things can go on indefinitely?

Mr. D'AMATO. Yes.

Mr. MOYNIHAN. And in the end they can be thought of as a cost of doing business?

Mr. D'AMATO. It is exactly the mentality and the state in which our people have to compete.

Mr. MOYNIHAN. If you have a monopoly, you do not have to advertise.

Mr. D'AMATO. Oh, no. And if you have a monopoly, you set the price. And it is what the market will bear. And who is there to compete? Your people are at the whim of somebody who controls everything and then they exercise incredible power as it relates to other economic activities.

You want these products? You want these chips? You want these ball bearings? Well, let me tell you. Do you want our business? Hey fellows, do you want our business in other markets? You better not rock the boat. Hey, by the way, we have some plants in your country, too. We employ some people. And then we can get citizens and factory people who work in these factories to call up because they are happy to get a job. They are happy and so we have our people now tied down to almost a subservience. They are happy to get that job.

I do not blame one person in Tennessee at that factory being concerned and saying: Hey, listen, I do not want to lose my job. I do not blame them. But that is a heck of a way to buy American and piece it back to us.

Then you have Americans petitioning us and you play off one against the other, legislator against legislator, Congressman against Congressman, and all we say is do the job right and fair. That is all we say. That is all we seek. We do not seek any undue advantage. We do not seek to put Brother out of business. We seek to put them out of the business of illegal dumping and illegal practices. That we do. That is fair.

Now, let me tell you, it is wrong for those of us who have a deep love of our responsibility to have to be in a position where we square off against one another. And I do not like that. I do not enjoy it. And that is not what this is about. I hope it does not deteriorate to that. And I am not going to permit it to. But I have to tell you I see absolutely nothing legally that has been presented to this Senator from the administration in the months that we have been talking and negotiating right through today, many of my colleagues, many of the trade people, that

would suggest that the course of action Senator MOYNIHAN and I pursue is anything less than it was absolutely essential.

We do not go as far as other of our colleagues have gone in the past. We do not order the undertaking of this action. We simply give permission to follow through where there has been a case of circumvention, when an order has been found. Can you imagine 48.7 percent? But last August, last August the Commerce Department found that Brother—and this is after a whole series—was guilty of dumping and imposed duties of close to 60 percent. They want that business pretty bad. They are going to cut those prices pretty low. Sixty percent.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. D'AMATO. Certainly.

Mr. MOYNIHAN. Would not the Senator be prepared to spend that kind of money if in the end he had a monopoly of the portable typewriter sales in the United States?

Mr. D'AMATO. Certainly.

Mr. MOYNIHAN. A country with what, 40 million people?

Mr. D'AMATO. And not even be fined, and not even have duties, and not even have sanctions imposed against you. And they are now this close, because let me tell you, once they are out of this country, in Mexico, and they are trying to make those typewriters there, they are going to have quality control problems. They do not want to move. They do not want to move. They understand that they have a dedicated work force with a work ethic that is fighting for survival and fighting for their jobs.

They said to me, Senator, we have increased our economic efficiency, our output, we have increased it by 700 percent—their productivity in 12 years. Is this how we reward them, a company that really went out and met the challenges of competition worldwide, that we will not even see that the basic tenets of the law are adhered to? I do not think that is right. I do not think that is fair.

And why? Now, let me say that 60 percent dumping duty was because of the outrageous manner in which they cut their prices.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. D'AMATO. Certainly.

Mr. MOYNIHAN. There was a question of the pricing change. The one time—is this not the case—the one time the Commerce Department said you are dumping, that Brother Corporation added a 70-cent component to their existing model and then proceeded with the same practice? The Commerce Department said that it a different typewriter altogether?

Mr. D'AMATO. The Senator is absolutely correct. They made a mockery and a sham of this whole enforcement

procedure. We make a mockery and a sham if every time we want to get around it you move some portion of the operation to a new country so that we can move it from Shanghai to Singapore to Korea and Malaysia, to Tennessee for a final place, to have some packaging put in. Let me say that the 1988 trade bill, which my friend and colleague worked on, created a new anticircumvention law. And that is what the Senator was referring to.

Mr. MOYNIHAN. Exactly. Exactly.

Mr. D'AMATO. That was a law that Senator MOYNIHAN worked on to prohibit foreign manufacturers from avoiding duties by setting up U.S. plants. We saw this. We saw what was taking place.

The foreign countries found a loophole that restricted duties only to the original country of import, not to the third-party countries from which parts can be imported.

You see, what we are talking about is circumvention, getting around the intent of the law. By setting up an assembly operation in the United States and importing from a third country, they can totally avoid paying the anti-dumping duties.

Should we not be proud? We should be ashamed of ourselves that over the years we have failed to pursue the anti-dumping provisions that were provided for in allowing companies to use this ruse, and that is what it is. We have allowed it. The courts did not say, oh, no. That is OK. We have taken that position. We have failed to go after them. We have failed to litigate, and that is why we said it is not about time that we clearly dealt with this issue?

I am tired of hearing, let us wait for this convention and that treaty and the other treaty. Why do the people elect us? Are we not elected to see to it that the laws are enacted. Are we not also elected to see to it that if, indeed, there are the so-called loopholes in the law, whether it be because of administrative inertia or lack of action, that we take corrective steps to see to it that not only is the legislation enacted but the legislation is adhered to and not avoided by way of circumstance or other?

So I think that goes to the heart of the problem. This amendment is a much narrower version of the legislation which I have introduced previously. It is intended to deal with these problems. More specifically, this amendment is needed to close the loophole in sourcing the third-country parts from historical suppliers that permit foreign manufacturers to evade antidumping duty orders.

Mr. President, I have a good course of this speech yet to give, but I am going to move to it and cover it in a very orderly and progressive manner.

You see, I know that most of my colleagues at this hour, at 7:20, are probably just getting up, because they left

here rather late last evening. I want to give them the benefit and the opportunity of hearing our conclusion, and I am talking to us about why they do not think it is important to deal with this problem.

Yes, it is a company that has a 110-year history. It has outlasted every other American company, including Royal, Underwood, and Royal-Underwood, and Remington, and, yes, though it is an American company, almost 48 percent of its stock is owned by Hanson PLC, a British conglomerate that once owned Olivetti. All Smith Corona products will now be manufactured overseas. Is that not terrible? The company also has plants in Singapore and Indonesia.

So, you see, we are not saying that this is simply a wholly owned American corporation. We are not saying that we want treatment that is not equal and fair. We want treatment to be fair to foreign corporations, to wholly owned American corporations, to partially owned American corporations. And equally important is the treatment of those people and those American citizens who work for these companies, whether it be Smith Corona, whether it be the great plants that produce the fiber optic systems in the adjoining communities, whether it be a plant in Elmira that runs in a conglomerate between Westinghouse and Toshiba, whether it be the Corning Co. and its products and its people. The fact of the matter is fair competition, hard competition is one thing. The kind of competition that the Smith-Corona people and others at Corning, et cetera, have had to face is absolutely unfair, and it should be stopped. If we do not stop it now, then when will we have the courage to stop it?

Now is a good time to take the resolute action of dealing with this problem, because, you see, we can say to whoever the President is and the next Congress that we do care, that there is a way to produce jobs, and that is to see to it that the laws are adhered to.

I cannot believe that we want to write a tax bill which talks about creating enterprise zones in blighted areas when we fail to act to protect the jobs that are here, that are producing, that are competitive. We help create additional blight. We help bring about the abandonment of communities. We help depress property values. And here we are attempting to pass legislation that is going to encourage investment in real estate, in property, uplift values.

We want to provide home ownership opportunities on the one hand, and on the other hand we wipe them out for millions of workers. Indeed, Smith Corona is a sorry saga, not only of the typewriter industry but so many industries in America, and I wish we could ask, and maybe we should ask, and I ask my colleague, Senator MOYNIHAN, to join in drafting a request for the

General Accounting Office to ask them to make a study and a survey of how many American jobs, manufacturing jobs and others, have been lost as a result of our failure to exercise and see to it that the laws have been adhered to with respect to these kinds of predatory pricing.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. D'AMATO. Certainly.

Mr. MOYNIHAN. I think it is unusually—would he be interested in asking the General Accounting Office to do what it is singularly capable of doing, which is looking at the administrative arrangements? The original antidumping acts go back to 1916, and these matters were always dealt with in the Treasury. And then in 1954 this was split, and the function of determining injury was transferred from the Treasury Department to the Tariff Commission, then called—the International Trade Commission now.

But the function of determining sales at less than fair value was left with Treasury until 1979, and then Commerce has come along. I wonder if we have a problem of just administrative inefficiency, because of the difficult, individual responsibility, because dumping and countervailing are the same phenomenon. Would he be interested in joining others in asking the GAO to see. What are we doing here at 7:30 in the morning? We are asking, we are telling, the Commerce Department that it has the right to review its decisions. What something is the matter?

Mr. D'AMATO. First of all, I think something is terribly wrong and run amiss as it relates to the process, the enforcement. Second, I think we owe it to the American people, particularly when we come back, instead of getting into this wretched business of who can outbid who. I am more for showing more concern for the out-of-work, because I want more money for the job training program in New York, absolutely more for putting people to work, because you want more money at this time for construction of roads and bridges and highways and I say to the Senator, Smith or Jones, he is well ahead of all of us, because he wants to double the amount of money that you and I collectively want to put into these programs.

Look, any darn fool can say that we need more money for all of these programs, and it may not be a darn fool. The question is where is the money going to come from? The question is, when you are running record deficits, how do we pay for it? The question is, do we just raise the taxes and raise the deficit at the same time as we go along and continue the same path? Or do we take a look at one of the basic problems that has really exacerbated the economic decline and morass and unemployment situation we see ourselves in.

When people see their factories and plants closing down, when people see them phasing down, when people see great companies like General Electric saying, "The only way I can do it is by going there," when General Motors says, "I have to put my plant in Mexico," when Smith Corona is saying, "I have to go there," when they take those hard jobs that produce the kind of economic growth and personal income and stability and population and familiarly units in school enrollments and retail that we see here, what do you think takes place?

They are angry. They are worried. They are hurt. And we have abdicated our responsibility, because, yes, while it was a function of Commerce and the administration to see to it that there was adequate protection under the laws, it has not been done.

Mr. SEYMOUR. Mr. President, will the Senator yield for a question?

The PRESIDING OFFICER. Does the Senator from New York yield for a question from the Senator from California?

Mr. D'AMATO. Yes; I do.

The PRESIDING OFFICER. The Senator from California.

Mr. SEYMOUR. I say to the Senator, does he not think that it is unfortunate that he, as the junior Senator from New York, has had to carry this amendment through the energy bill, now to the tax bill, and does he not think that it was unfortunate that his Democratic colleague, the senior Senator from New York, who is a member of that conference committee, has to be here on the floor of the United States Senate for the last almost 11½ hours? Is it not unfortunate that the two of them have to be here on the floor when, in fact, he had the commitment, going into the conference committee, the senior Senator from New York, as a Member of the conference committee, and here we are 11½ hours into a filibuster? Maybe he might agree that he is fortunate, not unfortunate, that the people of New York have seen their two Senators, one Republican and one Democrat, fighting for the last 11½ hours to protect 875 jobs in Cortland, New York?

Mr. D'AMATO. I say to the Senator, PAT MOYNIHAN said it best. It is more than 875 jobs. It is the symbol. It goes beyond. It shows that we are going to not permit the Smith Coronas of the world to continue, that we are bound and determined to do something, and this is a start. This is a start. It is a signal to those who have been taking advantage of this country. It is a signal to those who have failed to stand up for what is right. It is not easy. Let me tell you something; we have all dealt with power brokers at one time or another. Sometimes they can make you feel pretty doggone uncomfortable. I admit it. I have had situations where I have backed down, and I am not proud

of it. But we have no reason, collectively, not to come together to say, by gosh, we are not going to let the Commerce Department back down. We should not back down, and we should stand up for what is right, to have the law enforced.

Mr. MOYNIHAN. If the Senator will yield for a question, this is what I do not understand. The Senator from California made it very clear that Senator D'AMATO had an understanding about this legislation, which extended the fact that we would incorporate this measure already adopted in the energy bill. This measure does not direct any outcome. It says, review what you have done under the GATT rules of 1967, the dumping rules. And we had an agreement at noonday on Sunday that the measure was in the bill. And then starting around 5 o'clock yesterday afternoon, we began hearing all sorts of rumors about this person would not sign and that person would not sign; that the House was having troubles. I believe we were told Mr. Vander Jagt would not sign, because this measure was in it.

And then we came to the floor for the veto override vote on the cable television and found a colleague, RAY MCGRATH from Long Island, as is Senator D'AMATO, and he had come over here to tell us that Mr. VANDER JAGT not only did not say he would not sign the conference report. He had already signed the conference report. The signatures were there. So we started asking around what was going on. I asked the Senator—it is now getting past 7:30, so it was 13 hours ago that we learned this, that it was not Mr. VANDER JAGT. Does he know what happened? Has anybody tried to explain it? We certainly have put the Senate on notice that we would like to know. The House should certainly be wondering what happened over there when a tax bill of this consequence survives by six votes. Does anybody send any messages? Has anybody been sent any messages? Have any notes been passed or have any smoke signals gone up?

Mr. D'AMATO. That is a fair question. I have not had a blink of the eye, or a note passed, or I have not had anybody say to me, ALFONSE, this is what happened. This is what we are looking at, and this is why it happened. This is who did, what did, and how did. The only thing I have heard is this nonsense that comes after staff and others that somehow this is ROSTY. Look, that is inconceivable. This in not the same man, this is not the ROSTY I know that wrote this letter to Congressman MCGRATH saying that he is looking forward to waking up the administration. That is not the ROSTY I know. No way.

For the last 12 years, I have worked with Congressman ROSTENKOWSKI. I know him. The words that he is responsible for this belie the real reason and the moving forces.

Forget what happened. That is history. It was in, it was out, and it is out. OK, it is out. But it does not have to be. We can find another vehicle. We can ask the House to send us on over something separately, if they want to do some other kinds of things; they can do that. They better send some extenders over. They should. If they do not send some extenders over this bill—look at this bill, the economic recovery. It will do more for economic recovery and save jobs. Otherwise, you will have to pay job training and plant location, and all that.

Do you want to keep people working? Pass our legislation. It does not cost a penny. Why should you be opposed to that? It says: Enforce the law. It does not cost you a penny. Save American taxpayers money. We can take some turkeys out of this bill. We are going to save, as my good friend pointed out, probably \$15 million a year in job training alone. It does not talk about welfare costs, losses to the economy, when these people get laid off, because they are not going to be paying taxes anymore.

Mr. MOYNIHAN. If the Senator will yield for a question. I see he has the text of the bill which is going to take a long time to read.

Mr. D'AMATO. This is the entire bill.

Mr. MOYNIHAN. Do not drop it on the desk. That is a valuable desk.

This bill began as an urban aid bill, and we have an enterprise zone, much favored by our former colleague from Buffalo, Jack Kemp. Is the Senator aware that the proposal to have enterprise zones all across the cities of the Nation has ended up with a statute that says we will have 50 enterprise zones of which 25 will be in rural areas? And also there are to be enterprise zones on Indian reservations, so there will be more rural-urban enterprise zones than there will be urban-urban enterprise zones. Does he not suggest if he wants to do something for the city of Cortland, why do we not keep that factory going?

Mr. D'AMATO. Exactly. And then we wonder how small cities get blighted.

Mr. MOYNIHAN. The Senator has been to that factory, and I have been there. The only thing left is the State University campus there.

Mr. D'AMATO. It will become an economic—it is not good to say because economically, it will be a disaster.

Mr. MOYNIHAN. If the Senator will yield for a question, I am sure he knows the neighboring town of Homer.

Mr. D'AMATO. Sure.

Mr. MOYNIHAN. It is one of the most beautiful places on Earth, and the home of David Harum, that famous harness racer. If the Senator was of my generation, alas, he would remember Will Rogers playing David Harum with this particular trotting horse, if you sang tah-rah-rah-boom-di-yay in the stretch he went from nowhere right out

into the front. Listening to Will Rogers play this in upstate New York, watching it was a great moment. I can still sing tah-rah-rah-boom-di-yay, but there will not be any in Homer either. This was the value-added activity of the valley. And the last manufacturer of portable typewriters in the United States and the site where they began a century ago, gone. Gone because of destructive pricing.

I remember—the Senator remembers, I am sure—when that new model came out, that wonderful decal that said, "I am a very smart typewriter." I thought that looked great. It had correct spelling and things like that. That was a work of engineering. That was a product innovation. You think, my God, that will be there for 10, 15 years. That will set the standard.

Well, it does set the standard. But the standard has been copied in Japan and a financial operation has set out to destroy this manufacturer just as Zenith Manufacturing in Elmira was destroyed 20 years ago. And then you give a monopoly to a foreign country, which is exactly what the dumping laws were designed to prevent.

Mr. D'AMATO. If I might touch on that one point, because I know that there is a certain vulnerability in saying Smith Corona is the last American manufacturer, indeed 48 percent of it is owned by another foreign country.

But do you know something? It is important and let us not forget it. We may not have, or we may have a diversity of foreign investors in this country, and it is absolutely essential that we see to it that not one of them disadvantaged the other by illegality and then obtains a monopoly and then disadvantages the people, the consumers.

And that is what this is about. They are not looking to knock them out, because they want to continue lower prices. When they knock them out, when there is no competition left, what do you think is going to happen to the prices? They are going to get all that money back that they lost. And their chairman of the board testified to that, and said in various articles: Oh, we will lose money over that. We will get a bigger market share.

Incredible. So we have an obligation to see to it—this is not just a question of an American company. American workers, you better believe, will lose jobs. Jobs are going out. But it is an opportunity to say that we are not going to allow our country to be piecemealed to death and then have to play ourselves against each other. My State against your State. Brother has 10,000 jobs there. Why should you not?

By the way, I do not know, I asked my colleague and my friend if he is aware of how many jobs Brother may or may not have in California. Does that mean if they have 10,000 jobs, that we sanction what they do and, by the way, if Smith Corona is engaging in

these kinds of practices elsewhere against others, in other components or whatnot that it manufactures, does that mean that the Senators from New York should acquiesce and say, well, they are breaking the law but after all, they employ people from New York.

As I say, the perfect illustration of that is that we should turn our head the other way because Smith Corona has a subsidiary and they are polluting the waters of Vermont, or New Jersey, or Tennessee, so we turn the other way. Oh, no, that jumps out at us starkly. We understand that. But somehow we have failed to grasp the significance of the economic crime which deprives these people of their livelihoods, their jobs.

It is no less a crime, be it economic, or be it the destruction of the environment in any other way. It is a larceny. It is a taking. It is unlawful. It is illegal. And by gosh, it should be pursued, and we should have the courage to do that here. That is what we are talking about here—fairness.

Then I read this humpty-dumpty bill. Economic development, as my colleague said, for distressed areas. Why should we wait for this town to become a depressed area?

By the way, I wanted to ask—I went into this as a career, because I saw years ago what some people were doing to certain communities. It was incredible, incredible. They did not give a darn. They were in there to make a quick buck. They had urban planners and whatnot and that is kind of how I got involved in this business. I said, wait a second, what do you mean you are going to do this and that and rip this down and do that and that. I saw what happened, that that was the days of urban renewal. There was a bold venture to try to revitalize some of our blighted areas. All too often it became nothing more than an opportunity for builders and developers to enrich themselves.

Mr. MOYNIHAN. If the Senator will yield for a question on that point? It is painful to say this, but urban Cortland has had one large event already in the last 40 years. That is, it got hit with urban renewal, as the Senator knows. After that, you had this plant closing. The Federal Government really would have done a job on what was a lovely community. I can remember Cortland from the 1950's when my family lived in Syracuse and we used to drive down that way. It was lovely. Cortland and Homer were all you could want in the world.

Mr. D'AMATO. That brings to mine when I went to school, back up there in 1955.

Mr. MOYNIHAN. Yes. Yes.

Mr. D'AMATO. It was when I first went to Syracuse. Great, magnificent, wonderful.

The young lady who works for me in my Syracuse office, Marina Twomey—

her parents. She married a young boy who I ran track against in high school—went to Andrew Jackson, met Larry, he went up to Syracuse on a track scholarship, competed. And he married this lovely girl, Marina who came from Cortland. This is how I came to know Cortland. I visited her and her family.

Fate and life and what not, circumstances as we talk, Marina is now one of the two people—the other you know for many years, Gretchen Ralph, who used to be the leader of the symphony, or the executive director—and a great community person. She and Marina Twomey run my Syracuse office. We talk about Cortland and knowing and having an affinity.

But I have to tell you, I saw the economic planners. I was going to ask the question, how many people can point to a successful one of these urban projects that are supposed to bring about renewal? Because more often than not—

Mr. MOYNIHAN. They bring about parking lots.

Mr. D'AMATO. We see a decimated community. We see one which had very little reality, with what really could have been done, and what is generally done. We see a legacy of over development in certain areas, with high aspirations and hopes and little in the way of accomplishments and then rows of boarded up stores or parking garages. It is not uncommon to find a wonderful parking garage nobody utilizes or these malls that nobody walks on.

So here we have an opportunity to save ourselves from a desperate situation where we will create a situation where, instead of enhancing, by way of jobs, retail, population increase, family units, schools—all these things will be subtracted, from every indication that we have and can reasonably expect.

Now, I hope—

Mr. MOYNIHAN. Let me ask the Senator, will the Senator yield for a question?

Mr. D'AMATO. Certainly.

Mr. MOYNIHAN. I believe he has had discussions—I know he has had discussions—with the firms involved here, with Smith Corona, which, as he indicates, is partly owned by a British holding company. He has had discussions about the feasibility of the plant staying in operation, staying in Cortland if this legislation, the simple enabling legislation, which we do not think necessary, but if the Commerce Department has to be told that it can do what we think it can do, fine, just tell them, please, just take a look at this, as you have done before. We have some understandings from the firm that they will, indeed, remain? Is that the case? I believe you have talked with them in great detail.

I remember meeting Mr. Thompson outside in the lobby here near the Senate.

Mr. D'AMATO. Indeed, I understand Mr. Thompson is at the moment flying in to Washington. It may be that some of my colleagues would like to speak to him as it relates to his intentions. I think that is fair. I think that is fair.

I can tell you that he has indicated to this Senator that if, indeed, legislation that we have proposed is adopted and the Commerce Department undertakes its activity pursuant to the law that it has discretion to undertake, that he is prepared to seek a reversal of the determination by the board of directors as it relates to moving the manufacturing operation to Mexico.

We have not really wanted to bring this to a public announcement in this manner because it is a cruel thing to raise people's hopes and have them dashed. I understand it, and I am not losing one of those jobs. It is not my family, it is not my community. But it is my community. But I can empathize.

I can tell you when 12 hours ago I spoke to Mr. Thompson on the phone, I could feel the hurt and the despair in him. He really thought, because we worked for days and weeks and months and hours and all kinds of hours under all kinds of pressures to bring about a recognition by those in the administration of this problem and the manner in which to deal with it which would not antagonize or inflame allies or passions or major corporations here within the United States. Those are some of the things that I had to hear and work with and deal with, as did Senator MOYNIHAN and as did his staff. We came together for that purpose.

When, at the 11½ hour we have a deal and it mysteriously is yanked, I have to tell you, that is crushing.

Mr. MOYNIHAN. Will the Senator yield for this question? Will the Senator yield?

Mr. D'AMATO. Yes, sir.

Mr. MOYNIHAN. We are getting into a new day. It is now 8 minutes of 8. Surely there are persons in this Capitol who are aware of what is going on on the Senate floor. I assume the Senator means to—there are many, many ways to—see that nothing happens all day today. At sundown Yom Kippur begins, and we will not be back until Thursday.

The Senator has said he might miss the Columbus Day parade on Monday, where he is grand marshal, in New York.

Surely, by now someone has gotten in touch. No one has gotten in touch with me, but surely has no one gotten in touch with the Senator, to say, "Can we not work this out?" The elements are so simple. Just take this simple provision—take the provision we had on Sunday, and pass it. Has no one done that?

Mr. D'AMATO. No, I have to respond to my colleague's question. It might seem very obvious. How is it that people want to get things done, that there

has not been an attempt? Has anybody reached out? Has anybody given any indication of some movement somehow?

The answer is no. The answer is, my staff has not been approached so it has not been directly, indirectly—I take it from your statement and your question, has anyone approached you?

Mr. MOYNIHAN. Senator D'AMATO, we have not heard a word. Not a note.

Mr. D'AMATO. Again as I say, in almost a rhetorical way, the Senator has not heard. I have not heard. He has indicated that our staffs have not heard. You know, there is a song "and the time goes on." I will get that beat.

Mr. MOYNIHAN. The beat goes on.

Mr. D'AMATO. "And the beat goes on." Is that it? And the beat goes on.

Mr. MOYNIHAN. Go ahead, please.

Mr. D'AMATO. The beat goes on and the time goes on. Our friends and colleagues, now they are waking up and pretty soon they will be heading in here.

Mr. MOYNIHAN. Will the Senator yield for a question, speculative question?

Mr. D'AMATO. Yes.

Mr. MOYNIHAN. There is a prospect of our going to the reclamation bill. Here it is, the Reclamation Projects Authorization Adjustment Act of 1992.

How long does the Senator think it would take to read that bill? Do not drop it.

Mr. D'AMATO. This is a good fat one. It has a lot of printing. It is—here, it is—

Mr. MOYNIHAN. Do you think we would be out by sunset?

Mr. D'AMATO. I think we will get home in time for observances tonight—maybe—if we have to read this whole bill.

Mr. SEYMOUR. Will the Senator yield for a question?

Mr. D'AMATO. Certainly.

The PRESIDING OFFICER. Will the Senator from New York yield for a question of the Senator from California? The Senator yields.

Mr. SEYMOUR. The senior Senator from New York mentioned the reclamation project bill that is H.R. 429. You carefully looked at it. And said it would take many hours to read this.

Does the Senator have any estimate of time that it might take to read that one?

Mr. D'AMATO. I think we will be here until Columbus Day because we want to have every amendment read carefully so we can hear it. Oh, yes, and several clerks.

I have done it once, you know. It is not even amusing, because the poor clerk, he gets so used to reading at a particular pace, and after about 2 hours or 2½ hours, it really is—

Mr. MOYNIHAN. You cannot keep up that pace.

Mr. D'AMATO. It is really tough. I do not think any of us would endear ourselves to the staff by that.

But there are all kinds of ways. It is not necessary for a Senator just to hold the floor. But I do it for a reason. See, we are not going to even begin to start to get close to those things. We are just going to back this up. I mean, I am just getting my second wind. I can do 4 more hours, 6 more hours, 8 more hours. And if there is a test of that, we will try. I think I can. I think I can. And then we will start to do the other kinds of things.

But we are going to see if the House is going to go out, all right. You went out. You went out without doing the business of the people. You have an opportunity. I have not heard from anybody. Senator MOYNIHAN has not heard from anybody. Certainly, as the second ranking member on the committee—let me tell you something. Take our bill clean by itself. I do not want it on this monster. This monster is not going to become the law. This monster is not going to become the law. I do not believe anybody now. I do not have faith.

You take a bill over there, you guys have it over there, send it on over. You have the provision.

Let me make a suggestion. If you put some extenders on, take the extenders, revenue mortgage bonds, housing for the elderly, the poor—there are a number of other extenders that are important. They are really important.

Mr. MOYNIHAN. Employer education—

Mr. D'AMATO. Employer education. Job credits. There are some important extenders there. Everybody can agree with them and nobody is opposed to them. If you want to do the business of the people, do not play politics with this, because you are not going to get any big deal out of the President vetoing this bill. It is never going to get to him. So, if you look to embarrass him, forget that. They had their victory with the cable thing. That embarrassed him. And I voted to override.

But you know, this thing is not going to get to him. Let us not kid ourselves. If it was not Senator MOYNIHAN and myself, there are a half-dozen others who have their reasons. You think that bill is going to go?

What are you saying? I am saying I want a bill. I want a bill to help these people. It is going to get passed, and, if it is not going to get passed, there is going to be lots of business we are not going to finish, lots of it, and I will take the responsibility for stopping it. That is right. Because if we could not deal with these people honestly and forthrightly and we do not recognize they have a real problem and they are going to be out—they are going to be out—I will tell you what is going to happen, and you can ask Lee Thompson when he comes here. He is going to tell you.

Unless this relief is enacted before we adjourn, they leave. I am not at liberty to tell you of the cost they are sustain-

ing. He told me last night. Maybe he wants to make it public. He did not take the final actions necessary to consummate that transfer. Why? Because he really wanted to give us every opportunity to try to make a deal so his company could stay in the U.S.A. So we do not have just another corporation that is heartless, that looks the other way. "I want to save money and it goes down there." No.

Let me tell you something. He is taking heat, and his board of directors must be saying to him, "What the hell are you doing? Who are you to be losing these dollars? We told you to close." And they did. "Close it." He has gone beyond.

For those of my friends who say, "Oh, come on, what are you talking about losing?" I will tell you what I am talking about. You know there are all kinds of pay that has to be given, all kinds of notice that has to be given, and every day that he operates here is a day's delay before he starts that, in terms of the movement, in terms of an operation. It saves him millions of dollars a year. Losing big money—tens of thousands of dollars a day.

If he chooses to tell you what that is, then let it happen.

But I tell you, it is a lot of money. It is a lot of money. Lots of people here would say, my gosh, I did not know it was that much.

(Mr. WOFFORD assumed the chair.)

Mr. SEYMOUR. Will the Senator yield for a question?

Mr. D'AMATO. Yes.

Mr. SEYMOUR. Would it not be reasonable, since here we have both Senators from New York now going on 12 hours of filibustering, representing their constituents of the great State of New York, would it not be reasonable that the Senate majority leader, the Senate minority leader, who I am sure have had nothing whatsoever to do with what took place in that conference committee, which the senior Senator from New York was part of, would it not be reasonable if a Republican and a Democrat can stand here for 12 hours trying to do the best they know how to represent the families of 875 employees in the great State of New York, would it not be reasonable that the majority leader and the minority leader find some way to address this issue of jobs?

Earlier last evening we had the Senator from Montana talk about 400 jobs in Montana. And both Senators from New York heard me talk about tens of thousands of jobs to be lost if in fact this bill should become law. Now, would it not be reasonable that the majority leader and the minority leader, who are equally as concerned, I am sure, about jobs, otherwise they would not be supporting that tax bill that is going to pump a lot of Federal dollars into jobs, retraining people who are out of work, et cetera, would it not be rea-

sonable for them to sit down and try to work out a solution to this jobs problem?

Mr. D'AMATO. I think the Senator from California makes a point my good friend and distinguished friend from New York, Senator MOYNIHAN, has attempted to make by way of asking almost in a rhetorical way has anybody contacted you. And the answer is no.

I importune our leader, and because I importune him I do not mean to detract from the sincerity of my observations about GEORGE MITCHELL because he is a good, and decent, caring person. He is. Let me say that Senator DOLE and his staff have gone out of their way to assist me and Senator MOYNIHAN and his staff. We have spent legions of hours and sweat and time and toil in developing this legislative proposal or format to get to where we had a sign-off. And so look, I think it can be done. I have seen much more difficult situations, much more contentious, much more, dealt with in an amicable way that will give people an opportunity to continue to earn a living. That is what we are talking about.

Mr. MOYNIHAN. Will the Senator yield for a question on that point?

Mr. D'AMATO. Yes.

Mr. MOYNIHAN. Senator SEYMOUR's remarks were so reasonable and forthright suggesting that we cannot move, we will not move from where we are, but we do not wish to be where we are. We wish to get this simple matter settled. Does the Senator think there is any prospect that we might hear from the leadership in this regard?

Mr. D'AMATO. I am hoping that we will. I am hoping that along about maybe 9 o'clock they will arrive and they will get a report, and that report will say, PAT and AL are alive and well down on the Senate floor. And then maybe they will say, well, if they are still alive and well and still on the Senate floor, maybe we had better do something about this and see if we cannot get some sense into their heads.

Along about that time we can say: My gosh, we have not met two more astute and honorable people, sensitive to everyone's needs.

Mr. MOYNIHAN. Distinguished is the word.

Mr. D'AMATO. Distinguished. And who not craft the manner in which we can extricate ourselves from this situation so that we can retire to another place to be alive and well and get off our feet.

But I guess it will maybe be a demonstration of some resolve, that we were not just—look, I have to tell you, I walked over here when I heard him say—I said, "Did you really?—we are going to filibuster. Now, you know, that is what my colleague said. We gave warnings.

Mr. MOYNIHAN. We did. We did. We did. We did.

Mr. D'AMATO. It was not popped out of nowhere. And you know, I think that

we let some bills go, we let the legislative appropriations bill go only because I did not know that was really happening. We kind of found out. It was right after the filibuster thing and we began to find out that there were these problems cooking around. I tell you, the legislative appropriations bill never would have gone through, never. But you know, we did not want to create a problem. It was not our intent. We were still hoping to try to make a resolve. And our staffs found out and the majority leader and—the minority leader's staff, let me correct myself, started shopping around, and Senator MOYNIHAN and his AA and mine, and he and me and MCGRATH, and whatnot.

Mr. MOYNIHAN. Yes.

Mr. D'AMATO. And it was embarrassing to find out that we not only did not have the facts but that we were treated with less than candor, less than candor, and that the entire truth was not given to us and then we responded to that. But look, that is over. That is over. We are here. And the Senator from California raises a point and points to a road, an avenue, of probably bringing about some direction. That direction I would hope would lie in the fact that our two leaders—and they are the leaders—by the way, listen, it is great power and great responsibility and great obligation.

Mr. MOYNIHAN. I wonder if the Senator will yield for a question in that regard.

Mr. D'AMATO. Certainly.

Mr. MOYNIHAN. It is my understanding that the House of Representatives is going to adjourn sine die at the end of this Congress, until the next Congress, about noonday which is less than 4—we will say 4 hours from now. And that would leave us here. Under the Rules of the Senate, is it not the case that when a conference report comes to the body and the Senator who is managing the legislation asks that we proceed to the matter, there can be a vote on that or asking unanimous consent to proceed to the matter? At that point before there has been any decision, either a vote or consent granted, any Senator may ask the conference report be read?

Mr. D'AMATO. That is correct.

Mr. MOYNIHAN. I believe the Senator from New York, Senator D'AMATO, has done this before.

Mr. D'AMATO. I have.

Mr. MOYNIHAN. On one occasion.

Mr. D'AMATO. Yes.

Mr. MOYNIHAN. Are there not arrangements that are meant to protect Senators who assume in good faith that something has been agreed to and then find out it is not? I mean is that not what these rules are for and are not these rules devastating to any orderly conclusion of the 102d Congress?

Mr. D'AMATO. Oh, yes. The implementation of these rules—and I said I would carry out those parliamentary

opportunities that are given to us if we failed to deal with that measure Saturday—is exactly what the distinguished senior Senator from New York has indicated. If it is requiring the reading of the conference report, why, that will be the case. If it is to bring about extended debate on those matters, motions to proceed to the consideration of the various reports, that is how it will be—if it means that we have to hold up meaningful legislation, that is good legislation, in order to get a fair opportunity—and I say fair opportunity—to try to save the jobs in Cortland, because we do not know if that is going to be.

And I say to my colleagues, speak to Mr. Thompson. Find out whether or not he is sincere. I think and believe and know him to be an honorable person. I believe he is sincere. And I did not, nor did Senator MOYNIHAN, take this kind of action because we are on a fool's mission. We are here to do what is right. And everyone has that opportunity. And everyone should avail themselves of this opportunity.

But I have to tell you something. I am disappointed. I am disappointed because it has come to a point in time when I think that at the very least key staff should have been meeting with our staffs to say what can we do? How can we work our way out?

And so I have to say in response to my friend and colleague from California, when he said has anybody contacted you, and my friend and colleague from New York said has anybody contacted us, no. Not only have they not contacted either of us, but in addition there has not even been that kind of contact that one would expect from key staff to our staff.

Now, maybe that is by direction. I have to suggest that it is. I have not suggested it is probably a Member consideration, so staff has now at this point in time been excluded. Staff was used initially as kind of blocking backs, to obfuscate things. All right.

Sometimes it may not be fair and maybe I yelled at that young man when I said he has a job, and I owe him an apology. I do apologize. He is doing his job. Why should I—he is doing it and he follows direction. And if he does not follow direction, then it is a lack of direction. Go to him, and give me his name, please—give me the book. Wake up over there, all right. I want to insert an apology because that is not right. It was out of a sense of frustration that I singled him out. And so Robert Kyle, I apologize. It was out of a sense of frustration that I jumped on you.

You do your job. You do your job to the best of your ability. And you take direction, and so please accept my apology. I really do apologize.

I have to tell you, I do not apologize to my colleagues for creating a situation now at this time where hopefully

it is going to make a big logjam and get everybody discombobulated and create a situation where they say, look, let us find a way to deal with this. Let us find a way to deal with this.

Let us find a way to give an opportunity to these people to compete fairly, for the law to be enforced, the jobs to be saved, so we can go home and say, "You want to know something? We really rose above it and did the right thing." Hopefully the administration will—and, by the way, I say to the Senator, he asked a question, what do we know about a guarantee? There are no guarantees.

Mr. MOYNIHAN. Will the Senator yield for a question at that point?

Mr. D'AMATO. Certainly.

Mr. MOYNIHAN. Surely, last week the Senator reported to me that he had regularly made a number of trips down to the White House.

Mr. D'AMATO. Yes.

Mr. MOYNIHAN. To discuss this measure.

Mr. D'AMATO. Yes.

Mr. MOYNIHAN. And say would there be objection to it. And the answer, as I recall—

Mr. D'AMATO. Eventually worked out.

Mr. MOYNIHAN. There would be no objection to the language we have?

Mr. D'AMATO. Correct.

Mr. MOYNIHAN. I do not know why anybody would object to saying we ought to enforce the GATT rules, but you have that understanding?

Mr. D'AMATO. That is correct.

Mr. MOYNIHAN. That is what I took to the conference committee, that it would be accepted.

Mr. D'AMATO. Yes.

Mr. MOYNIHAN. D'Amato said this, and that is his word for me.

Mr. D'AMATO. Our staffers were there, and the people from the White House were there, and so forth.

So let me say, if this provision is passed, then we have an opportunity to see if Commerce will respond, and, if they start the process, I have been given to believe, by the chairman of the board, who said he would come down today to answer any questions of my colleagues, I guess, here or wherever, outside, that they will pursue another course of action retaining those jobs in Cortland.

Mr. SEYMOUR. Will the Senator yield for a question?

Mr. D'AMATO. That is what this is about. Yes, certainly.

Mr. SEYMOUR. Is it possible as the clock continues to tick tock, is it possible that as more Senators arise and come to the Capitol, is it possible that other Senators may see the righteousness, see the lack of equity and justice that has been dealt to both the senior Senator from New York and the junior Senator from New York, and, in fact, is it possible that maybe Senator ADAMS

or maybe Senator AKAKA or maybe Senator BAUCUS, maybe Senator BENTSEN, or maybe could it be Senator BIDEN, or could it be that maybe Senator BINGAMAN, or might it be Senator BOREN? Senator BRADLEY is here, of course, so he could answer for himself.

But I am really interested in the Senator's opinion. Maybe it would be Senator BREAU or it might be Senator BENTSEN. It might even be the distinguished Senator BUMPERS, or in your opinion it might be Senator BYRD, or Senator BURDICK, or perhaps if you think it might be Senator CONRAD or maybe Senator CRANSTON, or could it be maybe Senator DASCHLE, or Senator DECONCINI, some Members, or maybe Senator DIXON might have an interest in the inequity that has been created as a result of this conference committee action or could it be I say to Senator D'AMATO, or Senator DODD?

Mr. D'AMATO. Senator BYRD could very well. I think he might be the kind of person.

Mr. SEYMOUR. How about Senator EXON? Could it be he possibly, or maybe Senator FORD, who was here earlier this evening, and you made a special appeal to him, or maybe it would be Senator FOWLER?

Mr. D'AMATO. Actually, I do not think Senator FORD would be too happy to see us still in this mode when he returns.

Mr. SEYMOUR. He would have to give you an A for effort.

Mr. D'AMATO. I do not know.

Mr. SEYMOUR. Even though you are owed a great debt for your work in Congress relative to this action.

Mr. D'AMATO. No doubt, if any teacher had to grade this Congress as it related to this particular inaction, an F no doubt, 4-F's, you know as they were in World War II, they found everything wrong, ears, eyes, nose, throat.

Mr. SEYMOUR. If you give one to Senator FOWLER, he would possibly be involved in this filibuster that is taking place, or maybe Senator GLENN, of Ohio, Who knows, maybe Senator GORE. He might return, because we know he wants to create jobs and he does not want to see people being unemployed. Maybe Senator GRAHAM. Senator GRAHAM was sitting as Presiding Officer here in the Chamber for some time. Or would Senator HARKIN perhaps or Senator HEFLIN or Senator HOLLINGS maybe? I do not know what the Senator's feelings are, but really the question I have been asking Senator D'AMATO is, as the clock ticks on and the day grows longer and Members come in, maybe they will see the same thing that you have been trying to say for the last 12 hours plus and see the injustice being done and come to the Senator's assistance and that of the distinguished senior Senator from New York. Is that a possibility?

Mr. D'AMATO. It is a possibility. I say to my colleague from California, I

am hoping exactly that the issue is not tying up someone in a great and deliberative body, but the issue of equity, the issue of fairness, the issue of jobs, that that be treated, that we not reward people by not taking action or for breaking the law, for being unfair. I mean, that is what is happening here. We are rewarding a company who has profited. Why are they profiting? Because eventually they will drive out the last competitor or certainly drive those jobs that exist here in America out of America. That is the beginning of the end.

When you separate the heart from the body it begins a process of inevitable death. You take that plant, you take the production capacity, and you send that down to Mexico, and then you try to keep a team, a team of your engineers and professionals, et cetera, up in one area while you send that other team to Mexico. Who is going to work with those workers and train those workers and how competitive will they be?

Let me ask the Senator. Do you really think, "Why won't they automatically let me go down there and save money?" Because they know they have a great staff, a great work ethic. You told them to increase the productive capacity of this plant of Smith Corona, 700 percent in 12 years—12 years, 700 percent. So, look, they know that to go down there, yes, there may be some short-term economics, but who knows about the stability of the work force, et cetera, over the longer period of time? Who knows what competition will bring that they will have to meet? They know that they can meet that in Cortland, NY, with the work force they have. That is why they do not want to move to take a quick buck, cut their costs, and go down there.

We should applaud a company that has that farsightedness and is willing, even at this time, to say, "All right, Congress, we will wait and we will see what you do. We will see. We will give you this last opportunity." And that, in essence, is what they are doing. And they did not come to me, and they did not ask me to do this or importune Senator MOYNIHAN too, under this action. The Senator and I went to them and we said to them, "If we can turn this around, will you stay? Will you reconsider?" And they said, "If you do that and if certain other things are undertaken, the enforcement provisions and a good-faith effort by the Commerce Department, we will take this back to our board."

You know, to have come so far and get the administration to say, yes, to get a situation where the employer could make a quick buck and look to escape, ready to do the right thing, and then to say we are going to throw it all in the junk heap, because, why? Because of personalities, because of some kind of local parochial consideration. I

understand. You know there is an axiom that I guess Tip O'Neill said, "All politics is local." I understand that. To a certain extent I lived by that. I practiced it, so I understand it. I do not minimize it. I do not deprecate it.

Mr. MOYNIHAN. Will the Senator yield for a question on that point?

Mr. D'AMATO. Certainly.

Mr. MOYNIHAN. You make that wonderful remark of Tip O'Neill that all politics are local. But is there anything local about the amendment we had asked to be included and understood was included in the tax bill?

Mr. D'AMATO. No.

Mr. MOYNIHAN. Did it say anything about Cortland?

Mr. D'AMATO. No.

Mr. MOYNIHAN. Anything about typewriters?

Mr. D'AMATO. No.

Mr. MOYNIHAN. Anything about New York?

Mr. D'AMATO. No.

Mr. MOYNIHAN. Anything about wage structures?

Mr. D'AMATO. No.

Mr. MOYNIHAN. Anything about Mexico?

Mr. D'AMATO. No.

Mr. MOYNIHAN. Anything about Japan?

Mr. D'AMATO. No.

Mr. MOYNIHAN. Anything about a company called Brother?

Mr. D'AMATO. No.

Mr. MOYNIHAN. Brother, can you spare a dime?

Mr. D'AMATO. They can spare a million.

Mr. MOYNIHAN. Half a dime.

What were the references? The references were to the General Agreement on Tariffs and Trade, an international agreement. The adoption of the Kennedy round in 1967 is the basic rule. The GATT is located in Geneva, Switzerland. Anything about Geneva and Switzerland there?

Mr. D'AMATO. No.

Mr. MOYNIHAN. We are speaking about universal principles, which America has advocated and leveled the way to put in place. They are the conditions. Are they not the condition for more and freer trade, that countries that open their borders to foreign imports know their own producers will not be put out of business for the purposes of creating monopolies?

Mr. D'AMATO. Absolutely.

Mr. MOYNIHAN. Is that not what the antidumping laws are about?

Mr. D'AMATO. Absolutely. The Senator has put it in the most cohesive and cogent manner, and he went right to the heart of it. We are saying, "Enforce the law." We are saying, "There is no question as to ambiguity whether you can or you cannot. You do have the authority." That is really what we are saying. We are saying in legislation that you do have the authority.

Obviously, there is a presumption, the way you have the law, that, therefore, the law should be enforced. There is no way that we can enforce them. We hope they will undertake this, and that is why I said there is no guarantee, because sometimes we have seen people, unfortunately, ignore provisions of the law. So, while we hope and while we think that it can and will make a difference, while we have gotten assurances from the company's side that it will make a difference in their decision of whether or not to relocate, what we are saying is, "Let us give these people a chance. Let us give them an opportunity to see whether or not the law can work for them or whether they can get equal protection under the law."

I think they are entitled to that. I think that is the least we can do. I think for us to do any less than that is inexcusable, and I think that while I understand local considerations and needs to protect one's constituent—and I have done so on more than one occasion, on many occasions as have all my colleagues, I am not unique to that. But there is a distinction between looking the other way when one's constituent is undertaking or sanctioning practices that are bringing harm to others. That is a different.

Mr. SEMOUR. Will the Senator yield for a question?

Mr. D'AMATO. Certainly.

Mr. SEMOUR. Would the Senator agree that the experiences of Smith Corona over, I think, the last 8 years he talked about—maybe it has been longer, but I recall him saying 8 years—would the Senator agree that the experiences that Smith Corona has been through that has them poised on the brink of leaving the State of New York, in this case to Mexico, would he agree that the experience they have been through is similar to hundreds of thousands of jobs and businesses I have seen leave my State of California as a result of getting it in the neck, so to speak, one way or another? In my State, I do not know about New York, but in California it is they are overtaxed, they are overregulated. It is impossible to do business; they cannot compete any more. And so they come to the conclusion that if we are making widgets in Gardena, CA, we can just as easily make widgets in the State of Idaho. Would the Senator agree that what Smith Corona has been put through is what so many thousands of businesses in my State of California have been put through?

Mr. D'AMATO. Yes. Let me tell the Senator, I think he has identified not only with Smith Corona, but with so much of America, that beset many cases by high taxes, extraordinary cost factors that go above and beyond sometimes the ability to pay. That is a condition that has created job dislocation both within the United States and sometimes from the United States to

other areas. That is not good. But there, there is some control, at the least. There may not be total control. But if the manufacturer, for example, in California finds it an inhospitable climate relating to energy costs, workman's compensation costs, and health insurance costs, and all of the other factors that come down to whether or not he can be competitive in his business, he has some alternatives. He has some alternatives, not just that he closes the door and locks up. He can meet with some of the State representatives and say: "Look, this is too high." And, indeed, you and I both have seen this take place. "I cannot pay for these energy costs."

New York has developed a plan. A major one was Tomcat, the F-14, we saw it in that picture. It is famous. They could not meet the competition, and the cost of energy is extraordinary. The State came in and negotiated with them and has done so with a number of large manufacturers to keep and retain their viability as a manufacturer in that region. Local governments oftentimes will give tax-free inducements, bonds, et cetera, waivers, in order to keep plant and equipment from moving elsewhere. So there are a variety of things that businesses can do, and in addition, there are other things that they can do, and we see them do it regularly and it breaks our heart, and it leaves a deep hole in the fabric of our community.

We see an entire plant pick up and, say, we are going to North Carolina, or South Carolina, or to another sister State, because the cost of doing business in that State is much less and the cost of doing business in our particular States may be much too high. We have seen that in New York and you have seen that in California in your experience. So you see, there, the plant operator has some options. He may be in a difficult situation, but he has some control here. I suggest to you that this is just that kind of situation magnified many times over. It is a high cost State, high cost of energy, high cost in terms of everything else. But he has a predator who breaks the law, who makes it impossible for him to compete, who dumps his goods here, who undercuts him, who takes more of his market, who gives him no chance to compete, and I have to tell you, we are his only hope here. Because without us, we say to him: You are in the garbage heap. You are out. Get out, move. He has no choice.

Mr. MOYNIHAN. If the Senator will yield for a question, Did this company not repeatedly play by the rules and go to the United States Government, and ask for relief from predatory dumping by a Japanese firm and was it not found that predatory dumping had taken place?

Mr. D'AMATO. That is correct.

Mr. MOYNIHAN. When they did that and the pride of the plant—that new

model typewriter, that very smart typewriter, when the antidumping duties were placed on the Japanese import to keep it at a true market value, did that Japanese firm not put a 70-cent component into the same machine, and did not our Government say that is a new machine?

Mr. D'AMATO. That is correct.

Mr. MOYNIHAN. If that is playing by the rules, that Government did that to them.

Mr. D'AMATO. Right. And the business about saying that this is not the same order that should be applied against this company, because the company has changed one of the places in which it gets its parts or it moved its headquarter for this from Japan to Korea, or moved the assembly where they literally screw these pieces together, same pieces, same content, same manufacturer, same company, same distributors; it is the same typewriter. It is the same crook—crook, thief. Stealing and taking the jobs of American workers. And we are aiding and abetting by doing nothing.

You know, when you have a loss taking place in your place of business and you do not report it or do anything and you work for the company, you tell me if you are not aiding and abetting. But we are. We aid and abet. We have a responsibility that is even more than that.

If you are the auditor of that company and you are catching somebody working for the boss hitting the till and you are quiet, you acquiesce, that is aiding and abetting, because it is in our responsibility. We have a fiduciary, legal, and moral responsibility, yes, to stop it. But people—we will shortly adjourn, and we will go home and do our business. Some will take vacations immediately and some shortly after, and some get ready for their Thanksgiving. I can imagine if Thanksgiving had a plant like this, where the workers know that within the course of 60 days they will be getting their termination notices, that the likelihood of any meaningful employment for many of them is zero, what a wonderful Thanksgiving. What a wonderful holiday season and holiday time.

Mr. MOYNIHAN. If the Senator will yield for a question in that regard, I suppose that Cortland would be in the Syracuse metropolitan area. The unemployment level in that SMSA is about the highest it has been in a decade, is it not?

Mr. D'AMATO. Yes.

Mr. MOYNIHAN. And there is no other manufacturing in Cortland. It was once a metal fashioning plant town in the 19th century. But this is the manufacturing activity.

Mr. D'AMATO. That is correct.

Mr. MOYNIHAN. Productive products and value added is very high. If it goes, there is no work. There is no work, as Mark Twain said of the French emigres

from France in the Revolution who came to upstate New York.

Mr. D'AMATO. The Senator is correct.

Mr. BRADLEY. The Senator is making a statement. Is it not true that the Senator may yield only for a question?

The PRESIDING OFFICER. The Senator did yield for a question.

Mr. D'AMATO. I did yield for a question and the Senator's question was: Is it not true that this is the last manufacturing plant there, with the exception of there having been a metal strip place, that that is no longer the case. So he was propounding a question, and I did yield for that question.

The PRESIDING OFFICER. It was not clear that the question was a statement. The Senator from New York is put on notice that the rules will be strictly construed.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. D'AMATO. Yes.

Mr. MOYNIHAN. Are there any other factory jobs in Cortland, NY, if this plant closes?

Mr. D'AMATO. Not worth describing. Minimal. In the economic terms, this is it. To close this baby, it will destroy a town, and 875 jobs and all those other jobs. Damage, terrible damage, blight. Totally unnecessary. You know, the major thing is that we got the administration to do something that just about every Member of this body would have stood up for and cheered 6 months ago, a year ago, and indeed some had championed it this past May. That was seeing to it that we told the Commerce Department to do what was right to enforce the law.

They had to go after the predatory practices of dumping. That is what we sought. It was a great achievement because we got the administration to say, OK, we are going to try to do it in such a way that we do not create GATT problems and a trade war. Nobody here wants a trade war.

But I will tell you one thing. At some point in time you have to stand up to these guys and you have to say to them, wait a minute, we are not going to give to you so much power, economic and whatnot that we just look the other way and we make believe that what you are doing, you are in violation of the law, you are predatory pricing; you are dumping, and is not going on when it is going on.

I suggest to this body that that is exactly what we have been doing. Not only this administration, but many of us.

I have to tell you something. In opposing this legislation, that is what we are doing here. In opposing legislation that would deal to correct this problem, we are saying we are afraid for some reason, because maybe they will pull their plant out of my town. By the way, if they close their plant down because of this illegal activity, stop to

think that places will open up, that other jobs will be created not only in Cortland—you know, we can send people down there and hire workers and pay them more than \$6 or \$7 an hour in Tennessee to do real manufacturing. Did you ever stop to think if we have real competition, we would have more people working, not fewer people working; not the basis upon which this is all about. It is not about giving one an advantage unlawfully over the other. It is real, meaningful competition. That is what we are talking about. That is what we see. That is what we want.

Why should we deny that? Why? I do not know why.

I said it before and I say it again. Take my name off. Put anyone else's name on. Change the legislation—as long as the intent is adhered to, that intent being that we stop the circumvention in the kind of case that has taken place and continues to take place as it relates to Brother and those companies that engage and have engaged in this kind of illegal activity.

That is all we are trying to do.

Mr. SEYMOUR. Will the Senator yield for a question in that regard?

Mr. D'AMATO. With the indulgence of the Chair, the Senator has asked if he may ask a question. I yield for a question.

The PRESIDING OFFICER. The Senator yields for a question, a question only.

Mr. SEYMOUR. Senator, I know that you believe in doing everything you can do, because I have observed you do it, now getting close to 13 hours, in trying to save those 875 jobs. So I have no doubts about your sincerity, or that of the senior Senator from New York as well in doing what both of you have done.

However, my question has to deal with the severity of the dumping, as you have described it; the severity of that dumping, not being familiar—as perhaps you are—with the Department of Commerce and their levying duties, or tariffs?

I know that the Commerce Department found that Brother was selling portables below cost and they, at that time, in 1980—

Mr. BRADLEY. Parliamentary inquiry. The Senator is making a statement. Is it not true a Senator is making a statement. Is it not true a Senator may yield for a question only?

The PRESIDING OFFICER. The Senator may yield for a question only. Please state your question.

Mr. SEYMOUR. Mr. President, I did state the question at the outset, stated the question midway through my framing of the question, and I was almost to get to the very essence and finality of the question when the Senator from New Jersey challenged.

Am I given the privilege of asking the question?

The PRESIDING OFFICER. The Senator may complete his question.

Mr. SEYMOUR. Thank you, Mr. President.

The completion of the question, Senator, is that in 1980 the Commerce Department found that Brother was selling portables below cost that called for duties of 48.7 percent?

Mr. D'AMATO. That is correct.

Mr. SEYMOUR. Then in August of 1991 they found them again guilty, and this time 60 percent?

Mr. D'AMATO. That is correct.

Mr. SEYMOUR. Now my question is: Are those extreme tariffs, duties to impose?

Mr. D'AMATO. Yes, they are. They go well beyond duties that we have seen traditionally. As a matter of fact, most of these dumping cases are lost.

Let me say it again. Most dumping cases that are brought, there is not a high degree of success. In this particular situation, as it relates to Brother, it has been successful in cases. It has brought eight, been successful in eight.

What is the sense of having a law if, when a person proves a case, he or she still gets no satisfaction? What is the sense of having a law that says, if you commit the crime of larceny, that there is a punishment, and that punishment can be as high as 5 years in prison. So you commit that larceny the first time and maybe the judge says there are extenuating circumstances. And you go out and you rob, let us say the same bank a second time. And the judge finds that maybe you had some stress. And you go out and you do it a third time.

Let me tell you if, at the third time the judge continues to give you probation, then something is terribly wrong. Then you are making a mockery and a sham of the law.

We, as citizens, are outraged when we see and hear of these kinds of situations. From time to time we do.

We hear of a judge who has given what we might feel is an inappropriately or disproportionately lenient sentence, little, if any, time. Some terrible attack, unprovoked—unprovoked. An old woman badly beaten. And the person who is proven guilty of the crime is literally released in weeks or months.

That provokes an outcry. We understand that. I think it is difficult, and I appeal to my colleagues, to understand that what has been taking place to the competitors of Brother, in this case Smith-Corona, is no less a crime—no less an assault on our laws.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. D'AMATO. Yes.

Mr. MOYNIHAN. Did the Senator not state earlier that there were in fact criminal prosecutions along this line?

Mr. D'AMATO. Yes, there were. They are different cases but they involve foreign competitors. In those cases they involve mislabeling. But there are, under our trade laws and under our own laws.

You can violate them and some of these penalties are criminal. That is not the case in Brother. But the dumping as a legal, ethical, moral matter is every bit as criminal as a taking.

We could have a discussion on that in the courts, in the law schools, and debate this issue as to who is a bigger thief. Whether it is the person who comes and takes the money off the books illegally or whether it is the person who avails themselves of these kinds of loopholes, notwithstanding that they are found to violate the law, continues to violate the law. And who is more culpable?

In that case I think it is the authorities that allow it to take place. And the authorities in this case are the U.S. Government.

If we are part of that Government, then we are part of that problem, and we should be part of the solution.

So I decry that kind of almost contemptuous attitude of saying I am for more jobs. Oh, yes, I am for more jobs. We need more job training.

Hell, you could not give enough job training to fill the holes that we are leaving in our cities, in our communities throughout the Nation by this incredible methodology of operation. You just could not do it.

Mr. MOYNIHAN. Will the Senator yield for a question in that regard?

Mr. D'AMATO. Yes.

Mr. MOYNIHAN. Did he not say earlier that this year, for the first time in the history, perhaps, of civilization—Western—that there are more jobs in government in the United States than there are in manufacturing? Can that be true?

Mr. D'AMATO. Sadly—sadly, it is true. My distinguished colleague brings forth an area that we talked about early in the morning, 3, 4 o'clock in the morning, the fact that today we have more jobs in the Government than we do in manufacturing. And as the trend continues, it is in this direction—down. Down.

Who is going to support our retail establishments? Who is going to support our families, or schools, or sales, our development? Who? The manufacturing jobs do it. If we keep destroying the manufacturing base of America, then there is no small wonder—it is not a Republican administration, a Democratic administration—it is a lack of governance. It is a lack of logic, the application of logic.

You cannot just continue to feed the tiger whatever the tiger wants to eat because you are afraid he is going to eat you. And that is what we are doing with the Japanese and with Brother, in this case.

Let me tell you, after we feed them everything and there is no more meat in the freezer, there is no more food in the locker, we are next.

What do we have to see or do to prove the point? Eight cases, eight viola-

tions, and the tiger comes back. What do our people do? Give him some more. Oh, do not complain, you know the tiger—he let us keep a little factory here in Tennessee, he could open that up in Singapore, you know; he is going to give us a couple more jobs.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. D'AMATO. Yes.

Mr. MOYNIHAN. Does the Senator seriously think there is space for one more factory in Singapore?

Mr. D'AMATO. Pardon me?

Mr. MOYNIHAN. Are they not moving to Tennessee because they have run out of room?

Mr. D'AMATO. They are moving to Tennessee because actually in some of these areas now they can get cheaper priced work and workers in the United States. If that is what we want to become, the low end of the production side, the assembly people, that is a heck of a thing.

Our genius, we make the product, patent the product. Other people take it over, improve it, and then bring it on back here and then compete in such a manner that they knock us out, become a monopoly. And then we wonder why the economy is going down, down, down.

It does not take a man of extraordinary vision to see what has happened and what will continue to happen. The demise of the American manufacturing base is not inevitable. I have heard these scholars come forth and say oh, it is going to happen. We are going to be a service entity. That is the only area in which we can compete.

No. I want to tell you if you look at those manufacturers, whether they be in small plants or large ones, that invested in plants and equipment and have a skilled work force and encourage that work force, you will see they can compete with anyone.

I can give you examples of that whether it is in the production of steel in the Presiding Officer's own home State; if it is in the State of my colleague from New Jersey, some of the new electric mills that have gone up; whether it is in the manufacture of garments, men's and women's garments, believe it or not we have well-paid workers, not working in sweat shops, working in good conditions, where they have the automated cutting equipment, and so forth, that outproduce and make a better product and compete with Third World nations and those which years ago we said we could not compete with.

It comes to mind because there is a factory that I am thinking of in Syracuse, N.Y. They have expanded. They now do most of the Brooks Bros. They took over the operation when Brooks Bros. took over recently in Long Island City. But they invested in plant, equipment, and so forth. If you had the kind of predatory practices that were prac-

ticed against our good friends here, Smith Corona, even this fine manufacturer of menswear could not compete.

In other words, if you had a foreign competitor that was producing and selling at below their cost, you cannot compete, because that manufacturer was selling his or her products where markets were closed off to them.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. D'AMATO. Yes.

Mr. MOYNIHAN. This is central to your argument as I understand it, that the United States set out to create an open trading system, knowing the one thing they had to do was protect American manufacturers against predatory dumping and pricing?

Mr. D'AMATO. That is correct.

Mr. MOYNIHAN. And that is all you are asking for?

Mr. D'AMATO. That is all we are asking for. We are asking for fairness, we are asking for predatory pricing practices to be eliminated, to be curtailed. We are asking where there are orders and tariffs, that they be enforced against this kind of practice.

Mr. SEYMOUR. Will the Senator yield for a question?

Mr. D'AMATO. Yes.

Mr. SEYMOUR. The question I have deals with this conference committee that struck your amendment, the two-page amendment. We know that the senior Senator from New York is a member of the conference committee.

Mr. D'AMATO. That is correct.

Mr. SEYMOUR. He did not sign the conference report; is that correct?

Mr. D'AMATO. That is correct.

Mr. SEYMOUR. He was not aware prior to the signing of the conference report that your amendment had been stricken; is that correct?

Mr. D'AMATO. Well, he did not learn until very late. That is correct.

Mr. SEYMOUR. Senator, is it your opinion that the members who did sign the conference committee report—do you believe that they knew your amendment had been stricken? Or a majority of them?

Mr. D'AMATO. Yes; at the point that it was presented for their signature. But that is a fait accompli.

In other words, the report was presented to them, this report, and it was basically a take it or leave it.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. D'AMATO. Yes.

Mr. MOYNIHAN. Is the Senator aware that his colleague from New York did not sign?

Mr. D'AMATO. Oh, yes.

Mr. MOYNIHAN. Because we were at that point aware. The Senator from California asked a very intelligent question. There is an answer. You are aware of that. It was known. There seemed to be no choice.

Mr. D'AMATO. No recourse. As the Senator has indicated to our colleagues

in the conference committee, they had no recourse. They were presented this document.

Now you say they could have said no, we are not going to sign. But they basically found this to be the case and it was presented to them as a fait accompli.

My colleague, Senator MOYNIHAN, from New York said no, I am not going to sign it. And let me make note of this. If I am wrong, I would like you to correct me.

Is this the first time—I believe this is the first time that the Senator from New York [Mr. MOYNIHAN] has not signed a conference report in 14 years that he has been on the Finance Committee, that he has been on those committees?

So this was not an act taken lightly. We are talking about a Member who has supported the reports, notwithstanding that he may have been for or against certain provisions in the bill. He does not have a history of being the great abstainer. You might say: Oh, well, there goes PATRICK again. He is not signing.

On the contrary. This is the first time in 14 years that that he said no, I am not going to sign. And why? It is an issue of fairness.

What we are arguing about here, what we are arguing about here is fairness. That is what we are arguing for. People are entitled to equal protection under the law, everybody. And by gosh, our New Yorkers are just as good, have just as many rights and should have those rights protected like anybody else from any other State, no more but certainly no less. No more but no less.

I have to tell you something. We have abdicated our responsibility too many times. Why should we do it here and see these jobs out? We talk about dealing with the problems. Here are the problems. The Tax Code, economic development in distressed areas. Enterprise zones. We will need an enterprise zone. We only have 50 here. Maybe we can get this under rural enterprise. I am not sure.

And I am being somewhat facetious, but why should we have to create an enterprise zone when instead of having to spend money—and by the way, it is going to cost us \$15 million for job training, \$15 million for job training a year, millions lost in State income tax, millions in Federal income tax. How many millions eventually will it cost us in social services? How much in separate families, families that are going to have incredible pressures placed upon them? For what? Who do we advantage?

Do you know what? Brother does not win in this. They do not win. Smith Corona said we are going to cut our costs. We are going to cut our costs so that we can compete with your predatory practice, your dumping. We are going to manufacture at a much lower cost in Mexico.

So maybe instead of helping, what we have done now is created a situation where they will have to reduce the amount they pay the people who assemble these components in Tennessee. I do not think that is good. I do not think we are going to help the people in Tennessee. We will certainly hurt the people over there in New York, 875 of them who are out. You will certainly hurt all those jobs that are going to be lost indirectly, the jobs that are created in terms of retail establishment and transportation and all the finance areas and real estate areas. That is really incredible.

But I have to tell you, I have faith. I have faith in the system. I have faith that at some point in time people are going to become so annoyed and so angry that they are going to say let us find a way to deal with this. It may not be because they were gripped with the eloquence of my presentation. It may be it is only the fact that we are all going to be disadvantaged and stay here later and longer, and I probably disadvantaged more than most because I have things to do and places to see literally and people to see.

We initially had scheduled on my schedule I think a visitation of our different cities today, four or five tomorrow. We will not go there. We will not go there. And if we can indeed leave this place without having concluded the business of the Congress, why, I guess that will be it. So be it.

Mr. SEYMOUR. Will the Senator yield for a question?

Mr. D'AMATO. For a question, yes.

Mr. SEYMOUR. The question has to do with the jobs that are in the State of Tennessee.

Mr. D'AMATO. Yes.

Mr. SEYMOUR. If the Senator from Tennessee were on the floor, he might want to know, well, wait a minute what if the Senator's amendment became law and what if Commerce in fact applied the law and found what the Senator believes to be true, which is dumping. Those jobs, if they were to move, after Commerce exercised its tariffs, if those Tennessee jobs were to move to Mexico, does the Senator believe that those 875 employees at Smith Corona could yet compete or would the Senator be back here asking for another amendment?

Mr. D'AMATO. No, we would not be back here asking for another amendment. We are not asking to deal with competition because the product is made abroad or because the product is assembled here. We are asking for relief because the product is being sold at below what it cost them to make. That is illegal. And that determination has been made in eight separate court cases. That is illegal. That is wrong. What we are saying is apply the law.

And so I can assure my colleague from California that we would not be attempting to substitute or come in

and say, well, look, now they are doing this process from over in Mexico and they cut their cost by \$3 an hour and we should be—no.

We have to compete. We agree we have to compete worldwide. But what we say is that the law must be applied. What we say is that regardless of what company it is—and let me tell you Smith Corona, again, as you know, is a very substantially English-owned company. I think 42 or 48 percent of its stock is held by an English company.

Now, look, if they engage in the activities of cutting their prices below their cost to force out any other company, it would be wrong. But they do not do that. They do not. And they are entitled to the protections under the law. The law says they are not allowed to engage in this practice. They win eight times. We make a sham of the law, a mockery of the law. We look the other way. It does not count. I do not want to apply it here.

Now, look, I have not even begun to start. I have not analyzed the special provisions that have found themselves into this bill because once you start to throw down that kind of gauntlet, it gets rough and it gets tough. It gets nasty. I am presuming though and suggesting that our workers are entitled to all of the protections under the law that the workers of any other State are, no more no less.

Let me suggest again, when I started this endeavor to try to give to the people of Cortland who work at Smith Corona at least an opportunity of a fighting chance to save their jobs, I undertook that recognizing that it would not be easy. But you know what I saw as the biggest obstacle? I saw the recalcitrance of the administration to take on the Japanese and say to them, hey, wait a minute; enough is enough. You cannot break the law here.

We overcame that recalcitrance. They gave us their commitment. They give us the legislative language. They worked with us in developing it. And to be turned down and rebuffed by my colleagues at this point in time because they are afraid that there are some egos that may be hurt, there are some local parochial interests that somehow someone can appeal to and say, oh, this is the company in my backyard, is wrong. It is absolutely wrong. And that is why I am going to carry on this battle.

Mr. SEYMOUR. Will the Senator yield for a question?

Mr. D'AMATO. And that is why I hope that the distinguished majority leader and the minority leader and some people who have some capacity to deal—and I have seen them deal with difficult situations. I have seen them deal with egos, the largest and the biggest. They have the ability and the wherewithal, I think, to craft a methodology and a proposal that will extricate us from this situation.

As I said before when I started initially, I said, well, I thought 8 o'clock in the morning. The hour of 8 o'clock has come and gone. And let me tell you why I thought 8 o'clock.

I really thought that along about that time we would be getting some of our staffers together; that they would begin to talk; that maybe some of the Members might each be figuring out some kind of method to deal with this problem.

And who knows: Maybe you let the candle burn and at some point in time the candle burns out.

Mr. SEYMOUR. Will the Senator yield for a question?

Mr. D'AMATO. If they are waiting for that, I want my colleagues to know that I think the candle has a lot more life left in it and that I am prepared to continue this candle for a lot longer. I will have a little sore throat, I am a little raspy, but that is what I will do.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. D'AMATO. Yes, I will yield for a question.

Mr. MOYNIHAN. The Senator is aware that conference reports, any Senator may ask that a conference report be read?

Mr. D'AMATO. That is correct.

Mr. MOYNIHAN. And that some of these reports are of the length that might take half a day and others more?

Mr. D'AMATO. Yes.

Mr. MOYNIHAN. And that is a privilege that is available, any Senator's right under the rules. That is the case, is it not?

Mr. D'AMATO. That is correct. I believe that to be the case. I certainly would avail myself of those opportunities at the appropriate time. I would hope, to be very candid with the senior Senator, my distinguished colleague, Senator MOYNIHAN, the majority leader and others, that as we get closer to bumping up to that 12 o'clock time and that as there is important work—and, indeed, the House may be planning to leave, but I understand they have not received our approval on a resolution, and therefore they can only stand in recess for up to 3 days. I am not desirous of creating a situation where my colleagues would be forced to come back. But I certainly hope we can find a resolution. There are resolutions that have been found to much thornier, certainly more complex issues, certainly issues that were much more contentious. And I do not understand why it is that we do not want to attempt or we cannot attempt to come up with a solution, legislatively, provided the administration gives its approval, because we do not want to just go on down this track and have the administration say no.

But subject to that caveat, this Senator—

Mr. SEYMOUR. Will the Senator yield for a question?

Mr. D'AMATO. I yield for a question.

Mr. SEYMOUR. Does the Senator have reason to believe that if his two-page amendment were in bill form before the Senate, on an up-or-down vote, does the Senator have an opinion as to the possibility that it would pass?

Mr. D'AMATO. To give the Senator a good answer, he would have to look over to the left and down to the first row and to the Senator on that first row and ask the majority leader if he was going to be supportive or not.

I ask the majority leader if he is going to be supportive. Then I can tell you without fear of contradiction I have no doubt as to the outcome. If that were not to be the case then, of course, I left out the Finance Committee chairman.

I have seen and the Senator from California has seen the influence that a committee chairman, and particularly one as respected as the Finance chairman, particularly the majority leader, what influence they carry. That is an influence not to be underestimated.

Mr. SEYMOUR. Mr. President, if I may ask the Senator another question: Does the Senator believe that the Members of the U.S. Senate, given their own free will—at least those Members of the U.S. Senate who believe in free and fair trade, given their own free will—on an up-or-down vote on the Senator's two-page amendment; will he conjecture as to the outcome of that vote?

Mr. D'AMATO. With the body politic here, it would be naive to suggest that in a matter that has become, unfortunately, as contentious as this, that there would be that free vote. And I am not suggesting to the Senator that that is not totally understandable. Nor am I suggesting to the Senator that, if I were confronted with a similar situation, I might not do exactly what the majority leader is doing, or attempting to do, in dealing with the legislative duties that he faces and with the needs and the demands that come from the other Members of this body who may not be of a similar mind as it relates to this issue with this Senator. So I understand that. I really do.

But I think, if we were dealing in a totally abstract way, and if we were dealing simply play with the issue, if we were dealing with this policy, and this was not a plant located in New York, and it was not Smith Corona, and it was not Brother, but it was two plants and one was availing itself of all of the privileges of operating in this country, but breaking the law, and the other was following the law, that if someone proposed that, as a result of the lawbreaker's violations, that they were providing irreparable damages and injury to the other company, and that the law be enforced that they were violating—that the law be enforced—I think there would be unanimity in our saying yes.

So if we had a situation where it was not Smith Corona in New York, and it was not Brother, which is headquartered in New Jersey and has a facility, a screw facility, in Tennessee, and if you just had the same circumstance taking place without identifying the companies, I am going to tell you something: There would be unanimity here in saying the Commerce Department should stop this; it is wrong.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. D'AMATO. Certainly.

Mr. MOYNIHAN. Did the amendment that we had thought was agreed to on this tax bill tell the Department of Commerce to stop anything?

Mr. D'AMATO. No; absolutely not. It just gave them the discretion to, and spelled it out that they could enforce the law.

Mr. MOYNIHAN. The law in this case being the GATT dumping rules of 1967, GATT being a multilateral standard; is that not correct?

Mr. D'AMATO. That is correct. So this was not an attempt to get anything special. This was an attempt to clarify and say to the Commerce Department: You do have the ability to enforce the law, so let us do it. Let us not continue this charade, this sham.

Because it was a charade and because it is a sham.

Let me say that this amendment is a much narrower version of the legislation which we first introduced, and it was intended to deal with the problem that Smith Corona and others have faced. More specifically, this amendment is needed to close a loophole in the sourcing of third-country parts from historical suppliers and permit foreign manufacturers to evade anti-dumping orders. And that is what they have done. They have just moved around their operation, the same historical suppliers, and they continue to violate the law.

Under existing law, the value of these third-country parts is counted against circumvention, because the parts do not originate from the original exporting country subject to the order.

So notwithstanding the fact that the party may have always been supplied by third-party countries, you have this circumvention taking place. This has led to the anomalous results that merchandise is taken outside the scope of an antidumping order, with the transplant of a simple assembly operation, even though there has been absolutely no change in the mix or sources of the covered merchandise's component parts.

This amendment provides the Department of Commerce the statutory authority to reach circumvention patterns of this nature which current law does not address.

While we work every day to level the playing field in open markets abroad, loopholes in our own United States

trade laws undercut our competitive position right here in our own backyard.

It may not be too late to help Smith Corona's 875 employees. It is also not too late to help the thousands of other U.S. companies, and tens and tens of thousands of workers who are preyed upon by foreign competition, competition that does not obey the law.

We should not delay action that is in our best interest, that is fair, is reasonable, and that is designed to protect American jobs.

Our U.S. industries should be investing in research, development, and capital; not in court battles. It is an outrage to see a company spend millions of dollars in pursuit of justice. It is an outrage to have order after order thwarted. It is wrong. It is counterproductive. We must strengthen the law. Yes, strengthen it in order to ensure that our companies do not continue to be undercut by unfair trade practices.

Mr. President, I ask for the urgent support of all of my colleagues. Nothing is more important today than an American job, and keeping the job, and giving our people an opportunity.

Smith Corona is led by G. Lee Thompson, chairman and CEO. Mr. Thompson announced in August that the Smith Corona's Cortland, NY facility, home to 1,250 workers, would be relocating to Mexico over the next 14 months. Now, obviously, it has been reduced to 11 months. Some 875 people will be put out of work in central New York. Only 375 people will remain employed in Cortland, and 50 will move with the plant to Mexico.

This is a disastrous blow to these families. It is a disastrous blow not only to the families and the economy of the region, but to the psychology of the American worker. Because, you see, Smith Corona is not an isolated case. Smith Corona represents the hopes and aspirations of millions of Americans who look for nothing more than an opportunity to support themselves, to keep their dignity, to keep their families together. And to permit this decapitation of the heart and soul from the body is wrong. To take the manufacturing component away from the engineering side is to cut the body in half.

How long do you think this operation is going to continue, with the production side in Mexico, and the balance in Cortland?

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. D'AMATO. Certainly.

Mr. MOYNIHAN. Is it not the case that Smith Corona has given an understanding that if relief is provided, the simple kind that the Senator proposes, simply to let the Commerce Department enforce the law, that they expect they will stay in Cortland?

Mr. D'AMATO. That is a fair summation and analysis. And if, indeed, the Commerce Department is given the opportunity to enforce the law, and they actually undertake the enforcement, then they are in a position and will be ready to recommend to the board that they stay, that they keep those jobs and they fight for those jobs.

I will tell you something: That is what this battle is about. It is about giving people an opportunity. It is about not walking out and abandoning the microcosm of America in Cortland, NY. That is what America is about. It is made up of small communities, up and down the length and breadth of this country; they are beautiful. And these factories provide jobs and employment. They provide a fabric of society that brings people together.

We have kids working and people working in this plant for 40 years. I mean, you have a history here that cannot and should not just be ground up because we are going to continue business as usual.

I do not know what the parliamentary situation will bring about. To be quite candid with you, I was hopeful that about 8 o'clock, we would be getting some approaches to do something to ameliorate.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. D'AMATO. Yes.

Mr. MOYNIHAN. Is the Senator aware that the House, as I understand it, has agreed to remain in session until Thursday, although it may not be that they will have a quorum after today. But they will be able to conduct business on a consent basis.

I ask the Senator, is he aware they will be able to conduct business on a consent basis?

Mr. D'AMATO. Yes. I had the feeling that the House would be in a position to continue. And, indeed, I have been advised that we have not passed any adjournment resolution and, therefore, the House could not go out until we do.

I have been advised further that they could, if they wanted to, get a recess. But I did not understand, and this is the first that I heard, that they are now going to stay until Thursday. And that is what I suggested earlier, that I hope we can get it resolved. Because the so-called cats and dogs—and some of those cats and dogs are not cats and dogs; they are important; they are germane. They are legislation and legislative initiatives that my friend from Montana came and asked for. And this Senator has supported that; and it is creation of jobs there.

So you see, when people begin to get restless and begin to say: Alfonso, when are you going to sit down; I am going to tell you, I am not. I mean, not for a while. And then when I get up, I am going to ask for things to be read, and I am going to suggest the absence of a quorum. And there soon is going to

be the likelihood that we are going to get a quorum here, because Members are going to begin to peel off, and they are going to take off.

I am going to tell you, I understand the objection of at least four Members to this legislation—really, three. One is now a national figure, well beyond parochial interest. I can understand the initial objection. But I have to tell you, we have not even had an opportunity to sit down and to discuss with these Members an amelioration of what might be, or a possible amelioration of their concerns.

And if it is just plain blind opposition to this amendment, it is every bit as important as any other piece of legislation that we have yet to enact. And I am going to avail myself of the same prerogatives that they have chosen to avail themselves of, and that is to drop this out.

Now if, indeed, Congressman ROSTENKOWSKI himself is adamantly opposed to this on principles, and is not just sticking to it because someone has asked him to do a favor, that is something that I can understand. But given the history of this legislation, given his support for this concept before, that is not reasonable and that is not believable.

So it is not a question of me trying to move the rock or the mountain that is immovable. But it is a question of trying to get down and say, well, look, if we all take this posture and nothing is accomplished, why do we not attempt to find a way to deal with this situation?

I want to refer you to a letter of July 21. By the way, we have gone an hour and a half beyond what I thought would be necessary. I figured by 8 o'clock we would kind of have some kind of a resolve, and we have been working toward doing something, Mr. Leader, and I really hoped that would be the case.

So now I am consigned to eating these throat lozenges and doing this. But it is the right thing. It really is the right thing, and I respect all of my colleagues who will come and battle for their constituents, and particularly when it is a matter of giving them an opportunity to work, an opportunity to work.

Nobody can guarantee people jobs or employment, but certainly we can give them fairness and an opportunity to compete. That, we have an obligation to do. Let me tell you that is what this legislation does. It does not take one job out of Tennessee. It does not take one job out of New Jersey, not one. What it simply says is that Brother has to obey the law, and it does not even say that. It says that the Commerce Department will have the ability to follow and pursue the case so that the law can be applied, so that when and if it is found guilty of dumping, they can apply the penalty, and they just cannot

shift a little bit around and continue to violate the law.

What is wrong with that? I will tell you what is wrong. If you do not give a darn that the law is being violated, if as a result of this, maybe you have induced yourself to believe that we have 600 or 700 temporary make believe jobs; and I say temporary make believe because when there is no more competitor, you do not know where they are going to go. If these guys want to make more, I will tell you where they will go. They will put that assembly plant down in Mexico faster than you can bat your eye. Just like that.

My friend from California posed a question. How would I feel about this. But I have to tell you that this would be incredible. Incredible. Here we have a situation where we should be concerned that a company that is violating the law, because it has to follow the law, might curtail some of its operations. This is the great big Brother Co. There are the best manufacturer, and they can compete and beat anybody. Well, let them beat them under the law.

But do you mean to tell me that we look the other way because they bought us off? What did they buy us off with? A couple make believe jobs here and there, and is that what a great nation is about? Is that what a great legislative body should be about. I cannot believe that we are bickering over 875 jobs, and yet we are not, because my friend, Senator MOYNIHAN, said it directly. It is more than that. It is the psychology. It is people, people's lives. We have seen that this is not just Smith Corona, not just these jobs.

Are we going to stand by and allow this to continue to go on, the continued erosion of not only American industrial might and production, but American inner strength and stamina. We do not care how powerful or rich you are, how much you can buy, and how much you can sell, and what you will do; you have to obey the law like everybody else. I guess we have reached back to our ancestry, because there have been some pretty crummy dealings in terms of the government of the Western Hemisphere for a long, long time, where logic and equity and justice had little to do with the outcome of things.

That is what we are arguing about here. Let me tell you something else. This nothing more than power. What is taking place here and the argument here is nothing more than power. It is the wrong application of power.

This is not something that if my colleagues are able to prevent—and I would say they may be able to prevent it—that they should take any solace, because it is a pretty shallow victory. You are able to drive out 875 jobs. If this does not pass, you can say we drove 875 American jobs to Mexico. That is a great victory. There is a no-

named opposition in this legislation. It is no-compromise opponents, of fairness that this bill represents. What a great victory. You can take your hats off and pay tribute.

I say to the AFL-CIO: Where are you? You run around screaming and yelling about the jobs going to be lost. What about these jobs and an opportunity to stop this from taking place now? Do these people have to belong to your particular union before you care? I saw the United Auto Workers up in Cortland there. I do not know whether they represent any of the workers there. Was that just a political statement, or did they mean it? If they meant it, why do they not do something now.

Indeed, if Mr. Clinton means it and he says the first order of the day is to protect jobs—and I read that in the media; we had a newspaper account here, recounting the tragedy that is befalling this community, he has an opportunity to do something. He has an opportunity to reach out and say, by gosh, what Senator MOYNIHAN is talking about is just seeing to it that the law is enforced, and that should be done. Why not?

That is leadership. That is real leadership. I tell you, if he were to make that call, to call some of the people in the House and Senate and step up and say, hey, that is right, not only the people of Cortland who work at that plant should be entitled to equal protection of the law, but all of our workers in all of the plants of America who have to compete are entitled to compete, not against a stacked deck, not against any illegal shenanigans that are taking place. They are entitled to compete on the merit of their operation and whether or not they can do the job.

Do you know, that is not what it is coming down to. It is coming down to whether or not a Member or Members can maintain a certain posture on the floor of the Senate, and maintain their position. It is a pretty sad day when, in order to get a fair hearing—and this has not been a fair hearing, make no mistake about it. I do not kid myself. But in order to get an opportunity to get legislation enacted that will help these people, one has to avail himself of this kind of technique, just in the hope of attempting to resolve this situation.

So, Mr. President, I want to share with you a letter that I received back on July 21 from the Smith Corona people:

DEAR SENATOR: It is with great sadness that I advise you that the last U.S. plant of the last American consumer typewriter company, Smith Corona, is forced to phase out its manufacturing operations at its Cortland, New York facility.

You are well aware of the long, lonely, expensive, and often bitter struggle to combat the predatory pricing, dumping, and circumvention practices of our Far East com-

petitors. Even though our charges have been substantiated, and we have won in all of our main struggles, our Government has been politically unwilling to support these findings.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. D'AMATO. Yes.

Mr. MOYNIHAN. How does he read that statement from the Smith Corona firm, that the Department of Commerce did not, for example, see the evasive purpose of that small component added by Brother after an anti-dumping duty was imposed?

Mr. D'AMATO. Correct.

Mr. MOYNIHAN. They said, no, in fact, this is a new machine, a new product, a new custom number classification?

Mr. D'AMATO. I answer my colleague by saying that is an example of the kind of lack of response that came from the administration.

Another example is the lack to pursue a case, because the country of origin involved no longer became the country of origin, because the manufacturing was sent from Japan at one time to South Korea, another time to Singapore, another time Singapore and Malaysia—the same components, the same parts, the same company, exact same content, same suppliers. I mean to tell you that my distinguished colleague from New York, Senator MOYNIHAN, has said before that they have enough to go after them now. But we have to put a direction in there, and they should have taken that case on and fought that case. When they got to the GATT, they should have said: What the heck, are you crazy? Either you did not break the law or you did. Of course, you broke the law.

I mean, what is going on? A thief is a thief. You cannot cloak him in this business suit and let him go out and break the laws and say he is a foreign competitor; you cannot do that. If it was an American businessman doing that, you better believe they would put him out. But he does not have that clout. He cannot get the Japanese ministry, he cannot get the big lobbyists, he cannot get the companies like IBM and others to intercede on his behalf, to say: Look the other way.

That is what Brother does. Imagine that. They call up, and they look the other way. Do not get involved. What do you mean, do not get involved? It would be something if somebody was eating your lunch illegally, then maybe they would want the law applied. No; do you want to know the power. Come on, we all understand it and we know it. We know it. We have seen it. They exercise it. What about this great country with great strength? Ha, ha, ha; it is absolutely shameful.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. D'AMATO. Yes.

Mr. MOYNIHAN. Does he have any reason, any theory for the nonresponse

of the Department of Commerce, which the amendment simply says, now do entertain these questions? What would be—why would they not do what clearly they have not done?

Mr. D'AMATO. Without there being legislative language to clearly direct, or that clearly authorizes, they say they are without the authority to undertake this. And, clearly, there will be a question even after this legislation is passed as to the willingness of the Commerce people to initiate these actions.

The only thing I have to say is that I have been assured by the administration, by the White House, that they will pursue these matters.

Mr. MOYNIHAN. If the Senator will yield for a question, the Senator said he has been assured by the White House? Did I hear him correctly?

Mr. D'AMATO. By people who work for the White House—the administration.

Mr. MOYNIHAN. The Office of the President, the executive office of the President?

Mr. D'AMATO. Yes; that this legislation would not be violative of GATT, and that the Commerce people would initiate the proper undertakings.

Mr. MOYNIHAN. Would the Senator yield for a question?

Clearly, this legislation could not be violative of the GATT because it asks that the GATT rules be applied; is that not right?

Mr. D'AMATO. That is true. That is my reading and it is the reading of counsel. And that has always been the contention when anybody has come forth, as one of the reasons we wanted to keep this simple so we did not open the door up to charges that this would somehow get us into a trade war.

Let me say this. If it be a trade war because we asked that the laws of the land be adhered to, maybe we should have that war.

Mr. MOYNIHAN. Senator, let me ask you a question, may I? Do you yield for that?

Mr. D'AMATO. Surely.

Mr. MOYNIHAN. Ten hours ago we were discussing this. The antidumping provisions were central to the multilateral trade agreements that began after the Smoot-Hawley tariff under Cordell Hull because it was only by protecting—if you are going to let down your trade barriers you have to protect people against predatory practices. Otherwise the trade barriers will go up again.

Mr. D'AMATO. Absolutely.

Mr. MOYNIHAN. This is a measure to keep open trade?

Mr. D'AMATO. To keep open trade. And if you want to keep open trade, then you have to see that the laws are adhered to. That is really what we come down to. I do not want to see us return to the know-nothing days, where we have the situation with peo-

ple marching up and down and saying "no more."

When Smith Corona announced they were going to be moving their manufacturing aspects to Mexico, most people got it all mixed up with the free-trade agreement we are negotiating. Can you imagine? I can understand.

This is not. This says if you want to keep jobs from leaving, then see to it that your corporations here deal on a level playing field. Remember, Smith Corona, 42-, 48-percent English-owned company—they have to play by the rules. They are not an all-American company. They have to adhere to them. So should the Brother Co., the same thing.

All we are saying is, apply the law. Why should people be against the law being applied? Because they are worried that somehow this will disadvantage them? That if they follow the law that maybe they will not have those 600 or 700 jobs in Tennessee? Why should that be?

By the way, if Brother can compete by following the law, what do they have to worry about? What is it? Do they need an advantage of being able to dump? Is that what they need? Is that what they need to compete? It is obvious. What about it? They have their lobbyists running all over the place, they have their lobbyists calling other corporations, they have their lobbyists at the Commerce Department, they have their lobbyists grabbing this one and that one, telling them this and that.

Incredible. We are for sale. Is that what this is? We buy you today with a couple of these jobs that we stole from you and took from you. And then when we knock you out of business and there is nobody to compete, you have a monopoly. Then you will see what they will charge you. They will not be selling those typewriters at a loss. You better believe it.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. D'AMATO. Absolutely.

Mr. MOYNIHAN. Is it not the case that the tariff schedule in law in the United States today is that of the Smoot-Hawley tariff of 1930?

Mr. D'AMATO. That is correct.

Mr. MOYNIHAN. Is it not the case that it is by multilateral negotiation, agreements—recently the General Agreement on Tariffs and Trade—that we have brought those tariff barriers down?

Mr. D'AMATO. Yes.

Mr. MOYNIHAN. And they could go back up—

Mr. D'AMATO. Yes.

Mr. MOYNIHAN. If it turns out we do not enforce the rules for fair trading as well as free trading?

Mr. D'AMATO. The Senator has stated the case for the reasons and necessity of us having to ensure that there is fairness and that we do not allow,

whether it be the Japanese of anyone else, to break the law.

I made this point. I made this point at 2 in the morning. I made the point again at 4:30 in the morning. And I make it again at 10 minutes to 8 in the morning.

Mr. MOYNIHAN. No, it is 10 minute to 10.

Mr. D'AMATO. At 10 minutes to 10—I lost—I gained 2 hours. Ten minutes to 10.

There are some who have raised the consideration that this is a company whose headquarters resides in their State. Would they make that claim if that company was charged with such an obvious crime of polluting the waters in an adjoining State? Or in the State of Washington? Or in the State of California? Would they then say that that company should be immune from the laws and the application of the laws? I do not think so.

I think the public would be outraged. The public would say what are you talking about? How can you, Senator D'AMATO, defend a corporation that simply, because it employs people in your State, is permitted to desecrate the environment, and pour pollutants or toxics into the drinking water?

Believe me, not too many years ago in the history of man if we look at things, we looked and we saw the great and beautiful lakes up in central New York, Onondaga Lake and others. Because people did not have an understanding or respect, they said the jobs are first.

But the fact of the matter is we would not tolerate that, not one iota.

Then why is it we can say that a company that is headquartered within my State, therefore you would have immunity from the law, from the application of the law? And can break the law and can engage in predatory pricing practices in competition with other companies? Why is that? Why is that not as serious, when we see them destroying the job base and opportunities in this country? When we see those jobs leave?

You see, that is what this battle is about. This battle is not about one State in opposition to another, one State which is looking for an edge over another, not as far as this Senator is concerned.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. D'AMATO. Certainly.

Mr. MOYNIHAN. Has the Senator made up his mind about the North American Free-Trade Agreement? Perhaps not.

Mr. D'AMATO. Perhaps not.

Mr. MOYNIHAN. Will the Senator yield for a further question?

Mr. D'AMATO. Certainly.

Mr. MOYNIHAN. If the United States Congress and the administration are not able to respond to as clear a case of predatory pricing as this, what are we

to expect of a Mexican Free-Trade Agreement, with a country that has not got an independent judiciary?

Is the Senator aware that Freedom House, in its annual report on freedom around the world, says that apart only from Cuba, the most authoritarian State in the Western Hemisphere is Mexico? And I quote, "It has a judiciary that is corrupt and pliable and subjected to political influences."

Does that auger well for abiding by trade rules?

Mr. D'AMATO. I would say that we have a situation there where we are then saying to the fox, come in and take care of our chickens. That does not sound too good to this Senator.

But I would have to say that the things that distress me, in addition to what you point out and even more so, are we have such a clear case—such a clear case of violations of the law and we cannot get our administration and our Congress—you know the administration, I see we get a mindset. I can understand that. I am not excusing it but I understand a mindset.

But when the very people had who have been championing the cause of fairness, of equity, of addressing these situations over the years now, in the eleventh and a half-hour, when they can make an opportunity and save a company—and by the way I saw before, Mr. Thompson, the president of Smith Corona, chairman of the board—he flew in from Connecticut to be here and to answer any questions any Member might have. I think that is probably a far cry, because Members have not asked us questions.

Mr. MOYNIHAN. I wonder if I could ask the Senator this question. Would he yield?

Mr. D'AMATO. Certainly.

Mr. MOYNIHAN. Is he aware that Freedom House—in this annual compilation, Freedom In The World, says, of the judiciary of Mexico:

Although it is nominally independent, the judicial system is weak, politicized, and riddled with corruption.

If we cannot enforce our own laws here at home, do we think the Mexicans will be enforcing them for us?

Mr. D'AMATO. No. I think we will be getting ourselves into a deeper quagmire because we are the way we are, and because we are so much concerned with the manner in which our—the countries that we deal with will feel; whether they will feel offended, whether they will then take action in the manner that will be injurious to some of our political and economic interests. Why, then who knows how many problems we will encounter?

I would be reluctant to entrust to a Congress and to an administration going into this situation—and I am a free trader, and I have supported free trade and I have supported the Canadian Free-Trade Agreement. But I have to tell you, it gives me great pause.

Some of the things that you have posed, Senator MOYNIHAN, really should stop one. One should take a look at this situation. And I intend to do that.

I initially raised a number of concerns that some of the Teamsters had raised to me about jobs, and about people driving for hours and hours, not being obligated to adhere to our rules, of being paid wages which were just a fraction of our workers' and being able to get into the transportation area. Not only overland trucking, but in terms of mechanics and service to our international flights, and so forth. There is a whole number of questions that have to be answered to this Senator's satisfaction.

Why are we appearing to deviate from our main concern, and that is the concern of seeing to it that the dumping laws are adhered to, the predatory pricing practices of selling below cost are dealt with in a manner that will ensure some form of competition? The fact is that this is not just 875 jobs. What we are talking about represents and epitomizes the failure of Government to take appropriate action where people have broken the law. It is that simple.

Do we want to be wed to that? Why, then we just go about doing business as usual.

When this Senator attempts to do—and I will—whatever I can to impede the business-as-usual philosophy, I do not want to be admonished. I say to my colleagues most respectfully, do not come to this Senator and say why are you doing that? I am doing it because people have a right and expect that the law is going to be there for them, during their hour of need.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. D'AMATO. Certainly. Yes.

Mr. MOYNIHAN. It is now 10 o'clock in the morning. The Senator has been discussing this matter for almost 12 hours; sometime since our conference committee broke up.

Has anybody come to the floor asking to know more, learn more of this matter? I have been here. I do not recall anyone. Or has he had any inquiries that he could respond to? Maybe tell somebody what they might want to know?

Mr. D'AMATO. Other than the questions that have been raised by my colleague from New York and my colleague from California, there have been no inquiries made as to the issue. There has just been an almost stonewalling. I have to tell you, it is a bit frustrating.

But, you know, Rome was not built in a day. I guess if we have to continue to stay here throughout the day, why, then, we will do it. At some point in time, I guess I will not be able to. Then we will stop.

When I took to the floor last evening, I guess it was right after dinner, some-

where around quarter to 9 or quarter to 10. And we undertook this. I was hopeful that maybe initially after a short period of time we could get some people to respond. My colleague joined me, and he was eloquent in his presentation. He stated very simply, all we are doing is saying that the law should be obeyed. That is all. That is all we are doing.

(Mr. KOHL assumed the chair.)

Mr. SEYMOUR. Will the Senator yield for a question?

Mr. D'AMATO. Yes.

Mr. SEYMOUR. Senator, in your opinion, do you believe that such egregious antidumping cases, if they were to apply to the steel industry, if they were to apply to the auto industry, if they were to apply to the textiles industry, if they were to apply to the agricultural industry, if they were to apply to electronics, telecommunications, cattle industry, mining or aerospace, Senator, if this were applying to some other major industry in this country as opposed to the one remaining typewriter manufacturer, do you think you, and the senior Senator from New York and I would have been up all night long debating this?

Mr. D'AMATO. No. I can tell you why. This is basically a small manufacturer. I do not believe they belong to a union. I cannot believe the manner in which we allowed this industry, so many of our industries to be ravaged. But if this was taking place at an auto plant, I want to tell you something, they would and they should and I would congratulate them for putting tens of thousands of workers and other people into the streets. I want to tell you something, they would be marching here. I want to tell you something, we would not be here doing you know what, which is nothing and which is shameful. We would not be here just marking time and saying I do not have any dog in this fight, and I do not want to get involved and that is what we are doing, everybody here, everybody here. Make no mistake about it.

There are some Members in this room, in this body right now, as you look around—I have to tell you, I do not have a closer camaraderie with some of my Democratic colleagues in particular than I do with those who are here at the present time, and they know what I am saying. I tell you something, we do have a dog in this fight and I do want you to get involved. And I do want you to go beyond the parochial business of whether or not this is not New York, New Jersey, Tennessee. This says that wherever there is a plant that is breaking the law in terms of dumping its product, predatory pricing, why, they will get the protection of the law.

That is all this says and, by the way, it does not force the Commerce Department to undertake action. It just makes it possible for them to do so. It

deals with where there is a so-called loophole, to deal with the area of circumvention. My gosh, what is wrong with that? Why should we have to be up all night and all day pleading a case for justice? If you had an individual who was being disadvantaged by another individual who was breaking the law, would you not seek equity and relief? Why would you not do that? Is anybody here to say that this law is unconstitutional? Is there anybody to say that this law is illegal? Is anybody here to say this law is violative of the GATT provisions? What do they say?

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. D'AMATO. Yes.

Mr. MOYNIHAN. Is he aware that it is being said that this is a much too narrowly drawn provision; that it is the equivalent of a rifle shot of transition rule? Does he think that possibly could be the case, given the language which we have read verbatim already in the course of this debate?

Mr. D'AMATO. Yes.

Mr. MOYNIHAN. That is what is being said.

Mr. D'AMATO. You know something, there have been more things said, there have been more promises made. We heard why this amendment was pulled out from this garbage heap over here. By the way, this garbage heap represents the tax bill. Imagine, they are talking about economic development zones; they are talking about individual retirement accounts for enterprise; economic growth; research; experimental—experiment, research and experimentation; tax credits for low-income rental; targeted jobs tax credit.

Targeted jobs tax credit. Imagine. That is great. We can use some of the targeted jobs tax credit to give back the pay to the people who lose their job in Cortland who work at Smith Corona when the 875 are thrown out of work. We can get some of the job partnership money and send it up there and train them for money. I do not know where we will send them. Maybe Mexico. They can go there and work for \$3 an hour and we can even get them a housing program there.

How do you like that? We can get maybe low-income housing and build it down on the border, right down on the border in Mexico way. So we will build it down there, and this way they have easy access and transportation over the border. So we can use some targeted tax credit money for low-income houses here. Look at this, we have the biggest pile of junk—I hear people tell me, the economy, the economy, jobs, jobs. Here you have a chance to save 875 jobs; 875 jobs.

Let me tell you, that produces another 600 plus jobs in non-manufacturing areas. Now we are talking about 1,400 jobs. It costs you \$10,000 a year at least for job training programs for each one of these people. That is \$14 million

a year. So what do we do? We kick these poor people out. We kick them out. We kick them out. Let me tell you something, not the Commerce Department, not those crooks Brother—they are crooks; they are predators, illegal, eight out of eight cases, lost every one of them, dumping, predators. You know something? We know they are crooks. We know they are violating the law. We know they circumvent. But you know what? What is our excuse?d10

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. D'AMATO. Yes.

Mr. MOYNIHAN. He raises that point. Our excuse is that the Commerce Department feels that it has not gotten the authority to review these matters in the only way that they are presented. Does this amendment do anything more than allow the Commerce Department to make a decision in an area to which it has been assigned responsibilities under statutes to make decisions in accordance with international agreements?

Mr. D'AMATO. The Senator is absolutely correct. What the legislation does is it says the Commerce Department can now and does have the authority or—and we believe that it has always had the authority. But some at the Commerce Department have said, no, it has to be explicitly written in this way so you can deal with these cases. So we have written it more explicitly to cover this kind of activity. We do not say you must go in on this case, but rather to cover this kind of activity.

Let me tell you, we have the biggest and most powerful—we have all these companies screaming and yelling, because you see they all do business with these sons of a gun because they do not give a damn. They do not care about the workers at the Smith Corona and they do not give two hoots and a holler of the workers at—where is that place?

Mr. MOYNIHAN. Zenith television put out of business by the Japanese.

Mr. D'AMATO. They did not care about whether there was predatory pricing going on over there, and they did not care that the ball bearings industry is no longer and they do not care that they cheat and violate the law and there are criminal charges in those ball bearing cases now.

The last little guy was trying to operate up in Albany, N.Y. What they have done to him is incredible. By the way, our people will not even buy. If you had an American manufacturer, they will not buy from them, and I will tell you why, because these guys will crush him. You go and deal with somebody else, they will say, all right, you are dealing with him so you will not get not only ball bearings but all the other things that come from the various Japanese concerns. They are buying it and selling it back to us and leasing it to us.

We are now fighting. Imagine the incredible thing. The reason we should not enforce the law, OK? The reason is because it might create a situation when they close down a plant that they have constructed to get around the law that employs 600 or 700 people at \$6 an hour. That is the reason why we do not do this.

I just think that that is amazing. That is really, really amazing. The reason we do not do this because they bought us and that is a bribe. It is a way to get around it but then it is a way to buy political influence. You know, it is a different way. It is a subtle way. Sometimes it is not too subtle. It is not too subtle when the chairman of the board of a big company sends you a letter and says you should not do this. You feel like saying, why? Why should we not have the law enforced? If we were attempting to set up arbitrary barriers, raise tariffs—and by the way, this bill does not raise tariffs. What we try to do is say as the tariffs and the laws of protection come down, we want to make sure that everybody competes fairly. So you cannot come in and you cannot break the law of our land by selling below what it cost you to manufacture something.

Mr. MOYNIHAN. Will the Senator yield for a question on that point?

Mr. D'AMATO. Certainly.

Mr. MOYNIHAN. Is it not the purpose of the antidumping laws to make it possible to lower and abolish tariffs?

Mr. D'AMATO. Absolutely.

Mr. MOYNIHAN. That leaves domestic producers protected under statute from illegal behavior by foreign producers.

Mr. D'AMATO. That is correct. Absolutely correct.

Mr. MOYNIHAN. Does the Senator have any inkling why this is not being approved?

Mr. D'AMATO. Yes. Senator MOYNIHAN asks a good question. Why did we find this dropped from the conference? Why are we having such opposition to this amendment? I want to tell you because we have not lost the capacity to stand up to an evil, to a wrong, to an unlawful act because of the immense inordinate economic power either this company or their associates have because we are afraid that they will pull the plug in Jersey. If you live in Jersey and you represent Jersey, you are going to be concerned because we are afraid of what retaliatory action they will take in maybe laying off people in another area.

I say to you if we do not at some point in time sooner rather than later stand up and do what is right, when will we do it? When will we stand? When will we fight for what is right? When they continue to get stronger and dominate more markets and open up more of these phony plants, as we lose the good jobs that produce this kind of economic activity? Is that what we are waiting for? Are we waiting to

lose all of these jobs because for every 100 new manufacturing jobs, 64 new nonmanufacturing jobs are created?

When we take out these 800 jobs, a good portion of these manufacturing jobs go with it. Are we waiting to become the Third World nation of assembly plants? Is that what our destiny is to be? Are we going to look the other way as the laws are regularly violated so that we can have these assembly plants and maybe we will replace this facility in Cortland, NY, with an assembly plant that is paying people \$6 an hour and that should suffice them and they should live and be well and keep quiet and do not bother me because if you do, I will yank that plant from you?

That is what is happening here, and it is a darn shame and it is wrong. Again, let me tell you something, we said when we offered this amendment that we were serious and we were purposeful. I said to my colleagues, if you do not deal with this matter, do not expect a tax bill. Now I can see that this bill has so many flaws in it that there are not too many people who are so strongly disposed to deal with the bill.

Mr. SEYMOUR. Will the Senator yield for a question on that point?

Mr. D'AMATO. Certainly.

Mr. SEYMOUR. Senator, it is my understanding, my question has to deal with that point you just made relative to the support that the bill may or may not have. Is it true that the House much earlier today passed that bill with but six votes to spare? Is that true? Is it true that the House passed that bill earlier today with but 6 votes to spare out of 435?

Mr. D'AMATO. I believe it was six to seven votes, yes. It was a very narrow margin.

Mr. SEYMOUR. Further, Senator, is it also true that prior to that vote being taken, as a matter of fact, prior to the conference committee issuing their report, is it also true that you were able to meet with, confer with White House staff or people in charge of the administration relative to the acceptance of your amendment?

Mr. D'AMATO. Yes; we had. My staff and myself and others have conducted a number of meetings with the White House.

Mr. SEYMOUR. Therefore, is it true that the real stumbling block here, responsible for such an unconscionable act being permitted to go on, is Congress itself?

Mr. D'AMATO. Yes. Let me tell you something: I have not been easy on the administration. I was prepared to come here and to castigate them for intransigence and for lack of action in dealing with this problem. I have to tell you that at this point, you cannot blame the administration for this one. This one is clearly in the hands of the Congress of the United States.

But I have an idea. I get these little notes, and people tell me they are

going to go out pretty soon, go home, and run a pro forma shop over there. They will wait for me not to be on the floor. I am going to ask a couple of my friends, when I eventually yield this floor, to take over. I am going to see if I have one friend. And not just that I have a friend, and the American people have a friend, and that the people in this tiny town have a friend. It is not just the people in this tiny town; it is the people in all of the towns of our country who have to think that we are going to stand up for them, that we are going to make a difference.

I hope that somebody will come down to the floor at some point in time and say: I want to stay here for the next 6, 7, 8, 9, 10 hours, and I am going to keep this place going. We are not going to let business go on as usual. We are not going to let the unanimous-consent agreement go through.

They are going to take care of their guy, and make this one a judge, and take care of their special bill, and take care of that special bill, and take care of this, and take care of the wetlands in Montana, or wild lands.

At some point in time, you have to stand up for something. I have to tell you something: I just hope—and we will see. Do I have any illusions? No. I probably will be talking to myself. I will do the best I can. Then it is up to each and every one's conscience to determine what, if anything, they are going to do.

Mr. SEYMOUR. If the Senator will yield for a question on that point?

Mr. D'AMATO. Yes.

Mr. SEYMOUR. Mr. President, if the Senator is looking for somebody to stand up with him to bring this House to a grinding halt, to correct an injustice having to do with jobs—whether those jobs are in the State of New York, that he and the senior Senator from New York have been fighting for, or whether they are jobs in my State of California—if the Senator wants to ask me if I will stand here as long as I can stand, the answer, if he should ask me that question, is: Absolutely yes.

I have been with him through the night, not doing the job the Senator has been doing, but I have been interjecting a question now and then. And every time I see him getting a little sleepy, I want to take the Senator up.

The people of New York have seen what he has done for them for the past going on 13 hours.

If the Senator were to ask me, if he wants to ask me to stand by his side, I guarantee you, I will not leave this seat until they haul me out.

Mr. D'AMATO. Mr. President, I thank my good friend. Get ready, because you and Senator PAT have been up all night with me, keeping me going, asking me those questions, keeping us on the beam, trying to direct this in the manner in which we can try to make the point.

I hope the American people begin to wake up a little bit. I hope they call their Congressmen and their Senators and they let them know. I hope they ask them: Why are you going home? Let me tell you something: They tell me in about an hour, 2 hours, the House is going to take off.

They should be calling them, and saying: Let me tell you something. Every one of you come home, march in the parades. You tell us we need jobs. There is a chance to protect jobs. Here is a chance to say that the law shall be enforced.

Call your Congressmen and Senators. Tell them why are you going home, and why is it that you are afraid to stand up to a Japanese company that is breaking the law, that has broken the law on eight separate occasions, that dumping orders have been found to be dumping, and predatory practices on eight different occasions; that whenever we go to get the orders, the tariff, the last time, a 60-percent tariff.

You know why they make a 60-percent tariff? For those who may not have been following this, understand what this is about. It costs \$200 to produce a typewriter. How can Brother be selling the typewriter for \$150? If it sells a typewriter for \$150, it is taking a \$50 loss. But if Smith Corona's cost is at or about the same—\$200—it cannot sell its typewriter at \$150. Why can Brother do it?

Simple: Because Brother sells typewriters in places that Smith Corona cannot get into, because Brother has a closed competitive situation, and no competition in Japan. Smith Corona cannot sell there. In Japan, Brother does not sell that typewriter for \$150 if it cost them \$200. It charges \$300 or \$350, and he more than offsets his losses.

He gets greater and greater market share. He eventually knocks everybody out, including Smith Corona, and then there is a monopoly. We play a game called Monopoly. One guy wins in that game. It is pretty simple. When he buys up all the property and the people land on him can no longer pay, he owns everything.

In a manner of speaking, that is exactly what is happening when we allow foreign corporations to skip out on the payment of their fair taxes, to evade the dumping laws, to take the jobs, to gain the economic wealth: They will own everything, just like Monopoly. When you play, when you land on the guy's property, you have to pay him rent.

So we have sold them the country. They are leasing it back to us, and we are paying rent. There we are, happy to say thank you to 600 screwdriver jobs.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. D'AMATO. Yes.

Mr. MOYNIHAN. Does the Senator think that this arrangement that he

described as a very compelling one is going to be tolerated by the American people much longer? Does he think we are putting the 60-year experience of the Multilateral Trade Agreement, beginning with the election of President Roosevelt 60 years ago, and his unbroken efforts to expand world trade, lower trade barriers, does he think that is being put in jeopardy?

Mr. D'AMATO. There is no doubt in my mind that people are angry, hurt; they are frustrated. There is a good deal of discontent with the Government, as long as it results in our failure to recognize this problem, and the need for help, for relief.

People say what are you doing? They are tired of platitudes. They are sick and tired of platitudes. You know, they have seen, when they work hard—let me tell you. You see these airline people. What frustration, what hurt. They say: What is going on? How is it that foreign airlines, they protect their jobs? How is it when we go to do business, they keep their people when we acquire a route. Where is it? Are we in the real world? I want competition, but I want it to be fair. I want the laws to be obeyed. We all have to operate under the same system.

Yes. We are embarked upon a very dangerous era when we fail to see that the laws are properly enforced and vigorously enforced when they should be. Not that you go out and find some little nitpicking thing that it is 2 percent under the portion of content. But when we talk about clear action and the full weight of this Government, you come down on those violators, down on them, crush them, tell them: You cannot do that. You will pay a penalty. You will not be permitted to do business, if necessary, if they continue to violate.

That is what this is about. If you do this, then we have a chance to build the Government and trade based on confidence, on fairness, on respect. If we fail to do that, if we fail to do that, then I have to tell you, we will have earned just the righteous indignation and contempt and the scorn that our people feel for so many in the political process.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. D'AMATO. Yes.

Mr. MOYNIHAN. There will come a time when people, the public, will have an alternative just simply to disliking the people in power. They will get new people, and those people may break with the tradition of open markets and international trade that we have established in the world.

Mr. D'AMATO. I could not agree with the Senator more. This is exactly the danger that we run. It is for those in the Wall Street Journal, who would take us to task and say what are we attempting to do: We are attempting to keep free markets and free competition

in openness. We are attempting to do that by showing to the people, yes, the system works. But we will not allow the people to come in and violate the law.

If anybody took the time to analyze and go over the history, the litany, you would have to spend time with the lawyers so they can tell you the story. And I have to tell you, for the next 4 or 5 hours, I will ask them to get the briefs for those eight cases, and pick out the most poignant parts of those briefs. Because the lawyers are getting paid a lot of money; they are watching television. They are simply back in their offices. If we could get them to get those briefs and yellow markers, and underline the most poignant parts of those briefs so we can read the kinds of contemptible, arrogant, damnable, lawbreaking activities that they engaged in, I think it would be important for people to hear this. In this way, I think it would be good.

People think these are crimes. Let me tell you something: They do not mean anything. I will tell you what this crime does. This crime deprives these people of economic opportunity. This crime of illegal dumping is going to destroy communities. It is going to destroy homes. I have to tell you, it is not just Cortland, NY. It goes beyond Cortland, NY. It is the towns and hamlets and communities, from up in Buffalo, NY; to Cleveland; to the Midwest, Michigan.

I see my friend here. We have seen these things take place. We have seen the heartache. You know, we do not have a magic cure. There is not a silver bullet for every transgression. In some cases, we just were not able to compete. There was a better product. It was made better. It was made more economical. That is right. We could not win that job.

But that is not the case here with Smith Corona. And there are thousands of other jobs being lost, not because people cannot compete as efficiently or effectively, but because of those who are breaking the law, those who are circumventing.

I have to tell you something. I was strongly supportive, at least leaning strongly toward the free trade, the new agreement for North America, South America, and Mexico. I have to tell you, I think Senator MOYNIHAN has indicated if we go marching into that without seeing that certain corrections are made, we could find ourselves in deep trouble.

Mr. SEYMOUR. Senator, will you yield for a question?

Mr. D'AMATO. Yes.

Mr. SEYMOUR. Senator, as I have listened to you articulate throughout the evening, now through the early morning hours, and now moving on toward noon, I have not heard—and I would like to hear—your answer to this question.

If it is true that Japanese-owned Brother typewriters, portable typewriters and word processors, are dumping into the market here, depriving Smith Corona of its fair-traded market, why does not Smith Corona open up a plant in Taiwan and ship into Japan and compete with Brother in Japan? What prevents them from doing that?

Mr. D'AMATO. I would like you to be able to speak in some detail, and I am going to ask if at some point in time we could not get the chairman of the board of the Smith Corona, Mr. Thompson, who is here, to meet with you.

Mr. SEYMOUR. Senator, I would like to hear that answer, not only from you but from the chairman of the board.

Mr. D'AMATO. That is what I would like you to do. So if I could ask you the question, I do not know if I am allowed to do that, but you ask me a question and we could do it that way, and you could tell me some shocking examples.

But the fact of the matter is they would not sell one typewriter there if they gave it away. In fact, they would have to do this thing: If you buy the typewriter, we would give you a cash prize. Maybe they could establish a market. They have what you call a closed market. They have not even the opportunity to compete.

And if they went and attempted to break into this marketplace, they would find that they would lose their shirts, and after that everything that goes with it. So they do not have access. There is no free market.

Mr. SEYMOUR. How does the country of Japan keep them out?

Mr. D'AMATO. Oh, my gosh, by a variety of methods, which goes to, No. 1, the licensing agreement, the patents that have to be obtained to protect one from infringements, et cetera. And if you ever tried to get one of these and get something patented and bring it in, you will find before you got done they will have ripped off every single thing that had any intellectual property right.

If you could ever bring a case against them, the cost and the time involved in this—and by the way, by the time they agreed to give you your patent to get in there, for example, to undertake the work, you would have found that they would have taken anything of value that came from your product and had already put it into the market, into play. So you just would not have an opportunity to compete.

The deck is stacked against you. It is like coming into a casino to play poker when everyone there and all the players are working for the house.

Mr. SEYMOUR. Senator, it is correct then to state that you are not talking about depressing in any way free trade; what you have been talking about now for 13 or so hours is fair trade?

Mr. D'AMATO. That is right.

Mr. SEYMOUR. And only fair trade?

Mr. D'AMATO. That is all we want to see. We are not looking to close markets and say you cannot sell your product, Brother, here. You can manufacture anywhere you want. If you want to manufacture in Malaysia, go ahead and do it.

But you cannot, after you manufacture it, bring it here and sell it below what it costs you to manufacture. That you cannot do.

And they are doing it. And they are doing it to the extent that it was not just on one occasion or two occasions, but on eight separate occasions. It was proven that they violated the law. Eight.

And what happened in between the time that the cases and the rulings came down against them in the granting of a tariff, in one case a tariff of almost 60 percent, August 1990? Sixty percent. They said that it was a penalty to equalize what they were reducing their price by, so they would not have this unfair advantage.

Imagine cutting your prices. Now you cannot compete.

So here is Smith Corona, makes a great product, has improved their efficiency 700 percent in 12 years, does not want to leave but must because they face a situation where their competitor is able to reduce his price below what it cost him to manufacture here, but in Japan can sell it at whatever price because there is little if any competition and, therefore, he can offset his loss.

Smith Corona does not have that luxury. It cannot sell at a loss here. It does not have the Japanese market where it can compete.

And so what we are saying is, look at what is taking place. No. 2, it is illegal. And all we are asking for is the enforcement of the law.

Senator MOYNIHAN did not come down here to say let us raise tariffs, let us stop trade, we are against free trade. As a matter of fact, Senator MOYNIHAN points out very pointedly that if we want to keep those regressive reactionary forces which are galvanizing—and they are, and they are real—from taking hold and say, "Hey, wait a minute. No more. Forget it. We don't want you, any of you, in here. All U.S.A.," why then the opportunity to do it is just to see that these laws, antidumping laws, are enforced.

That is the way to do it. Do not come out and try to penalize anybody. We are not trying to penalize Brother. What we are trying to say is Brother you have to play by the rules.

Mr. MOYNIHAN. Will the Senator yield for a question on that point?

Mr. D'AMATO. Certainly.

Mr. MOYNIHAN. It is not the case that the world just now is going through a severe economic disruption, wild gyrations in the stock markets?

Mr. D'AMATO. The Senator is correct.

Mr. MOYNIHAN. Extraordinary exchange rate exchanges, such that the

European monetary union, the United Kingdom and Italy had to leave, turbulence everywhere, which suggests an underlying disequilibrium. Is this any time to tell the world that we are not going to insist that the GATT rules be observed for our own country as we observe them for others?

(Mr. LIEBERMAN assumed the Chair.)

Mr. D'AMATO. I think that your observation and your question is right on target. The fact of the matter is that this is the worst of times to be attempting to install confidence in the American people that we should take on new and more far-reaching treaty obligations, when, indeed, existing law is not being enforced. It flies in the face of rationality.

How do you try to convince the labor leader who is concerned about the preservation of real jobs for the people that he represents and the plant that he represents, and they are working hard and they are fighting and they are trying to make a difference and he says, "It doesn't make a difference. I can give up wage increases, I can give concessions, but I cannot compete against a company that is making a product and that is selling it at an abnormally low price, because they want to put us out of business, because they want more market share, because they want a monopoly."

And we have seen it take place in industry after industry, and it is taking place here. And here is the most vivid example. And it is not 875 jobs in Cortland that we speak about; it is about America, it is about beating us down, it is about lacking the capacity here in the Congress of United States and the Senate, it is about becoming entrapped with 30 pieces of silver.

This is incredible. They bought us with a handful of low-paying jobs so that we have Senators today who are more concerned with those low-paying jobs in their area. Well, today your area may be rich by 600 jobs, that many nickels and dimes, but I want to tell you something, what happens when that plant in the big town closes down and those jobs move to Mexico?

Now let me tell you, that is why we have to insist on fairness. That is why we have to insist on application of the law, not because—

Mr. SEYMOUR. Would you yield on that point for a question?

Mr. D'AMATO. Sure.

Mr. SEYMOUR. Senator, in your opinion, if this case were not Smith Corona typewriters, 875 jobs in the State of New York but, on the other hand, this were Chrysler automobile and Lee Iacocca was on the telephone—

Mr. D'AMATO. He should be on the telephone.

Mr. SEYMOUR. And the United Auto Workers were on the telephone, what do you think the difference would be right now?

Mr. D'AMATO. Well, I think you would have a mass of Senators that would come down to the floor and say we should have this passed, and they would not take a pass or a by. I think you would have them asking questions, and in asking questions, have their support for this kind of an undertaking.

Mr. SEYMOUR. Is it true, Senator, that since this is a little guy—

Mr. D'AMATO. Yes, it is a little guy.

Mr. SEYMOUR. And he is only located in New York, and maybe not union represented, and maybe it is only 875 jobs instead of tens of thousands, that this body, this U.S. Senate, just does not give a damn; is that the problem?

Mr. D'AMATO. I think that that, unfortunately, is a fair assessment. That they have no key and they do not feel the moral inclination to become involved.

And I would say to them, I understand. I understand if somebody does not want to step on the shoes or the shins of a colleague and a friend. So maybe we have to make it so that you have to take the tough step because there is no way out of the box. And if that is what we have to do, then that is what I am prepared to do.

Now I must tell you that I did not believe for 1 second that I would really have to stay up throughout the entire evening. I did not get to believe that until the majority leader left and went home at about 2:30. Then I got to believe that they were going to put me to the test, you see. So they have put Senator MOYNIHAN, my good friend and colleague and I to the test. And I might say the Senator from California.

Mr. MOYNIHAN. Yes.

Mr. D'AMATO. Now let me tell you, they do not know me. You want a war, we are going to have a war. I have just started. I have just started. You can sit down. Do not worry, I am not going to sit down. I have just begun. I have just begun.

Mr. FOWLER. Will the Senator yield for a question?

Mr. D'AMATO. Yes, I yield for a question.

Mr. FOWLER. Does the Senator have any sort of war plan, a 30-day war?

Mr. MOYNIHAN. Mr. President, point of order, the galleries are not in order.

The PRESIDING OFFICER. The Senator is correct. The galleries will come to order. The Senator from New York has the floor.

Mr. FOWLER. I yield back to my friend.

Mr. D'AMATO. Let me say to my good friend, we need a little humor at this time.

You have a great tie, by the way. Maybe you will loan it to me on my second shift.

Mr. FOWLER. I will be delighted to.

Mr. D'AMATO. But I say to my friend and my colleague that I hope it is not

a 30-day war plan. But I think I have some people who might come down here and help, Senator PAT and myself. Senator PAT might have a few people who will feel that the cause is right and the cause is just.

And we will not agree to any unanimous-consent agreements, no matter how rational, no matter how wonderful the bill or the legislation or the purpose is. I am bound and determined to attempt to get it resolved.

Look, let me tell you something. There is probably nobody during this period of time who needs to be home doing some of the things they should be doing because, you know, you always wait until the last second. And I had a jam-packed schedule today and, I probably could have been home and made those three stops or four stops, that I think we have tentative stops in Rochester, Buffalo, Syracuse, and other areas. Now, we have one for tomorrow. I tell my people right now, blow it off. I know we have something including a big fundraiser in New York.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. D'AMATO. I will not be there.

Mr. MOYNIHAN. Will the Senator yield for a question? The Senator is scheduled to be grand marshal of the Columbus Day parade on Monday, is he not?

Mr. D'AMATO. Yes. And you were going to march in that parade, I might also say; PATRICK MOYNIHAN in our Columbus Day parade.

Mr. MOYNIHAN. Not with a sash, but even so.

Will Senator expect he will make that or is he prepared to see that foregone as well? That is a big thing to ask.

Mr. D'AMATO. I have been invited as grand marshal of our Columbus Day parade in New York. It is a great festivity. But, if need be, the war will be continued as far and as long as it has to be, including through the weekend and Columbus Day.

I am going to need some help in this endeavor, there is no doubt in my mind. But I kept myself in pretty good shape so it will not be that hard. You know, it really should not happen. It should not come down to a test of some kind of will. It should not be pitting one against the other because that really has no place in here. It really comes down to a matter of doing the right thing because it is the right thing to do.

Again, if Brother were spewing pollution out, then I have to tell you, none of my colleagues here would say for 1 second because it was headquartered in their State that they would countenance this pollution. They just would not do it. They would say what are you talking about? I do not care if it is in your State or my State, you are not allowed to pollute. That is out.

Let me ask, what is the difference? What is the moral difference if they are

headquartered in your State or my State and they go out and break the law in other areas and they disadvantage people in other areas who lose their jobs? What is the difference? Why should we acquiesce?

Look, you have to understand, the legislation the Senator and I have proposed does not say, Brother, you cannot compete. It does not say that at all. It just says the Commerce Department now will have the ability to follow and to pursue these cases—these cases of circumvention, these cases where orders have been laid against them, tariff assessments have been made because they have been adjudged and adjudicated to be in violation of the law. We want the law to be applied.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. D'AMATO. Certainly.

Mr. MOYNIHAN. Does the amendment, it was originally section 8502 of the tax bill until it was dropped—does that make any reference to the Smith Corona firm?

Mr. D'AMATO. No, it does not.

Mr. MOYNIHAN. Any geographical reference to a part of New York?

Mr. D'AMATO. The amended bill does not.

Mr. MOYNIHAN. Is the bill simply a statement of what the powers of the Department of Commerce are in reviewing dumping cases?

Mr. D'AMATO. In essence, that is exactly what it is, really. It is a codification of the law that we believe the Commerce Department already has jurisdiction to invoke what they have been reluctant to invoke.

Mr. MOYNIHAN. May the Senator ask this question? If this amendment were adopted and the Commerce Department took up the matter a ninth time and ruled against the Smith Corona Co., would we not have served our purposes, simply to get that hearing?

Mr. D'AMATO. Oh, yes. I mean if we were at least given an opportunity to seek, with this legislation, if they win—they would not have to win—they could on the basis of the rate case proceed. If an investigation was launched by the Commerce Department, we are confident what the outcome would be. But that is all we are asking. We are asking that there at least be that investigation and that followthrough and, if they then find there has been a violation, the imposition of the penalty. Not a ducking out by finding a new methodology for bringing in a new distribution system from another island.

You could move to another island any time and bring another part in from another island, and claim sanctuary, say it is not the same part or it is not the same country.

Mr. MOYNIHAN. Would the Senator yield for one last question in that regard?

So I understand, all that is asked by this amendment is that the Commerce

Department do what the Senator feels it has the right to do anyway, and under the General Agreement on Tariffs and Trade is their responsibility to do?

Mr. D'AMATO. Right. Many attorneys, very fine ones, have agreed—and disagreed—on this issue. But we believe that certainly this law will eliminate any ambiguity as to whether or not they have the authority. That is all we are trying to eliminate. We do not want to have this contention—yes, you have the authority; no, you do not, it is not in the law. We are putting it in law and now we would have the authority.

Mr. MOYNIHAN. If the Senator would yield for a question. Our purpose is to clarify the law so the Commerce Department knows what are the powers of review that they have?

Mr. D'AMATO. That is absolutely correct. That is what this legislation in essence accomplishes. That is what it does. It does not single out and say, Brother, we are going to get you.

But it does say, if people break the law, if you break the law in this pattern, the Commerce Department does have the authority to pursue the case to its logical conclusion.

Not to find that you broke the law but we are powerless to do anything. Is that not incredible? As lawyers, attorneys, former judges and prosecutors here in this Senate—and I want you to know I was a distinguished prosecutor, a prosecutor who sat on traffic cases in my early days.

Mr. MOYNIHAN. Now, now.

Mr. D'AMATO. What an incredible travesty, if you have a successful prosecution of a criminal who commits a dastardly deed, a bank robbery, and you prosecute him and you convict him. And then the judge affixes a sentence, 10 years in prison, and there is no sheriff or no prison. There is no enforcement mechanism. And he walks out.

That is exactly what is happening today. That is exactly what is happening. Eight times this guy has been caught sticking up the bank, literally sticking up the bank, Brother, eight times orders came down against him. The last in August, in August 1990 or 1991, almost a 60 percent tariff. That meant you were pretty bad guys, you were really dumping—60 percent. There is no method of enforcement.

Now, what we are doing is providing an opportunity, then, for the Commerce Department to bring about and follow that circumvention case to get that method of enforcement and not allow them to shift their operation one little iota, or put a 70-cent item into it and say it is a different product now. It is a different product. Ho-ho, you cannot take me away because I am different. I am different from what the order first said and that is what they are doing. They are trivializing the law, not only trivializing the law, they

are shafting the American worker—maybe you understand that language, because it does not seem any other language is getting through around here. They are shafting the American worker—that is Brother.

Now, that language we got. Do we understand, the American worker is losing his job because Government refuses to follow through, even after the crook is caught? Whose fault is that? I will tell you that today, it is our fault. Today it is our fault because we, in the Congress, have an opportunity, at least to seek a solution. And we do not even have the courage to do that.

Why is that? It is because, I think, the moral fiber of the institution and of many of the institutions—and we are not immune—have been co-opted out. Because a great economic power has come to be so strong that, merely by suggesting that instead of building or expanding in one's area, or undertaking additional development in another area, we have the ability to thwart legislation that if you had no name assigned to it, no company assigned to it, did not mention Brother, did not mention Smith Corona—everyone on this floor would say yes. All you are saying is that the law should be enforced.

Mr. MOYNIHAN. But—would the Senator yield for a question?

Mr. D'AMATO. Yes.

Mr. MOYNIHAN. But surely all the amendment does do is say the law will be enforced. It does not mention any firm, any geographical location?

Mr. D'AMATO. The Senator is quite correct. But fortunately or unfortunately, the fact is that the cause that gave rise to us championing and working and fighting for reform was the case, the last survival case, of Smith Corona.

So, consequently, people immediately began to look to see what would the application be of the law?

By the way, if you do not adopt this, then we should repeal the law. That is like having these laws on the books that say people could not do certain things. You could not walk a goat across the street—all kinds of old laws that go back. You know, they were ridiculous. They were for a different time. They were for sanitary reasons and what-not and we do not enforce them. Of course, most communities have cleaned up their penal and zoning codes and whatever, and they have taken them off.

If this law is not to be enforced, if it is really a sham, if it is really a make believe, then let us repeal it. I will offer an amendment before we are out on some bill, some vehicle—and, believe me, I will—to repeal this. Let us make it complete.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. D'AMATO. Certainly.

Mr. MOYNIHAN. If our executive branch is showing such indifference to

laws which have been on our books since 1916, the antidumping statute, which was codified on an international basis in the Kennedy round, 1967, what recourse do you think we might find for American businesses dealing with the corrupt judiciary of Mexico in the aftermath of a North American Free-Trade Agreement?

Mr. D'AMATO. Katie, bar the door. We are going to go down and tell the amigos stop it? How are we going to get the law enforced? What is going to be down there?

I have to tell you something. Senator MOYNIHAN has raised an issue, and I have had many people—I have had union leaders raise concerns about that agreement. The more I see, become involved in the enforcement of a provision of law which just jumps out at you, just says, my gosh, do this—do this, enforce the law, and we are not willing or able to do it—then we should undertake new assignments? What is going to happen when they start bringing in products from all over the world, and they talk about content? And they fudge the content and it is not nearly the content that should be in Mexico?

What are we going to do, then? Who are we going to depend on? Who is going to be enforcing this? Are we, the American people and workers, are we supposed to believe that we have gone from nonenforcement of the law that suddenly we are going to be enlightened? I do not think so.

I have to tell you something. It is not good enough to blame just this administration, you see. Because, while they deserve I think to be taken to task for their failure to challenge the lack of enforcement—they should be so taken—now it is on us. Now it is on us.

You know what? I never believed it. Because when Senator MOYNIHAN and I were able to get a sign-off position from the administration and we got this legislation into the tax bill, and into the energy bill, and the administration signed off, I said—that is it. We have it.

Because I looked around here and I saw very few people—around with very few exceptions, people who believe in fairness and saw there was something eroding away at the doctrine of fairness as it related to trade, as it's related to free trade—not people. I do not know anybody here who is a protectionist, that you would name a protectionist. That is not the case.

But I tell you, when you fail to adhere to the law that is supposed to guarantee equality, you will sow the seeds that will bring protectionism out. And you will have a public that says you are not to be trusted. And you will have candidates who will run against you and say you took away our good jobs and gave us these baloney jobs, screwing the things together, and we lost \$17-an-hour jobs. That is what we are going to have, and we are going

to have the candidates of the know-nothings running against us. Stop the outsiders, stop the trade.

We begin to hear that drumbeat now. So wake up, friends. Wake up. Now is the time to try to do something and forget about the business of Smith Corona. Maybe we made a mistake talking about the one company that brought this to the fore.

Senator MOYNIHAN is right. This applies to all those companies who are violating the law. This will give to the Commerce Department the ability to step in and to make a difference.

You know, I just hope some of those labor leaders who scream and yell about jobs and fairness get on the horn and call some people up and get some of their Members going. I just hope and pray that we can get some people to do something as it relates to this issue. You do not have just me and Senator MOYNIHAN and my other colleague, Senator SEYMOUR from California, come down here, and a handful of House Members who have come over. The House Members have been more faithful in their attendance.

I thank them for coming on over to see what is happening. I guess they want to see what is going on in the Senate. It is not on closed TV over there. That is why Congressman KASICH from Ohio and Congressman BEN GILMAN came over.

When we hear people yelling and screaming about plants being lost, jobs being lost, "I am for the worker," "Vote for me because I am for jobs," "I am for creating more public spending," that is a lot of hokum, that is a lot of nonsense.

I gave you a program where we can save 875 jobs and you know what, if you save 875 manufacturing jobs, you save about 600 nonmanufacturing jobs. That is 1,400. By saving them, you also save \$10,000 a year that you would have to pay for job training next year for those 1,400 people. So that is about \$14 million. Here we have this big turkey of a bill. That bill is really a turkey. It has been put together by nobody—nobody knows who put this together. This is the nameless, headless bill and nobody knows who signed it, what happened and how the provision Senator PAT and I offered just disappeared. This staff guy said that guy did it, another one says they did it, old ROSTY, we always blame him, he has big shoulders, he takes the blame. ROSTENKOWSKI has been for this provision, debating it, against the administration for years. Do you really believe that suddenly we are going to use him—I guess nobody else has the courage to say why they were opposed to it, really and we are going to blame, ROSTY; he did it.

He did not do it. Here is the letter that he wrote saying he is looking forward to dealing with this issue. By the way, in this legislation that he suggested, it was far more comprehensive,

far broader, went beyond what we suggested. All we say is enforce the law. If enforcing the law is so tough around here, then I do not think we deserve to be here. If you cannot give people a mechanism for enforcing the law to carry it out, then we should not be here. That is not what this body is supposed to be about.

Mr. MOYNIHAN. I wonder if the Senator will yield for a question in that regard?

Mr. D'AMATO. Certainly.

Mr. MOYNIHAN. Earlier today we were talking about the city of Cortland, and pointing out that there was the wick wire metal fashioning plant that was established there just after the Civil War and closed in 1954. Foreign competition closed that. That was the first manufacturing plant. Then came the typewriter system, and now foreign competition is going to close both and the whole cycle from the civil and industrial energy that came out of the Civil War, is it all to be lost to foreign competition?

Mr. D'AMATO. The tragedy, Senator PAT, is that it is not foreign competition. It is competition in most cases that comes from abroad and is engaged in these illegal practices.

That is the problem. Smith Corona has a very significant ownership, English ownership. I want to tell you, if they were engaged in those kinds of practices, I would not come to defend them. I would not come to defend them because you cannot do one for one and not for the other. To those people who say, "Oh, you are from New York, D'AMATO, we know, yes, I fight for my State; I fight for its fair share." You better believe it, and I will fight against a project that is pork, but if you are going to build a cheese factory on the Moon, you better believe, if you are going to do that, I want to see, just like Senator MOYNIHAN, that there is New York dairy product that is used for that cheese.

I do not think there is anything wrong with that. That is a distinction as it relates to what is right and what is fair. If you have a law, the law has to be applied to all. Look, let me tell you something. When I saw some of the major corporations in New York doing what I perceived—and the President joined with me in that and he took some heat, Senator MOYNIHAN joined with me on that and took some heat. We did not stop to take on the banks when we said you guys are collusive in keeping your interest rates up there. I did not play this petty partisan business of, oh, out of the seven of those credit card companies, three or four of them are in New York, or they are institutions that are headquartered in New York. You cannot have it both ways. Either it is fair and it is right and sometimes we are wrong in our judgments. But I want to tell you something, if you have the law, you

must apply it. This is not a question of credit card interest rates and whether or not—I just make the point that I was not afraid and I did not say, oh, because those corporations are headquartered in New York—and let me tell you, I did not like getting all of those faxes, thousands of them that the Citicorp people sent to me, thousands and thousands—they have so many employees—telling me about the dastardly deeds. I did not like that. I did not enjoy that. You have to stand up for what is right.

Look, I do not know how many times I have to say my mother usually got through to me. Maybe not the first time, the second time or the third time, but maybe after 12 or 14 hours, and so I am going to give my colleagues the benefit of the doubt. If it took mom 12 or 14 hours to get through, maybe it will take me that time to get through to my colleagues.

This law does not bring about one restriction, not one on Brother. Not one. We do not make one requirement on Brother. We do not tell them what product they can sell or cannot sell. We do not say to them you are barred from any legal, lawful activity that anybody else can engage in.

What we say is that if you violate the law on dumping, that we now empower with certainty the Commerce people to pursue that matter, notwithstanding that you may try to change a source or portion of the source or the content with some kind of minuscule move that does not really affect the origin of the product, the ownership of the product, the control of the product or the illegal conduct. We are trying to stop illegal dumping and illegal conduct so that we can give the workers of America a chance; the little guy.

My colleague, Senator SEYMOUR, I think has said it right. We have to admit it. The little guy is going to get run over like a bulldozer here. There is no doubt in my mind. But you run over him like a bulldozer because he does not have a big union representing him and because he does not come from a big corporation that sticks in the minds with great clout and can organize thousands of people to come and to put pressure. Why should they have to put pressure? Why should they seek pressure for doing what is right, for having the law enforced?

Look, the Commerce Department says they need this. We went round and round and round, and they stuck to it. They said if you want us to go after these kinds of actions, we need this authorization from the Congress.

If you feel that people should not be permitted to violate the law and be rewarded for it, all we are saying is state that.

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

Mr. D'AMATO. Certainly.

Mr. SEYMOUR. Will the Senator yield for a question?

Mr. D'AMATO. Yes; I yield for a question.

Mr. SEYMOUR. Senator, did I hear you say that this amendment that you have been fighting so bravely for is not just for Smith Corona and the State of New York, but if the Department of Commerce could equally apply this amendment, should this body adopt it, should Congress pass it, the Department of Commerce could equally apply it to every little guy in every other State?

Mr. D'AMATO. Oh, yes.

Mr. SEYMOUR. Is that right?

Mr. D'AMATO. That is right. Wherever you had, whether it was a ball bearing manufacturer, or whether it was a computer chip manufacturer or distributor of electronics parts, wherever they had a situation where they faced a predatory pricing situation and where a foreign company was dumping and breaking the law, or domestic company breaking the law, they would have the ability to seek recourse under the law.

Mr. SEYMOUR. Therefore, Senator, is it fair to state that your amendment, if this Congress were to adopt your amendment, that all the little guys throughout America, all my little guys in California and all the little guys of every one of the 100 Members of this body would receive equal protection under that? Is that what this is about?

Mr. D'AMATO. Absolutely, this is equal protection. This is equal protection for all who have suffered. And I look around the floor. Tell me, is there a Senator who has not seen in his State or heard or been petitioned by an industry or by a company who have not been ravaged by the excesses of the kind of conduct that made it impossible for them to compete against, not because the company was a superior manufacturer, but because they violated the laws?

You know, it is important for people to know, if you think that it is not a violation to sell products at the lowest price possible, you are wrong, if the product is being sold below what it costs to manufacture. That is a violation of the law. So we should get it in our heads. If you allow that, then what takes place is eventually they drive us out of business and they become a monopoly.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. D'AMATO. Yes; certainly.

Mr. MOYNIHAN. The law Senator D'AMATO is describing was enacted by this Congress in 1916; was it not?

Mr. D'AMATO. That is correct.

Mr. MOYNIHAN. The antidumping law.

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Mr. D'AMATO. Sure.

Mr. MOYNIHAN. Do you not think we might have learned how to enforce it over what is three-quarters of a century?

Mr. D'AMATO. I hope we would have some kind of underade somehow has nullified common sense, and I think there were areas and opportunities when we wanted to give certain advantages to foreign countries or the producers that came from foreign countries. They produced cheap products. It was not bad for us. They filled a very real need and gave them an opportunity at economic independence.

So we developed slowly a pattern which was built into a tradition to look the other way. We then began to run by rote and routine an operation at the Commerce Department that did not distinguish because this is the way it has been done. It is pretty hard to teach an old dog new tricks after it has, for the past 40 years, embarked upon this course of activity.

So this is not something that is new. This is something that we have lived with, and part of the myth of the great producer that we cannot produce and keep up with is now they can hold in the American psyche. Let me tell you something. We can out produce the Japanese. We can, in terms of efficiency, effectiveness, and product. We can do it and we do it on a daily basis. There are companies throughout the length and breadth of this land who do it. But if you can produce a superior product at a lower cost and you face predatory pricing where they cut their costs below yours and sell below your costs and below their own cost because they can sell to their own markets, you lose.

If, indeed, we are competitive and they do not pay their fair taxes, that is an issue that we should all hang our heads in shame about. I know the Senator from North Carolina came to the floor and I was taken with his admonitions. We find our foreign corporations are actually beating us in \$20 to \$30 billion a year. What do you think happens to that \$20 or \$30 billion a year they are not paying?

That is a pretty heavy obstacle to try to deal with when they are not paying that kind of tax. It is incredible. They divert those moneys into research, to equipment, and to lower prices. Now you try to compete. It is pretty tough. That is what has been going on.

We are here to address something which is not theoretical, which it may be difficult to prove in individual cases, which takes much in the way of additional expertise, et cetera. That is what the IRS told me. But, indeed, we are here to address something that we cannot see that we do know about, that we do hear about; that is the systematic violation of the law.

The Smith Corona case is a perfect case because it has been substantiated repeatedly, not once, not twice, not three times, but eight times, how they have systematically broken the law.

I have to say to you that it is about time we had the courage to stand up to

the little guy, as Senator SEYMOUR has stated. It is about time that we have the courage to say we are not going to let you bully us any more directly or by implication. But you do not exercise such a colossus, such a power that you have taken away our soul and our dignity, and that we are afraid to stand up for what is right.

I have to tell you, as time goes on, I have become a little more cynical. I do not see a response that I had hoped I would see from either my colleagues, but to be quite candid with you, from the forces of labor and the forces that generally recognize the little guy.

But do you know what? We will endure and we will persist because the rightness of what we are attempting to do is so obvious that even the most cynical of those who made representations of reporting factual situations will have to understand the rightness of what Senator MOYNIHAN, myself, Senator SEYMOUR, and others have been talking about and have been working for.

Mr. MOYNIHAN. Would the Senator yield for a question?

Mr. D'AMATO. Certainly.

Mr. MOYNIHAN. Taking to heart, as one may do from his remarks, does he see much evidence in this body, at this time, of support for the principles that he has spoken of with such vigor, accuracy, and passion for these last many hours? Does he see about him in the Chamber much evidence of response?

Mr. D'AMATO. None. It is none, no evidence of response. I might add, it is disheartening.

Mr. SEYMOUR. Will the Senator yield for a question?

Mr. D'AMATO. Yes.

Mr. SEYMOUR. Senator, the time is now 11:20 a.m. I would imagine whatever the viewing audience there is out there might be wondering why this Chamber is so empty. I would like to ask you this question, Senator: Do you think it might help if you were to make an appeal to those watching and observing these proceedings, whether they be Members in their offices, or just Americans across this country, to call their Member of the House or their Senator and tell them to get with it?

(Mr. KERREY assumed the chair.)

Mr. D'AMATO. I think, look, Senator SEYMOUR, as you know, and my colleagues here, we are political creatures. When people call, when people raise their voices to make inquiries, we listen. It has an impact. So if the little guy, whether he be from Cortland or any other area of the country, feels this way, I wish they would call.

I wish they would say to their Congressmen, to their Senators; hey, you know what is going on? Let me ask you something. Will this bill cost us jobs? Will this bill cost us taxes? Will this bill cost the American people money? What does the bill and the legislation that Senator MOYNIHAN and Senator

D'AMATO want do? Does it hurt our State? Or does it help our State?

Do you know something? In every single one of those issues, even if you are looking out the window to see the Empire State Building and wondering who owns it, I have to tell you, you come down with one clear, convincing conclusion. The bill helps. It says that the law should be pursued. It says basically that the Commerce Department should enforce the law. It does not say it enforces it only against Brother, and only for Smith Corona.

It is important for Smith Corona at this point in time, because, listen, they are going. They are going to pack up. They are going to leave. We have a chance to make a statement. We have a chance to say, let me tell you, no more. We are going to save those shops.

We have a corporate executive who has pledged, he has said to me—and I have committed to Senator MOYNIHAN, let me tell you—you pass that bill and if, indeed, there is enforcement, they undertake enforcement, I will bring it to my board and we will make a change and we will keep those jobs. Hell of a start.

Then let us stand up for the rest of America. This is not a Republican platform. It is not a Democratic platform. I have heard everybody espouse: I am for the working person. If you are for the working person, why do you not want the law enforcement?

That is what it is about, simply seeing to it that the law is enforced. And yes, unfortunately, the case of Brother comes up. Brother is headquartered in a State. It does not have to be headquartered in a particular State, but it is headquartered in a wonderful State. I used to live in that State. My brother was born in that State. My uncle Alfonse lives in Nutley, NJ. My aunt lives there.

But let me tell you something. The laws are made even for corporations that are headquartered in New Jersey; they are made for corporations that are headquartered in New York, and there should be no difference. If we say that there is power in New Jersey and their Representatives, and damn the law, then I want to tell you something. Let us get it out here. If we say because they have one of these little screw plants in Tennessee, and therefore we will not have enforcement of the law, equal enforcement, then let us get it out here.

It is not a question of jobs in New York as opposed to jobs in one State or the other. This is a question of the law being enforced. It is that simple, basic 101 philosophy, ethics.

My gosh. Want to make it a power fight, then we will make it that. That is why the Senator has said, OK, you do not want to deal with us reasonably, you threw out this provision without telling us, without telling us this provision was thrown out, and everybody

was blamed. Some poor staffer who I read out, I apologize. Listen, I do not know. You were probably awake when I said all those nasty things about him. Where is that book with his name in it? I want to apologize to that staffer. I eat crow.

Robert Kyle, I said Robert Kyle. He does not care about the people who are going to lose their jobs. I was wrong, I apologize. That is nonsense. The staff did not go around here doing things, you know, and I want him to know that. I regret my intemperate remarks with respect to Robert Kyle and I hope he accepts my apology.

Mr. BENTSEN. Will the Senator let me ask a question without losing his right to the floor?

Mr. D'AMATO. Certainly.

Mr. BENTSEN. Let me also say that I did my best to keep your provision in and I pushed for your provision, worked at it. Robert Kyle was also working in my direction, to try to see if we could get a compromise to satisfy you, the Smith Corona people, the administration, and that we pushed and pushed as hard as we could. It was not accepted on the other side.

Mr. D'AMATO. I thank the chairman for his efforts. That is why I thought that I owed Robert Kyle an apology. I did make that apology prior to the Senator arriving on the floor.

Mr. BENTSEN. I am sorry I missed hearing it. I understand it was a great rendition.

Mr. D'AMATO. Yes. A little bit. I do not know if it was a great rendition, maybe kind of comical.

Mr. BENTSEN. Maybe I could get a tape. What time was it?

Mr. D'AMATO. I do not know. I have lost a sense of the time business. It was, must have been, about 4:30 that I did that, something about that. Senator PAT helped. I want you to know that. He kept the beat.

Mr. MOYNIHAN. The beat goes on.

Mr. D'AMATO. We did. The beat goes on.

Mr. MOYNIHAN. Would the Senator yield for a question?

Mr. D'AMATO. Certainly.

Mr. MOYNIHAN. Does he not agree that it is important that the distinguished, able, relentless chairman of the Committee on Finance did try and he did succeed with the Senate. But the matter was turned down in the other body, and the other body has now adjourned. We await another Congress in that regard, I fear. But I think the Senator does, I am sure, agree that everything that could be done on this side was done.

Mr. D'AMATO. I feel much more gratified that the distinguished Senator from Texas, the Chairman of the Finance Committee, has come to the floor to tell us that he has pursued every avenue possible as it related to having inclusion of this provision in the bill.

Having said that, I would also recognize, and have been given to understand, that the House has adjourned temporarily, until Thursday. I do not know if that is pro forma, if they are going to come back Thursday. But given the previous history of the House, and particularly the Ways and Means Committee and leadership of the Ways and Means Committee, Senator ROSTENKOWSKI, I found it very unusual to say the least that with this provision, it is hard to explain how he would find objection to this provision.

Mr. BENTSEN. Will the Senator yield for a moment?

Mr. D'AMATO. I yield for a question.

Mr. BENTSEN. I am not trying to take the position on the floor in any way. As chairman of that committee, he has other members, and I do not know where the objection was coming from on that side, except I know it was from that side. We were pushing very hard to get the provision in.

Mr. D'AMATO. I thank the Senator. I thank my colleague for his explanation.

I do know that the Senator's characterization as the opposition coming from one particular Member, I do know, who is very vehement in his opposition from the other side. So I substantiate certainly what you have indicated.

I find it hard to understand how the minority Member, and not one with great seniority, would have had that ability. But obviously, it took place in bringing about the situation where the conferees went forward.

Congressman SUNDQUIST—as a matter of fact, Congressman SUNDQUIST put out a press release saying that this matter had been killed and it appeared in one of his local newspapers on Sunday, I believe. So I am not telling stories out of school here.

I tell you something. When I see the fellow pretty far down on the totem pole being able to get this provision knocked out because he is worried about his 30 pieces of silver operation, which could still continue. Brother, competitive and operative, will still be able to continue. If they are running a plant like somebody else, they will continue the plant.

What we are saying, the lawsuit is being enforced.

But I am at the point in time when maybe we did not get the message clear enough and loud enough for the House.

Now there is legislation that they want, and they are ready to send it over here and waft the waves, all these little cats and dogs that they hold until the last minute. And there are some pretty big things coming on over here. I am going to ask my staff to try to make a list of some of those things that they want. They want the housing bill; they want the GSE bill; they want the reclamation bill; they want a whole host of legislation.

And do you want to know something? I have to tell you something: I do not intend to grant the unanimous consent or take up consideration of any of those things. And I am going to hold the floor as long as I can, and I am not weakening in my determination. Now, maybe something else will, at a particular point in time. I have been here—

Mr. MOYNIHAN. Mr. President, point of order. The galleries are not in order. I request the Sergeant at Arms see that they be.

The PRESIDING OFFICER. The galleries will remain in order.

Mr. D'AMATO. Mr. President, I am going to continue this. And I have to tell you something. I want to know why, why it is that my colleagues in the House are going to take this kind of thing. I will have to tell you something. This bill over here is never going to become law; that is, the tax bill.

It only passed, PAT, by what? How many votes? Six or seven votes?

Mr. MOYNIHAN. Six.

Mr. D'AMATO. Six votes, seven votes. That is all this bill passed by. And there are some provisions in there that everybody is talking about, whether they will come up, whether they are taxes, whether they are not taxes, whether the President is going to sign it, or whether he is not going to sign it.

So let me tell you, the chances are that this bill is never going to see the light of day.

So I want a bill that is going to help these little people, the little guy or workers, the men and women who make America go, who are the unsung heroes, who are good and decent people, who do not come and demonstrate, who do not come out and parade, who do not ring the telephones off our hooks, and who pay their taxes.

And now, through no fault of their own—and they work hard. They have a great work ethic and they have a great company. They have a board chairman, and he says: By gosh, if you see that the laws apply, I will keep the company here; I will not move it to Mexico. I will go back to my board of directors.

What a nice message to send.

Now, let me tell you something. Nobody is God. I cannot make whatever is not going to be become. But I can certainly help to work to change a course of action and a change in attitude and perception.

I have to tell you something: I know the people over in the House; I know lots of them. I grew up with some of them. I grew up with NORMAN LENT. He was a boyhood friend. RAY MCGRATH and I go back many, many years together. And I know others of the Representatives, good and decent people, Republicans and Democrats.

I have to tell you something. If you gave them a chance to pass a freestanding bill on this subject, they would

pass it overwhelmingly and send it here to the Senate so that we can vote on it and act on it and adopt it. And it does not have to be Smith Corona, whatever.

Now, what it is, it is to protect the American workers' rights, and see that the law is applied against foreign corporations the way it should be so that we do not have this dumping. That is all we want.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. D'AMATO. Certainly.

Mr. MOYNIHAN. Not for the first time, obviously—but in the spirit of Mama, as you say—repeating things until they are finally heard—what we are trying to do with this amendment is to see that the rules of an open trading system, an open world trading system, are abided by, else that trading system itself would be put in jeopardy.

Is that not your view?

Mr. D'AMATO. Senator PAT could not be more correct. If we turn our back on the enforcement of the law now, I want to tell you something, you are going to have people who finally say: The heck with them; boycott them; keep them out there; put the tariffs on them.

And there is that drumbeat.

Mr. MOYNIHAN. Will the Senator yield for a question? I know he knows the answer, but I would like it in the RECORD.

Mr. D'AMATO. Yes.

Mr. MOYNIHAN. What are the existing tariffs in the United States today?

Mr. D'AMATO. When does it go back to; the tariff of 1913?

Mr. MOYNIHAN. Smoot-Hawley.

Mr. D'AMATO. Smoot-Hawley. You are talking about death and destruction.

Mr. MOYNIHAN. Are they not the rates that are in the statute and everything else last negotiated down by agreement?

Mr. D'AMATO. That is correct.

Mr. MOYNIHAN. And if those agreements disappear, what do the rates become?

Mr. D'AMATO. The rates become confiscatory. We then set up a barrier where nobody will trade. We then have the protectionists reign supreme. What we are suggesting is let us at least enforce the law.

Can we stand up to the lobbyists? That is really something. Can we stand up to the lobbyists? And you know what? We know them all. They are good guys. Think of it: Power. Can you stand up to the company that exercises tremendous power and influence? And we have them.

And what is this whole thing rocking around about? This is not about two States or three States. This is about seeing to it that there is fairness, fairness that cuts across the board in all 50 States and the District of Columbia to see to it that we do not have unfair

predatory practices that are applied in the business community against American companies.

Now, that is what we are trying to do. We want the law to be obeyed.

Now, I find it inconceivable that the House, which is the body that speaks to the people and is closest to the people—and I have watched the House, on occasion after occasion, stand up and take on people and take on the administration and take on themselves and their colleagues for not doing enough to deal with the economic recession.

Let me tell you something. See all these pages? Wonderful stuff. Economic development in distressed areas.

Well, the first area to which you can come and we can apply for an economic development grant in a special zone would be Cortland, NY.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. D'AMATO. Certainly.

Mr. MOYNIHAN. The proposal in the House of Representatives is to have 25 urban enterprise zones and 25 rural. When the last factory in Cortland closes down, would that qualify for an urban or a rural enterprise zone in his view?

Mr. D'AMATO. I would say—

Mr. MOYNIHAN. Because there are pastures; you can see the hillside and you can see the cows, as you know.

Mr. D'AMATO. That will put us right in the middle of a real quandary, and we will fall, this area will fall in no-man's zone.

Mr. MOYNIHAN. We are not far from Salamanca, which could make it Indian.

Mr. D'AMATO. We could have it adopted, and we could use that building for a gambling hall.

Mr. MOYNIHAN. Mr. President, will the Senator yield for a question?

Mr. D'AMATO. Yes.

Mr. MOYNIHAN. I would like to ask this question. It is a large question, but it comes in after some more than 12 hours of extended debate on this matter.

And it is: How could something so simple as a request, an effort to clarify the ability of the Commerce Department to enforce the antidumping laws of the United States, how could something that simple become controversial in the other body, if it was just a case that there were those who do not want to see the antidumping laws enforced?

And if there are those who do not want to see the antidumping laws enforced, are they not putting in jeopardy a trading system that the United States has painfully put together with great courage and energy, beginning in the administration of Franklin D. Roosevelt 60 years ago, Cordell Hull's typical trade agreements, without which—the world plunged into the Second World War anyway, but we came out of it with a standard of expectation that has put the idea of war between the na-

tions of Europe, for example, out of the vocabulary of modern political discussion. We do not have words to describe a war on the Western front.

How did that come about? It came about through trade legislation; Monet, who learned so much from the American experiences; the European union; and the GATT.

As the Senator knows, we planned in the League system to have an International Trade Organization that would correspond with the International Labor Organization. It was to be located in Havana. It did not happen because of the Senate Finance Committee, if the truth were known.

But under Secretary Marshall, we move forward. We began the discussions—which began in 1946 in Geneva, in the old League of Nations, the Palais des Nations—we began the discussions that eventually produced a General Agreement on Tariffs and Trade. That was designed to let us all come back down from the horrendous tariff barriers of the 1970's: The dumping, the predatory practices, the barriers going up and being undermined. And steadily we have done that. Our tariffs today are at an almost—they practically do not exist for most products.

But we have insisted on one thing. And if the Senator will agree, I had something—I was involved in the Kennedy round, and the negotiations of the long-term cotton-textile agreement, which addressed the first phase of post-war market disruption. It said: Slow down; easy does it.

This was the condition of getting the Trade Expansion Act of 1962, which led to the Kennedy round. And the Kennedy round had—the tariff decreases continued but, as the Senator will know and will recall, the big rule changes were the dumping rules of the Kennedy round.

And my question is: Does the Senator not think that these rules are being put in jeopardy if the United States, who sponsored them, will not itself enforce them; and are there persons in the other body who would like to see them not enforced? Is that possible?

Mr. D'AMATO. First of all, let me say the Senator is actually right that we do jeopardize free trade principles. And I think we are going to bring back an attitude of vindictiveness, of, bring back the tariffs, retaliation, and the trade wars. And we are going through a pretty tough time right now with some of the difficulty in dealing with the Europeans. It does not make much sense.

I do not know why other Members—I certainly do not believe it is a majority of other Members in the House—would be opposed. I think if you poled them, given the turnout of Members from the other side during the evening—we must have been visited by at least 20-plus.

Mr. MOYNIHAN. At least.

Mr. D'AMATO. At least 20-plus Members of the Congress came here and were supportive—were supportive—of our efforts. And so I do not believe that the House is in opposition to this legislation.

I think they want the rule of law. I know they do. I have heard. I was alluding to that before. I have heard Members on the House floor, time and time again, talk about protection of jobs. We are not talking about the protection of jobs here, saying we are going to pay subsidies, et cetera, we are going to have tariffs imposed. We are not asking for tariffs imposed. We are not asking for subsidies to be invoked here.

We are saying, though, that a company that competes here must follow the laws here. That is all we are saying. That is all this bill does. Nothing more. Nothing less.

Mr. MOYNIHAN. Is that a large proposition, that the law should be abided by?

Mr. D'AMATO. It is the most elementary proposition that one could think about or speak to. It is one that no one can take issue with. It is one that at times those in power, it is sometimes suggested, maybe sometimes they think they are above the law. And they get the people pretty angry when they feel that is taking place.

But to suggest that a Japanese company can break the law with impunity and will be shielded from the law's application because we fail and/or refuse to just restate the proposition that the law applies in these instances, as it relates to dumping—that is all. In this way we make it clear that the Commerce Department must enforce the law. That is all. The Commerce Department says they need that.

Mr. SEYMOUR. Will the Senator yield for a question?

Mr. D'AMATO. I yield for a question.

Mr. SEYMOUR. My question has to do with why we need this specific amendment.

In order for you to clarify that for me, I would ask you to expand or expound upon your statement of July 30, 1992, when you introduced this amendment to the energy bill. I will just read a quick paragraph. Then I would like you to expound or expand upon it, as to why do we need this? Why does the Department of Commerce not enforce existing law?

The paragraph reads:

The 1988 trade bill created a new anticircumvention law to prohibit foreign manufacturers from avoiding duties by setting up U.S. plants. But foreign countries found a loophole that restricted duties only to the original country of import, not to third party countries from which parts can be imported.

Would you expand upon that a little bit? I think that will explain, at least for me, why we need this.

Mr. D'AMATO. OK. Let me tell you what took place in this case.

The company of origin of production was Japan. In one of the dumping cases, Smith Corona people took this matter to the Department and it was ascertained that, indeed, after checking the facts, the statistics, the content, that this was a product that was being brought in and that was being sold after being put together and was being sold at below cost. It was a clear violation.

A tariff was imposed. Before that tariff could be imposed, the same company, Brother, same product, same machine, same distributors, same suppliers changed its point of origin and then brought its production facility to South Korea.

I use this as an example because this happened in different cases. Now the order was no longer applicable. And, notwithstanding that, they continued to dump their product here. They could not impose the tariff, the fine, because the order was against the country of origin, Japan. It was no longer Japan.

They brought a second case. The same thing happened. This time they shifted their manufacturing, same product, same vendors, same company, same point of destination, same content, and they operated through subsidiaries, operating one in Singapore, one in Malaysia. The countries are irrelevant. I mentioned Singapore. It does not have to be Singapore. Malaysia—it does not have to be Malaysia. I believe it happens to be both in that instance.

By the time the order comes down, they say it is not in Korea.

Now the third one. Another order sought, 60 percent tariff they are going to have put on them. And this time they say wait a minute. Notwithstanding that, it comes from the two sources, it is now being put together in this phantom plant in Tennessee.

Look there is the case, again, that in between the order and the final tariff being affixed, and the penalty, as Senator MOYNIHAN brought out before, they made a 70-cent change in the order.

Mr. MOYNIHAN. It was 70 cents.

Mr. D'AMATO. It was 70 cents. And then they said this is not the same item. This is a different item.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. D'AMATO. Yes, certainly.

Mr. MOYNIHAN. Is he aware that the Commerce Department solemnly judged that this same typewriter with 70 cents worth of a chip in it, came under a different tariff category number? Automobile is one category, elephant is another. There is a category for everything, they have numbers. But those numbers are meant to really distinguish between really different things.

Does he know—I am sure he does but I would like him to tell the Chamber—that they absolutely said this is not a

typewriter anymore? It is something else.

Mr. D'AMATO. This is one of the most preposterous examples of how we have seen a lack of enforcement and manipulation by the bureaucrats, coupled with the lobbyists. And I have to say that.

And I do not disparage lobbyists. Who knows what lies in our future?

So I do not disparage lobbyists. But I have to tell you, when and if they can get a distortion or a perversion of the law, shame on us. Shame on the institution. Shame on the administration.

And that is what this one little group of turkeys have been doing. Brother—there is nobody of great note. You are not talking about this great colossus. But the anger the people should feel, not only in this case but in all of those cases where there are good and decent people, and hard-working management, management that tries, management that fights, management that makes a difference and gets what?

I am wondering if my colleagues here know that the motion to adjourn lost 97 to 250?

I thank my colleagues. I thank my colleagues.

I thank my Republican and my Democratic colleagues.

Mr. SEYMOUR. Senator, therefore, if you would yield for a question?

Mr. D'AMATO. Yes.

Mr. SEYMOUR. With your announcement of that vote, then there is hope, is there not?

Mr. D'AMATO. There is hope. The fat lady has not sung.

Mr. SEYMOUR. We can do something about this, can we not?

Mr. D'AMATO. Yes. The fat lady has not sung. We have a chance here. As Yogi says, "It ain't over until it is over."

He also said, "When you get to the fork, take the turn." I do not know—he says a few other things.

There is hope. There is hope. I do not think that hope is in this tax bill. But I think there is maybe hope to get us a bill that deals with this legislation fairly, that will give us a chance, really, to correct an injustice that has really gone on for too long.

Do you know the people who are losing their jobs first? Who works in these factories? The people who were so happy to get there, who can support a family—you are talking about working families. That is what we are talking about. We are talking about the bedrock of America. We talk about the disappearance of the middle class and this was the group that we could count on in our communities. This was the group that gave stability. This is the group that needs more help.

I hear this stuff about family values. Come on, give me a break. Stop talking about family values. You talk about jobs. They want to know how they are going to educate their kids, how they

are going to have affordable health care. They are not going to have affordable health care if they have to go to a job training program. They want to know how their youngsters are going to have a job. They want security. They will take care.

That is how we take care of people, families. You do not give us these sermons. I want to tell you something, if we want to help people we do not have to spend more money on job training. I am not suggesting that may not be necessary but that is not the answer.

More money in public works programs? My gosh, we put through—Senator MOYNIHAN guided through a bill, how much, PAT, \$240 billion? You cannot spend that money, it is bottled up in there, clogged up in there. We got the money there. But you have to protect people against illegal acts.

We are not talking about protecting jobs. We are saying you have to protect lawlessness and pirating of jobs, pirating, taking them illegally. That we have the right to protect.

Mr. MOYNIHAN. May I ask the Senator a question?

Mr. D'AMATO. Sure.

Mr. MOYNIHAN. Would he not think that those who care about the North American Free-Trade Agreement, they would very much care about this specific incident?

This is the last time there will be this much long and detailed debate on trade practices in this body until that treaty comes to us, comes to us for ratifying.

Would you not think they would be pretty careful about establishing the principle the U.S. Government will see its trading partners abide by the rules before they propose to take down all the trade barriers in North America?

Mr. D'AMATO. It is critical, critical. I am going to want to see it. I hope my colleagues—Republicans and Democrats—are going to want to see it. I think Senator MOYNIHAN has pointed out a very glaring area. I want to know in terms of the enforcement of it, just what method and how important a role will the judiciary in Mexico have?

If the interpretation of these rules—and I suspect that they would be—would rely on the sovereignty of the Mexican courts and their interpretations, that is a very important question. That is a very important question. I have not focused in on it.

But I have to tell you it gives me cause to be concerned. I do not want to see people come up with this know-nothing attitude, bar everything, and raise the barriers and raise the tariffs. I think we can do better.

One of the ways we can do better is to say, let us see to it that the law of the land is applied to all. That is the principle today that brings together Senator MOYNIHAN and myself. It is to say that the law should be applied.

If that will give certain companies an opportunity to compete fairly, then so

be it. That is the way it should be. If that will disadvantage companies who are breaking the law, then good—then good. Because we do not want companies to break the law and to gain an advantage by breaking the law.

So what we have been doing now, from now—going on to 14 hours—has been touching upon those things that we think are important—equal protection under the law, not undue, not exceptions to the law, not looking the other way so someone can gain an advantage.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. D'AMATO. Certainly.

Mr. MOYNIHAN. Why would the House of Representatives not want to see this done? Can he understand? Does he feel the influence of foreign-owned corporations has reached into the House with that effect? If so, is he not astonished and distressed?

Mr. D'AMATO. I am astonished. I am distressed. I am distressed that a body that has so often fought for this identical provision plus, a provision that has gone further, would not accept this watered-down provision. It is hard, and difficult for me to believe.

The PRESIDING OFFICER. The Chair advises the Senator from New York, the hour of 12 o'clock noon having arrived, the Senate, having been in continuous session since yesterday, pursuant to the order of the Senate of February 24, 1960, the Senate will suspend while the Chaplain offers the prayer.

PRAYER

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

Let us pray:

The word of the mighty King David:  
*The Lord is my shepherd; I shall not want. He maketh me to lie down in green pastures: he leadeth me beside the still waters. He restoreth my soul: he leadeth me in the paths of righteousness for his name's sake, Yea, though I walk through the valley of the shadow of death, I will fear no evil: for thou art with me; thy rod and thy staff they comfort me. Thou preparest a table before me in the presence of mine enemies: thou anointest my head with oil; my cup runneth over. Surely goodness and mercy shall follow me all the days of my life: and I will dwell in the house of the Lord forever.—Psalm 23.*

Amen.

The PRESIDING OFFICER. The junior Senator from New York retains his right to the floor.

Mr. D'AMATO. Thank you, Mr. President.

Mr. President, I just received one of the nicest notes from one of my colleagues, former chairman of the Appropriations Committee, Senator HATFIELD. I will not reveal its content here, but it is absolutely delightful. I shared it with my colleague, Senator

MOYNIHAN. I will put this in my pocket and hopefully be able to show it to my grandchildren when they are old enough.

I have to ask, is it sufficient to look the other way when nothing more than an assembly operation is installed in the United States in order to circumvent and avoid paying the anti-dumping duties? Is that something that we should pay tribute to in saying that we are grateful for the fact that this plant is operating, therefore, we do not want to have proper enforcement of the law?

I do not think so.

You know, if that is the case, we will continue to see the kind of abuses where those who can import their product below fair market value can drive competitive American manufacturers from their own free markets. Think about that. That is what is taking place.

The machine tool die industry has virtually been destroyed from the great days of its prosperity, of its economic strength, of a vitality, of a commitment to research and development, to an incredible work ethic with the German and American community that were just so industrious, and the Czech community, as we looked to our own western and central New York, the Rochester area all the way on over to the Buffalo region, the best precision tool makers, the best in the machine tool area, I have to tell you, are hanging on by their fingernails today.

Let me tell you something, it had nothing to do with the quality of their product. If somebody says to you, they got sloppy, fat, happy, these are lean, tough places, right down to the bone. Great tool dies passed on generation to generation, family to family.

You hear, oh, the excess of the unions. We heard that in the auto industry. No, not with these companies. Do you know what, I will never forget when I took a tour when I had just been elected in 1981 and went up there and saw the remnants of what once had been this great industrial base. And they told me, operator after operator, Senator, do you see this machine, it cost me \$80,000 to make it. My competitors abroad, the Japanese, take the machine, copy the machine, make improvements on the machine, bring it in here and sell it for \$50,000.

No way, no way could this man compete. Was the cost inordinately high? No, ran it himself, his family, several people working for him. Exorbitant rates? No. But just for the goods and the materials, the cost, the labor, no profit, he could not compete. Why? Dumping.

And so when we pass laws that say you are not permitted to dump, we are not passing them for Smith Corona, we are passing them for the machine tool die workers throughout this country. We are passing them for every hard-

working business concern and entrepreneur from the North to the South. We are not suggesting higher tariffs. We are not suggesting that we keep you from bringing products in. We are simply saying you have to obey the law. If that is too tough, then we ought to tell the American people we are going to have no imposition of any rule. That is the strongest, the mightiest. We can take whatever economic power they can seize, they can throttle, you can do anything you want.

Why do we not say we allow monopolistic and antitrust kinds of activities and let our people do the same thing?

Take off the gloves. Let us have our corporate America be able to do the same thing. No laws.

By the way, our people pretty much adhere to the law. Why? Because we have some tough antitrust provisions. You see what happens when people fool around in dealing with the Government, phony it up. They go after them, they send them to jail. Over there? That is doing business.

Mr. SEYMOUR. Will the Senator yield?

Mr. D'AMATO. For a question?

Mr. SEYMOUR. Yes, for a question, Senator.

Senator, just so we have it clear, is it true that if you were to have this two-page amendment that you had in the tax bill until the conference committee and the various people dumped it out—speaking of antidumping—if you had this provision in a bill, can you say with any credibility that if Congress were to pass this two-page bill, that the President would sign this two-page bill?

Mr. D'AMATO. I think the President would sign this bill.

Mr. SEYMOUR. And, therefore, Senator, is the problem no longer the tax bill necessarily, but the problem really is you have a reluctant House of Representatives, you have a reluctant U.S. Senate—

Mr. D'AMATO. Oh, yes.

Mr. SEYMOUR. That will pass this two-page bill; is that our problem?

Mr. D'AMATO. Oh, sure; that is our problem.

Let me say this to you. I do not want my colleagues to send this back and ask the House to pass the tax bill with this in it. This bill is a turkey. It barely passed. If they have another vote on this, I do not know if it is going pass here. I do not know if we can ever get it up.

Mr. MOYNIHAN. Will the Senator yield for a question in that regard?

Mr. D'AMATO. Certainly.

Mr. MOYNIHAN. Does the Senator think if the New York delegation had known that this would happen to the Smith Corona provision, do you think they would have voted 23 to 10 in favor of this bill?

Mr. D'AMATO. No.

Mr. MOYNIHAN. We would not be here today, would we?

Mr. D'AMATO. No.

Mr. MOYNIHAN. The bill would have been defeated in the House?

Mr. D'AMATO. The bill would have been defeated in the House. I think it would have been 23-10 the other way.

Mr. MOYNIHAN. The other way.

Mr. D'AMATO. I do not think it would have gotten 10 votes if we called our colleagues and told them about what transpired. I am certain of that. I am certain of that.

Having said that, that does not do us any good to cry about the situation. I mean, so now the question is can we get somebody to deal with this in a manner that will give our people an opportunity to work, to work to keep jobs, job opportunities. That will be the nice thing.

So when we hear about, I am for more job opportunities, here is the way to prove it. If you are for more job opportunities, pass a law that brings about some enforcement.

I am for more public works. Come on, we have more public works. And I say that with respect, we have more public works allocated and appropriated. It is stuck in the pipelines. The States have to get more engineers to get the design work out to bid. We covered that portion of it. You have never seen—we have covered that portion. You have never seen more in the way of public works. That is going to be here. That is going to do something.

But how are you going to keep these jobs from disappearing, manufacturing jobs that create and are responsible for holding the nonmanufacturing jobs? You go to small towns and you see—not because there is a big shopping center—but you begin to see the signs of all the blight there, boarded up things over here. Then you go to the outside of town, you see the big factory that used to be, whether it was the pump factory, whether it is a typewriter factory, or the gear factory, they are down. It has a direct impact on why you lose construction and business and finance and transportation and all the jobs in retail.

So we have a veritable opportunity.

Mr. SEYMOUR. Will the Senator yield for a question?

Mr. D'AMATO. Certainly.

Mr. SEYMOUR. Senator, you have made it clear that this would apply to small manufacturers across the country. My question has perhaps a more personal nature. My question of you, Senator, has to do with more specifics relative to the 875 employees that you have been fighting for and their families.

My question of you, Senator, is can you tell us a little something about some of those employees and families? You might recall—for example, I would like to know if they are like my father, who I talked with about 2 a.m. this morning, or maybe it was 11 p.m. last night, who worked for this company,

Smith Corona, for 25 years, retired on a very small pension. Are those the kind of people we are talking about who will lose their jobs?

Mr. D'AMATO. You are talking about middle America here in the truest sense. If you go up to Cortland, you will know that. They are plain, ordinary, good people. They are hard-working. They do their thing, they go to their church, they pay their taxes, they root for their ball teams. Their pleasures in life are good ones. They belong to the volunteer fire department. They go on up once in a while to see the university play, take in a football game. Not all that often, but the youngsters do. In this area, they all root for their football team. Most of them root for the Buffalo Bills.

There is a great mixture in terms of the diversity, in terms of their baseball teams. Some of them have that Massachusetts spillover that comes from up over there and still comes over from the Albany area, wafts right over to central New York. Some of them, believe it or not, are Red Sox fans.

Mr. KERRY assumed the chair.

The Presiding Officer in the chair, from Massachusetts, will know that. But they are. Some of them are Sox fans. I think most of them are Yankee fans, fierce in their love of the area and to their local heroes.

Carmen Basilio, former world champion welterweight champ, fought great, great incredible battles. He is now over in Rochester. He came from the Canastota area, from the onion farm. There is a great love for him. I was going to school up there. You never saw greater love; fighting the John Brothers, from the Syracuse-Cortland area. PAT can tell you about these, with great pride in the local teams and the kids that made good.

There are not many of the kids in those days, when we were growing up, who went to college. They have high school. These were hard-working people. It was an exception, my guess is the smaller percentage of the kids who went on to school in those days. There is a better percentage now. There is a State school there that has really given lots of them an opportunity.

Let me tell you something: This bill does not just affect this one community of Cortland and/or the workers in Smith Corona, because it is a microcosm, Smith Corona, the plant that your dad worked at, when he worked at it. Then today, the microcosm of the manufacturing plants throughout this country, the length and breadth of them; these are the very people.

If you wonder why everything in the body politics has taken such an incredible turn, it is because these people see and hear. When this plant closes, when and if it closes its doors, it will affect far more than the 1,500 or so families involved in terms of the 875 jobs that are lost directly, the 600 indirectly, and

those in the region. It is a devastating psychological blow to American workers.

I can tell you, the workers in upstate New York are suffering incalculable damage to their psychology, to their psyche, to their state of mind, to their work and effort to protect their homes and provide for their families. That is what we are talking about here.

You know what? I just do not know how to deal with it, because there is no damned good reason for this bill not to pass. I find it hard—impossible—to accept. I do not believe it. I still do not believe it.

I hear it. I know it. I have spoken to certain people. I understand what they stood for. I do not believe it. I believe that we can still, at this 12th hour, change it. I believe that the House of Representatives, that DANNY ROSTENKOWSKI can make a difference, that he should make a difference, that there is no reason not to make a difference. There is absolutely no reason not to stand up and say: By gosh, let us put the administration to the test; let us pass this bill; let us send it over; let us see what the Senate does.

Send it over freestanding. Stand up for the little guy. You come from Chicago. You consider yourself a working guy, a representative of them. You always have been. Give that working guy a break.

Mr. SEYMOUR. Will the Senator yield for a question?

Mr. D'AMATO. Yes.

Mr. SEYMOUR. Senator, if you, for some reason, should not be successful—but quite frankly, I think you are going to succeed. I have known you, in just these short 21 months, to be a tough, tough, tough cookie.

Senator, if you should not be successful, and these jobs go to Mexico—that bill on your immediate right, that stack of paper that you referred to as a Thanksgiving project—is it not true that should those jobs go to Mexico, and should Smith Corona close their plant in your State of New York, that out of that bill might come about \$140-some million to retrain and put these people, hopefully, back to work, and at least take care of them while they are out?

Is that the alternative to what you want to do?

Mr. D'AMATO. What a sorry alternative, to spend money to retrain people, to help create jobs, when by one act of standing up to the special interest groups—let me tell you something: The special interest groups are many and varied. They are not just the lobbyists who come along, and whatnot. We are the special interest groups because we are elected to represent our people.

So this is a compilation of where they fall, and where they fall out.

I have heard the explanations here. I am not satisfied. I do not think Con-

gressman SUNDQUIST had the power to stop that bill in the House. I do not believe it. Since when do the Republicans, on the minority side, with DANNY ROSTENKOWSKI worried about them, as it related to this kind of an initiative? The trouble with the Senate traditionally has not been the House. We steamrolled bills through at this time repeatedly.

So I have to say that I do not believe that it is worthy of belief to suggest that this effort is one that died from such an ignoble death. If it dies, it should die taking down the esteem that our colleagues have for the people whom we are supposed to represent. That will be a fitting and noble way; not just simply to be brushed aside.

So while my feet tell me one thing, and my throat is hurting, something else in me says: Do not give up.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. D'AMATO. Yes.

Mr. MOYNIHAN. Even if it should turn out that we are not able to save the Smith Corona jobs in Cortland, this issue does not go away. There are other jobs all over this country. This practice does not disappear. To the contrary, the practice is rewarded and shown to be successful. Is it not to tell: Look how you can get away with it? So our legislation is even more needed. This legislation is needed even more.

This does not cease with this particular instance, as you have said many times; have you not? This is not a specific case; it is a generic trade provision.

Do you not agree?

Mr. D'AMATO. Once again, my good friend is cogent, and goes right to the essence. This is generic.

My dismay of this really is centered on the fact that we have an opportunity to make a difference, have an occasion to make an important difference, to demonstrate to the people that we are not going to allow this avoidance of the law to continue, that we are capable of coming to the rescue of a beleaguered people. The beleaguered people list themselves as legion. The beleaguered people can be found in every State, in every urban center, in every suburban or rural area. And they are beleaguered because they are fearful. They have been instability as it relates to the institutions, the deadlock.

If someone ever told me that Smith Corona might not be operating one day when I was a law student and a college student up in Syracuse, I would say: Come on; who are you kidding? Cut it out.

If somebody had ever told me that the great General Electric plants that once employed thousands—18,000 people up in Syracuse, thousands more over in Schenectady—would be all but abandoned, in certain areas down to a skeleton crew, I would have said: Forget it.

With the demise of these institutions in such a rapid manner, when we see

institutions that are putting out a good product, institutions that for every real reason should be competitive in making money turning the lock on the door and going offshore, or going down to Mexico, how destabilizing do you think this is in the minds and the psyche of even those professionals who may not work in the factory, those lawyers, those doctors who are in the communities, who see what is taking place, who see the distress and the heartache of their peers? That is what we are talking about. Wake up.

I have been blessed. I have been privileged—not privileged. My father pulled my plug after my first year of law school when I goofed up. That is how I had to work as a janitor for the next 2 years. He wrote me a note. I will never forget that note. It was great. I should have saved the note. It is one of the all-time greats, a simple note. He said: "Lest the pen spilloth over, this is it." He included a check.

He made enough money to pay for my tuition that summer. He meant it. I finished up that summer with some good law professors who felt kindly disposed toward me. And I am certain, as a result of that, I got my average up to a high enough score so I could continue in law school. I was up there, and I had no means of continuing.

I met a wonderful fellow, the chief custodian at the university. His name was Robert Rainbow. I will bet you knew him. He was the sign painter. He was a wonderful, gifted, talented sign painter. He became the chief custodian. He was half Indian. He took a great delight in helping young students.

When he found out that I needed a job, he arranged for me to get a job with the university as a janitor. I worked 48 hours a week. I made a lot of money in those days, \$1.65 an hour—6 hours' tuition each semester. That is how I went to law school: The benevolence, the kindness, and the caring of a magnificent gentleman, Bob Rainbow. He gave me that chance.

More importantly, I had the opportunity to see the real America. It was not from the sheltered environment of the university; it was, oftentimes, youngsters not up to the total perspective of life.

But yet it was in a wonderful academic setting. And it gave me an opportunity to see people struggle on a daily basis.

I want to tell you something: I never forgot working in the old math hall when I was a relief janitor. Every night I would cover a different building.

Well, we had the relief janitor in the math building. He was an elderly gentleman who had been working up at the school for 50 years plus. But his age did not give to him a charitable mood or disposition. He went through assistant janitors in that big building on a weekly basis.

And after he got through the six or seven that I had been told about, and I

had now established myself as a very reliable relief custodian—and let me tell you, relief custodian was a great job, because on Monday night I would work at the library, and Tuesday night it would be at Slocum Hall.

I hated to work at Slocum Hall. That was the business administration building. At the top of the building, they had the architects.

Now if you were a janitor, you have never met a worse group of people than the architectural students. They are terrible. They work all hours. They work 3, 4, 5 o'clock in the morning. You take the kicking over of the coffee and their hot chocolate.

Did you ever try to get coffee up after it has been on a waxed floor? It is horrible. It adheres to it. I hated that.

But aside from that Slocum Hall job, it was terrific.

I has gone through there and swept out the buildings and turned out the lights and emptied the things, secured it. And you could go through it in about 2½, 3 hours, and I could do my studies.

One day they came to me. They said, "Guess what? Old Mike would like you to be a permanent assistant. This way you will not have to go every night from one building to the other."

I said to them, "But, listen, you know that everybody who has worked for old Mike has lasted a relatively short period of time and eventually is terminated."

So they said, "Oh, don't worry. He likes you. You have a wonderful disposition."

I went to work for old Mike. Things went well for the first 2 weeks. Then he found an incredible haunting manner to torture me. They were haunting me. And to this day I remember dreading going to sleep in the evening because I knew the next morning when I awoke, it was not that I would go to school and classes all during the day, it was that at the end of the day, I would have to report to my job and meet this tyrant who set standards and conditions that were unbearable, that went beyond the pale of human decency.

And I saw how he drove out, during my days as a relief janitor, two or three others who had been there prior. And it became obvious to me that that would soon be my fate.

I tell you this because it gave me an appreciation for what people have to endure. Because there were people who could not afford to give up their job. They had to keep their job. They had to work under terrible, miserable conditions. And I could always hang on because I said, "Well, this is just for a short period of time."

What do you think we do to people who may not even be happy at their job but have a family and have responsibilities and now we add them with the burden of saying, you may not even have a job to hang on to.

Bob Rainbow finally arranged for a transfer to get me out of there, and that is how I finally graduated and was able to be given that opportunity.

Mr. SEYMOUR. Will the Senator yield for a question?

Mr. D'AMATO. Sure.

Mr. SEYMOUR. Senator, the question has to do with the progression from where we stand now at 12:35. I would be interested to know, Senator, after, let us see, say about 16 hours we have been going, 15, 16 hours, Senator, have you had any notion whatsoever, any inkling, have you had any intimation that the distinguished majority leader and/or the distinguished minority leader were at least in the process of meeting, or were they willing to direct staff to think of a way to address this dilemma, other than waiting until the junior Senator from New York passes out on his feet and then, when he comes to, that he stops the progress of this chamber by rejecting any unanimous-consent agreement required or reading a bill or other parliamentary maneuvers?

So my question really is, Senator, has anybody—majority leader, minority leader, staff, anybody—talked to you yet in the last 15 hours that you have been defending these 875 jobs in your great State of New York, has anybody talked to you about a way to go here?

Mr. D'AMATO. Yes, I have had occasion to speak momentarily to the majority leader. And I advanced to him a hope that possibly there would be some way in which we can find an opportunity to get this matter up.

And I must say that again, the record, on the record, off the record, no one could be more, I think, more gentlemanly and more considerate, notwithstanding the positions that we find ourselves in to try to create this glitch. He was of the opinion that there would be no compromise on this matter.

Having said that, I would ask some of my colleagues to pursue the matter that we have started; that we would look to see and ensure that everything that can be done will be done to keep consideration from other legislative initiatives.

Because I happen to believe that there will be some bills, some legislation, that the other body wants. And that may be a way, even at the eleventh and a half hour to—I guess it is more than the eleventh and a half hour now—that we might be able to bring about a legislative remedy to this illegal dumping.

Mr. RIEGLE. Would the Senator yield for a question?

Mr. D'AMATO. Yes.

Mr. RIEGLE. I thank the Senator for yielding. I appreciate very much the point he has been making through the hours over the nighttime and with regard to the Smith Corona case, the

broader issues that are involved in terms of the trade cheating that is going on, the destruction that it is doing to our economy, to factories and to workers in this country, and the fact that we are not getting the kind of response from our Government to challenge that and put a stop to it.

And, I want to pose a question in a minute, but I want to do it in the context of refreshing the Senator's memory on the fact that in the Banking Committee, where the Senator serves as one of the most important members, we had a hearing some weeks ago where we had the chairman of the board of Smith Corona come in and testify before our committee. He told us at the time that the reason they were compelled to close that plant in Cortland, NY, was that they had been targeted for trade cheating by Japan; that they had gone out and made their case on the trade cheating but there was an unwillingness on the part of administration officials involved to apply the laws that should have been applied and, as a result, it was destroying the company and finally compelled the company, in order to be able to survive, to close the last typewriter manufacturing plant of its kind as an American producer, and take it to Mexico.

But the reason they were doing it is because they had been victimized by trade cheating, and our Government did not do anything to stop it.

Does the Senator recall that testimony?

Mr. D'AMATO. I certainly do. It was vivid and pointed, it was explosive and it was shocking, just shocking to this Senator. I mean, it just sent chills up one's spine.

Mr. RIEGLE. If the Senator would permit me to continue, I think what has happened here is—

Mr. MITCHELL. Mr. President, parliamentary inquiry.

Am I correct that the Senator can be recognized only for the purpose of asking a question?

The PRESIDING OFFICER. The Senator is correct.

Does the Senator from Michigan have a question?

Mr. RIEGLE. Yes, I certainly do. I do not intend to take a long period of time, but if I have to I will because I can ask a lot of questions. I feel just as strongly about this as the Senator from New York does.

So I do not want to be dilatory in asking questions, but I am going to pose some questions to the Senator from New York and I can pose a few or I can pose a lot. I would rather just pose a few, unless I have to pose a lot.

Mr. MITCHELL. Propose as many as you want; just propose questions.

The PRESIDING OFFICER. The Chair will inform the Senator from Michigan that he cannot make a statement. He may ask a question.

Mr. RIEGLE. Let me ask the Senator from New York with respect to Senate

Resolution 109 that I had proposed—which is an effort to deal with the defects in the proposed United States-Mexico Free-Trade Agreement. Has the Senator from New York taken a look at that resolution, which would give us the opportunity to move in and deal with deficiencies in that treaty of the kind that would cause plants like Smith Corona to close and have to go to Mexico? Has the Senator taken a look at that?

Mr. D'AMATO. Yes, I have looked at it.

Mr. RIEGLE. Does the Senator feel that perhaps there is some item in there that would help us in this situation to prevent precisely the kind of plant closings and job loss that we have seen in Smith Corona?

Mr. D'AMATO. I think that my colleague's resolution, while I have some question to some aspects, and we discussed this, that there are some aspects of it that bear very, very careful study as it relates to specifically providing for protection and seeing to it and ascertaining that we do not have the kind of shenanigans that we see and have seen, not only in the case of Brother but in other cases involving dumping, predatory pricing, circumvention of duties.

Mr. RIEGLE. Is the Senator aware of the fact that in Senate Resolution 109 we mark out five areas that would be available for amendment on the Senate floor if and when the Mexican Free-Trade Agreement is brought back here? One area is worker safety and fair labor standards, another is environmental standards, one rule of origin—very critical in the Smith Corona case—dispute resolution and adjustment assistance for displaced workers, and that would also affect those workers who have been blind-sided up in Cortland.

Mr. D'AMATO. I think proof of origin—and I mention it to my colleague and friend because I brought it up before—I want to be in a position to know that we are not being thwarted by techniques where others are availing themselves of the free trade area in direct contravention of the law. And I am not certain who gets the ability to enforce this.

One of the things Senator MOYNIHAN and I discussed—and I want to look at what condition provides for review. This is the kind of thing that not only I but other Members of the body will have to become acquainted with before we make a final decision on this.

Mr. RIEGLE. Let me inquire of the Senator. I am going to send this over to him in a moment and see if he would be interested in becoming a cosponsor. We now have 32 cosponsors of Senate Resolution 109. We have some from the Senator's side of the aisle.

I think this would provide a means to get at this problem, not just in the Smith Corona case but in other cases.

Let me ask a page to send this over to you and have you take a look at it.

I am wondering if the Senator might consider becoming a cosponsor, because I think this is a line of initiative that is open right now that is directly in line with what the Senator has raised.

I ask, as he looks at it, if this might be something that he would want to join? Senator SPECTER on your side has joined, and a host of others. As I say 32 in total. I think this would give an opportunity to be able to confront, in an amendment setting here on the Senate floor, defects in this Mexican Free-Trade Agreement that will accelerate the closing of plants in the United States, exactly like we have seen with Smith Corona.

I wonder if the Senator would want to consider becoming a cosponsor of this, because I think it is an initiative that cuts directly into this problem?

Mr. D'AMATO. Let me say I certainly will ask my trade people to review this. I have not had an opportunity to study it or to go over it with them. When we get older we go over with our staff things that before we had the patience to sift through and read first. So I oftentimes avail myself of their expertise. And I will do that and ask Pam Ray to review this.

Mr. RIEGLE. Let me ask the Senator if he would yield further for another question.

Are you aware of the fact that Governor Clinton has also, just within the last 2 days, laid out some very specific reservations on caveats that he thinks need to be dealt with in this Mexico Free-Trade Agreement, to prevent the kind of situation that we are seeing with Smith Corona?

Mr. D'AMATO. Yes; I watched the Governor at a forum. I do not know whether it was a university forum or not. But he did indicate that he was supportive of the agreement, subject to there being verification of certain conditions that would provide a proper element of protection for, I think, the areas of concern that we all have as it related to a fair balance of jobs.

So I think that is encouraging because I think that is exactly where Senator PAT MOYNIHAN and I come from. We do not want to throw up trade barriers. That is not what this is about. This really is about getting enforcement where people are violating the law. It is not about trying to raise a barrier.

I think we could do an awful lot in preserving jobs and encouraging trade. But I think at some point in time we have to say to people who are not observing the law—wait a minute. Stop. You are out of line. You are not observing the law. You are wrong and we are not going to permit it and we do not care how powerful and how strong you are.

Look, we are all subject to pressure. If anybody suggests to you we are not,

they are just kidding themselves. And anybody in this body who says he or she is not, if they are really telling the truth, they are almost Saintlike. I think even the great saints of our times were subject to some kinds of pressures.

But when we have lost the capacity to make reasoned judgments because of pressures, wherever they come from, something is wrong, when we cannot distinguish what is right from what is wrong.

Mr. MOYNIHAN. Will the Senator yield for a question on that point?

Mr. D'AMATO. Yes.

Mr. MOYNIHAN. Is the thrust of the amendment not to dictate in any way what the judgments will be, but simply to say that judgments should be made?

Mr. D'AMATO. Or they can be made.

Mr. MOYNIHAN. They can be made.

Mr. D'AMATO. They can be made.

Mr. MOYNIHAN. They can be made. We are not dictating what judgments, but not sit there and say we cannot decide.

Mr. D'AMATO. Senator PAT has once again come through with clarity, when he says what is the intent of the bill. The intent of the bill is to permit a judgment to be made, a judgment to be made that can pursue this. We say you can. That is all.

We do not say you must go after Smith Corona, you have to go after this one or that one. But we say it is now clear that you can, that you can. Because heretofore we have had this question, do we have the authority, do we not have the authority? Now we say you have the authority so you can pursue this.

The Senator is absolutely correct. No new standards. It does not set any standards. We have outlined in the legislation a course of conduct which is a violation, which is recognized as a violation now. We did not set a new standard. We did not move it. We did not move the goal line one way or the other. But we said if you violate this, you know, they can pursue it.

I have a tough time. I really do not understand why real people are being disadvantaged, and why at this date—I know we have some skeleton crew at work over there—but they can still do something, and we can still save people and still save jobs and still make a difference. I just think it is wrong. I just think it is wrong.

We have an opportunity to make a real difference. This is the opportunity for us to do it. That is why this Senator has said—and I am going to ask my colleague to take me up so I can get about an hour's relief at some point, and hold the floor and check the various—

Mr. MOYNIHAN. Will the Senator answer a question? Yield for a question? I would say you have done a magnificent job. The House has adjourned—The House has recessed, they have not

adjourned sine die. We can think of what might be done on Thursday, and we start thinking about that right away. But I do not think anyone could ask more of their Senator than they have seen on display these last 14 hours. I want to salute you, sir. And to say I wish I had half your stamina. I am proud to be associated in this effort with you, which is not concluded, only begun. Chapter 1, or chapter 2. Chapter 1 ended on Sunday—rather, chapter 1 ended yesterday afternoon. We found our agreement did not exist, had been dropped.

Mr. SEYMOUR. Could I ask the Senator to yield for a question.

Mr. D'AMATO. Yes.

Mr. SEYMOUR. Senator, my question to you is, if you are about to fall over, as you have every right to, I have ever heard—I suppose there is always a bigger record for giving forth on discourse—but maybe you could tell me what that record is. You have been going at it for 14 or 15 hours or so.

But, Senator, if you were to ask me, unless the majority leader or Senator ADAMS would permit me the opportunity to take the floor, in the absence of that, if you were to ask me, Senator D'AMATO, to stay here and to ensure that every parliamentary procedure were exercised, at least that I know about—in short, object to everything that would take place—if you want me, Senator D'AMATO, to do that I would ask you to just so signal and consider it done as long as I can stand.

Mr. D'AMATO. Let me say this. One of my staffers just came over and told me that the House has gone out, and I guess they will not be back until Thursday—pro forma; is that right, PAT?

I am going to say this. I am deeply disappointed. I thought the people's body would be more representative of the kind of action that maybe we have seen here, that they had a little more character and a little more stand-upness, and that when we asked for support for a bill which says everybody has to obey the dumping law and if you do not, we give to the Commerce Department the ability to enforce it, and they cop out on that, they have just walked out on working Americans up and down the line.

They cannot say they did not know about this debate. They cannot say they did not understand the issue. They cannot say that this was a matter of one State versus another, because it was not. Because it was about saying if you break the law of this Nation, notwithstanding that you are a foreign corporation or you are a big power, we can go after you and we can stop you from dumping your products in here, we can see to it that the orders that affix the penalty will be carried out.

We just turn our back on that. We turn our back on the people's forum.

I thank my friend and colleague and adviser, Senator MOYNIHAN for his

counsel. I am truly saddened. I am truly saddened by this wretched, timid display—by a wretched, timid display, by the absence of those who could make a difference.

I have to tell you something. This is not just a fight for jobs in New York. It is a fight for fairness for all the working people in this country. I am not going to ask, or presuppose and ask one colleague to do that which I would hope that many of my colleagues would join in. I am not going to do that. That is not fair to the Senator from California.

I am going to say, if you really think there is anything to what Senator MOYNIHAN and I and Senator SEYMOUR have been saying and doing, then you get in and object to unanimous consent decrees, and you raise your voice. Anybody who can hear us—I am going to walk off the floor in 5 minutes. Maybe I could stay another hour or another 2 hours. But if I have not been able to reach you after 14 of 15, or whatever it is, hours, if I and Senator MOYNIHAN have not been able to instill in you some sense of, my gosh, all we want to do is have the laws apply, and if you do not give a darn about that then do not come down here.

But do not whine and moan when factories and jobs go leaving this place, and no screaming and yelling for more job training and for more moneys and for more this and that.

Do not go bellyaching because that is what we are going to do, when we see this country continue to sell its soul. I think this institution should be ashamed of the manner in which it has failed to address this problem. I really do.

I think the other body should be ashamed of the manner in which it has ducked out on its responsibilities. I think more so here because more Members are intimately aware of the process. And we have a better opportunity to make a difference occur.

You know, those fellows who I worked with—I used to work two jobs because I could not support a family just as a janitor. I also worked on the railroad. I want to tell you something, they have more integrity and more courage in their little pinky than I see displayed. I am sorry to say that. It does not mean that I may not like people here. It does not go to the character of what this is about.

I am going to take a blow. I have not seen anything other than incredible effort by Senator PAT, to keep me on the tracks, to share with me his historical perspective as it is related to this issue.

I thank the majority leader for not attempting to be other than informative, as it related to the options that were open. Never did he lose his temper. Never did he lose his temper. Never did he attempt to dissuade me from my options. I want you to know

that. That is something that is of some courage.

But I have to tell you, there are an awful lot of people around here who should not feel good about the manner in which we leave the unfinished business of the people.

The PRESIDING OFFICER. The Senator from Washington [Mr. ADAMS] is recognized as the acting leader.

#### RECLAMATION PROJECTS AUTHORIZATION AND ADJUSTMENT ACT OF 1992—CONFERENCE REPORT

Mr. ADAMS. Mr. President, I call up the conference report to accompany H.R. 429, the reclamation project reauthorization bill.

The PRESIDING OFFICER (Mr. WELLSTONE). The report will be stated for the information of Senators.

The bill clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the amendment of the House to the amendment of the Senate to the bill (H.R. 429) to amend certain Federal reclamation laws to improve enforcement of acreage limitations, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the report?

Mr. SEYMOUR. I object.

Mr. ADAMS addressed the Chair.

The PRESIDING OFFICER. The distinguished acting majority leader is recognized.

Mr. ADAMS. Mr. President, I move to proceed to the conference report to accompany H.R. 429.

Mr. SEYMOUR addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. ADAMS. Regular order, Mr. President.

Mr. SEYMOUR. Mr. President, I request a full reading.

The PRESIDING OFFICER. The clerk will read the report.

The bill clerk proceeded to read the conference report, which is printed in the House proceedings of the RECORD of October 5, 1992.

#### RECESS FOR ONE HOUR

Mr. FORD. Mr. President, I ask unanimous consent that it be in order to request that the reading of the conference report be suspended; that the Senate stand in recess for 1 hour; and that during the recesses of the Senate this evening, the reading be deemed to have elapsed at the rate of 40 pages per hour.

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

(At this point, reading of the conference report by the clerk was sus-

pending in accordance with the terms of the above order.)

There being no objection, the Senate, at 7:05 p.m., recessed until 8:05 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. CONRAD].

#### RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. FORD. Mr. President, I ask unanimous consent that the Senate continue under the previous order subject to the call of the Chair.

The PRESIDING OFFICER. Is there objection?

Mr. SEYMOUR. Reserving the right to object. Will the Senator yield for a question?

Mr. FORD. I will be glad to answer a question.

Mr. SEYMOUR. Mr. President, I was under the understanding that we were going to extend it for 1 hour as opposed to call of the Chair. A call of the Chair could run it out.

Mr. FORD. I just discussed this with the Republican leader. This is what he asked me to do. I thought we were accommodating the Senator from California.

Mr. SEYMOUR. If we can get the Senate Republican leader, because what he told me is what I shared with you. Maybe I was confused. I have been up so long I may have misheard.

Mr. FORD. I understand the Senator, and I do not want to do anything contrary to the understanding he might have. But I do not think this would jeopardize his position at all.

Mr. SEYMOUR. Mr. President, no objection.

There being no objection, at 8:06 p.m., the Senate took a recess, subject to the call of the Chair.

The Senate reassembled at 10:32 p.m., when called to order by the Presiding Officer [Mr. BREAUX].

The PRESIDING OFFICER. The Chair recognizes the majority leader.

#### UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that on Thursday, October 8, the Senate convene at 9 a.m.; that there be 2 hours for debate equally divided between Senators BRYAN and JOHNSTON; that at 11 a.m., the Senate vote on the motion to invoke cloture on the conference report to accompany H.R. 776, the energy bill; that upon the disposition of that conference report, the Senate, without any intervening action or debate, proceed to the consideration of the conference report on H.R. 429, the reclamation bill; that there be 1 hour for debate on that conference report, equally divided between the two leaders, or their designees; that upon the use or yielding back of time, the Senate, without any intervening action or debate, vote on

passage of the reclamation conference report; that should cloture not be invoked on the conference report on H.R. 776, the preceding still occur, and the conference report on H.R. 776 be returned to the desk; that on Wednesday, October 7, beginning at 2 p.m., the Senate proceed to the consideration of a bill to be introduced by Senator SEYMOUR by that time, the text of which will include and be limited to the provisions of the attached outline accompanying this agreement and which will be printed in the RECORD following this request; that there be 6 hours for debate on Senator SEYMOUR's bill, 4 for Senator SEYMOUR, 2 for Senator BRADLEY; that no amendments or motions to commit be in order in relation to Senator SEYMOUR's bill; that upon the use or yielding back of time, Senator SEYMOUR's bill be read three times and passed, and the motion to reconsider be laid upon the table; that on Wednesday, upon the disposition of Senator SEYMOUR's bill, the Senate Finance Committee be discharged from further consideration of H.R. 3837, the Federal Program Improvement Act; that the bill be immediately considered and read a third time and passed, as amended, by a D'Amato-Moynihan substitute amendment, the text of which will be printed in the RECORD following this request; that upon the granting of this request, the Senate without any intervening action or debate, proceed to the consideration of the conference report to accompany H.R. 11, the urban aid bill; that the majority leader be immediately recognized to file a cloture motion thereon; that on Thursday, October 8, upon the disposition of the conference report on H.R. 429, there be 1 hour for debate equally divided between the two leaders or their designees prior to the vote on the motion to invoke cloture on the conference report on H.R. 11, the urban aid bill; that the provisions of this agreement remain in force, notwithstanding the provisions of rule XXII; that all mandatory live quorums as provided under rule XXII be waived.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the majority leader?

Mr. DOLE. Reserving the right to object, for a matter of inquiry of the majority leader.

As I understand H.R. 11, if cloture would be filed tomorrow, by agreement, the vote would come on Thursday, is that correct?

Mr. MITCHELL. I am going to file cloture immediately after this agreement. It would ripen normally on Thursday.

Mr. DOLE. Second, that we do not waive budget points of order on H.R. 11.

Mr. MITCHELL. Mr. President, my understanding was that the original proposal was that we would proceed directly to vote on the tax bill, but that because we were unable to clear that

on our side this evening, we were agreeing to have the cloture vote with the understanding that we could clear it tomorrow, and we would be proceeding to vote directly on the bill on Thursday.

Mr. DOLE. I think there is some concern on this side that H.R. 11 may be subject to a point of order, and we were asked not to waive points of order, and there is nothing in here specifically that would waive points of order.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. MITCHELL. Mr. President, I renew my request.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the majority leader?

Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I now submit the outline of the Seymour bill and the text of the D'Amato-Moynihan substitute as provided in the agreement to be printed in the RECORD immediately following the printing of the agreement itself.

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

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

#### SEYMOUR CVP PROPOSAL

1. 25 year water contracts for all CVP water contractors, mandatory renewals.
2. \$20 million restoration fund for fish and wild life; \$4 Ag; \$2 M&L.
3. Project purpose for fish and wildlife, tied to specific mitigation, protection and restoration actions.
4. 22 specific fish and wildlife restoration features, same as S2016.
5. Water transfer subject to California state law by January 1, 1996—\$15 surcharge per AF. Remove unlimited contract renewal based on water transfer agreements and remove dry year provisions.
6. All fish and wildlife mitigation, protection and restoration measures shall be carried out in a manner which facilitate transfer of the CVP to the State of California.
7. Modify language on refuge water.
8. Strike Advisory Committee and Task Force.

Strike out all after the enacting clause and insert:

The following text is added as subsection 781(c) of the Tariff Act of 1930 (19 U.S.C. 1677j(a)) and subsections (c)-(e) are renumbered subsections (d)-(f) respectively.

"(c) SPECIAL MERCHANDISE COMPLETED OR ASSEMBLED IN THE UNITED STATES OR IN OTHER FOREIGN COUNTRIES.—

(1) SPECIAL PROVISION.—If—

"(A) merchandise sold in the United States is the same class or kind as any merchandise that is the subject of an antidumping duty order issued under section 736 on May 9, 1980 or August 28, 1991,

"(B)(i) such merchandise sold in the United States is completed or assembled in the United States from parts or components produced in the foreign country with respect to which the relevant order applies or is supplied directly or indirectly by an exporter or producer covered by the order, or from parts or components from suppliers that have historically supplied the parts or components to that exporter or producer or to any other exporter or producer covered by the order, or from any party related to the exporter, producer, or historical supplier, whether such parts or components are supplied from the foreign country or any third country(ies), or

"(ii) before importation into the United States, such imported merchandise is completed or assembled in another foreign country from merchandise which—

(I) is subject to the relevant order,

(II) is produced in the foreign country with respect to which such order applies, or

(III) is supplied by an exporter or producer covered by the order, or by suppliers that have historically supplied that merchandise to that exporter or producer or to any other exporter or producer covered by the order, or by any party related to the exporter, producer, or historical supplier, whether such merchandise is supplied from the foreign country or any third country(ies), and

"(C) with respect to merchandise under paragraph (B)(ii), the administering authority determines that action is appropriate under such paragraph to prevent evasion of such order, and

"(D) the difference between the value of such merchandise sold in the United States and the value of the imported parts or components referred to in subparagraph (B)(i), or the merchandise referred to in subparagraph (B)(ii), is small,

the administering authority, after taking into account any advice provided by the Commission under subsection (f), may include within the scope of the relevant order the imported parts or components referred to in subparagraph (B)(i) that are used in the completion or assembly of the merchandise in the United States, or such imported merchandise referred to in subparagraph (B)(ii), at any time such order is in effect.

"Parts or components not identified in subsection (c)(1)(B)(i) and merchandise not identified in subsection (c)(1)(B)(ii) shall not be included within the scope of the outstanding order if a finding of circumvention is made under this section.

"(2) FACTORS TO CONSIDER.—In determining whether to include parts or components, or merchandise assembled or completed in a foreign country, in the relevant antidumping duty order under paragraph (1), the administering authority shall take into account such factors as—

"(A) the pattern of trade—

"(B)(i) whether the manufacturer or exporter of the parts or components described in (1)(B)(i) is related to the person who assembles or completes the merchandise sold in the United States from the parts or components produced in the Foreign country with respect to which the order described in subparagraph (1)(A) applies, or

"(B)(ii) whether the manufacturer or exporter of the merchandise described in paragraph (1)(B)(ii) is related to the person who uses the merchandise described in paragraph (1)(B)(ii) to assemble or complete in the foreign country the merchandise that is subsequently imported into the United States, and

"(iii) whether imports into the United States of the parts or components described in subparagraph (1)(B)(i), or imports into the

foreign country of the merchandise described in paragraph (1)(B)(ii)(D), (II) and (III), have increased after the filing of the petition, issuance of such order or, if the allegation of circumvention has been raised more than one year after the issuance of such order, have increased since the time circumvention is alleged to have commenced.

“(C) FORCE AND EFFECT.—This section shall have no force or effect if the petitioner in the investigations referenced in paragraph (a)(1) ceases production or final assembly of such products in the United States or shifts the sourcing of major components to a foreign country.

#### PROGRAM

Mr. MITCHELL. Mr. President, I thank the distinguished Republican leader and all of the many Senators who have participated in the day-long discussions which have culminated in this agreement.

This agreement will make it possible for us to complete action on these important measures and this session on Thursday.

There will be a session of the Senate tomorrow, but there will be no rollcall votes tomorrow. The measures set forth in the agreement which will be taken up will not require rollcall votes and there will, of course, be debate as set forth in the agreement on the reclamation bill beginning at 2 p.m.

On Thursday the Senate will vote at 11 a.m. on the motion to invoke cloture on the energy bill conference report. That will be followed by 1 hour for debate and then a vote on the conference report on the reclamation bill. That will be followed by 1 hour of debate and a vote with respect to the tax bill.

So Senators should be aware that rollcall votes will next occur in the Senate beginning at 11 a.m. on Thursday and hopefully concluding during the afternoon of that day and in accordance with this agreement.

Mr. DOLE. Mr. President, will the majority leader yield?

Mr. MITCHELL. I yield.

Mr. DOLE. I understand, too, then the vote on final disposition if cloture is invoked on the energy bill will come shortly after the vote on cloture; is that correct?

Mr. MITCHELL. That is correct.

The Senators involved may want to take a brief period of time following the cloture vote but I do not anticipate if cloture is invoked that there will be a lengthy debate at that time. There will be some time but not a lengthy period of time.

Mr. DOLE. Mr. President, if the majority leader will yield, I thank my colleagues on this side of the aisle for letting us proceed with this agreement. Senator WALLOP, certainly Senator D'AMATO from New York, Senator SEYMOUR from California, and others who were involved directly with the legislation that is covered by this agreement.

It does as the majority leader points out make it possible to complete our

work on Thursday rather than Friday or Saturday of this week and that is certainly important to many of our colleagues on both sides of the aisle

So I thank all of our colleagues on both sides of the aisle for their cooperation and thank the majority leader for his leadership in getting us out on Thursday.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, I thank the majority leader and minority leader for their cooperation in bringing this issue to a head and assuring that we get votes.

I appreciate it.

#### TAX EQUITY ACT—CONFERENCE REPORT

Mr. MITCHELL. Mr. President, it is my understanding that pursuant to the agreement just obtained the Senate will now proceed to consideration of the conference report to accompany H.R. 11, the urban aid bill.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate 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, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 5, 1992.)

#### CLOTURE MOTION

Mr. MITCHELL. Mr. President, I send a cloture motion to the desk and ask it be stated.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the conference report on H.R. 11, the urban aid bill:

George Mitchell, Daniel K. Akaka, Bob Kerrey, Edward M. Kennedy, Brock Adams, J. Bennett Johnston, Joseph Lieberman, Daniel K. Inouye, Jeff Bingaman, Timothy E. Wirth, David Pryor, Dennis DeConcini, Lloyd Bentsen, John Breaux, Claiborne Pell, Jay Rockefeller.

#### EXECUTIVE SESSION

#### EXECUTIVE CALENDAR UNANIMOUS CONSENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to Executive Session to consider the following nominations:

Calendar 817, Brig. Gen. Richard C. Alexander, to be major general;

Calendar 818, Col. John J. Allen, to be brigadier general;

Calendar 819, Col. Donald E. McAuliffe, to be brigadier general;

Calendar 820, Col. David L. Young, to be brigadier general;

Calendar 821, Brig. Gen. William P. Bland, Jr., to be major general;

Calendar 822, Col. Douglas M. Padgett, to be brigadier general;

Calendar 823, Gen. Jimmie V. Adams, to be general;

Calendar 824, Gen. James P. McCarthy, to be general;

Calendar 825, Lt. Gen. Charles G. Boyd, to be general;

Calendar 826, Lt. Gen. Robert L. Rutherford, to be general;

Calendar 827, Maj. Gen. Jay W. Kelley, to be lieutenant general;

Calendar 828, all officers named for appointment in the Reserve of the Air Force—to be major general and brigadier general;

Calendar 829, Lt. Gen. James T. Callaghan, to be lieutenant general;

Calendar 830, Lt. Gen. Joseph W. Ashy, to be lieutenant general;

Calendar 831, officers named for promotion in the Regular Army, to be permanent major general;

Calendar 832, Brig. Gen. Ronald R. Blanck, to be permanent major general;

Calendar 833, Col. Jerome V. Foust, to be permanent brigadier general;

Calendar 834, officers named for appointment in the Reserve of the Army, to be major general;

Calendar 835, Officers named for promotion in the Army, to be permanent brigadier general;

Calendar 836, Rear Adm. Walter Jackson Davis, Jr. and Rear Adm. Robert Glen Harrison, to be rear admiral;

Calendar 837, Vice Adm. James D. Williams, to be vice admiral;

Calendar 838, Rear Adm. Patrick William Drennon, to be rear admiral;

Calendar 839, Rear Adm. Douglas J. Katz, to be vice admiral.

All nominations placed on the Secretary's Desk in the Air Force, Army, Marine Corps, Navy, and Foreign Service.

I further ask unanimous consent that the Senate proceed to consider the following nominations reported by the Committee on Armed Services:

Henry Viccellio, Jr., to be general, U.S. Air Force.

David M. Bennett, to be vice admiral, U.S. Navy.

Richard C. Macke, to be vice admiral, U.S. Navy.

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:

IN THE ARMY

The U.S. Army National Guard officer named herein for appointment in the Reserve of the Army of the United States in the grade indicated below, under the provisions of title 10, United States Code, sections 593(a), 3371 and 3384:

To be major general

Brig. Gen. Richard C. Alexander, xxx-xx-xxx...

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. John J. Allen, xxx-xx-xxxx Regular Air Force.

The following officer 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 brigadier general

Col. Donald E. McAuliffe, xxx-xx-xxxx Air National Guard of the United States.

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. David L. Young, xxx-xx-xxxx Regular Air Force.

The following officer 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

Brig. Gen. William P. Bland, Jr., xxx-xx-xxx... Air National Guard of the United States.

The following-named officer for appointment to the grade of brigadier general in the Reserve of the Air Force under title 10, United States Code, sections 593, 8218, 8373, and 8374:

Col. Douglas M. Padgett, xxx-xx-xxxx Air National Guard of the United States.

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. Jimmie V. Adams, xxx-xx-xxxx U.S. Air Force.

The following-named officer for appointment to the grade of general on the retired list pursuant to the provisions of title 10, United States Code, section 1370:

To be general

Gen. James P. McCarthy, 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. Charles G. Boyd, 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. Robert L. Rutherford, 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:

Maj. Gen. Jay W. Kelley, xxx-xx-xxxx U.S. Air Force.

The following-named officers for appointment to 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

Brig. Gen. Tandy K. Bozeman, xxx-xx-xxxx Air National Guard of the United States.

Brig. Gen. Stephen P. Cortright, xxx-xx-xxx... Air National Guard of the United States.

Brig. Gen. Dennis B. Hague, xxx-xx-xxxx Air National Guard of the United States.

Brig. Gen. E. Gordon Stump, xxx-xx-xxxx Air National Guard of the United States.

To be brigadier general

Col. Charles L. Blount, xxx-xx-xxxx Air National Guard of the United States.

Col. Stewart R. Byrne, xxx-xx-xxxx Air National Guard of the United States.

Col. Harris R. Henderson, xxx-xx-xxxx Air National Guard of the United States.

Col. John S. Hoffman, xxx-xx-xxxx Air National Guard of the United States.

Col. Donald E. Joy, Jr., xxx-xx-xxxx Air National Guard of the United States.

Col. Ronald H. Morgan, xxx-xx-xxxx Air National Guard of the United States.

Col. Harry E. Owen, Jr., xxx-xx-xxxx Air National Guard of the United States.

Col. Daniel H. Pemberton, xxx-xx-xxxx Air National Guard of the United States.

Col. Kenneth M. Taylor, Jr., xxx-xx-xxxx Air National Guard of the United States.

The following-named officer for appointment to the grade of lieutenant general on the retired list under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. James T. Callaghan, xxx-xx-xxxx U.S. Air Force.

The following named officer for reappointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. Joseph W. Ashy, xxx-xx-xxxx U.S. Air Force.

IN THE ARMY

The following named officers for promotion in the Regular Army of the United States to the grade indicated, under the provisions of title 10, United States Code, sections 611(a) and 624:

To be permanent major general

Brig. Gen. Robert B. Rosenkranz, xxx-xx-xxx...

Brig. Gen. Larry G. Lehowicz, xxx-xx-xxxx

Brig. Gen. Robert A. Goodbary, xxx-xx-xxxx  
Brig. Gen. Robert T. Howard, xxx-xx-xxxx  
Brig. Gen. Otto J. Guenther, xxx-xx-xxxx  
Brig. Gen. Pat M. Stevens, IV, xxx-xx-xxxx  
Brig. Gen. Michael S. Davison, Jr., xxx-xx-xxx...

Brig. Gen. Richard W. Tragemann, xxx-xx-xxx...

Brig. Gen. Frank L. Miller, Jr., xxx-xx-xxxx  
Brig. Gen. Josue Robles, Jr., xxx-xx-xxxx  
Brig. Gen. Jarrett J. Robertson, xxx-xx-xxx...

Brig. Gen. Joseph W. Kinzer, xxx-xx-xxxx  
Brig. Gen. John S. Cowings, xxx-xx-xxxx  
Brig. Gen. William M. Steele, xxx-xx-xxxx  
Brig. Gen. David J. Kelley, xxx-xx-xxxx  
Brig. Gen. Thomas F. Sikora, xxx-xx-xxxx  
Brig. Gen. Fredric H. Leigh, xxx-xx-xxxx  
Brig. Gen. Frank F. Henderson, xxx-xx-xxxx  
Brig. Gen. David E. White, xxx-xx-xxxx  
Brig. Gen. Ray E. McCoy, xxx-xx-xxxx  
Brig. Gen. Kenneth W. Simpson, xxx-xx-xxx...

Brig. Gen. Thomas H. Needham, xxx-xx-xxx...

Brig. Gen. John C. Thompson, xxx-xx-xxxx  
Brig. Gen. Ronald E. Adams, xxx-xx-xxxx  
Brig. Gen. Harley C. Davis, xxx-xx-xxxx  
Brig. Gen. Robert K. Guest, xxx-xx-xxxx  
Brig. Gen. Stanley G. Genega, xxx-xx-xxxx  
Brig. Gen. John M. Pickler, xxx-xx-xxxx

The following-named Medical Corps officer for appointment in the Regular Army of the United States to the grade indicated under the provisions of title 10, United States Code, sections 611(a) and 624(c):

To be permanent major general

Brig. Gen. Ronald R. Blanck, xxx-xx-xxxx U.S. Army.

The following-named Medical Service Corps officer for appointment in the Regular Army of the United States to the grade indicated under the provisions of Title 10, United States Code, sections 611(a) and 624(c):

To be permanent brigadier general

Col. Jerome V. Foust, xxx-xx-xxxx U.S. Army.

The U.S. Army National Guard officers named herein for appointment in the Reserve of the Army of the United States in the grades indicated below, under the provisions of title 10, United States Code, sections 593(a), 3371 and 3384:

To be major general

Brig. Gen. James A. Barney, Jr., xxx-xx-xxx...

Brig. Gen. Donald W. Lynn, xxx-xx-xxxx  
Brig. Gen. William Miranda-Marin, xxx-xx-xxx...

Brig. Gen. Joseph F. Perugino, xxx-xx-xxxx

To be brigadier general

Col. Cecil L. Dorten, xxx-xx-xxxx  
Col. Terry L. Holden, xxx-xx-xxxx  
Col. John S. Martin, xxx-xx-xxxx  
Col. John C. Bridges, xxx-xx-xxxx  
Col. Ross S. Fortier, xxx-xx-xxxx  
Col. Edmund J. Giering, III, xxx-xx-xxxx  
Col. James S. Kessler, xxx-xx-xxxx  
Col. Benton D. Murdock, xxx-xx-xxxx  
Col. Cecil L. Pearce, xxx-xx-xxxx  
Col. Edwin W. Smith, xxx-xx-xxxx  
Col. Walter J. Whitfield, xxx-xx-xxxx  
Col. Thomas C. Carroll, xxx-xx-xxxx

The following-named officers for promotion in the Regular Army of the United States to the grade indicated, under the provisions of title 10, United States Code, sections 611(a) and 624:

To be permanent brigadier general

Col. James F. Hennessee, xxx-xx-xxxx  
Col. Stanley F. Cherrie, xxx-xx-xxxx  
Col. Freddy E. McFarren, xxx-xx-xxxx

Col. George H. Harmeayer, xxx-xx-xxxx  
 Col. John F. Michitsner, xxx-xx-xxxx  
 Col. Stuart W. Gerald, xxx-xx-xxxx  
 Col. Lon E. Maggart, xxx-xx-xxxx  
 Col. Larry G. Smith, xxx-xx-xxxx  
 Col. Jerry L. Laws, xxx-xx-xxxx  
 Col. John W. Smith, xxx-xx-xxxx  
 Col. Henry T. Glisson, xxx-xx-xxxx  
 Col. Milton Hunter, xxx-xx-xxxx  
 Col. Thomas N. Burnette, Jr., xxx-xx-xxxx  
 Col. David H. Ohle, xxx-xx-xxxx  
 Col. James T. Hill, xxx-xx-xxxx  
 Col. Greg L. Gile, xxx-xx-xxxx  
 Col. James C. Riley, xxx-xx-xxxx  
 Col. Randall L. Rigby, Jr., xxx-xx-xxxx  
 Col. Mario F. Montero, Jr., xxx-xx-xxxx  
 Col. Timothy J. Maude, xxx-xx-xxxx  
 Col. John R. Walsh, xxx-xx-xxxx  
 Col. Daniel J. Petrosky, xxx-xx-xxxx  
 Col. Michael B. Sherfield, xxx-xx-xxxx  
 Col. James C. King, xxx-xx-xxxx  
 Col. Joseph G. Garrett, III, xxx-xx-xxxx  
 Col. Leroy R. Goff, III, xxx-xx-xxxx  
 Col. Michael A. Canavan, xxx-xx-xxxx  
 Col. David R. Gust, xxx-xx-xxxx  
 Col. Ronald F. Rokosz, xxx-xx-xxxx  
 Col. Daniel G. Brown, xxx-xx-xxxx  
 Col. Leo J. Baxter, xxx-xx-xxxx  
 Col. William P. Tangney, xxx-xx-xxxx  
 Col. Charles S. Mahan, Jr., xxx-xx-xxxx  
 Col. Burt S. Tackaberry, xxx-xx-xxxx  
 Col. John J. Maher, III, xxx-xx-xxxx  
 Col. Leon J. LaPorte, xxx-xx-xxxx  
 Col. Claudia J. Kennedy, xxx-xx-xxxx  
 Col. Stephen T. Rippe, xxx-xx-xxxx

IN THE NAVY

The following-named rear admirals (lower half) in the line of the United States 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. (1h) Walter Jackson Davis, Jr., xxx-xx-xxxx, U.S. Navy.

AEROSPACE ENGINEERING DUTY OFFICER

To be rear admiral

Rear Adm. (1h) Robert Glen Harrison, xxx-xx-xxxx, U.S. Navy.

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. James D. Williams, U.S. Navy, xxx-xx-xxxx

The following-named rear admiral (lower half) in the Civil Engineer Corps of the Navy for promotion to the permanent grade of rear admiral, pursuant to title 10, United States Code, section 624, subject to qualifications therefor to as provided by law;

CIVIL ENGINEER CORPS

To be rear admiral

Rear Adm. (1h) Patrick William Drennon, xxx-xx-xxxx, U.S. Navy.

The following-named officer for appointment to the grade of Vice Admiral while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be vice admiral

Rear Adm. (Selectee) Douglas J. Katz, U.S. Navy, xxx-xx-xxxx

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE AIR FORCE, ARMY, FOREIGN SERVICE, MARINE CORPS, NAVY

Air Force nominations beginning Bruce A Brown, and ending Marc G Wilson, which

nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 9, 1992.

Air Force nominations beginning Major Robert K. Baldwin, xxx-xx-xxxx and ending Major Lorayne M. Whitehead, xxx-xx-xxxx, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 9, 1992.

Air Force nominations beginning Donald E Abston, and ending Roger B McGrath, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 9, 1992.

Air Force nominations beginning Barbara E Allmart, and ending Matthew D Zuber, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 10, 1992.

Air Force nominations beginning William Agrella, and ending Manfred K Zeithammel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 10, 1992.

Air Force nominations beginning Walter K. Kaneakua, xxx-xx-xxxx and ending Gregory H. Blake, xxx-xx-xxxx, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 25, 1992.

Air Force nominations beginning Major Joseph Amara, xxx-xx-xxxx and ending Major Michael D. Miller, xxx-xx-xxxx, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 25, 1992.

Army nominations of Lt. Col. David C. Arney, which was received by the Senate and appeared in the CONGRESSIONAL RECORD of July 1, 1992.

Army nominations beginning Clark H. Babl, and ending Stephen B. King, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 9, 1992.

Army nominations beginning David A. Boothe, and ending 697x, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 9, 1992.

Army nominations beginning Patrick J. Berger, and ending John C. Schoonover, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 9, 1992.

Army nominations beginning Douglas C. Andrews, and ending \*Julia A. Morgan, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 9, 1992.

Army nominations beginning Albert L. Frazier, and ending Quentin A. Humberd, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 9, 1992.

Army nominations beginning Dave Arnot, and ending Jane A Yaws, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 9, 1992.

Army nominations beginning Gary K Abe, and ending 9780x, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 9, 1992.

Army nominations beginning Jeffrey M Abel, and ending Robyn D Tibbitts, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 9, 1992.

Army nominations beginning Friebe B Aboley, and ending John H Sudduth, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 10, 1992.

Army nominations beginning Gino L. Ventresca, and ending Jeffrey M. Reines, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 30, 1992.

Army nominations beginning Pandor Angelisanti, and ending Carl D. Humbarger, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 30, 1992.

Foreign Service nominations beginning David N. Merrill, and ending Theodora Woodstervinou, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 23, 1992.

Foreign Service nominations beginning Mary A. Ryan, and ending John C. Triplett, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 23, 1992.

Foreign Service nominations beginning David Michael Sprague, and ending John M. O'Keefe, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 23, 1992.

Marine Corps nominations beginning Donald L. Davis, and ending Jeffrey L. Hull, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 22, 1992.

Marine Corps nominations beginning Terry G. Steven, and ending Edward J. Zelczak, Jr., which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of March 24, 1992.

Marine Corps nominations beginning Gregory D. Bates, and ending William H. Thomas, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of April 28, 1992.

Marine Corps nominations beginning Donald R. Gibbs, and ending Phillip W. Woody, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 4, 1992.

Marine Corps nominations beginning Peder A. Anderson, and ending Thomas W. Shreeve, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 11, 1992.

Marine Corps nominations beginning Francis P. Ahearn, Jr., and ending Benjamin K. Yoshioka, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of August 4, 1992.

Marine Corps nominations beginning Gary D. Anderson, and ending John M. Zajac, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 23, 1992.

Navy nominations beginning Frederick B. Beacham, Jr., and ending Alan Richard Pagnotta, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of March 10, 1992.

Navy nomination of Gary Michael Hall, which was received by the Senate and appeared in the CONGRESSIONAL RECORD of March 18, 1992.

Navy nominations beginning Rickey Lynn Dubberly, and ending Michael D. Pind, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of April 28, 1992.

Navy nominations beginning Carl H. Abelein, and ending James Clayton Johnson, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 2, 1992.

Navy nominations beginning Rise Lavonne Barkhoff, and ending Arthur Eugene Wickerham, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 30, 1992.

Navy nominations beginning Mark F. Abel, and ending Reynold Anthon Sefton, Jr., which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 30, 1992.

Navy nominations beginning Glen Charles Ackermann, and ending John Edward Zarbock, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 30, 1992.

Navy nominations beginning Joel Michael Alcott, and ending Isaac Ray Williamson, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 30, 1992.

Navy nominations beginning Bradley McInt Anderson, and ending Randell Lee Vanburen, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 30, 1992.

#### IN THE AIR FORCE

To be general

Lt. Gen. Henry Viccellio, Jr. xxx-xx-xxxx  
U.S. Air Force.

#### IN THE NAVY

To be vice admiral

Vice Adm. David M. Bennett, U.S. Navy  
xxx-xx-xxxx

Vice Adm. Richard C. Macke, U.S. Navy,  
xxx-xx-xxxx

### MORNING BUSINESS

#### TRIBUTE TO RETIRING SENATOR JAKE GARN

Mr. CONRAD. Mr. President, I would like to take a moment to pay tribute to my colleague from Utah, Senator JAKE GARN, who will be leaving this body at the end of the year.

For the past 18 years, JAKE GARN has served the people of Utah ably and effectively. I have had the privilege of serving with Senator GARN on the Senate Energy Committee, where we both fought for the interests of rural Western States. North Dakota and Utah are similar in a number of ways—water supply problems, the need for rural development, an economy that is largely dependent upon the whims of Mother Nature. Senator GARN has worked constantly to combat these problems for Utah. I would note in particular his work toward the completion of the central Utah water project. This project has been a long time in coming, but it will bring significant and much-needed benefits to rural Utah when it is finished.

JAKE GARN is a courageous and tireless worker for the causes in which he believes. His knowledge of complex subjects such as banking and arms control is well-known in the Senate. He calls them like he sees them, and he is a good person to have on your side in a tough political fight in the Senate.

In addition, we are all aware of JAKE's strong belief in the U.S. Space Program. I dare say that there is no stronger advocate of our Space Program than JAKE GARN. And he proved his commitment to this program in 1985 by becoming the first elected offi-

cial ever to fly on the space shuttle. Mr. President, there are many people who talk or dream about going into space, but the fact of the matter is, it takes a great deal of desire and courage to actually get up there. JAKE had what it takes, and he will long be remembered for his historic space flight.

While everyone may recall JAKE's shuttle flight, I want to remind the Senate of an even more courageous, but less well publicized, act that he performed the year after the flight. JAKE's daughter was suffering from kidney failure and needed a transplant. While others in his family could have donated the kidney, JAKE insisted that he be the donor. He felt a duty as a parent to give a part of himself to save his child. The operation was successful and saved his daughter's life.

JAKE GARN is a man of honor and courage, and he has served the people of Utah well. I salute his service in the Senate and wish him luck in his future endeavors.

#### IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, the Federal debt run up by the U.S. Congress stood at \$4,058,858,035,876.16 as of the close of business on Friday, October 2, 1992.

Anybody familiar with the U.S. Constitution knows that no President can spend a dime that has not first been authorized and appropriated by the Congress of the United States.

During fiscal year 1991, it cost the American taxpayers \$286,022,000,000 just to pay the interest of Federal spending approved by Congress—spending over and above what the Federal Government collected in taxes and other income. Averaged out, this amounts to \$5.5 billion every week, or \$785 million every day, just to pay the interest on the existing Federal debt.

On a per capita basis, every man, woman, and child owes \$15,801.89—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.

What would America be like today if there had been a Congress that had the courage and the integrity to operate on a balanced budget?

#### DEDICATION OF THE DONNELLEY WILDLIFE MANAGEMENT AREA

Mr. THURMOND. Mr. President, South Carolina is blessed with a rich and varied natural heritage, including many beautiful rivers and wetlands areas. This is especially true in the low country region of our State. It is there

that the Ashepoo, Combahee, and Edisto Rivers all come together to form the ACE basin. It is also there that a man who loved wildlife and the outdoors dreamed of creating an area for present and future generations to enjoy and study.

The late Gaylord Donnelley was recognized as one of this Nation's leading conservationists well before he donated 7,000 acres of his own land as the Genesis of the ACE basin project. Committed to ensuring the project's success, he traveled the low country selling his idea—urging, and ultimately convincing many landowners to grant conservation easements to their property. Unfortunately, Gaylord Donnelley has passed away. However, in recognition of his vision and commitment, a 9,000-acre tract of land, the Donnelley Wildlife Management Area, was recently dedicated in his memory.

Mr. President, many dignitaries were present at last month's dedication ceremonies, and I was moved by what these people said. I request that copies of their fine speeches be included in the RECORD following my remarks.

Finally, I would also like to take this opportunity to recognize another visionary man who has worked with unending dedication to help make the ACE basin a reality—Mr. Coy Johnston. In his capacity as project director, Mr. Johnston has become the linchpin of this whole effort and we are all grateful for his energy, commitment and common sense.

I am proud of my association with this very worthwhile project and I will continue to lend my strongest support to ensure that the ACE basin continues to grow, becoming the premiere conservation management project in our great Nation.

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

COMMENTS FOR DONNELLEY WMA DEDICATION  
CONGRESSMAN ARTHUR RAVENEL, SEPTEMBER  
20, 1992

Now on the program we have here it calls on me for remarks; when they say remarks, that means Arthur, be brief. I just have to lay a few words on you about the ACE. I see so many faces out there who have been here before—previous dedications and previous announcements of grants and here included in the ACE Basin through easement or gift or purchase or otherwise. It really is one of the most exciting things that is going on in South Carolina and indeed in the nation today, in so far as the environment is concerned. I will admit that we are going to preserve approximately 350,000 pristine acres.

Imagine starting just a few miles down there on the coast—Otter Island, Pine Island, Sea Islands, Barrier Islands and coming on in where some loggerhead turtles and other seabirds nest. Loggerheads, as you know, we have just completed a very successful nesting year. They are not endangered but they have been threatened. We have finally it looks like we have overcome all the problems with the turtle excluded devices. Shrimpers are now pulling them, and we do not hear anymore hooping and hollering and

yelling, and everybody seems to be satisfied with what is going on. The number of strandings have just practically gone to nothing, and further on up the coast, as some of you may know, we had a Kemps Ridley come in and nest and hatch. Then we have had a couple of nestings up in North Carolina, and as you know, they are, of course, endangered.

The eagle story has just been one of the most exciting things going on in South Carolina. Approximately fourteen years ago we only had twelve nesting pairs. We got rid of the DDT and got rid of the thin egg shells and every year the numbers of nesting eagles has increased, and last year's reached almost 90. We are about to reach a historical high which we may reach next year of 100 pair. We are already making plans to have an eagle celebration when we get to 100 nesting pairs once again in South Carolina. For those of us who are natives and those of you who are interested and you all are because if you were not, you would not be here. That is really exciting news.

Of course, as you know, the wood stalks have encountered drug problems and other environmental problems down there in Florida. They knew where to come, and just a few years ago, we discovered wood stalks for the first time nesting right here in the ACE Basin. They are having another great nesting year. There are several rookeries now. I visited one myself last year and saw those wood stalks nesting. Of course, we not only have the habitat for their rookeries, but the ACE is providing them with adequate areas for feeding.

So there is a lot going on here, and we just have tremendous diversity in the ACE. The ACE, as you know, and the reason we call it ACE is that the area is encompassed by the Ashepoo, the Combahee and the Edisto rivers. That is how you get ACE. It goes from the sea, go on up into Salkehatchie Swamp, and we will have just about every type of habitat and ecological area that you can imagine, all encompassed right here in South Carolina. I just love to tell my fellows on the Merchant Marine Committee, on which I serve up there in Washington, I say, Man they got problems here and problems there, and this is bad and that is bad and numbers are declining. I said, Man, in South Carolina we have just tremendous public support for the ecology and the environment. We are preserving what we have, we are improving it and we are adding constantly to it.

To elaborate on that and bring us some additional word on what is going on and thank gosh they are finally getting involved politically because that is a powerful group, I am telling you. It is Ducks Unlimited. We have the CEO here today. He has been down before, and we are happy to welcome him back—Mr. Matthew B. Connolly, Jr.

MATTHEW B. CONNOLLY, JR., CEO, DUCKS UNLIMITED, SEPTEMBER 20, 1992

Thank you Congressman. Senator Thurmond, Mr. Secretary and distinguished guests and ladies and gentlemen, it is a wonderful occasion we have here today, and I think that this particular project, the ACE Basin—it is my understanding Congressman, the ACE Basin came about because no Yankee could pronounce Edisto, Ashepoo and Combahee like you so eloquently do. I, for one, think that this project exemplifies what is right and what is best about America. I, for one, believe that this epitomizes what our great country is about because what this is—is a partnership. It is a partnership not about preserving something, it is a partner-

ship about building something, about building ourselves a better place to live, to work, to recreate and to come and rekindle your spirit. And you folks are doing it so beautifully here. This project is one that brings together many who sometimes in the past have been more inclined to sit and squabble on the sidelines and differ about things. We have something in common, and we see that something is in need of some care, and we see that one needs to work with private landowners, the key to success in conservation in the next century will be to work and forge alliances with private landowners. The ACE Basin project does that so wonderfully. Beyond working with the private landowners who have done such an exemplary job here, you have other strong partners who have exhibited great leadership. We have Senator Thurmond. Senator, I am reminded of all of the current conversation about former President Truman, and everyone who seems to be running for office, seems to want to be like President Truman was, and I am reminded that you nearly denied him being President. Perhaps I would be better served to emulate Senator Thurmond, who has worked so diligently and has done such a commendable leadership job for conservation for you folks in the state of South Carolina.

Also, I think to be highly congratulated is the U.S. Army Corps of Engineers. Again, an organization that often times is identified on the other side of the wetlands island and really has not been given the credit that they deserve for some of the leadership initiatives that have been going on around the country. Again, it is these kinds of partnerships that are the new wave of people coming together and getting a job done that cannot be done alone.

Additionally, great leadership has been exhibited by the state and through its Department of Wildlife and Marine Resources and Jim Timmerman and John Frampton, they have done a job that no other state has done in the nation. It has taken a great deal of diplomacy, and it has taken a great deal of managerial skill. We thank them so much for the opportunity to be partners.

The Federal Government and the U.S. Fish and Wildlife Service, the new North American Wetlands Conservation Council has participated in this. As you know, the local Task Force, itself. So you have a myriad of interests that have come together—quietly done something—you come to the ACE Basin, and there aren't any granite portals or neon signs. It is unchanged—that is what it is about. You do not recognize when you cross the line into the ACE Basin—there aren't malls on the way in; there aren't big billboards. You just know you are here by the character, the aura of the place. That is what needs to be retained. But it needs to also be a place where people live, where they play and where they work and where future generations can be assured that it will be here as well.

We at Ducks Unlimited were given some great insight into leadership through two past presidents, both of whom have widows here today. Dorothy Donnelley, like her husband, Gaylord Donnelley, is a leader in conservation and is someone who is best characterized by sharing, sharing with people across the country. Another person who had a great deal to do with this, though his origins in it go back many years was our President, Herman Taylor, and his wife, Evelyn, is here all the way from Louisiana. Herman Taylor when he was President began DU's programs in the United States. Dorothy, we thank you and the Donnelley Family for

being the caring stewards that you have been on your property at Ashepoo, and we also thank you, most of all, for being people who act as catalysts and who get people together and get the ball rolling. You have crafted something here that we are all very proud of, and we know that this will not be the last of these types of occasions. So I want you to know that you have something special here, and perhaps one of the most unique things of all that has happened is that we had a Fortune 500 corporation come and join in this endeavor, and that is most unique. It too showed enormous leadership and vision, and the Dow Chemical Corporation came and made a leadership grant to get this project going, and we thank Dow Chemical, and we have with us today one of its representatives, John Tomke of DowElanco.

All of these interests, again having put anything they have different aside but concentrating on what they had in common in making something I believe that is a very, very positive benefit and from Ducks Unlimited's viewpoint, this is a conclusion of a very important chapter in our game plan and that is to have it go into the public hands of the State of South Carolina where people can come and enjoy this property. These are not intended to be temples that only a few can worship in; they are intended to be areas that can be appreciated and utilized. So we urge each and everyone of you to bring your family out and to enjoy this magnificent property and to make sure that those you bring with you learn to respect it and the areas like it in the ACE Basin.

I would be remiss if I did not thank two people especially here. I want to thank Coy Johnston, who is our ACE Basin Coordinator, for the outstanding job that he has done in the past three years. I also want to thank Bobby Ellis, who is our manager of this property of the Donnelley Wildlife Management Area who now becomes so for the state. Thank you.

SENATOR STROM THURMOND, SEPTEMBER 20, 1992

I had better take Mr. Connolly around and let him introduce me again, he had such nice things to say. Mr. Chairman, distinguished guests and ladies and gentlemen, I am very pleased to be here on this occasion. I am so glad that the Secretary of the Army, Secretary Stone, could be here as well. I am not scheduled to introduce him, but I just want to say that he is one of the finest secretaries that the Army has ever had. We are very pleased to have him here, and he honors us with his presence.

Speaking of the Army reminds me of what occurred up at Fort Jackson at the jump school some time ago. The instructor had just finished his lecture on parachute jumping. "So," asked one student, "what if the chute does not open?" "That," replied the instructor, "is what is known as jumping to a conclusion." At any rate, the conclusion we have with this project is a good one.

I also want to say that this Secretary of the Army knows how to get things done. If he cannot do it one way, he will do it another. That reminds me of the truck driver who was driving from up north to down south, and about halfway down he got hungry. He stopped at a restaurant to get something to eat and ordered a hamburger, a cup of coffee, and a slice of pie. Just as his food arrived, three men wearing leather jackets and driving motorcycles came into the restaurant—one grabbed his hamburger, one grabbed his coffee, and one grabbed his pie. Ordinarily, a man would be infuriated with such conduct. The truck driver did not do a thing, but get up, thank the waitress, give

her a big tip, and walk out the door. Everybody was startled. Just about the time he was driving off, one of the men in the leather jackets said, "he isn't much of a man, is he? The waitress replied, "I don't know about that, but he must not be much of a driver, he just ran over three motorcycles."

So, there are more ways than one to accomplish a goal. The Secretary of the Army has found that, as he knows how to get things done. Mr. Secretary, we are honored by your presence.

I am so glad to see all of these prominent people here—Congressman Ravenel—he is the most unique Congressman in the whole House. We are proud of him. South Carolina is proud of him, and we are glad to have him here today.

I am also glad to see Representative Harrelson again. I knew him years ago when he was younger; of course, he is not too old now.

Senator John Drummond, one of the most able Senators in the state senate is here. Aren't you chairman of the Appropriations Committee now, John? Finance? the Finance Committee, that is a powerful and influential committee, you hold the purse strings. You all be sure and treat him nice.

Pat Harris, I understand is here. Where is Pat? We are delighted to have you here from Anderson, South Carolina. A very able Representative and a good friend of mine.

I just want to let Mr. Connolly know how pleased we are that he is here today. He has done a fine job with Ducks Unlimited.

Mr. Charles Lane, chairman of the Ace Basin task force is also here. Charles, we commend you for what you have done.

Jim Pendarvis who serves on the wildlife commission. He lives at Edgefield part time and down here part time, and we claim him both places. Dr. Timmerman, who has done such a good job with the wildlife department. We are glad to have him here.

John Tomke, senior vice president of Dow Chemical. We are glad to have you here. We appreciate that big donation you made too. Thank you very much. Come again.

Mrs. Dorothy Donnelley, the wife of the late Gaylord Donnelley is here. They own all of this property and they have made a fine contribution to this project. Her son Elliot, is also here today. We are honored by having them present.

Reverend Sam Cooper is from Green Pond. We are pleased to have him come down here and participate in this program. Now I must speak about Coy Johnston, who is the father of one of the finest and most able women in Washington. She works for me as my executive assistant and her name is Holly. If you ever want anything done in my office, just call Holly.

Unfortunately, I do not get to see my children very often as I travel around so much. I am glad that my daughter Julie could be here today. She came down with her friend, Miss Frampton, and they are both students at the College of Charleston. You girls stand up. Let everybody see two pretty girls.

Ladies and gentlemen, the Ace Basin and the Donnelley management area is a dynamic project, a unique partnership between property owners, conservationists and government. It strikes the right balance between conservation and use, and will allow this area's resources to be harnessed while protecting them at the same time. Commercial uses of the basin include timber harvesting, aquaculture, and tourism, these are all important industries to South Carolina. This project will also provide many recreational activities such as hunting—deer, dove, quail;

fish; hiking; camping; boating; and bird watching. It is a tremendous project and we are so proud of it.

Many great things are coming out of this project. For one, it is being studied as a model for similar projects. The Ace Basin will create a natural buffer zone between two large and expanding areas, Beaufort/Hilton Head and Charleston, and ensure that the low country remains a desirable place to live. It also opens many areas to the public that were previously unavailable. Many South Carolinians have never been here before and do not know how beautiful and scenic the low country is. Finally, this project will protect for future generations an ecosystem that is disappearing everywhere else.

Many people have helped to make this project a reality. The Secretary of the Army has helped us a great deal. The Corps of Engineers has helped us. The Assistant Secretary, Nancy Dorn, has worked on this project. She is not here today, but the secretary, himself, is here. By the way Secretary Dorn had a baby and could not come this soon after the baby's birth, but we are certainly proud to have Secretary Sullivan. The Donnelleys, I just want to say, we cannot tell you how much we appreciate all you have done, Mrs. Donnelley, you and your family. We do appreciate it. The South Carolina Department of Marine and Wildlife Resources and the Nature Conservancy have also contributed a great deal to the Ace Basin project. Coy Johnston, another visionary man, active in Ducks Unlimited, is the project director for the Ace Basin. He has worked hard to make this project a reality. Let's give him a special hand. Many others who have worked on the Ace Basin are here today and everyone involved in this project is to be congratulated.

I would like to take this opportunity to recognize another government servant for his work on this project and his commitment to conservation and that is President George Bush. Because of this administration's cooperation, we are able to get a lot of things done in wildlife matters and on this project. President Bush is following in the footsteps of one of the greatest conservationists that ever lived, Teddy Roosevelt. He was an avid sportsman and great Republican who established our national parks system. Now, I want to say this, President Bush exemplifies Roosevelt's concern for the environment. He wants the EPA given cabinet status, he has signed the Clean Air Act into law and has worked to protect wetlands in coastal areas. He has added over a million and one-half acres to the national parks forest and wildlife refuges and he has added 6.4 million acres to the wilderness system. He has adopted ecosystem management for forests and other public lands. He is committed to no net loss of wetlands. He has doubled the spending for wetlands protection, signed the North American Wetland Conservation Act and the list goes on and on. If I say anymore, you will think I am trying to get him re-elected. Well, I am.

The Ace Basin represents a great resource and asset. It will be used and enjoyed by people from all over our Nation and is yet one more reason why South Carolina is the finest and most progressive state. We are so glad to be here. We are proud to have all of these wonderful people here who had such a big part in this and we are proud of you who came, took your time to come here today and participate in this matter. You are truly witnessing the beginning of a model project for the whole Nation. Thank you. God bless you.

First of all, I would like to express my apologies to all of you sitting here, all of you on the podium, the Navy Band, the Color Guard, I really do apologize for being late. I want you to know it was not due just to my own negligence and sloppy scheduling. I did leave Washington early this morning, and I was down in Miami working on the Hurricane reconstruction efforts all during the morning, and I got a little bit late down there so I apologize to you.

It is always a pleasure for me to be back in South Carolina. I think almost the first time I met Senator Thurmond I mentioned to him that my family used to live in Charleston. My father was in the Navy here in World War II. I spent my last vacation in Charleston before I joined up myself in late 1942. My last vacation from high school I spent in Charleston, and I have very good memories of being down here in this part of the country, and it is always good to be back again.

I am very delighted Congressman Ravenel was a good weather prognosticator because so far the elements have been kind to us. The last time I came down, not quite the last time, but almost the last time I came down to Charleston to participate in another ceremony, actually I am wrong I do not think it was Charleston, it was up north in the state in Darlington, the heavens did open up there, and they came down so hard that none of the speakers could read their notes which may have been a good idea, but we then had to move about five miles down the road to a place that was big enough to take all of us and I have a feeling if we had to move from here it might be more than five miles so I am delighted that the rain has not come down.

What a beautiful spot. I am delighted to participate in the ceremony. I only wish my wife could be here as well. She happens to be in San Francisco which is my home, and she is there attending a board meeting of another conservation organization so she is with us in spirit, and I am certainly going to tell her about the beauty of this spot and get her down here as soon as she can because I know she would love to see it with her interest in birds and wildlife.

The Army is pleased that we are a part of this worthwhile effort and as I said a moment ago, I have just been down in Miami. Too often Americans think of the Army only as a war fighting force and that, of course, is our first responsibility, our first mission to the nation, our constitutional responsibility, but while we are engaged in that mission, we do many things as well. Thanks to the President and many others, I want you to know that the effort to help all of those people in that devastated area in Florida is coming along extremely well. We have stepped in and provided assistance where that is necessary. I went this morning to a food distribution center and I would bet that the food that has been so generously contributed by people all over the county and including, I am sure, this area from churches and service clubs and private organizations, I saw that food being distributed this morning for people who needed it. It gave me a very comforting feeling.

The Corps of Engineers has been mentioned. The Army is a full participant in the nation's environmental programs. Sixty-three Army installations I found out are homes for at least one of the country's very many federally listed threatened or endangered species. We in the Army spent over \$4 million last year to protect those species. Next month there is a major conference going on just up in North Carolina at Fort Bragg on the red-cockaded woodpecker prob-

lem which exists throughout this great arc of the South where we are doing many fine things to protect that endangered bird. Incidentally, the bird, as Congressman Ravenel was talking about, in general, is doing very well. It seems to thrive on Army reservations which is both to our advantage and disadvantage, the disadvantage operationally of the Army but certainly to the advantage of the country. It seems to love gunnery ranges more than any other place on the base.

The Corps of Engineers is involved in efforts like this in many different places—operating our inland waterways, opening them during the dredging around the nation that our harbors need. We work with individual states and others in developing and caring for these and the country's other national resources. Earlier this year, for example, I participated in another ceremony near Washington where the Army transferred from Fort Meade Army lands just outside of Washington, 9,000 acres to the Patuxent National Wildlife Refuge. So we are involved in these types of things all over the county, and it is a source of great gratification to us in the Army.

We are proud and happy to join in the partnership like this one made possible by the generosity of a family and the cooperation of many, and it is a partnership like this that is so important for our nation. I am delighted I am here, and I give you my apologies again for having been late.

COMMENTS FOR DONNELLEY WMA DEDICATION,  
BY JOHN A. TOMKE, VICE PRESIDENT OF MFG.,  
DOWLANCO SEPTEMBER 20, 1992

Thanks Congressman. Mrs. Donnelley, Mr. Secretary, also Senator Thurmond, good to see all of you here today honored guests. It is a distinct pleasure for me to return to the Ace Basin to this special place and to participate with so many people who have committed this area their time, their talents and also their treasures. Some of you may know Senator Thurmond graciously made his Capitol conference room available to us in 1990. That was when we announced Dow's partnership for wetlands conservation and pledged over \$3 million for a four year period. That partnership was composed of The Nature Conservancy, Ducks Unlimited, Dow and The National Fish and Wildlife Foundation.

One of the first projects identified by the partnership for consideration was the ACE Basin. During that process I had the honor of meeting Gaylord Donnelley as well as Charles Lane and several other impressive folks who are here at the Ace. We drove around the Basin and then took a helicopter ride and saw spectacular views, an incredible number of birds and other wildlife. It was obvious that we wanted to support this pristine wildlife sanctuary. Dow made a \$500,000.00 commitment which was matched by the Foundation for a total donation from the partnership of \$1 million. In the past two years, we have implemented six similar wetland projects across the United States and Canada. Dow employees have also managed many local projects on or near Dow properties. They volunteered their time and their talents as practicing environmentalists. These projects range from nesting islands to walleye rearing ponds to wood duck boxes to native prairie restorations. The common thread through all of them is they are voluntary and they are achieved through working partnerships.

Mr. Donnelley's contribution to people to conservation to Ducks Unlimited and particularly to preserving wetlands is an inspiration to us all. The impact and results of his commitment will live on forever.

The most popular book in the world begins, "In the beginning God created the heaven and the earth". As he added light, animals and humans, the Bible say God saw that it was good. As we look out here today, we know that it is still good, and through the enduring contributions of people such as Mr. Donnelley and the people out here today we are assured that it will be good in the future as well.

The second most popular book in my house is one called Sand County Almanac and was written by a conservationist, named Aldo Leopold. I would like to just share one comment from one of his essays with you. He said, "I have congenital hunting fever and three sons. As children they spend their time playing with wooden guns and with decoys. I hope to leave them three things—a long life, health and possibly even a competence". But he goes on, "what are they going to do with those things if there are no more quail in the woods and no more deer in the forest and no more whistling of duck wings in autumn air. What if there be no more goose music". We are here today all of us because we care about goose music. Mr. Donnelley too cared passionately about goose music. This Wildlife Management Area will stand as a living legacy to that passion. Thank you.

DR. JAMES A. TIMMERMAN, JR., SEPTEMBER 20,  
1992

Thank you Congressman Ravenel—we in South Carolina and those of us with the Wildlife and Marine Resources Department are particularly fortunate to have you in Washington representing us. Congressman Ravenel has always stood tall in supporting conservation programs in South Carolina and he has been an active supporter of the Ace Basin initiative since its very inception in 1988.

I am honored, beyond what words can express, to be standing on this platform today paying tribute to Gaylord and Dorothy Donnelley for the vision and commitment to conservation, and to recognize South Carolina's most distinguished citizen, Senator Strom Thurmond.

Dorothy, I believe Gaylord would have been pleased to see the culmination of this unique cooperative partnership. I am delighted that you and your family have allowed the Wildlife and Marine Resources Department and all of the partners in this project to name this area in honor of you and Gaylord. I pledge to you and your family our commitment as stewards of this property to manage these lands in manner which will bring great credit to your unmatched conservation ethic and your demonstrated commitment to the protection and enhancement of the ACE Basin. And, Senator Thurmond, thank you for joining us here today to celebrate both the protection and dedication of the Donnelley Wildlife Management Area. Senator Thurmond is a true friend of the sportsmen of South Carolina and a strong supporter of wildlife programs on both the state and national level. No one person in the entire history of our great state has given more to its citizens than Senator Thurmond—his dedication, commitment and loyalty are unparalleled. We applaud your successful effort in obtaining the necessary federal funding for the Corps of Engineers to acquire a portion of this exceptional property. To Matt Connolly and Ducks Unlimited, I publicly commend your bold commitment to put up over \$10 million to protect this property when development eyes were upon it almost three years ago. To John Tomke and Dow Chemical Company along with The Nature Conservancy, the National

Fish and Wildlife Foundation, the North American Wetland Conservation Council, the National Wild Turkey Federation and other participants, thank you for being partners in the exciting joint venture.

Mr. Secretary, we welcome you to South Carolina and hope that you will again visit us when your schedule is not so demanding. To really appreciate South Carolina's low country, you need to visit for several weeks (you may never want to go back to Washington and The Pentagon).

We are excited about the Corps of Engineers as a partner in the ACE Basin project. I commend Lt. General Henry Hatch's directive of February 14, 1990, as Commanding Officer of the U.S. Army Corps of Engineers, that each member of the Corps must integrate environmental sensitivity in the day to day business. He reminded us that the cumulative consequences of our work must reflect a clear interest in protecting the equality of our environment and natural resources. He stated, "we will be measured by what we do, not what we say." The motto of the U.S. Army Corps of Engineers is "Essayons", a French word which means "let us try". The Savannah District in its unprecedented speed and diligence, has fulfilled both General Hatch's directive and its own motto. The state of South Carolina offers a salute to the Savannah District for having tried and accomplished this mission.

In closing, I want to take this opportunity to thank Congressman Ravenel, Senator Thurmond, Secretary Stone, the Donnelley family and the other distinguished individuals on this platform as well as the many partners and supporters of this project for allowing us to be the stewards of the Donnelley Wildlife Management Area. We are honored to share in the accomplishments and perhaps the best example in America of a cooperative conservation partnership. We pledge our continued support to the Ace Basin project, and we look forward to the many new horizons that await us.

ELLIOTT DONNELLEY, SEPTEMBER 20, 1992

Thank you. My father would really have appreciated everybody coming for this. This was his life. I think it was summed up on something I had forgotten and that is Mr. Tomke's reference to Leopold's Goose Music. I think that was basically my father's interest in life—Goose Music—the preservation and the upkeep and the visionary hope of expanding wildlife as it stood, not just for himself, I mean he would appreciate this showing, but that was not the point, the point was the Goose Music. It was that if there was a chance, any chance of saving, preserving, improving, enhancing the balance of nature with man, this was what his life was—totally a commitment. That goes for my Mother, without her help, I think many times he would have gone a little astray or a little overboard to put it mildly. All I can say is as part of the Donnelley Family I can not tell you how much we appreciate naming of this for my Father. As I said, I know he would appreciate it, but his words would be, well that is done, let's keep on going, what is next on the platter. Thank you very much.

CLOSING COMMENTS BY MATTHEW B. CONNOLLY,  
JR., SEPTEMBER 20, 1992

I think this is an act of David Copperfield. I have a few presentations Ladies and Gentleman, and this will be all over.

First, I have something that I would like to present to our good friend, Senator Strom Thurmond. It is a drake green wing teal, Senator, a bird that we hope will inhabit these haunts with great health and vigor and

will be ever so plentiful in the many many decades to come. We thank you on behalf of all of the people in the state of South Carolina and the North American continent as well as for all of the leadership you have provided on this and the inspiration and motivation you have given us all. Thank you so much for this wonderful project, and we have a little mementos here for you to have in your office to be reminded of the ACE Basin and all of the people who thank you for your efforts.

[Strom Thurmond: Thank you very much. That is a beautiful thing. I deeply appreciate it. I shall display it in my Senate Office and always treasure it. Thank you very much.]

I know Senator your favorite bird is an eagle because every time I hear you speak the eagle soars all the time, but that is not a waterfowl species. We also have a memento for each of the people up front here, a marvelous tribute I think to the ACE Basin and one not surprisingly that the Donnelley Family is involved in, it is beautiful photographic tribute to the ACE Basin by Tom Blagdon. It has 101 photos throughout the ACE and all of the marvelous and diverse habitat types that you can find here featuring a lot of the wildlife, flora and fauna, and we would like to have each of you have this so that when time demands that you sometime leave the Basin, you will at least be able to remember it very quickly by perusing through your book. We have one for each of you one of these, and I would like to present the first one to Dorothy Donnelley, who has as has been pointed out by Elliott, has as deep a commitment as her husband, Gaylord, had. I always thought that perhaps the most incredibly sound decision Gay ever made in his life was to ask Dot to marry him. They were a terrific partnership, and the thing besides the love of nature and preserving things that to me has always impressed me most about the Donnelleys is that they are people people. They love people and they love sharing with people. I can see Gaylord right now with a twinkle in his eye and hear his little chuckle because this is good. So Dot we would like for you to have this book as a tribute. One to Elliott. Again, Elliott also is a very enthusiastic outdoorsman, conservationist, and we are so delighted to know that those genes are there to carry on and the gene pool will survive in nature and in the Donnelley's for that kind of commitment. Thank you Elliott. Dorothy ever so exacting in her sharing doesn't want me to have given her one more than—I have already given her one—and she wants to return it to me. We will let you give that one to Strom.

Senator, another one for you thank you. (Gifts passed out to guests on the podium.)

Mr. INOUE. Mr. President, I am pleased to submit the report of the committee of conference on H.R. 5504, the Department of Defense appropriations bill for fiscal year 1993. Mr. President, this has been a very difficult year for the conferees on Defense appropriations. We have worked in lengthy sessions to devise a compromise agreement which funds the essential requirements for the defense of our country in the post-War-saw Pact world. In this bill, we propose measures to preserve the Nation's defense industrial base, and we act to ensure that sufficient funding is provided to fund the research and development programs which will protect the qualitative edge of America's military equipment in combat, whenever and wherever that might occur. Our recommended bill provides funding to keep America's men and women in uniform well equipped, well trained, and well led.

The amount of funding in the conference agreement—\$253.8 billion—is \$16.3 billion below the amounts appropriated last year for Defense. The conference bill is some \$34 billion below what was appropriated just 2 years ago. The allocation of budget authority for the Defense Appropriations Subcommittee this year is some \$14 billion below the ceiling, or cap, agreed upon in the budget summit. We have stayed within the agreed summit level and the funding we have recommended to the Senate is under our budget allocation by nearly \$2 billion.

It has been difficult to achieve our objectives. We have met the challenge.

Mr. President, I would now like to detail some of our recommendations.

#### MILITARY PERSONNEL

Both the Senate-passed and the House-passed authorization bills reduce end strength for the Active Forces, as requested, by 98,617 from fiscal year 1992 to fiscal year 1993. Funding levels contained in the conference agreement recognize this reduction.

Mr. President, I would also note that there are no recommendations for accelerating the drawdown from Europe. Our review indicates that troops are being withdrawn from Europe at rates which already impose hardships on military personnel. Indeed, because of our concern that those returning from Europe face unnecessary hardships, \$25 million is added to allow enlisted military personnel more time to find housing when they undergo a permanent change of station.

The administration requested total budget authority of \$77.4 billion for operation and maintenance [O&M] programs. The conference agreement provides \$72.8 billion, cutting \$4.6 billion from the request. The agreement is \$1.1 billion above the House level and \$1 billion below that of the Senate.

The conferees also accepted Senate recommendations which seek to encourage efficiencies and better management. The Senate recommendations proposed a series of adjustments under the heading "excess inventory initiative" which reduce the Department's request for purchasing spare parts and supplies by a total of \$3 billion. These reductions are made in light of the continuing problems DOD has had managing its supply system.

Mr. President, the conference agreement provides support for defense conversion, environmental programs, and disaster relief activities. The recommendations provide \$1.766 billion for defense conversion programs under Title 8—Defense Reinvestment for Economic Growth and under the R&D and operations and maintenance titles of the bill. These conversion programs include R&D activities, which I shall discuss later, and transition assistance for military and civilian workers. An increase in funding is provided for DOD's environmental program.

#### TITLE III—PROCUREMENT

Mr. President, under the procurement accounts, the conferees were concerned with the protection of the defense industrial base as well as the procurement of needed military equipment. Accordingly, the conference agreement recommends actions to various investment programs that reflect the need to decrease the Defense budget, but at the same time, build down investment programs in such a way that the industrial base is maintained in a viable manner. Where possible, the recommendations support conversion of the industrial base to civilian applications.

In particular, I would call attention to the armament retooling and manufacturing support [ARMS] initiative, which will restruc-

ture the ammunition industrial base to make more efficient, cost effective use of its industrial capacity. This initiative will boost defense readiness, preserve jobs, and form the basis for economic growth in regions affected by Government plant closures.

Mr. President, I ask unanimous consent that an amendment which I had intended to propose to the Defense authorization bill be inserted into the RECORD at the conclusion of my remarks. I have asked for inclusion of this text into the RECORD because it may help to guide those who will implement the arms initiative as it appears in the Defense Authorization Act for fiscal year 1993.

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

(See exhibit 1)

Mr. INOUE. Mr. President, while still under the procurement title, I would like to discuss our recommendations for various aircraft programs.

First, the F-16 program.

The budget proposed to buy 25 F-16 aircraft for the air force in the final procurement of that airplane. The conference agreement supports the procurement of 24-F16's in fiscal year 1993.

Second, the C-17 program.

The C-17 is an airlift airplane intended to become the mainstay of air mobility for U.S. forces. The C-17 program, however, is again behind schedule and its prospects for getting back on schedule do not look good. Consequently, the conference agreement fund six aircraft instead of the eight requested in the budget.

Now, we get to the B-2 bomber program.

The conference recommendation fully funds the four remaining B-2 aircraft for a total program of 20 aircraft.

#### TITLE IV: RESEARCH, DEVELOPMENT, TEST AND EVALUATION

Mr. President, we have now come to the last major division of the bill which I propose to discuss in detail today and that is Title IV—Research, Development, Test and Evaluation.

The largest program under the R&D accounts is also the most problematic. It is the strategic defense initiative. The Pentagon sought \$5.3 billion in fiscal year 1993 for the strategic defense initiative [SDI] and theater missile defense initiative programs. The recommendation which the Senator from Alaska and I brought to the Senate on September 21 was to provide \$3.8 billion to establish a more fiscally supportable level and to permit more time for adequate test and evaluation to occur before equipment is fielded.

Some Members wanted to reduce funding well below that level but the Senate accepted the committee approved recommendation and \$3.8 billion was the amount the Senate conferees carried into conference.

Mr. President, I know that while we were in conference, ill-founded rumors were spread by persons who apparently sought to discredit the conference agreement on SDI even before it was completed. I am pleased to inform my colleagues that Senator STEVENS and I did not waver, we did not break faith with our colleagues, we brought back a conference agreement which provides \$3.8 billion for SDI in fiscal year 1993—no more, no less—\$3.8 billion is the amount we pledged and it is the amount we delivered.

#### UNIVERSITY GRANTS

The Senate conferees have responded to requests for earmarking of funds for university grants in the same manner as the Congress resolved this issue in the fiscal year 1992 re-scission bill. That is, we have put these uni-

versity grants into a single provision granting the Secretary of Defense the discretion to award any particular grant.

Mr. President, that concludes my presentation of major recommendations. In a bill of the size and scope of the Defense appropriations bill there are many items of particular interest to individual Members. I would hope the Members would judge the work of the committee by its achievements and not by what they perceive to be its shortcomings. We have a good bill, a balanced bill, and one which I believe deserves the support of every Member of the Senate.

Mr. President, a bill of this magnitude and complexity cannot be managed by one man alone; it requires a team. We have a team—it is called the Appropriations Subcommittee on defense. Each member on that committee has contributed to the Senate's understanding of this important piece of legislation. Chairman BYRD, Senator HATFIELD and other members of the full committee have facilitated our work. I am deeply grateful to each of them—the members of the subcommittee, the members of the full committee, and my other colleagues.

But, Mr. President, I would be remiss if I failed to give special recognition to a singular presence, a Senator whose understanding of matters related to the national defense is unsurpassed. I have an undying debt of gratitude to my good friend the senior Senator from Alaska [Mr. STEVENS] for his support, his encouragement, and his willingness to help shoulder the burden of carrying this bill before the Committee and the Senate and in conference with the House. I treasure the opportunity to work with him in partnership on these weighty matters.

Mr. President, I also wish to recognize the tireless dedication of the staff of the subcommittee. Through the long hours they have labored to give effect to our actions. Selflessly, respectfully, and I might add, tenaciously, the staff of the subcommittee has struggled to bring to fruition the legislative actions of the Senate and the Congress. I wish to recognize: Richard Collins, Steve Cortese, Dick D'Amato, Hoot Albaugh, Rand Fishbein, Charlie Houy, Jay Kimmitt, Peter Lennon, Mary Marshall, Mavis Masaki, Jane McMullan, Jim Morhard, David Morrison, Mazie Mattson, Donna Pate, and John Young.

#### Armament Retooling and Manufacturing Support Initiative

##### SEC. 1071. SHORT TITLE.

This subtitle may be cited as the "Armament Retooling and Manufacturing Support Act of 1992".

##### SEC. 1072. POLICY.

It is the policy of the United States—

(1) to encourage, to the maximum extent practicable, nondefense commercial firms to use Government-owned, contractor-operated ammunition facilities of the Department of the Army;

(2) to use such facilities for supporting programs, projects, policies, and initiatives that promote competition in the private sector of the United States economy and that advance United States interests in the global marketplace;

(3) to increase the manufacture of products inside the United States that, to a significant extent, are manufactured outside the United States;

(4) to support policies and programs that provide manufacturers with incentives to assist the United States in making more efficient and economical use of Government-owned industrial plants and equipment for commercial purposes;

(5) to provide, as appropriate, small businesses, including socially and economically disadvantaged small business concerns and new small businesses, with incentives that encourage those businesses to undertake manufacturing and other industrial processing activities that contribute to the prosperity of the United States;

(6) to encourage the creation of jobs through increased investment in the private sector of the United States economy;

(7) to foster a more efficient, cost-effective, and adaptable armaments industry in the United States;

(8) to achieve, with respect to armaments manufacturing capacity, an optimum level of readiness of the defense industrial base of the United States that is consistent with the projected threats to the national security of the United States and the projected emergency requirements of the Armed Forces of the United States; and

(9) to encourage facility contracting where feasible.

##### SEC. 1073. ARMAMENT RETOOLING AND MANUFACTURING SUPPORT INITIATIVE.

(a) REQUIREMENT FOR INITIATIVE.—The Secretary of the Army shall carry out a program to be known as the "Armament Retooling and Manufacturing Support Initiative" (hereafter in this Act referred to as the "ARMS Initiative").

(b) PURPOSES.—The purposes of the ARMS Initiative are as follows:

(1) To encourage commercial firms, to the maximum extent practicable, to use Government-owned, contractor-operated ammunition manufacturing facilities of the Department of the Army for commercial purposes.

(2) To increase the opportunities for small businesses, including socially and economically disadvantaged small business concerns and new small businesses, to use such facilities for those purposes.

(3) To reduce the adverse effects of reduced Department of the Army spending that are experienced by States and communities by providing for such facilities to be used for commercial purposes that create jobs and promote prosperity.

(4) To provide for the reemployment and retraining of skilled workers who, as a result of the closing of such facilities, are idled or underemployed.

(5) To contribute to the attainment of economic stability in economically depressed regions of the United States where there are Government-owned, contractor-operated ammunition manufacturing facilities of the Department of Army.

(6) To maintain in the United States a work force having the skills in manufacturing processes that are necessary to meet industrial emergency planned requirements for national security purposes.

(7) To be a model for future defense conversion initiatives.

(8) To the maximum extent practicable, to allow the operation of Government-owned, contractor-operated ammunition manufacturing facilities of the Department of the Army to be rapidly responsive to the forces of free market competition.

(9) Through the use of Government-owned, contractor-operated ammunition manufacturing facilities for commercial purposes, to encourage relocation of industrial production to the United States from outside the United States.

(c) MAXIMUM AVAILABILITY OF FACILITIES.—To the maximum extent practicable, the Secretary of the Army shall make the Government-owned, contractor-operated ammunition manufacturing facilities of the De-

partment of the Army available for the purposes of the ARMS Initiative.

##### SEC. 1074. FACILITY CONTRACTOR DEFINED.

In this subtitle, the term "facility contractor", with respect to a Government-owned, contractor-operated ammunition manufacturing facility of the Department of the Army, means a contractor that, under a contract with the Secretary of the Army—

(1) is authorized to manufacture ammunition or any component of ammunition at the facility; and

(2) is responsible for the overall operation and maintenance of the facility for meeting planned requirements in the event of an industrial emergency.

##### SEC. 1075. FACILITIES CONTRACTS.

(a) REQUIREMENT FOR ARMS CONTRACTS.—

(1) In the case of each Government-owned, contractor-operated ammunition manufacturing facility of the Department of the Army that is made available for the ARMS Initiative, the Secretary of the Army shall, by contract, authorize the facility contractor—

(A) to use the facility for one or more years consistent with the purposes of the ARMS Initiative; and

(B) to enter into multiyear subcontracts for the commercial use of the facility consistent with such purposes.

(2) The authority in paragraph (1) may be exercised only to such extent and in such amounts as are provided in appropriations Acts.

(b) ELIGIBLE ARMS INITIATIVE SUBCONTRACTORS.—(1) A facility contractor authorized pursuant to subsection (a) to do so may enter into a subcontract for the use of a facility with a business in the following order of priority:

(A) A business owned and controlled by United States citizens (as determined by the Secretary) that proposes to use the facility for manufacturing, processing, distribution, or other operations currently conducted outside the United States.

(B) A business based in the United States (as determined by the Secretary) that proposes to use the facility for manufacturing, processing, distribution, or other operations.

(C) A business owned and controlled by citizens of foreign countries (as determined by the Secretary) that proposes to use the facility for manufacturing, processing, distribution, or other operations in a joint venture with one or more businesses each of which is owned and controlled by United States citizens (as determined by the Secretary).

(2) A facility contractor may not enter into a subcontract with a business under paragraph (1)(C) if the Secretary of the Army determines that it is not in the national security interest of the United States to enter into the subcontract with that business.

(c) CONTRACT PROPOSALS.—(1) Each proposal of a facility contractor for the use of a facility under the ARMS Initiative shall include—

(A) the contractor's plan for using the facility, through subcontracting or otherwise, for manufacturing, processing, distribution, or other operations; and

(B) a business plan for the contractor's use of that facility for a purpose described in subparagraph (A).

(2) Each proposal of a potential subcontractor for a subcontract for the use of a facility under the ARMS Initiative shall include—

(A) the subcontractor's plan for using the facility for a manufacturing, processing, distribution, or other operation; and

(B) a business plan for the subcontractor's operation at that facility.

(d) **EVALUATION OF SUBCONTRACT PROPOSALS.**—In evaluating a proposal for a subcontract for the use of a facility under the ARMS Initiative, the facility contractor shall consider the following factors:

(A) Whether the proposal is reasonable.

(B) Whether the plan for using the facility is consistent with the interest of the United States in using the facility to meet emergency national security needs of the United States.

(C) Whether the business plan is adequately financed and includes sound financial management practices that will benefit the community where the facility is located.

(D) Any other factors that the Secretary of the Army considers appropriate.

(e) **REQUIRED CONTRACT PROVISIONS.**—A subcontract for the use of a facility under the ARMS Initiative shall include the following provisions:

(1) A requirement that the subcontractor use the facility only for a manufacturing, processing, distribution, or other operation that is consistent with the purposes of the ARMS Initiative.

(2) A provision for the subcontractor—

(A) to so use the facility rent free;

(B) to pay, at rates charged the Federal Government, for electricity, water, and other commodities or services of utilities that are consumed or received by the subcontractor in the use of the facility; and

(C) to pay the facility contractor a reasonable charge for the facility contractor's overhead expenses for the distribution of commodities or services of utilities, maintenance services and supplies, fire protection, security, and other common support services at rates negotiated by the facility contractor and the subcontractor.

(3) A provision that the subcontractor's use of the facility be at no cost to the Federal Government (other than payment, on a negotiated basis, for services performed for the Federal Government at the facility) or, as appropriate, at a reduced cost to the Federal Government.

(4) A requirement that the contractor make the facility and all Federal Government-owned equipment in the facility available to the United States, as needed, upon a declaration of war by the Congress or a declaration of a national emergency by the President or the Congress.

(5) A provision that the facility contractor be responsible for all activities undertaken at the facility by the subcontractor.

(f) **CONDITIONS OF USE.**—(1) The Secretary shall—

(A) assess the industrial emergency planned requirements for each facility made available for use under this section; and

(B) ensure that each contract and subcontract entered into pursuant to this section for such use contains such terms and conditions for the use of the facility, in addition to the contract provision required by subsection (d)(4), that the Secretary considers appropriate to ensure that the facility is timely returned to production for national security purposes when necessary.

(2) The facility contractor of a facility covered by this section shall be responsible for making improvements to the facility only to the extent of the facility contractor's use of the facility.

(g) **INDEMNIFICATION OF FACILITY CONTRACTORS.**—(1) The Secretary may provide for the

Department of the Army to indemnify and hold harmless the facility contractor of a Government-owned, contractor-operated ammunition manufacturing facility of the Department of the Army for specified risks resulting from activities that are carried out at such facility pursuant to this section when the ultimate customer of the work performed in that activity is the United States Government.

(2) The Secretary shall carry out paragraph (1) under the provisions of Public Law 85-804 (50 U.S.C. 1431 et seq.) as if authorized to do so under section 1 of that public law.

(h) **PROTECTIONS FOR UNITED STATES.**—The Secretary may require that a subcontract entered into pursuant to this section include any additional terms and conditions that the Secretary considers appropriate to protect the interests of the United States.

(i) **WAIVER OF CONTRACT LAW.**—(1)(A) Contracts and subcontracts may be entered into under this section without regard to any other provision of law that establishes procedures, requirements, or restrictions for Federal contracting or Federal property management.

(B) Subparagraph (A) does not apply with respect to a procedure, requirement, or restriction that relates to public health or safety, the health or safety of contractor personnel or Federal Government personnel, or fair labor standards.

(2) The Secretary may waive the applicability of cost accounting standards to a contract or subcontract for the use of a facility under the ARMS Initiative to the extent necessary to ensure that the contractor's or subcontractor's share of the total amount of the overhead costs associated with the facility is not so disproportionate to the contractor's or subcontractor's use of the facility as to prevent the contractor or subcontractor, as the case may be, from conducting a commercially competitive operation at that facility.

(j) **LETTER OF INTENT.**—Pending approval of financing by a financial institution, a loan guaranty, or any other financial arrangement necessary for a subcontract for the use of a facility authorized under this section, the facility contractor may issue a letter of intent, contingent on obtaining adequate financing, to enter into the subcontract.

(k) **STORAGE OF MATERIAL.**—Subsection (b) of section 2692 of title 10, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (6);

(2) by striking out the period at the end of paragraph (7) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following:

"(8) the storage or disposal of any material not owned by the Federal Government under the jurisdiction of the Secretary of Defense if the Secretary of the military department concerned determines that such material is required or generated by a private person in connection with the authorized and compatible use by that person of an industrial-type facility of the Department of Defense."

**SEC. 1076. LOAN GUARANTY PROGRAM.**

(a) **REQUIREMENT FOR PROGRAM.**—The Secretary of the Army shall carry out a loan guaranty program under the ARMS Initiative.

(b) **PURPOSE.**—The purpose of the loan guaranty program is to encourage lending institutions to make loans to contractors and subcontractors in order to facilitate the contractors' ability and the subcontractors' ability to use Government-owned, contractor-operated ammunition manufacturing facilities of the Department of the Army under the ARMS Initiative.

(c) **ADMINISTRATION THROUGH STATE GOVERNMENTS.**—The Secretary shall seek to enter into an agreement with the chief executive of a State to carry out the loan guaranty program within that State. Under such agreement, the Secretary shall authorize the chief executive of that State to provide the guaranty of the United States to repay a loan made by a chartered lending institution within the State that satisfies the requirements of subsection (d).

(d) **LOANS ELIGIBLE FOR GUARANTY.**—A loan is eligible to be guaranteed under this section if—

(1) the loan is made for the purpose stated in subsection (b);

(2) the loan bears a rate of interest that is below the prevailing prime interest rate in the State in which the lending institution is located; and

(3) the recipient of the loan meets the loan eligibility criteria that are established for loans under this section by the lending institution with the concurrence of the chief executive of that State.

(e) **APPLICATION.**—The application for a loan guaranty under this section in connection with the use of a facility under the ARMS Initiative shall include the following:

(1) A signed copy of the applicant's contract (or subcontract) for the use of that facility or, in the case of a subcontract that has not been entered into at the time of application, a signed copy of a letter of intent issued regarding that subcontract pursuant to section 1075(j).

(2) A sound business plan for a viable use of the facility.

(3) A financial statement containing such information as the lending institution may require for purposes of determining whether the applicant meets the loan eligibility criteria referred to in subsection (d)(3).

(4) Complete information on the business history of the applicant, the other commercial interests of the applicant, and the other commercial interests of the applicant's officers.

(f) **LOAN DEFAULTS.**—Upon a default of payment of a loan guaranteed under this section, the Secretary of the Army shall pay the unpaid balance of the loan as prescribed in section 32.3 of the Federal Acquisition Regulation. The Secretary shall make such payment out of amounts in the Armament Retooling and Manufacturing Support Fund established by section 1078. The existence of a default shall be determined in accordance with criteria prescribed by the Secretary.

(g) **DEFINITIONS.**—In this section, the term "State" means a State, Commonwealth, or territory of the United States and the District of Columbia.

**SEC. 1077. OTHER FINANCIAL INCENTIVES.**

(a) **IN GENERAL.**—The Secretary of the Army may provide for the payment of any financial incentive that the Secretary considers appropriate to encourage facility contractors and potential subcontractors to use facilities made available under the ARMS Initiative. The Secretary may pay such an incentive in the case of the use of a facility by a contractor or subcontractor if the Secretary determines that the use plan and business plan submitted for that facility pursuant to section 1075(c) demonstrate a potential for viable use of the facility.

(b) **CONDITIONS FOR INCENTIVE PAYMENT.**—(1) An incentive may not be paid to a subcontractor with respect to a subcontract until a letter of intent regarding that subcontract has been issued pursuant to section 1075(j) or, if no letter of intent is issued, the subcontract is entered into with that subcontractor.

(2) The amount of an incentive payment under this section shall be negotiated by the Secretary and the recipient.

(c) DETERMINATION OF AMOUNTS.—(1) The Secretary of the Army may make incentive payments in the case of a contract or subcontract in amounts determined on the basis of a sliding scale, prescribed by the Secretary, that relates to the estimated savings to the Federal Government that will result from the use of a facility under that contract or subcontract during the period of the performance of the contract or subcontract.

(2) The Secretary shall prescribe in regulations a maximum amount of incentive payments that may be made under this section in the case of a contract or subcontract.

(d) SPECIFIC AUTHORITY.—Incentives provided for under subsection (a) may include the following:

(1) Payment of the costs of environmental baseline studies, environmental assessments, environmental permits, and environmental impact statements.

(2) Payment of the costs of reasonable alterations of a facility that are made for the use of the facility under the ARMS Initiative.

(3) Payment of the costs of marketing studies and feasibility studies in connection with the use or proposed use of a facility under the ARMS Initiative.

(4) Payment of an incentive bonus to a subcontractor for entering into one or more long-term contracts pursuant to section 1073.

(5) Payment of the costs associated with plant and equipment reconfiguration.

(6) Payment of the costs incurred by the Federal Government in connection with sales authorized by section 1077.

(7) Payment of all or a portion of the negotiated damages resulting from the contract termination pursuant to section 1075(e)(4).

(8) Any other incentive, to include consideration to the facility contractor, that is consistent with the purposes of the ARMS Initiative.

#### SEC. 1078. EXCESS EQUIPMENT.

(a) DISPOSITION AUTHORIZED.—Notwithstanding any other provision of law, if the Secretary determines that equipment at a Government-owned, contractor operated ammunition manufacturing facility of the Army is not essential for meeting industrial emergency planned requirements for national security purposes, the Secretary of the Army may authorize the facility contractor to sell or otherwise dispose of the equipment.

(b) PROCEEDS OF DISPOSITION.—The proceeds of a disposition of equipment authorized by subsection (a) shall be deposited in the Armament Retooling and Manufacturing Support Fund established by section 1078.

#### SEC. 1079. ARMAMENT RETOOLING AND MANUFACTURING SUPPORT MAINTENANCE FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the "Armament Retooling and Manufacturing Support Maintenance Fund" (hereinafter in this section referred to as the "Fund").

(b) PURPOSE.—The purpose of the Fund is to provide funds for activities related to the use of Government-owned, contractor-operated ammunition manufacturing facilities of the Department of the Army for Arms Initiative purposes set forth in section 1073, as follows:

(1) For repair, storage, or replacement of equipment necessary to meet emergency planned requirements.

(2) For general installation maintenance and facility repair.

(3) For equipment for health and safety.

(4) For equipment for environmental maintenance.

(d) DEPOSITS IN THE FUND.—The following receipts shall be deposited in the Fund:

(1) The proceeds of sales of excess property pursuant to section 1077.

(2) Reimbursement payments received in accordance with subsection (c).

#### SEC. 1080. REPORT.

(a) REPORT REQUIRED.—Not later than June 1 of each year, the Secretary of the Army shall submit to the Committees on Appropriations and on Armed Services of the Senate and House of Representatives an annual report on the ARMS Initiative.

(b) CONTENT OF REPORT.—The report shall contain a comprehensive review of contracting of Government-owned, contractor-operated ammunition manufacturing facilities under the ARMS Initiative, including the following:

(1) A summary description of each contract and subcontract entered into for the use of a facility pursuant to section 1075 and a summary description of the proposals for such a contract or subcontract that were submitted and did not result in a contract or subcontract for the source of the proposal.

(2) The financial incentives, if any, paid each contractor and subcontractor under the ARMS Initiative.

(3) Any recommendations for expansion of the ARMS Initiative to other components of the defense industrial base of the United States.

#### SEC. 1081. FACILITIES AS FOREIGN-TRADE ZONES.

(a) ESTABLISHMENT OF TASK FORCE.—The Secretary of the Army shall establish a task force—

(1) to investigate and make recommendations regarding the most effective means of obtaining for Government-owned, contractor-operated industrial facilities of the Department of the Army a designation as foreign-trade zones established pursuant to an Act entitled "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes", approved June 18, 1934 (48 Stat. 998; 29 U.S.C. 81a-81u); and

(2) to select one such facility to recommend for designation as a foreign-trade zone for demonstration purposes.

(b) COMPOSITION OF TASK FORCE.—The task force shall be composed of the following members:

(1) The Secretary of the Army, who shall be the Chairman of the task force.

(2) The Secretary of Commerce.

(3) The Administrator of the Small Business Administration.

(4) With respect to each facility referred to in subsection (a)(1), at least 5 members appointed by the Secretary of the Army, after consultation with the Secretary of Commerce, from among persons who are representative of businesses in the community where that facility is located.

(c) REPORT.—Not later than May 1, 1993, the Secretary of Army shall submit to the Committees on Appropriations and on Armed Services of the Senate and House of Representatives a report containing the results of the investigation conducted by the task force and the recommendations of the task force, including the recommendation regarding the facility that should be established as a foreign-trade zone for demonstration purposes.

(d) ACTION ON RECOMMENDATIONS.—The Secretary of the Army, in consultation with

the Secretary of Commerce, shall take such action as may be necessary to establish, not later than August 1, 1993, the facility recommended pursuant to subsection (a)(2) for designation as a foreign-trade zone for demonstration purposes.

#### SEC. 1082. LIMITATION ON FACILITY CONTRACTOR FEES.

After September 30, 1994, no fee may be paid a contractor for the operation and maintenance of a Government-owned, contractor-operated ammunition manufacturing facility of the Department of the Army except for a fee paid on a negotiated basis for services specifically related to the management and operation of the facility that are performed by the contractor for the United States pursuant to a facility contract.

#### SEC. 1083. AUTHORIZATION OF APPROPRIATIONS.

(a) FUNDING.—Funds are authorized to be appropriated to the Department of the Army for the ARMS Initiative for fiscal years 1993, 1994, and 1995, in the total amount of \$200,000,000, of which—

(1) \$50,000,000 may be made available for the Armament Retooling and Manufacturing Support Maintenance Fund;

(2) \$100,000,000 may be made available for carrying out the loan guaranty program under section 1075; and

(3) \$50,000,000 may be made available for providing other financial incentives under section 1076.

(b) RELATIONSHIP TO OTHER AUTHORIZATIONS.—The authorization of appropriations in subsection (a) for fiscal year 1993 is in addition to other authorizations of appropriations contained in this Act.

#### TRIBUTE TO SENATOR WARREN RUDMAN

Mr. CONRAD. Mr. President, I wish to express regret that when the 103d Congress convenes, the U.S. Senate will no longer have the benefit of the insight and candor of the senior Senator from New Hampshire, Senator WARREN RUDMAN. He is truly one of the great Senators to have served in this body.

One of the hallmarks of WARREN RUDMAN is his ability to work with people from both sides of the political aisle. This has been evident in the select committee investigation of Iran-Contra, his work on reducing the budget deficit and on the Ethics Committee. It is a high compliment to have the respect of his colleagues as vice chairman of the Ethics Committee, one of the most difficult jobs in the U.S. Senate.

WARREN RUDMAN speaks passionately on the fundamental problems he sees the country facing and is willing to say what he believes is right even if it does not please others. In his 12 years in the Senate, he has been willing to make the tough decisions necessary to address the problems of the Nation, including the Federal budget deficit. I have been privileged to work with WARREN on the Senate Budget Committee and in more informal bipartisan working groups seeking to develop solutions to the budget deficit. I have found him to be open to the discussion and willing to consider others' ideas,

which, in my view, is the only way we will be able to make significant progress in reducing the budget deficit. His willingness to listen and negotiate have served him and the Senate well.

It is my fervent hope that in the next Congress, we will have a serious debate on the components of deficit reduction and achieve significant action. WARREN will be missed in those Senate debates, but in his usual fashion, he will continue to work on the issues he cares about. I respect his decision to form the Concord coalition to continue to keep the Federal budget deficit in the national debate. His work with Senator TSONGAS on this effort is a great service to the Nation. It is my hope that with his work, coupled with the continued efforts of our colleagues in the Senate, we will be able to make the tough choices necessary to put this Nation back on track.

It has been a privilege to serve with WARREN RUDMAN and count him as a friend. We will miss his plain-dealing style, but look forward to his continued work on the important national issues from outside the U.S. Senate. My wife, Lucy, and I wish WARREN and Shirley all the best.

#### TRIBUTE TO DR. STANLEY P. WILSON

Mr. HEFLIN. Mr. President, Dr. Stanley P. Wilson, a long-time personal friend, retired on June 30 of this year from his position as executive vice president of the Council for Agricultural Science and Technology. Dr. Wilson, a Dixie, AL, native and former vice president for agriculture, home economics, and veterinary medicine at Auburn University, served as the council's executive vice president for a little over 2 years.

During Stanley's tenure as its executive vice president, the council, known as CAST, completed several important task force activities resulting in the publication of highly definitive reports. Included among these studies were: "Herbicide-Resistant Crops"; "Food Fats and Health"; and "Food Safety: The Interpretation of Risk." Other, more recent studies included "Pesticides: Minor Uses/Major Issues" and "Waste Management and Utilization in Food Production and Processing."

Stanley's work with the U.S. Department of Agriculture led to the development of a contract to develop a major task force report entitled, "Preparing U.S. Agriculture for Global Climate Change." This document provided resource information for the USDA's use in preparing for the U.N. Conference on Environment and Development, held in June in Rio de Janeiro.

Stanley brought an extremely high degree of professionalism to his office at CAST. His positive interaction with its executive committee and board of

directors, together with his effective management and support of the office staff, enabled CAST to make major strides in addressing important problems in agricultural science and technology during his 2 years in office.

I am proud to congratulate and commend Dr. Stanley Wilson for his many contributions to the field of agricultural science through his service to the Council for Agricultural Science and Technology. His energy and dedication were impeccable, and his storehouse of knowledge invaluable. He set a standard which his successors will find hard to meet, and leaves behind a record they will have difficulty duplicating. I wish Stanley the very best in all of his future endeavors.

#### DEATH OF A. LUKE CRISPE

Mr. LEAHY. Mr. President, A. Luke Crispe of Newfane, VT, died on August 25. He was a great supporter of Presidents Nixon and Reagan, yet a very kind and valued friend to me throughout my own political career.

He was a patriot, recipient of the Freedom Foundation Award in 1951 and past commander of the American Legion in Vermont.

He loved his country with a passion and was decorated for his military service during World War II.

Luke was born in New York City but grew up on the Jersey shore. His father was a wholesaler who specialized in Italian foods and he often took Luke on sales trips with him to New England. Luke fell in love with Vermont during one of these trips, and after graduating from Indiana Law School in 1933, moved into our State and practiced law in Brattleboro until his retirement in 1981.

Luke was very proud of his Italian heritage—our backgrounds were similar in this respect—and we would talk about our families during his annual visits to Washington to attend the American Legion National Convention.

A formidable trial attorney in the courtroom—Luke was no less formidable within his own Republican Party in Vermont. He relished the reputation of a spoiler after his spirited opposition as a third party candidate in 1962 led to the election of the first Democratic Governor in more than a century.

Luke boasted that he was responsible for Vermont's emergence as a two party State after more than a century of one party rule. And there is not a Vermont historian who would argue that his influence on the evolution of Vermont politics was anything but immense.

In memory of this wonderful gentleman, who I will greatly miss, and for his lovely wife of 47 years, the former Miriam B. Hughes, I ask that a tribute to Mr. Crispe that appeared in the August 28 edition of the *Rutland Herald*, be reprinted in its entirety in the CONGRESSIONAL RECORD.

#### A. LUKE CRISPE

A. Luke Crispe, the Brattleboro lawyer who died this week at the age of 80, was one of the movers and shakers in Vermont politics who had much to do with helping to change the state from a one-party Republican bastion to two-party politics although he started out as a Gibson Republican.

Best known for the part he played in the 1962 election of Philip H. Hoff, Vermont's first Democratic governor in more than a century, Luke Crispe had a broad range of political activity. Although he helped the Democrats he also functioned as a Republican state leader for conservative Republican candidates for president like U.S. Sen. Robert Taft of Ohio in 1952, Sen. Barry Goldwater in 1964 and Ronald Reagan in 1968.

His part in the 1962 election of Hoff came about when he and former Republican state Sen. T. Garry Buckley of Bennington formed what they called the Vermont Independent Party and diverted enough Republican votes away from Gov. F. Ray Keyser Jr. to elect Hoff. Luke had already won something of a reputation among liberal Republicans as a "spoiler" in 1960 when he became the fourth candidate for the party nomination for governor and opened the door for Keyser.

Lt. Gov. Robert S. Babcock had been favored to win the nomination until his espousal of a sales tax brought Luke Crispe into the race. Crispe may also have played a role in the election of William H. Meyer to Congress in 1958. That came about when he helped to split the Republican primary vote by becoming one of six candidates for the Republican nomination. Former Lt. Gov. Harold J. Arthur, who had succeeded to the governorship after the resignation of Ernest W. Gibson Jr. in 1950, ultimately won the 1958 primary and became Meyer's Republican opponent. Arthur had already been defeated for his party's nomination for Congress in 1950 while serving out the balance of Gibson's term. He was not highly regarded as a winner.

Luke Crispe had the position of executive clerk during the Gibson administration and was entrusted with Gibson's ill-fated proposal to establish the State's first power authority. The legislation didn't have the kind of organized support that was needed for such a progressive change in the way the electric power business was handled in Vermont.

The Brattleboro lawyer has been referred to at different times by such names as "stormy petrel" and in other less kindly terms but he was a memorable figure in Vermont politics for many years.

#### IN HONOR OF LAVERN DUFFY

Mr. NUNN. Mr. President, I rise to offer a few words in tribute to the memory of LaVern Duffy, a distinguished former staff member of the permanent Subcommittee on Investigations, who passed away on September 21, 1992, in Independence, IA.

LaVern Duffy joined the subcommittee staff in 1953, and from that time until his retirement in 1981, was one of the Senate's most dedicated, resourceful, and effective staff members. He worked for and with some of this Chamber's most important and memorable figures—such as John McClellan, Abraham Ribicoff, and Robert Kennedy—on numerous landmark inves-

tigations. Indeed, in the history of the subcommittee, no staff member has been responsible for more investigations that lead to public hearings than Mr. Duffy.

He is perhaps best remembered for his outstanding work in conjunction with the Senate's investigations of labor racketeering in the late 1950's and organized crime in the early 1960's. In the case of the former, his efforts exposed the largescale corruption in the Teamsters Union. Millions of working men and women in our Nation's unions owe a debt of gratitude to the lasting effects of this investigation. In the latter, the renowned Valachi hearings, his work helped to change the governmental and public perception of organized crime in our country. Until these history-making hearings, many Americans played down organized crime's power and influence and some, including Federal law enforcement officials, even doubted its existence.

Beyond the momentous effects of his illustrious career, it is also important to emphasize that LaVern Duffy was a consummate professional, who went about his work in a fair, balanced, and responsible manner. He was known and respected for his meticulous attention to detail and keen sense of judgment. In assembling his investigative materials and preparing for hearings, for example, he was well-known to be a firm advocate of the dictum, "one mistake is all it takes to ruin an otherwise perfect presentment." His approach to his work, in short, stands as a classic example of how Congress can and should exercise its enormously important and powerful oversight responsibilities.

In conclusion, as one who had the good fortune to work closely with LaVern Duffy for many years, I can say with utmost gratitude and respect that his life's work constitutes a priceless contribution to the Senate and the Nation. I have no doubt that Mr. Duffy's tenure with the subcommittee will be long remembered and appreciated.

#### ENDANGERED SPECIES ACT REFORM

Mr. GORTON. Mr. President, yesterday was an important day in the debate over the reauthorization of the Endangered Species Act. Several Members of the House of Representatives introduced the Endangered Species Act Reform Amendments of 1992. This bill was introduced by a group of Representatives with the strong, bipartisan leadership of Representatives BILLY TAUZIN of Louisiana and JACK FIELDS of Texas. I support this bill and will introduce a companion Senate bill in the 103d Congress.

This proposal is designed to make a set of reasonable and much-needed modifications to a law that was designed with the best of intentions, but which is being implemented in a man-

ner that has instead produced unintended and deleterious consequences. The Endangered Species Act seeks to protect species from endangerment and extinction, and with this objective, I completely agree. We must, however, put aside questions of the inherent goodness of the Endangered Species Act as it stands alone, and examine it in the harsh light of its own consequences over the two decades of its existence.

We may start by asking how effective the Endangered Species Act has been in achieving its intended goals of preserving species and diversity, and at what cost has that measure of effectiveness come?

First, Mr. President, we begin with the fact that 1,100 species have been listed over the 20 years the act has been in existence. These listings have cost billions of dollars in direct Federal resources. And there are thousands more candidate species that await listing.

To get an idea of the amount of money these species have cost and will continue to cost the American taxpayer, let me quote Robert E. Gordon, Jr., in a recent article that appeared in the National Wilderness Institute's newsletter, Resource. Mr. Gordon cites recent audits by the Interior Department's inspector general:

The potential recovery costs for currently listed species is approximately \$4.6 billion. This is an average of over \$7.9 million per listed species. If that average were applied to the some 600 candidate species the Service believes "warrant listing" it would amount to another \$4.7 billion; furthermore, if that average were applied to the 3,000 candidate species which the Service believes "may warrant listing" it would amount to an additional \$23.7 billion. In addition to the recovery costs, the report states that "approximately 25 percent of all listed species have conflicts with development projects or other forms of economic activity" which certainly entails staggering costs to the economy.

Those are the direct impact costs on government. The indirect emotional costs on people—jobs lost, families displaced, communities slowly destroyed—are not quantifiable, but have been devastating.

These costs are staggering. We could perhaps justify these costs, though, if they produced positive results. But we must now ask, What have we achieved for the 20 years spent, the billions of dollars appropriated, and the displacement of thousands of people and their families? Four or five species have been delisted. According to a recent report of the Fish and Wildlife Service, six or seven others have achieved 75 percent or more of their targeted recovery goals. Has it been worth the costs to reach a measure of recovery success for 2 percent of all listed species? Have we gotten our money's worth, or do we need to make some changes so that the act will work as it was intended to, for both species and for people?

Even in the few instances where a species has achieved recovery success, it is unclear whether it was our billions of dollars that did the job. The 2 percent of species that showed some recovery success include species for which additional population segments were found, indicating that the original listing was likely in error. One bird in this top group is found in numbers that are the same as they were a decade ago, and for which no recovery plan was ever prepared. The Fish and Wildlife Service lists the alligator as recovered, but Dennis David of the Florida Game and Fresh Water Commission challenges whether the alligator would even have been listed using current standards. Finally, three delisted species—the Palau owl, dove, and fantail, all from a United States territory east of the Philippines—apparently were undercounted originally, and their recovery paralleled the natural recovery of their habitat that was devastated during World War II.

Despite this meager record of success, a recent Fish and Wildlife Service report points to these 2 percent of species as evidence that "recovery can and does happen," and then earnestly goes on to recommend "a serious commitment of both personnel and money [to ensure] stabilization and recovery". This report, Mr. President, would be humorous if its implications weren't so clear: namely, that the Federal agency designated to enforce the Endangered Species Act is convinced that with more tax dollars the act works just fine, thank you.

Another goal of the Endangered Species Act has been the preservation of biological diversity in nature, and in this effort we have fared no better. Because of the manner in which the Endangered Species Act has come to be used—as a regulatory bludgeon to stop all resource development, rather than as a guide for species preservation—prioritization in listings has lost any scientific coherence. We find, for example, that population segments within one genetically distinct species are often given a higher priority on the endangered species list, and thus are more likely to receive Federal funds directed toward its recovery, than are completely distinct species that are in danger of total genetic extinction. Even worse, Christopher Cole in the March 1992 Boston University Law review notes that—

The majority of species listed under the Act have been mammals and birds, which are more apt to elicit widespread public concern than plants, fish, amphibians, or reptiles.

Even more, these popular creatures are less apt to contribute to the goal of biological diversity than are the less popular, yet often more biologically critical, microspecies.

Finally, even if we examine the underlying purpose of the Endangered Species Act—the resumption of our

willing stewardship of the Earth after a century of industrialization whose own unintended consequences had only recently begun to be realized—we also find failure. Even in cases where we have taken on the role of advocate, we have just as often caused more harm than we have helped.

And, most troubling, instead of Americans working together to save the flora and fauna of our continent, this well-intentioned but flawed law has pitted the needs of people against nature—as in the case of loggers and owls—in an adversarial bout which neither can win, but which both can lose.

The Tauzin bill that will be introduced today represents a reasoned approach to restoring balance between people and nature.

The first, and most critical adjustment proposed is that we place people—families, communities, and jobs—back into the equation by requiring a draft recovery plan to be presented concurrent with the listing of a species as endangered or threatened. The actual decision to list a species will and must remain a purely scientific one, but coming to that decision does not preclude a simultaneous study of the human impact of the listing. When a species is listed as endangered or threatened, our bill would immediately provide for a recovery plan draft—the framework for saving the species in question with as little human dislocation as possible.

Mr. President, I cannot overstate the importance of this change in the listing procedure. Many times over the past 4 years, I have spoken of the tragic situation in Northwest logging communities created by northern spotted owl preservation. That preservation has wreaked incomprehensible havoc on timber families who have had to live with prolonged uncertainty about their futures. All indices of human despair have gone through the roof in these communities: child abuse, spousal abuse, alcohol and substance abuse, divorce, adolescent depression and suicide attempts, bankruptcies, and illness. All of these have been exacerbated by the terrible and unintended consequences of the Endangered Species Act of 1973.

The spotted owl has only foreshadowed what will soon happen throughout this country if the Endangered Species Act is not amended to consider human beings at the same time that it considers nonhuman species. There are listings waiting in the wings that dwarf the impact of the owl's listing. In my own State of Washington, for example, the stage is being set for the next round of this fight. This time the standoff will be between a subspecies of salmon and the citizens of the Northwest who depend on water from the State's rivers. That is not a limited segment of our population, as is the case in the Northern spotted owl.

This brewing crisis will involve all citizens of the Northwest. It is impossible to calculate the dollar cost of such a listing under the procedure currently allowed by the Endangered Species Act. It is impossible even to imagine the human cost. What is certain is that each and every resident of the Pacific Northwest will feel the impact.

Nor is the Pacific Northwest alone in this battle. With over 1,100 species already on the list and thousands more waiting, it is only a matter of time before every State in the Union is impacted by this flawed act. Some of my colleagues in the Senate have already seen firsthand the human and community impacts of the act in their own States. Senator GORE fought the snail darter 12 years ago and succeeded in allowing the continued construction of the Tellico Dam. He did so because the people of Tennessee would have suffered disproportionately otherwise. It was not an easy fight then, and it has become progressively difficult since.

The Tauzin bill will place human and community considerations on an equal footing and on a similar timeframe as species considerations. Animals and plants and trees will benefit and people will benefit.

The bill I intend to introduce in the Senate next year will also improve the Endangered Species Act by restoring rational criteria to the listing of subspecies and population segments. Currently, listing decisions are, in some cases, based on old taxonomic criteria that allow subspecies to be listed when they do not represent true biological diversity. Many population segments are listed that are not either geographically or genetically isolated.

Take, for example, the Louisiana Black Bear. This bear was listed as a subspecies, not a full species. The scientists who determined that the bear is a subspecies made the determination on the basis of 100-year-old taxonomic criteria. Those criteria include moral characteristics. Because nowhere in the act is the term subspecies defined, I propose to eliminate these subjective criteria and establish scientific standards that will ensure that if a subspecies is listed, it will only be listed because it represents true biological diversity.

Another example of the problems that flow from the lack of a definition for subspecies and population segments is the tri-State population of the marbled murrelet, whose listing threatens to eliminate thousands more jobs in Washington State. These birds reside in Washington, Oregon, and California, and in those States the marbled murrelet's numbers may possibly be in decline. But the tri-State population of marbled murrelets is the furthest fringe of the species' overall habitat. The marbled murrelet also resides in Alaska where there are some 250,000 of these birds.

Mr. President, I do not argue that the tri-State population of the marbled murrelet is unworthy of protection under the Endangered Species Act. It is indeed beneficial to protect all living creatures. It would also be beneficial if dinosaurs still roamed the planet, as well as do-do birds and the kiwi and all of the 99 percent of species that have already come and gone on this Earth. My argument is different. My argument is that it is bad policy to pursue an objective, albeit an inherently beneficial objective, through the actions of government without considering what be the unintended consequences of that action. There are thousands of species of plants and animals that are threatened. They are all worth saving. It may be, however, that we cannot save them all and we will not know the answer to that question until we have examined the impacts.

We must, therefore, construct a system that prioritizes species conservation measures on the basis of our ability to improve their status. The system must also contribute to the preservation of the widest range of true biological diversity. To proceed without scientifically based definitions is simply to fool ourselves and the citizens of this country. We should prioritize through accurate and effective criteria based on science, not sentimentality. The Tauzin bill does not address this great imprecision in the Endangered Species Act. I propose the following definition of subspecies and population segments:

Section 3(16) of the Endangered Species Act of 1973 (16 U.S.C. 1532(16)) is amended by inserting at the end thereof the following:

To be included in such term, a subspecies must be genetically distinct, as determined by the best scientific technology available, from other subspecies, and a population segment must (1) be isolated from other populations geographically and (2) possess distinct genetic differences, or occupy unusual or distinctive habitat, or demonstrate an unusual or distinctive adaptation to its environment.

Another improvement in the Endangered Species Act provided by the Tauzin bill is the establishment of a method for compensating private landowners for fifth amendment property takings. If private land is rendered valueless by government actions imposing Endangered Species Act restrictions, then the Government must compensate the citizen who owns that land. This is a concept recently upheld by the Supreme Court's decision in the Lucas case.

The idea that Government can strip private land of its value is anathema to most Americans, and yet this is one of the unintended consequences of the Endangered Species Act. The Tauzin bill does not prevent the Federal Government from mandating the use of private land for the greater good, but it does require that it not do so capri-

ciously: if the greater good is truly greater for all of us, and not just for environmental activists, then we should all shoulder its costs.

Finally, let me highlight one other benefit of the Tauzin bill: It levels the playing field for private citizens who are at a distinct disadvantage to Federal agencies in the Endangered Species Act process. Federal agencies proceed through a process called consultation with the Fish and Wildlife Service and the National Marine Fisheries Service and this process dispenses with their proposals on a tight timeframe and with a sense of finality.

Today, private property owners do not have access to this consultation process. This bill would provide that access. For example, if the Federal Government wants to sell timber, it submits its proposal to the Fish and Wildlife Service for consultation and the Service must respond within 90 days. Private citizens, on the other hand, cannot currently take advantage of this fast-track consultation process, nor can they appeal to the so-called God squad on the decisions that affect them.

Again, the Tauzin bill seeks to limit the unintended consequence of the original Endangered Species Act that places private citizens at a distinct disadvantage in the ability to make use of their land.

Mr. President, the Tauzin amendments to the Endangered Species Act represent good legislation that checks the flow of devastating unintended consequences from the implementation of that original act. There is bipartisan support for these amendments, and they are supported by the National Endangered Species Act Reform Coalition and the Labor-Management Committee of the Timber Industry. Together these coalitions represent many associations, businesses, co-ops and other concerned entities.

There will undoubtedly be opposition to this legislation, Mr. President, and unfortunately it will be bitterly pursued. National environmental organizations have been preparing for this moment for the better part of the past year. They have been preparing their response to what they have anticipated would be in this legislation, and have circulated several rebuttals. In general, their complaints are specious. They anticipate that the act will be modified to give humans and communities some relief from the suffering they have experienced under the current act. They object in particular to proposals that give their adversaries some access to governmental redress that the preservationists have themselves enjoyed through the application of this somewhat flawed Endangered Species Act.

For instance, Mr. President, they complain that too little time is allowed for the Secretary of the Interior to make decisions that could impact

animals, but too much time is given for peer review and other procedures that could be used to address and mitigate impacts on humans and communities.

They complain that access to the Federal Government should be allowed private citizens who seek to use the Endangered Species Act to stop the productive use of our resources, but access should be disallowed for private citizens who seek exemptions from the Endangered Species Act restrictions that disproportionately impact their property.

They complain that requiring public hearings on the economic and other human impact of listing of a species is too onerous, but demand extensive public hearings whenever there is a proposal to use land productively.

This is a classic example of the premise that "what's good for the goose the gander can't have," Mr. President, and it is the goose that is its most vigorous advocate.

Mr. President, the Endangered Species Act has dislocated humans and communities, it has created uncertainty, and it has limited the ability of our citizens to use our resources productively. The goal of saving species and preserving biological diversity is a noble one, but the act has led to distress and dislocation where it meant to preserve life and diversity. It does not work for individual species, it does not work to preserve a diversity of species, and it most assuredly does not work for people. The act, as it stands today, has produced consequences that have unintentionally hurt people without even achieving its original goals, and it should, therefore, be repaired.

In the Tauzin bill, we have the opportunity to restore the balance that was the intended consequence of the original law. The amendments before us recognize that, while our intentions may be sterling, they are not without cost. In a time of declining Federal resources, our debate—and our conclusions—must extend beyond the inherent value of this law as it stands alone and must examine those values in the larger context of its impact on people as well as on the species it purports to save.

I am proud to support this legislation and I urge the Senate to pay serious and positive consideration to it during next year's debate. It is time to rectify the unintended consequences of the original Endangered Species Act that have so demoralized many working and producing segments of the population of this country.

#### TRIBUTE TO SENATOR TIMOTHY E. WIRTH

Mr. CONRAD. Mr. President, it is with deep regret that I rise to pay tribute to our colleague, TIM WIRTH. TIM and I came to the Senate in the same class in 1986. It has been a great privi-

lege to serve with him for 6 years and collaborate with him on several issues that will affect generations to come.

Senator WIRTH is well-known as a leader in championing progressive energy policies. Long before the Persian Gulf war reminded us of our energy dependence and vulnerability, Senator WIRTH was pushing for a comprehensive energy strategy. He has long known what we as a Nation keep forgetting: That is the United States is becoming ever more dependent upon imported oil, that this vulnerability threatens U.S. security, and that we need to take aggressive steps to increase our energy independence. You can see Senator WIRTH'S influence clearly in the final version of H.R. 776, the National Energy Policy Act. TIM took the lead in pushing vitally important provisions to increase energy efficiency. This area should be the cornerstone of any serious energy strategy, and TIM WIRTH was instrumental in giving some real teeth to the efficiency provisions in H.R. 776.

Senator WIRTH has also been a champion of alternative and renewable energy. He believes, as I do, that we need to promote much greater use of environmentally friendly and domestically produced energy sources such as wind and solar power, natural gas, and alcohol fuels. Our children and grandchildren will benefit from his work to broaden the use and extend the life of our energy resources.

I can truly say that I have enjoyed working with TIM on Energy and Natural Resources Committee. We have worked closely together on many issues in the past 6 years, and I always respect his opinion and value his advice.

TIM and I have also been colleagues on the Senate Committee on the Budget. TIM has consistently shown his independence, courage, and concern for the welfare of our children by proposing reprioritization of the Nation's discretionary spending and voting for some of the most dramatic deficit reduction measures considered by the Senate. In fact, he was one of three supporters of the budget alternative package I offered this spring in committee—a package that would reduce the deficit \$517 billion over 5 years and reprogram \$70 billion into education, health care, infrastructure, and competitiveness. In addition, I was pleased to support his successful effort in 1991 to provide the largest increase in years in funding for education programs—the homefront initiative. I have welcomed his collaboration and will miss his support.

Whatever TIM chooses to do after his retirement from the U.S. Senate will benefit from his energy, and committed attention that we have seen during his 18 years representing Colorado in Congress. I am pleased to have had the privilege to work with TIM WIRTH.

Lucy and I wish TIM and Wren all the best and look forward to our continued friendship.

TRIBUTE TO DR. HAZEL  
MCGAFFEY

Mr. CRAIG. Mr. President, I rise today to pay tribute to Dr. Hazel McGaffey of Priest River, ID, who has given unselfishly of her time and effort to the victims of the Chernobyl nuclear accident in the former Soviet Union.

As one of the representatives of the 1992 Operation Hope Express for the Washington-North Idaho Conference of the United Church of Christ, Dr. McGaffey assisted other doctors in delivering drugs and antibiotics to the children of Belarus suffering from cancer and other illnesses.

Dr. McGaffey and other members of the CitiHope mission were in Belarus from June 7 to 22. Six cities in the Chernobyl Crescent were visited—Minsk, Brest, Gomel, Bragin, Narovlia, and Mogilev—and food from the U.S. Department of Agriculture was distributed. This was the first USDA joint venture with CitiHope International.

Mr. President, I hope all our colleagues will join in recognizing the fine work Dr. McGaffey has done and all that she has given to the people of Idaho and to the people of Belarus. Her dedication to others is certainly worthy of recognition by the U.S. Senate.

DISASTER ASSISTANCE AND PRICE  
GOUGING

Mr. GLENN. Mr. President, a few short weeks ago, the Nation looked on in horror as Hurricane Andrew ripped through south Florida, reducing thriving communities to matchsticks, leaving 44 dead and as many as 250,000 families without homes. In the predawn hours of Monday, August 24, Andrew dealt a devastating blow to the people of that area, obliterating the homes that they had worked and struggled for, reducing their immediate needs to the absolute basics: Food, water, shelter, and clothing. Those hardy souls who did not or could not heed the call to evacuate cowered in fear as their homes were torn apart around them by the fearsome winds.

And out of this apocalyptic scene, the people cried out for help from their Government. They cried out for food and water to relieve their immediate suffering. And they cried out for assistance to rebuild their homes, their businesses, their very lives which had been shredded by the storm's fury.

And where was our Government in this moment of need. Well, Mr. President, all we know is where it wasn't. Because for at least 4 days, it wasn't in south Florida. This disaster hit on Monday morning, but it was not until Friday—a full 4 days later—that Federal aid began to arrive in anything approaching the necessary scale.

In the meantime, many people went without food, without water and other basic necessities. People were stranded in the wreckage of their homes, unable to leave for fear of looters, and unable to stay for lack of food and water. And those who found the supplies they needed were often forced to pay drastically inflated prices at the hands of price-gougers who did their best to profit from the misery of the hurricane victims.

Mr. President, I regard this situation as absolutely a disgrace. It is not as though Andrew hit us with no warning; rather, we were tracking the progress of the storm for days beforehand. Why then were we unable to get these people the assistance they needed before 4 or more days had elapsed? Four days, Mr. President. In that situation 4 days must seem like an eternity. With all of the resources and the capability that we have in this country, there is absolutely no reason for this to have happened.

So how did this happen? How have these disaster victims had to wait so long before the government could come to their aid. Well, Mr. President, that is where the record becomes a bit fuzzy. Because though there weren't many planes to bring in food, the accusations were flying fast and furious.

The local authorities say they asked for help. The State says they didn't. Federal officials say they were ready to come forward, but they weren't asked. The State says that they did. Sorting out exactly what happened may take awhile, but it is important. Because there is no question that something broke down. We just need to figure out what it was.

Now, Mr. President, I do not want to unfairly prejudice this situation before we fully know all of the facts, but there is little question that a large part of the problem lies with the Federal Emergency Management Agency [FEMA]. Whether it is because of some difficulties in FEMA's statutory authorities, or because of the FEMA's structure or management, we don't really know—yet. That is a question to which I hope we will be getting some answers to in coming months. In any event, it is clear that FEMA continues to be unable to manage the immediate aftermath of a large-scale disaster situation. We saw it with Hurricane Hugo and now we see it again with Hurricane Andrew.

Now I don't want to disparage the areas in FEMA has been able to do good work. Once the relief effort got up and running, the reports are that things went relatively smoothly. The supplies came in, people were getting food, clothing, and shelter in tents. FEMA set up its Disaster Application Centers so people could apply for Federal aid to get their lives sorted out again.

I have also had the opportunity to see FEMA at work following major

floods and tornadoes in my home State of Ohio, which, though they might have been somewhat smaller in scope than Hurricane Andrew, were no less tragic. By and large, with some notable exceptions, FEMA has been able to provide help in the recovery stages so people can start rebuilding their homes, businesses, and most importantly, their lives. There is no question that there are some activities, especially in the restoration and recovery period, that FEMA can do well, and the men and women of the agency should be commended for their hard work.

But, Mr. President, we need to talk about the areas where FEMA cannot seem to get it right. And responding promptly and aggressively to a major natural disaster is one of those areas. In September of 1989 when Hurricane Hugo struck the Virgin Islands, Puerto Rico, and the Carolinas, FEMA was roundly criticized for what was regarded as an inefficient and inept response. A GAO report released last year confirmed what everyone knew in their gut, that the way that this country responds to major natural disasters is not set up to get the job done. GAO found that FEMA, as well as the other Federal agencies and the State and local authorities, was not ready for a disaster of the magnitude of Hugo.

Well, we have had 3 years since Hugo to get it right. FEMA has had 3 years to prepare itself for the next major disaster. And what do you know? Here we are again. Accusations and finger-pointing, while the disaster victims go hungry.

Mr. President, I don't know what the right answer is. To be sure, there are a lot of proposals out there, some have which may have some merit. One proposal that we hear a lot is that we should fold the whole FEMA operation into the Department of Defense and make DOD the first responder in times of disaster. Then, there are various proposals to restructure the agency. Finally, there is the possibility of maintaining FEMA, but amending its statutory authority.

There may very well be merit to some of these proposals. But I would caution my colleagues against rushing headlong into some quick fix before we are sure that what we will get is any better than what we have now. Disaster response is an area of Federal activity that is fraught with difficult issues. There are concerns about State's rights. There are issues about cost-sharing. There are concerns about the proper role for the military in a civilian matter, not to mention whether an expanded military role would have a negative impact on our military readiness. All of these areas will need to be considered.

Furthermore, disaster response is only one aspect of FEMA's diverse and complex mission. Just listen to some of the numerous, disparate functions of

this agency. In addition to disaster response, FEMA has responsibility for: civil defense; continuity of government in the event of nuclear war; the training of firefighters; and, among other things, providing flood insurance. If we want the Federal Government to be able to fully respond to the range of emergency situations, we need to account for all of these other functions.

Consequently, I have requested that the GAO do a broad-ranging inquiry into the proper role of the Federal Government in disaster management and into the overall effectiveness of FEMA. In addition to a review of FEMA's response to Hurricane Andrew, I have asked GAO to consider the following questions:

First, how can the Federal Government most effectively and efficiently manage disaster preparation, response, and recovery?

Second, should the Federal Government be a first responder to major disasters and, if so, should FEMA, the Department of Defense, or some other agency take lead authority?

Third, does FEMA's current structure adequately address the range of missions and functions with which it is charged?

Fourth, how can the activities of the different Federal agencies and the State and local authorities all be better coordinated?

Fifth, do problems in Federal disaster activities stem from FEMA internal management problems or from limitations in the agency's statutory mission and authorities, or both?

Once GAO has had an opportunity to examine these issues and respond to these questions, then I think that we will be much better situated to determine what, if anything, should follow.

I do not want to make much of it at this time, but it is clear that FEMA would not have taken so much abuse for Hurricane Andrew if the agency was better run in the first place. Even before the hurricane, the allegations of mismanagement and impropriety at FEMA have been extremely disturbing. I am sure that my colleagues are well aware of the charges of destruction of records, misuse and abuse of executive privileges, and of discrimination against agency employees. Furthermore, and of particular concern to me, is the more than 50 percent increase in the number of political appointees in the agency. I question the need for so many political appointees in what should really be a specialized and technical agency. I don't think disaster response is a political question. Its victims cut across party lines.

So it is not surprising that an agency which is fraught with these internal difficulties and is chock full of political appointees has had some difficulties in fulfilling its statutory mission. These will be issues to consider in any review of FEMA's structure and au-

thorities. And to the extent that these controversies are sparked by a lack of firm, coherent leadership within FEMA, this is an issue that I will want to revisit in future confirmation proceedings of nominees to FEMA. As the principal leadership positions in FEMA are confirmed by the Committee on Governmental Affairs, I am especially concerned about these recent allegations of drift, mismanagement, and abuse at that agency's highest levels.

So, Mr. President, I will be looking forward to GAO's report on FEMA, that we may have the benefit of their expertise in determining how the Federal Government should respond to these tragic events.

In the meantime, though, there is one issue to which I have already briefly referred to that calls for faster measures. I am speaking about the truly despicable practice of price-gouging during times of natural disasters.

As the recovery progressed in late August and early September, I was dismayed to read reports of people being charged outrageous prices for basic necessities. I am not talking about reasonable increases because of unavoidable cost increases, but outright exploitation of people's helplessness for the sake of making a quick buck.

I will share some of the examples with you. One supermarket was reportedly selling infant formula for \$9 a can. In another incident, a man reported paying \$1,300 for a \$500 generator. There was one supplier who tried to charge \$100 for a \$40 case of diapers. People reported paying \$8 for a can of tuna fish, \$15 for a gallon of water, and \$10 for a bag of ice. One nationally known restaurant was making people pay a \$2 cover charge just to get in the door.

Now, Mr. President, I think anyone would be hard-pressed to defend these low-life characters who were trying to profit from other people's misery. The hurricane victims were already facing a complete destruction of their homes and businesses and they were wondering where their Government was when they so urgently needed its help. But then to be descended upon by these human vultures is really the limit. The more of these reports I read, the more disgusted it makes me feel.

Fortunately, the Florida Attorney General's office was fast off the mark and immediately went out to investigate the alleged abuses. That office has apparently been issuing subpoenas right and left, to try to bring this problem under control. Thanks to their work, it looks as though the word has been getting out and this extortion is being brought under control.

Today, I am offering legislation to put the force of Federal law behind their efforts and those of state attorneys general in times of natural disaster. The bill that I am introducing will

make price-gouging during the time and in the geographic area of a Presidentially declared disaster a Federal crime. In addition, it will authorize state attorneys general to bring civil actions in Federal court on behalf of the citizens of the State for treble damages.

Mr. President, I am hopeful that this legislation will bring additional force to bear on this problem. By making price-gouging a Federal crime we want the word to get out that this sort of exploitative behavior will not be tolerated. We want people to know that their government is committed to protecting their interests in the time of a disaster, and we want the vultures to know that we will extract significant penalties from those who persist in this reprehensible conduct.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the CONGRESSIONAL RECORD immediately following my remarks.

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

S. -

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

#### SECTION 1. DEFINITIONS.

For purposes of this Act—

(a) the term "consumer goods and services" are those goods, equipment, and services used, bought, or rendered primarily for personal, family or household purposes including, but not limited to, food, water, chemicals, ice, building supplies, tools, petroleum products, residential lease property, residential construction, reconstruction, and repair services, and any other goods, equipment, or services essential during recovery and reconstruction efforts in the area following a national disaster.

(b) the term "supplier" includes, but is not limited to, a seller, reseller, wholesaler, distributor, retailer, lessor, or provider involved in the sale, distribution, or rendering of any consumer goods and services.

(c) the term "price-gouging" means the act of selling, renting, or offering for sale or rent, consumer goods or services at an unconscionably excessive price.

#### SEC. 2. PRICE-GOUGING.

(a) Upon the issuance of a Major Disaster Declaration by the President of the United States, it shall be unlawful for a supplier to rent, sell, or provide, or to offer to rent, sell, or provide any consumer goods and services at an unconscionably excessive price within the area for which the national disaster is declared.

(b) Whether a price is unconscionably excessive is a question of law for the court. It shall be prima facie evidence that a price is unconscionably excessive when:

(1) The amount charged represents a gross disparity between the price of the goods or services which were the subject of the transaction and the price at which such consumer goods or services were rented, sold or offered for rent or sale by the supplier in the usual course of business immediately prior to the Disaster Declaration; or

(2) The amount charged grossly exceeded the price at which the same or similar goods or services were readily obtainable by other consumers in the trade area; and, in addition, that

(3) The amount charged by the supplier was not attributable to additional costs incurred by the supplier in connection with the renting or sale of such goods or services. However, in calculating the supplier's actual costs, no allowance shall be made for replacement costs of goods if the supplier is reasonably assured of recouping the replacement costs as a part of the price of subsequent sales of that good.

#### SEC. 3. ENFORCEMENT.

(a) A knowing violation of this Act shall be punishable by a fine of not more than \$10,000 or imprisonment for not more than one year, or both. In addition, the Court may require disgorgement of any gain unlawfully acquired, and restitution to injured parties.

(b) The Attorney General of the United States shall be authorized to bring any action provided under this Act before a District Court of the United States, which shall have jurisdiction over such actions.

(c) Any person, firm, or entity, including a governmental entity, who or which suffers any loss or damages as a result of a violation or threatened violation of this Act, may bring an action against any seller in a District Court of the United States for treble damages, disgorgement, special or punitive damages, reasonable attorney's fees, costs and expenses of suit, and any other appropriate legal or equitable relief including injunctive relief.

(d) Any attorney general of a State is authorized to bring a civil action in the name of such State, as *parens patriae* on behalf of persons residing in such State, in any District Court of the United States having jurisdiction over the defendant for treble damages, disgorgement, special or punitive damages, reasonable attorney's fees, costs and expenses of suit, and any other appropriate legal or equitable relief including injunctive relief.

(e) Nothing in this Act shall be considered to pre-empt State law.

#### THE TRAGEDY OF NEEDLESS DEATHS OF YOUNG PEOPLE

Mr. NUNN. Mr. President, the chief of police of the District of Columbia, resigned recently, citing the appalling number of murders in the city. Chief Isaac Fulwood turned in his badge after 28 years on the force with these words:

It has become abundantly clear law enforcement alone [can] not cure the scourge of drugs and violence \* \* \* where the media glamorizes sexually explicit videos such as those by 2 Live Crew and putting the finger on the trigger.

Chief Fulwood was heartbroken over the record number of homicides, especially over "the number of young, black men killed," he said.

The tragedy of needless deaths of young people is often a double tragedy, because children and teenagers are pulling the triggers of the guns that kill them.

In recent floor speeches, Senator BYRD has cited Justice Department figures that reveal a great deal about our society today. At some point in their lives:

Eight out of ten Americans over age 12 can expect to be the target of a violent crime.

Four out of ten will be injured in the course of a robbery or assault.

One in twelve American women will be a rape victim.

I have been informed that the Centers for Disease Control in Atlanta has found that 135,000 youngsters carry guns to school every day.

The violence is not confined to the poor, to minorities, or to large cities.

Teenaged sisters in Gulfport, MS, enlisted the help of a boyfriend and allegedly plotted the murder of their mother with deadly precision. Police found their written plan: Disconnect all telephones; 2:30, open window; 3:15, dispose of body; 3:30-3:45, be home and start making out.

Need: plastic garbage bags; old, big suitcase; bleach—optional.

Their mother was a social worker with a master's degree. Both daughters were honor students. Police said the mother was strangled, stabbed multiple times, and asphyxiated. The teens took a joyride in the victim's car and visited friends, boasting about their exploit, according to police.

Violence has become routine in America.

We are reaping what we have sown. Chief Fulwood cited the glamorizing of violence in the media. We have all seen it, worried about it. Some, like Senator BYRD, have spoken out for the last several years.

To realize how pervasive the influence of television is, in the most recent national reading assessment, 62 percent of fourth graders and 64 percent of eighth graders reported watching television 3 hours or more a day. Twenty-five percent of the fourth graders said they watched television 6 hours or more a day.

That is more time than they spend in their classrooms.

A study done by the Universities of Pennsylvania and Delaware found that the average hour of children's programming on television contained 26.4 acts of violence—that is in 1 hour. And we are not talking about the late-night movies supposedly for adults—we are talking about cartoons and adventure shows designed for children.

The violence is up, by the way, from a mere 18.6 acts of violence per hour in 1980.

And experts estimate that the average American youngster watches 18,000 hours of television by age 18.

Most people who have thought deeply about violence in America have for years intuitively believed that there is a relationship between the violence Americans see and the violence Americans perpetrate, particularly our young people.

The American Medical Association House of Delegates passed a resolution in 1976 declaring, "This House declares TV violence threatens the health and welfare of young Americans, commits itself to remedial actions with interested parties, and encourages opposition to TV programs containing violence and to their sponsors."

In 1990, the American Academy of Pediatrics issued a policy statement: "Pediatricians should advise parents to limit their children's television viewing to 1 to 2 hours per day."

In June, the Journal of the American Medical Association reported on a study headed by a Seattle psychiatrist, Dr. Brandon Centerwall, on the relationship between violence on television and violent crime.

In the article, Dr. Centerwall stated:

To evaluate whether exposure to television is a causal of violence, I examined homicide rates in South Africa, Canada, and the United States. Given that blacks in South Africa live under quite different conditions than blacks in the United States, I limited the comparison to white homicide rates in South Africa and the United States and the total homicide rate in Canada [which was 97 percent white in 1961].

The South African government did not permit television broadcasting prior to 1975. \* \* \* Amidst the hostile tensions between the Afrikaner and English white communities, it was generally conceded that any South African television broadcasting industry would have to rely on British and American imports to fill out its programming schedule.

If television exerts its behavior modifying effects primarily on children, the initial "television generation" would have had to age 10 to 15 years before they would have been old enough to affect the homicide rate. If this were so, it would be expected that, as the initial television generation grew up, rates of serious violence would first begin to rise among children, then several years later it would begin to rise among adolescents, then still later among young adults, and so on. And that is what is observed.

\* \* \* there was a lag of 10 to 15 years between the introduction of television and the subsequent doubling of the homicide rates," among whites in the three countries.

Dr. Centerwall observed:

The earliest and deepest impressions were laid down when the child saw television as a factual source of information about a world outside their homes where violence is a daily commonplace and the commission of violence is generally powerful, exciting, charismatic, and efficacious. Serious violence is most likely to erupt at moments of severe stress—and it is precisely at such moments that adolescents and adults are most likely to revert to their earliest, most visceral sense of what violence is and what its role is in society. Much of this sense will have come from television.

Newborn babies, he notes, "are born with an instinctive capacity and desire to imitate adult human behavior." Babies begin to imitate adult facial expressions when they are only a few hours old. "It is a most useful instinct, for the developing child must learn and master a vast repertoire of behavior in short order." But infants "do not possess an instinct for gauging a priori whether a behavior ought to be imitated. They will imitate anything, including behaviors that most adults would regard as destructive and antisocial. It may give pause for thought then, to learn that infants as young as 14 months of age demonstrably observe and incorporate behaviors seen on television."

As of 1990, the average American child aged 2 to 5 years was watching over 27 hours of television per week. This might not be bad if young children understood what they are watching. However, up through ages 3 and 4 years, many children are unable to distinguish fact from fantasy in television programs and remain unable to do so despite adult coaching.

He also cited several earlier studies:

First, a study in a semi-rural American county compared television viewing of violence by 8-year-old boys with their criminal behavior at age 30. The study concluded:

After controlling for the boys' baseline aggressiveness, intelligence and socioeconomic status at age 8, it was found that the boys' television violence viewing at age 8 significantly predicted the seriousness of the crime for which they were convicted by age 30.

Second, surveys of young male felons found that 22 to 34 percent reported having consciously imitated crime techniques learned on television programs—usually successfully. A man convicted of slashing six women told authorities recently that he first killed after watching a murder on a rented "Robocops" video.

Dr. Centerwall's article states:

It is concluded that the introduction of television in the 1950s caused a subsequent doubling of the homicide rate, i.e., long-term childhood exposure to television is a causal factor behind approximately one half of the homicides in the United States, or approximately 10,000 homicides annually.

Although the data are not as well developed for other forms of violence, they indicate that exposure to television is also a causal factor behind a major proportion—perhaps one-half—of rapes, assaults, and other forms of interpersonal violence in the United States. When the same analytic approach was taken to investigate the relationship between television and suicide, it was determined that the introduction of television in the 1950's exerted no significant effect on subsequent suicide rates.

To say that childhood exposure to television and television violence is a pre-disposing factor behind half of violent acts is not to discount the importance of other factors. Manifestly, every violent act is the result of an array of forces coming together—poverty, crime, alcohol and drug abuse, stress—of which childhood exposure to television is just one.

Nevertheless, the epidemiological evidence indicates that if, hypothetically, television technology had never been developed, there would today be 10,000 fewer homicides each year in the United States, 70,000 fewer rapes, and 700,000 fewer injurious assaults.

Based on these conclusions, he made the following recommendations:

Children's exposure to television and television violence should become part of the public health agenda, along with safety seats, bicycle helmets, immunizations, and good nutrition. It needs to become part of the standard package. Less TV is better, especially violent TV. Part of the public health approach should be to promote child-care alternatives to the electronic baby-sitter, especially among the poor who cannot afford real baby-sitters.

Parents should guide what their children watch on television and how much. This is an old recommendation that can be given

new teeth with the help of modern technology. It is now feasible to fit a television set with an electronic lock that permits parents to pre-set which programs, channels, and times they wish the set to be available for; if a particular program or time of day is locked, the set won't turn on for that time or channel. The presence of a time-channel lock restores and reinforces parental authority, since it operates even when the parents are not at home, thus permitting parents to use television to their family's best advantage. Time-channel locks are not merely feasible, but have already been designed and are coming off the assembly line (e.g., the Sony SBR).

Closed captioning permits deaf and hard-of-hearing persons access to television. Recognizing that market forces alone would not make closed-captioning technology available to more than a fraction of the deaf and hard-of-hearing, the Television Decoder Circuitry Act was signed into law in 1990, requiring that, as of 1993, all new television sets (with screens 33 cm or larger, i.e., 96% of new television sets) be manufactured with built-in closed-captioning circuitry. A similar law should require that eventually all new television sets be manufactured with built-in time-channel lock circuitry—and for a similar reason. Market forces alone will not make this technology available to more than a fraction of households with children and will exclude poor families, the ones who suffer the most from violence. If we can make television technology available that will benefit 24 million deaf and hard-of-hearing Americans, surely we can do no less for the benefit of 50 million American children.

Unless they are provided with information, parents are ill-equipped to judge which programs to place off-limits. As a final recommendation, television programs should be accompanied by a violence rating so parents can gauge how violent a program is without having to watch it. Such a rating system should be quantitative and preferably numerical, leaving aesthetic and social judgments to viewers. Exactly how the scale ought to be quantified is less important than that it be applied consistently. Such a rating system would enjoy broad popular support: In a national poll, 71% of adult Americans favor the establishment of a violence rating system for television programs.

It should be noted that none of these recommendations impinges on issues of freedom of speech.

I do not pretend to be an expert on television. I probably watch far less than most Americans and my viewing runs heavily to sports, news and special programs like "The Civil War" series on PBS last year. I do not have children at home watching cartoons anymore, but I worried for years when my children were younger, and I am sure many parents face this problem with anxiety today.

But I think it is time we in America look at this issue seriously. I believe the great majority of parents want to do what is best for their children.

I am not talking about violating any first amendment rights. I am not advocating censorship—or limiting adults' rights to watch whatever they choose—or broadcasters' rights to broadcast.

I do think parents should be able to protect small children from being influenced by violence before they even

know what they are seeing, or can tell the difference between fantasy and reality.

I also think corporate executives should pay attention to what they are sponsoring, and consider whether they want to associate their firms and their products with some of the things on the air. I believe that the chief executive officers of companies that advertise should do more than ask for rating points. They have a responsibility to our society to review programs they are sponsoring with their advertising dollars.

If we are ever going to make a difference in the lives of our young people, I believe it has to come in the lives of individual children.

As James Agee said in "Let Us Now Praise Famous Men:

In every child who is born, under no matter what circumstances, and of no matter what parents, the potentiality of the human race is born again, and in him, too, once more, and of each of us, our terrific responsibility toward human life, toward the utmost idea of goodness, and of the horror of terror, and of God.

#### TRIBUTE TO SENATOR ALAN DIXON

Mr. CONRAD. Mr. President, I rise today to pay tribute to the distinguished senior Senator from Illinois, ALAN DIXON, and wish him well in his future endeavors.

During the 6 years I have worked with ALAN, I have found him to be one of the friendliest, one of the most outgoing of my colleagues. Whenever I have had the occasion to see ALAN he invariably has had a smile of greeting and a word of encouragement or concern for me. And ALAN has the same beaming greeting for everyone. He genuinely enjoys his work for the people most important to him—the people of Illinois.

ALAN has been dedicated to helping his State. His 30 years of service in State and local government before coming to the Senate left him intimately aware of the needs and concerns of people throughout Illinois, and not once has he forgotten their interests when legislation came before the Senate. And he has been especially careful to represent the interests of the little guy, to help average Americans when their interests conflicted with the wealthy or powerful. He is tireless in taking their case to me and to our other colleagues—both in person and through impassioned speeches on the Senate floor.

Mr. President, I am honored to have worked with ALAN on several issues. The ones I most vividly recall are those on which we agreed most strongly. ALAN was an early, loud, and persistent critic of the Resolution Trust Corporation's handling of the S&L crisis. He fought hard against the confirmation of Timothy Ryan to head the Office of

Thrift Supervision, arguing that we needed better and more experienced leadership to protect American taxpayers from the ever-growing cost of the cleanup. And he followed this effort with legislation to overhaul the regulation of the FDIC to help prevent the need for a similar taxpayer-financed bailout of the banking industry. On another issue, ALAN was a strong proponent of saving costs by bringing American troops home from overseas and forcing our allies to pay their fair share of their own defense. He strongly opposed the construction of a new base at Crotona, Italy, and he secured approval of a 50,000-person cut in our European troop strength during consideration of the fiscal year 1991 defense authorization.

Mr. President, I will miss ALAN DIXON, and the Senate will miss ALAN DIXON. I wish him well wherever he may go next.

#### THE NATIONAL HIGH BLOOD PRESSURE EDUCATION PROGRAM—20 YEARS OF SUCCESS

Mr. KENNEDY. Mr. President, this month marks the 20th anniversary of one of the Nation's most successful health initiatives, the National High Blood Pressure Education Program.

High blood pressure poses a major threat to the country's health. It is the leading cause of stroke and a major contributor to heart disease and kidney failure. The National High Blood Pressure Education Program was established to increase patient, professional, and public awareness of the dangers of hypertension and the ways to prevent and treat the disease. The program is a coalition of 44 public and private health organizations coordinated by the National Heart, Lung and Blood Institute.

Since its beginning in 1972, the program has had unprecedented success. It plays an extremely important role in providing information to the public in an understandable form. It does so by translating the latest findings into practicable education materials for the public, and by providing prevention and treatment guidelines for physicians and other health professionals.

In the 20 years since the program was formed, the number of persons aware of the relationship between high blood pressure and stroke and heart disease has increased from 24 to 90 percent; one of every two patients with high blood pressure is controlling it today, whereas fewer than one in eight was doing so before the program began. The death rate from heart disease has dropped by 45 percent and the death rate from stroke has dropped by 57 percent in the last two decades.

The National High Blood Pressure Education Program is an exemplary public and professional education campaign for preventive health. It has

earned well-deserved bipartisan support in Congress and across the country, and I commend all those involved in the program for the outstanding success they have achieved.

#### THE FISCAL YEAR 1993 LABOR/HHS/ EDUCATION APPROPRIATIONS BILL CONFERENCE AGREEMENT

Mr. KERREY. Mr. President, I began this statement 3 weeks ago as an expression of my support for the fiscal year 1993 Labor-HHS-Education appropriations bill. As the Senate completes action on the conference agreement on the fiscal year 1993 Labor-HHS-Education bill, this has grown into a larger effort to describe other more fundamental changes that need to be made in the area of human services.

Let me begin with the Labor-HHS-Education bill. This bill contains funding for many high priority health and education programs that will be of great benefit to many Americans. This spending will save and enrich lives of the most vulnerable Americans. Like few other things we do, there are lives at stake with this effort.

Unfortunately, the urgency to act is too often not felt as strongly as the desire to score political points. Thus, the loudest voices in the chamber have been talking/preaching about abortion, homosexuality, seatbelts, and drug addicts. My own view is that when a person falls into the water and appears to be drowning, we should act to save them. Instead, some are content to argue the morality of something happening away from this most obvious and dire scene.

Mr. President, the sounds of drowning Americans are all around us. One child in four lives in poverty. Ten percent of our people need food stamps to supplement their income. Desperation and lack of hope spread deep in Americans today.

These problems are daunting, but the direction we need to move in is clear. I know we need more economic growth. I understand a lack of investment has caused much of the difficulty. I know we can't just throw money at the poor; still I hear the voices crying and feel we must move. Let me suggest two areas in particular where dramatic action is needed.

The first is the need to control the growing budget deficit. Central to that effort is the enactment of comprehensive health care reform with strict cost control provisions to address the rapid growth in health care entitlement spending in the Medicare and Medicaid programs. Control over health care spending is critical if we are ever to have the opportunity to meet our nation's economic and job creation needs. It is critical if we want to address the priority needs of children, health care, education and other important areas.

Control of health costs will be central to any effort to control entitle-

ment spending and cut the deficit. Between 1993 and 1997, 85 percent of the growth in entitlement programs will be in Medicare and Medicaid alone. The health entitlements will, in fact, soon surpass Social Security as the single largest component of mandatory spending, according to the Office of Management and Budget.

Medicare, Medicaid and other health programs accounted for 7 percent of Federal spending in 1970. In 1990, these programs were 13.5 percent of the budget. By 1997, CBO predicts these programs will reach 22 percent of the budget. States are seeing similar rapid increases in Medicaid costs, the program for which they share financing with the Federal Government. My home State of Nebraska is facing a \$25.1 million budgetary shortfall this year—a large part caused directly by skyrocketing Medicaid costs.

Perhaps the most tragic fact of this spending is that our children are financing today's health care spending. Of the \$330 billion or so the direct and tax expenditures of the Federal Government going to health care programs in 1992, nearly \$70 billion is being deficit financed. In other words, we are borrowing \$70 billion from our children to pay for today's health care bills. If the bondholders insist on 7 percent interest payments, we will be adding \$5 billion to every annual budget in the future, \$50 per year per taxpayer.

Too many of our citizens believe the tradeoff for increased domestic spending is decreased defense spending. This mistaken belief is reinforced by several good amendments on the Labor-HHS appropriations bill which attempted to do just that.

However, the real culprit is the increasing demands imposed by the health care programs. At the state and Federal level the rapidly rising cost of health care is leaving less and less room for spending for other important programs. It means less is available for educational programs to help developmentally disabled children get a good start in life; for childhood immunization programs; for important rural health programs; and for educational scholarships, loans and grants for students.

There are three steps we must take to get health entitlement spending under control. We must establish: First, a health care system that covers all Americans for at least a basic level of health services; second, move to a single budgeted health care system with strong cost-control mechanisms that eliminates the possibility of the cost shifting that reeks havoc in our current system; and third, finance this system on a pay as you go basis—rather than deficit financing health care services as we currently do.

Taking these three steps will help control our staggering budget deficits and adequately address the range of

health and social needs faced by our Nation today.

There are those in the Administration who would have the American people believe that a budgeted health care system is the first step in the creation of a huge medical bureaucracy that will ration every aspect of American medicine.

Secretary Sullivan has made claims that the proposals put forth by Democrats would involve massive new government intervention in the medical marketplace and would lead eventually to a complete takeover of health care financing and delivery.

They do not acknowledge that we already have a huge medical bureaucracy micromanaging our health care system. And that this system includes plenty of massive government intervention.

They do not acknowledge that we already have a rationed health care system—rationed on the worst possible grounds, from a health perspective, on ability to pay.

The Administration has given little thought to how a budgeted health system could actually reduce the need for micromanagement of health care that has been the trademark of the Reagan-Bush approach that has led to nonstop increases in health care costs and nonstop declines in coverage for Americans.

More and more Americans are recognizing the need for a budgeted health care system with firm cost controls. The American College of Physicians recently called for a universal system of care with a national health care budget and expenditures managed within that budget through a system of negotiated fee schedules. Others have echoed similar concerns and solutions.

My health care reform proposal, the Health USA Act, carefully distinguishes between how a health system is financed and how services are delivered—a crucial distinction. By establishing a budget, it delineates the exact and limited role government will play and then leaves the rest to the private sector. It recognizes that government should not be used to micromanage health care administration and delivery and sets up a structure whereby that is avoided.

The second area where fundamental change is needed is in reorganizing agencies of the Federal Government to help meet the needs of families at the local level. We cannot achieve successful budget control without better management at the Federal level, and our communities cannot provide services to their people without improved delivery of those services. Children and families are eligible for about 125 Federal programs administered by 12 different agencies. This kind of fragmentation prevents us from focusing our resources where they are needed most and, more importantly, prevents us

from helping the people who need it most.

Infant health programs offer an excellent example of the problems with this fragmentation among agencies, programs, requirements and criteria, as well as the benefit of reorganization and coordination of Federal agencies.

North Omaha has long been plagued with an infant mortality rate well above the National and State average. In 1989, a variety of health, medical, and social service professionals representing State, local and nonprofit agencies in the Omaha area came together to address this problem. Working cooperatively, and with the funds from the Public Health Service, they established a one stop shopping prenatal program.

This program, called FirstStep, pulled together the resources of the State of Nebraska, Douglas County, the U.S. Departments of Health and Human Services, Labor, Transportation and Agriculture, and nonprofit agencies such as the American Cancer Society, to coordinate Medicaid, WIC, drug and alcohol counseling, immunizations, food stamps, transportation, and job training into one coordinated effort with the goal of getting these children off to a good start in life.

It's not enough to merely support a smaller Federal Government. This program illustrates the need to fight for a real consolidation of a myriad of Federal programs. The benefits of coordinating should be enough to motivate us to overcome the difficulty involved in solving a specific problem given the fragmentation among agencies, programs, requirements and criteria.

Mr. President, to summarize our dilemma, unless we first enact cost controls on health care in the context of comprehensive health care reform, we will face three choices: cut much needed investments in economic growth as well as spending on those most needy; enlarge our borrowing by increased deficit financing; or cut too deeply or rapidly into America's defenses. Second, unless we radically alter the shape of the Federal Government we will be throwing good money after bad.

Even with this quandary, there is an overpowering need to act. The fiscal year 1993 Labor/HHS appropriations bill includes funding for many programs of great importance in Nebraska, which allows us to begin to set priorities to meet pressing economic and human needs.

In the area of rural health, the bill includes funding for the important programs of the Health Resources and Services Administration which include health education and training programs, allied health professions training programs, the National Health Service Corps, and other critical programs. It also provides funding for rural initiatives, such as the Rural Hospital Transition Grant and the

Rural Health Outreach Grant Programs that continue to be so beneficial to rural Nebraska.

Mr. President, as you know, the Administration proposed to eliminate all health professions training funding, except for a few programs specifically targeted to minority students. This is an incredibly shortsighted policy given the health manpower shortage faced by chronically underserved areas of both rural and urban America.

The programs of the Nurse Education Act are very important to Nebraska. Several of the provisions in this act directly benefit Nebraska. For example, the traineeship program provides funds to nursing graduate students so they can continue their educations and prepare to teach tomorrow's nursing students. Educational loans under the program provide loans to programs, such as the Accelerated Nursing Program which often prepares nontraditional nursing students for careers in nursing.

Other health professions training programs are important to Nebraska universities and health manpower. These include scholarship and loan programs; assistance for disadvantaged or minority students; and preventive, family, general internal medicine and other residency programs.

The Rural Health Outreach Grant Program has been very important in meeting the challenges of rural health care. Two rural Nebraska health coalitions have been awarded Federal funds through this program. Blue Valley Community Action in Fairbury received funds for programs for prenatal outreach and post partum in-home services by a coalition of medical, health, and social service agencies. This program targets the most vulnerable members of our society—mothers and children who might otherwise not receive needed care. Similarly, Panhandle Community Services in Gering, NE uses these funds to deliver mental health and primary care services in rural areas targeting pregnant women, children, and the elderly.

Since 1989, 28 rural hospitals in Nebraska have benefited from the Rural Hospital Transition Grant Program. These funds have been used to help these hospitals continue to serve rural residents by enhancing their ability to recruit health professionals and provide important preventive and primary care services. Additional hospitals plan to apply for these grants this year.

The University of Nebraska has used Federal funds from the Health Resources and Services Administration [HRSA] to develop an interdisciplinary training program. This program trains health professionals for work in rural or other underserved areas. They are currently working hard to expand this program to allied health professionals in Chadron and Kearney. Model programs, such as this, are crucial to our understanding of the ability to provide

rural residents with access to quality health care services.

The National Health Service Corps [NHSC] is another example of a rural health program that is very important to rural Nebraska. It is critical that Congress continue to enhance this program that was so drastically reduced during the 1980's.

There are many other programs funded under this bill that provide invaluable services to Nebraska.

Among these are the block grant programs, including the Maternal and Child Health, Preventive Health Services Block Grant, Social Services Block Grant and Community Services Block Grant Programs; the Community and Migrant Health Centers Program; the Centers for Disease Control's Childhood Immunization Program; and the Head Start Program.

This legislation also provides critical assistance to our country's elementary and secondary schools. At a time when we are seeing a growing interest in strengthening our schools by parents, teachers, and other local leaders, we should ensure that the Federal Government is there to provide resources through programs that work.

Impact aid is a program that deserves special mention. Many Nebraska school districts receive impact aid funds from the Federal Government due to property taxes foregone because of Federal ownership, and for lost revenues from federally connected parents. This is not a special benefit, but rather a fulfillment of a Federal responsibility to these communities. This legislation includes a \$20 million decrease from fiscal year 1992 though this amount is far better than the administration's effort to slash this program by more than 30 percent.

This legislation also includes funding for students choosing to pursue post-secondary education. Unfortunately, the current budget constraints have prevented us from appropriating the funds necessary to meet the higher maximum grant award under the Pell Grant Program included in legislation recently passed by Congress. In fact, the maximum per student award amount will fall this coming fiscal year. This raises serious concerns about access to higher education for our Nation's neediest students.

The Child Care Development Block Grant remains an important source of funds to increase the quality affordability, and availability of child care in Nebraska. The funding level in this year's bill is \$150 million more than the fiscal year 1992 appropriation, which provides more money for States to enable low-income families to obtain quality care for their children. It also provides funds for the important task of licensing and monitoring these child care centers.

Mr. President, in conclusion, our annual consideration of the Labor-HHS

Appropriations bill says something important about what we need to do as Americans. How we handle issues that are either directly or indirectly related to this bill is illustrative of how we provide for the most vulnerable members of our society. How we handle the need for health care reform and structural change in our Government will determine whether we have the resources and the ability to do what we need.

The compassion to help—to answer the cry of those who are drowning—must be joined by a toughness to fight a deficit sapping our strength and Federal bureaucracies that cannot do what we want.

#### WALTER REED ARMY INSTITUTE OF RESEARCH

Mr. JOHNSTON. Mr. President, I am pleased that the Defense appropriations conference report which passed yesterday included an additional \$20 million for the AIDS Research Program conducted by the Walter Reed Army Institute of Research [WRAIR]. The Army's Research Program has been responsible for some of the early testing of a gp160 vaccine, for the treatment of people infected by HIV [human immunodeficiency virus]. The vaccine has been shown safe to administer to humans. In addition, following treatment with the gp160 vaccine, CD4 counts which are a measure of the functioning of the immune system have been shown to be stabilized rather than declining, and the amount of virus in recipients has been stabilized rather than increasing.

These early results of the Army's testing suggest that this vaccine shows promise as a possible means of lengthening the average 10-year time between HIV infection and the development of opportunistic infections characteristic of AIDS—acquired immune deficiency syndrome. If these results can be sustained for longer periods, HIV infection may be transformed into a chronic but manageable health problem rather than a death sentence.

It is expected that the additional \$20 million will be used by WRAIR to initiate a large scale phase III efficacy study, the next step in evaluating the gp160 vaccine, and would produce the final data to be gathered for the Food and Drug Administration [FDA] licensing process.

The phase III study will proceed unless the Secretary of Defense, the Director of the National Institutes of Health, and the Commissioner of Food and Drugs determine that such a study is inappropriate. In that event, the funds may be used for other AIDS research needs of the Defense Department.

Because of the growing number of Americans who are HIV infected or who will become HIV infected over the

next few years, it is important that promising treatments be fully investigated as soon as possible. To delay large scale testing means another group of HIV infected Americans will progress to AIDS for which there is no treatment to prevent their death or eliminate their suffering. The vaccine has been shown to be safe. The promising results of the gp160 vaccine have been shown in five separate studies both in the United States and abroad. Therefore, the potential benefits of identifying an effective treatment for HIV infection outweigh the cost of the study.

In dealing with a lethal disease which is claiming lives in epidemic numbers, delay, even delay motivated out of the desire for greater scientific certainty, means that more lives may be lost. If the gp160 vaccine is not tested now and later proves to be effective or even partially effective, another group of HIV infected patients will have been sacrificed. It may be a gamble, but it is a reasonable gamble we cannot refuse to take.

Mr. President, I ask unanimous consent that a summary of the results of major tests of this gp160 vaccine be printed in the RECORD.

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

#### VAXSYN REPORTED TO STABILIZE T4 COUNT AND REDUCE HIV LEVELS—RESULTS FROM FIVE INDEPENDENT TREATMENT STUDIES REPORTED

AMSTERDAM, THE NETHERLANDS, July 21, 1992.—Leading AIDS researchers reported encouraging results in five independent studies using VaxSyn, the MicroGeneSys engineered, recombinant gp160 vaccine. This is the first time the International AIDS conference has devoted an entire session to vaccine therapy. The data drawn from clinical trials conducted at multiple locations under the direction of the Walter Reed Army Institute of Research ("Walter Reed"); the National Institute of allergy and Infectious Diseases ("NIAID") AIDS Clinical Trials Group ("ACTG"); McGill University AIDS Center at Montreal General Hospital ("Mr. Gill"); South Hospital and the National Bacteriological Laboratory in Stockholm, Sweden ("Stockholm"); as well as in a community based setting at the Southern New England Community Consortium ("SNECC") in Greenwich, Connecticut were presented at the VIII International Conference on AIDS in Amsterdam today.

Whereas the great majority of HIV/AIDS clinical trials over the past decade have stressed antiviral treatments, each of the five studies, conducted in varying phase since April 1989 further the increasingly held premise that genetically engineered vaccines may stimulate the immune system of HIV-infected people to halt, if not defeat, HIV.

"This new data strongly reinforces our preliminary findings, originally reported in the New England Journal of Medicine last year, and clearly suggests the feasibility of controlling disease in HIV infected individuals with VaxSyn," said Franklin Volvovitz, Chairman and President of Connecticut base MicroGeneSys, Inc. Currently, approximately 700 HIV-positive patients are participating in clinical trials using VaxSyn.

**Walter Reed Study:** The first therapeutic study with VaxSyn began with 30 symptomatic AIDS patients in April 1989 at Walter Reed. An interim analysis of the study published in June 1991 in the *New England Journal of Medicine* showed that treatment with VaxSyn stimulated new and heightened immune responses and reduced the rate of decline of the patients' T4 cells. These patients produced new antibodies that are not typically found following natural infection and increased cellular immunity. Both the antibody and cellular immune responses are thought to be important in combating HIV infection.

Dr. Redfield reported at the Conference that 97% of the patients in his study receiving VaxSyn developed notable vaccine induced antibody and cellular immune responses against HIV. The induced immune responses demonstrated broad cross-immunologic recognition of divergent HIV strains including the ability to neutralize the patients' own HIV isolates.

Using a highly sensitive technique called polymerase chain reaction or "PCR," Dr. Redfield, reporting on the first 15 AIDS patients treated with the MicroGeneSys vaccine, found dramatic reductions on both the levels of HIV proviral DNA contained in the patients' white blood cells as well as full length HIV RNA when compared to natural history controls at two years of follow up.

Dr. Redfield, the principal investigator for this study, hypothesized that vaccine therapy of HIV infected individuals stimulates HIV specific immune responses which slow down the growth of HIV in the body. He continued, "The clinical consequences will be delayed progression and/or disease stabilization and prolonged survival."

**NIAD ACTG Study:** Results from the National Institute of Allergy and Infectious Diseases AIDS Clinical Trial Group VaxSyn double-blind, placebo-controlled therapy study at New York University and Stanford University were reported by Dr. Fred Valentine. The 58 asymptomatic patients enrolled in the study received either VaxSyn or hepatitis B vaccine as the placebo. One of the purposes of the study was to determine if HIV-positive individuals show the same degree of improvement when their immune system is being boosted by a vaccine that is not directed against HIV.

The ACTG trial results showed that patients receiving VaxSyn evidenced a significant stabilization in the percent T4 cells when compared to patients receiving the hepatitis B vaccine placebo. Some researchers have suggested that the percent T4 cells is a more sensitive measure of T4 levels than the absolute count. Enhancement of all forms of immunity including a broadening of HIV-specific antibody responses and increased activity of HIV-specific memory, helper, and cytotoxic T lymphocytes was evident in the VaxSyn treated patients.

**McGill Study:** Dr. Christos Tsoukas reported interim results from the 21 patient McGill University AIDS Center study at Montreal General Hospital. In the 12 month period covered by the interim analysis, no clinical adverse effects or laboratory toxicities were noted and all patients remained healthy at the time of last follow up. Approximately ninety percent of the patients developed new or heightened antibody responses against HIV. Cellular immune responses were also significantly enhanced. At the 12 month evaluation, the patients evidenced a significant increase from the pretreatment levels in absolute T4 counts (mean increase of 117 cells/mm<sup>3</sup>) and in per-

cent T4 cells (mean increase of 2%). These increases were statistically significant. By way of comparison, over this same period of time, a matched, untreated population would have experienced an expected decline of 11 to 14% (80 to 100 T4 cells/mm<sup>3</sup>).

**SNECC Study:** Dr. Gary Blick reported interim, 18 month results for the first 30 patients enrolled in the Southern England Community Consortium (Greenwich, Connecticut) community-based study. Patients with AIDS, AIDS Related Complex ("ARC") and asymptomatic HIV infection were randomly enrolled. Patients participating in this study received both VaxSyn and the MicroGeneSys recombinant p24 (HIV core protein) vaccine. This combination was safe and well tolerated during the 18 months of study follow up. Sixteen of 16 patients with initial T4 counts of 200 to 500 cells/mm<sup>3</sup> developed new or increased antibody responses to HIV and as a group evidenced a 12% increase (42 cells/mm<sup>3</sup>) in absolute T4 count at the 12 month study interval and a 16% increase (57 cells/mm<sup>3</sup>) at the 18 month study interval. The patients in this subgroup showed no evidence of clinical progression during this period and none developed ARC or AIDS by month 18 of the study. The patients with initial T4 counts under 200 cells/mm<sup>3</sup> evidenced infrequent responses following immunization and continued to show disease progression.

**Stockholm Study:** Interim results from the 40 patient study being conducted by the South Hospital and the National Bacteriological Laboratory in Stockholm, Sweden were presented by Dr. Goran Bratt. This study evaluated VaxSyn immunizations in the presence or absence of AZT in asymptomatic patients. AZT, DDI and DDC are the only approved drugs in the United States for the treatment of HIV infection. These drugs attack HIV directly by inhibiting its ability to reproduce in the body. While they may temporarily control HIV infection and disease progression, their use is limited by the development of viral resistance and by side effects. Unlike AZT, DDI and DDC, VaxSyn does not attack HIV directly, but instead is intended to improve the immune system's ability to fight HIV and to control the infection.

Enhancement of antibody and cellular immunity has also been observed in this study. Additionally, the patient's antibodies bound more strongly to HIV. A number of patients evidenced a decline in their HIV levels as determined by PCR measurement of HIV RNA.

At 9 months of follow up, the patients showed an increase in the average T4 cell count and there was no difference between the group receiving AZT in combination with VaxSyn compared to VaxSyn alone. Preliminary interim results show no discernable effect, either positive or negative, from the use of AZT during VaxSyn therapy.

VaxSyn does not contain any infectious portion of HIV, nor is any infectious portion of HIV used in the manufacturing process. Therefore, there is no risk of transmitting HIV infection with VaxSyn. Studies beginning in October 1987, and involving over 1000 HIV-negative and HIV-positive individuals, have demonstrated that VaxSyn is safe and well tolerated.

MicroGeneSys, Inc. is a biopharmaceutical company pursuing the discovery, development, manufacture and marketing of recombinant vaccines for human health care uses. The Company's efforts to date have principally focused on the development of an AIDS therapeutic vaccine ("VaxSyn"). This

product is intended to be used as a therapeutic treatment for patients infected with Human Immunodeficiency Virus Type 1 ("HIV"), the infectious agent responsible for Acquired Immunodeficiency Syndrome ("AIDS").

#### THE VEGA CLUB OF BROCKTON A TRADITION OF EXCELLENCE IN SERVICE TO THE COMMUNITY

Mr. KENNEDY. Mr. President, it is a privilege for me to pay tribute to the Vega Club of Brockton, MA, on its 100th anniversary. The Vega Club was founded on September 11, 1892, to promote and advance the social and civic interests of its members and the local community, and it has fulfilled that mission with great distinction ever since.

The Vega Club has been a key part of the success of a number of local non-profit organizations, including a neighborhood watch program, a Pony Colt League team, Boy Scout and Cub Scout troops, and the West Little League program. In addition to assisting these important organizations, the Vega Club reaches out to the community each year by hosting a Christmas party for underprivileged children. I am also especially pleased to commend the members of the Vega Club for their annual role in supporting the Special Olympics. All of us in the Kennedy family are grateful for their commitment and dedication.

I also want to take this opportunity to commend the leaders of the Vega Club, which include President Paul MacMurdo, Vice-President Philip Nersessian, Treasurer Robert Lawson, Recording Secretary William McCormack, Financial Secretary Edward O'Dwyer, Marshall John Kelly, Trustees Wayne Sylvia, Ronald Jackson, and Donald Eldridge, who is also serving as chairman of the 100th anniversary committee.

It is an honor to salute the Vega Club on this auspicious anniversary. It has compiled an outstanding record of community service and achievement, and I wish it continued success as it begins its next century.

#### CORRECTING SECTION 9168 TO THE CONFERENCE REPORT ON H.R. 5504

Mr. INOUE. Mr. President, I rise to clarify an error which appears in section 9168, as inserted by amendment No. 296 to the conference report (H. Rept. 102-1015) on H.R. 5504.

The date referenced in section 9168 is September 12, 1992. However, Senate action on the bill (S. 2681) referenced in section 9168 was actually taken on August 7, 1992.

Mr. President, I would ask the unanimous consent of the Senate to have this error corrected when the conference report on H.R. 5504 is enrolled.

AMERICAN COLLEGE OF PHYSICIANS HEALTH REFORM PROPOSAL

Mr. DASCHLE. Mr. President, there is certainly no shortage of proposals to reform the American health care system. Many Members in both Houses have introduced a number of bills—some comprehensive, others, dealing with particular aspects of the current system.

But, Mr. President, no matter how we craft these reform efforts, it will not be we who bear the ultimate responsibility for seeing that the system really works at the level it matters most: the interaction between patient and provider. That responsibility falls most frequently on our Nation's physicians, and theirs is a perspective that must be considered in these debates.

Last spring, the American Academy of Family Physicians introduced a health reform plan. Two weeks ago, the American College of Physicians, the largest organization representing any specialty group of doctors, announced its proposal for health reform. The ACP, comprised of 77,000 internal medicine specialists, has developed a plan that embodies many principles that those of us who advocate comprehensive reform embrace: They call for cost containment through a national health care budget; universal access for all Americans: reallocation of spending away from wasteful administrative overhead and toward primary and preventive care; reduction in unnecessary services; and reduction of the hassle that plagues our current system.

Mr. President, I am particularly gratified that the American College of Physicians has endorsed the idea of a national health budget. There are, of course, many who argue that it is folly to construct a national health budget, that it cannot be done or that it is merely a way of rationing care or reducing quality. But many of those who argue that health care cannot be budgeted also demand that we run the Government like a business. Does any business leave such a large fraction of its expenditures unbudgeted?

The ACP has recognized that defining and enforcing a global budget is essential if we are to control costs. The college argues that there must be national and local controls on price, supply, and demand for health services. Furthermore, this plan acknowledges that there is too much redundant capacity in the system in many parts of the country; too many MRIS, too many radiation oncology units, too many heart surgery programs, and too many hospital beds. These are excesses we can no longer afford, and the college proposal offers tools to reduce them.

Another key element of this plan involves negotiating the pricing of services. These prices would be resource-based, and would apply uniformly across the entire State or region. The

development of organized delivery system, primary care networks, vertical and horizontal regional integration—all of these would be fostered and encouraged under this plan.

The college also recognizes a fact that its members are in a far better position to understand than economic theorists: that market forces have not led to distribution of health resources according to need. Hospitals and doctors have been forced by the crazy-quilt system of payment that we have evolved into behaving like businesses, but businesses in which consumers are insulated from price and have no expertise to evaluate the product.

I also applaud their call for a national health manpower policy. Virtually every expert from whom we have heard has warned of the dire consequences of the production of far more specialists than are needed and too few primary care practitioners. But our current system of undergraduate and graduate medical education allows—encourages—this to occur. We simply must reverse this trend if we are to deliver cost-effective health care to our citizens.

Mr. President, the success stories of American medical research have induced the illusion among many people that their own actions and behavior are of little consequence in their ultimate well-being. Never mind smoking, over-eating, drunk driving, or taking other unnecessary risks: If you get sick, there is a new treatment just around the corner that will make you good as new. The ACP calls for the education of the public about the benefits of health promotion and disease and injury prevention. This is a critical element—both for reducing costs but, far more importantly, for a healthier people.

The college has made a strong and effective argument that all Americans must be in the system if cost control is to be achieved. To fail to provide universal access in comprehensive health reform is neither humane nor fiscally responsible. If everyone is not covered, we will simply perpetuate the enormous cost-shifting that currently occurs, as well as continuing to force those who are uninsured to wait too long, until they are too ill, to seek medical attention. This is not acceptable. Mr. President, this is a thoughtful, substantive, and constructive proposal. It is well worth the study of every Member of the Senate. I welcome the addition of the American College of Physicians to those arguing for comprehensive reform, and I salute their courage in developing and introducing this plan. I challenge other medical organizations to join the American College of Physicians and the American Academy of Family Physicians in working with us to devise an effective, humane, fiscally responsible, and coherent plan for the American people.

Mr. President, I ask unanimous consent to place the position paper on "Universal Insurance for American Health Care of the American College of Physicians" into the RECORD.

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

[Annals of Internal Medicine, Sept. 15, 1992]  
UNIVERSAL INSURANCE FOR AMERICAN HEALTH CARE: A PROPOSAL OF THE AMERICAN COLLEGE OF PHYSICIANS\*

America urgently needs comprehensive health care reform. The American College of Physicians (ACP) believes that universal access to care can be achieved only through system-wide reform in the organization and financing of health care (1). This paper outlines our proposal for a national policy to achieve that reform.

OVERVIEW

As a professional society of physicians whose goal is excellence in medicine, we see a system failing all who are a part of it—patients, physicians and other health professionals, purchasers, and insurers. Most of the problems have been well documented: over 35 million Americans without health coverage, excessive utilization of high technology co-existing with substandard care, astonishing increases in spending without commensurate gains in health status, acute care promoted at the expense of preventive services and technology-based care at the expense of primary care. As practitioners, we feel the fear of uninsured and underinsured patients at the prospect of severe illness, and appreciate the dilemma of those locked into jobs just to keep health coverage. We confront every day the crushing bureaucracy of a system that diverts time, energy, and resources from patient care, frustrating the ability of physicians and patients to deal with illness.

Three aspects of the health care system appear particularly troubling. First, it promotes inequity and conflict between its private and public components. Costs are shifted from one component to the other, public programs lacking a powerful constituency are underfunded, and the total system suffers from unwieldy administrative complexity and cost. Second, benefit packages consist of circumscribed lists of covered services that reflect more the needs of payers than those of the patients. Third, cost-control efforts have failed to make the system affordable and have imposed an intrusive regulatory burden on both patients and physicians.

The College would correct these problems through a universal health insurance system covering everyone living in this country. Our design for a reformed system addresses the major problems through four elements:

Assuring Access to Care: We propose a universal insurance system that relies on employer and publicly sponsored insurance plans. All public programs for health care would be consolidated, and everyone would be guaranteed coverage, funded through a combination of private premiums and public revenues.

\*This paper, authored by H. Denman Scott, MD, MPH, and Howard B. Shapiro, PhD, was developed for the Health and Public Policy Committee: Clifton R. Cleaveland, MD, Chair; Cecil O. Samuelson, Jr., MD, Vice-Chair; Christine K. Cassel, MD; David J. Gullen, MD; Harold C. Sox, Jr., MD; Quentin D. Young, MD; Robert A. Berenson, MD; John M. Eisenberg, MD; Woodrow A. Myers, Jr., MD; Steven A. Schroeder, MD; and Gerald E. Thomson, MD. Approved by the Board of Regents on 10 July 1992.

Assuring High-Quality and Comprehensive Health Care: We propose that all medically effective services be covered when they are appropriate for a particular patient.

Promoting Innovation and Excellence: We propose measures to enhance the crucial institutional underpinnings that sustain excellence in medical care—research, education, and medical information management.

Controlling Costs: We propose a national health care budget with a mixture of centralized and decentralized mechanisms to influence the price, volume, supply, and demand for health care services.

The ACP plan envisions substantial change, including insurance reform, limitations on spending, fee negotiations, and new structures such as a national health care commission representing all sectors of society. At the same time, the College's plan would incorporate elements of our current system that are valued by patients and providers—for example, a pluralistic approach that would accommodate fee-for-service and managed-care options, but a role for government that is circumscribed.

The College has developed this plan after extensive consultation, including input from a network of 4500 ACP members and from many organizations, review of other proposals, and examination of health care systems of other nations. Careful transition will be essential, but the nation must move forward quickly to adopt and implement a comprehensive plan.

#### ASSURING ACCESS TO CARE

The College proposes a plan for universal insurance, through a mixture of private and public financing, in which everyone living in the United States would be insured. Covered benefits would be the same for everyone: all medically effective and appropriate care. Public plans serving specific segments of the population would be eliminated.

We envision an integrated system in which employer-sponsored and publicly sponsored insurance plans would offer practice arrangements ranging from traditional fee-for-service to various organized delivery systems. Patients and providers would perceive no difference between health care in employer-sponsored and publicly sponsored plans; only the source of financing would be different.

Other proposals have suggested separate systems of care: private insurance through employers, public coverage for the unemployed, and continuing entitlement programs for others (Medicare, Veterans Affairs, and other programs). Separate public and private systems perpetuate inequitable access to care, both because people in some public plans have only "minimum" benefits, in contrast to full benefits in most private plans, and because public programs are likely to be underfunded. Separate systems also perpetuate complex, overlapping, and costly administrative bureaucracies.

Some proposals rely on single-payer or centralized government approaches—basically a Medicare program for all. Government may be efficient at some functions, like collecting taxes and writing checks, but it is not well suited to administer and oversee the complicated set of interactions in the health care system. Nor would centralized control promote the variety of approaches to health care delivery that a private, insurance-based system fosters.

#### Employer-sponsored insurance

In the ACP plan, employers would have an option: They may sponsor insurance for employees up to 60 years of age and their dependents (including parttime employees) or

pay a tax so that those employees can enroll in a publicly sponsored insurance plan. To encourage employers to sponsor plans, we propose three steps to make coverage more affordable and premiums more predictable: phase out employer responsibility for retirees and shift them into publicly sponsored plans; switch employees into publicly sponsored plans at 60 years of age; and provide payment for all catastrophic costs (over \$50,000 per year per person) through publicly financed coverage.

These measures would remove the most expensive patients from employer-sponsored plans. The intent is to make premiums equal to or less than the payroll tax that would otherwise be required, encouraging employers to continue or initiate coverage. This addresses a criticism of those "play or pay" plans in which the premium cost to "play" is so much higher than the tax to "pay" that employers would terminate coverage and transfer employees to the public program—eventually leading to a single public system.

Employers who sponsor insurance would choose among private plans that meet national guidelines. The minimum employer contribution to the premium would be 50%, with the employee paying the rest, although the employer may choose to fund a larger proportion of the premium.

#### Publicly sponsored insurance

Everyone not covered by employer-sponsored insurance would enroll in a publicly sponsored plan. This group would include: employees whose employers choose not to offer plans, employees over 60 years of age, retirees, and the unemployed and those outside the labor market. The current array of federal and state entitlement programs created for specific groups would be replaced by the publicly sponsored insurance plans, which would provide benefits identical to those in employer-sponsored plans.

Funding for publicly sponsored plans would come from: payroll taxes from employers and employees in companies not sponsoring insurance; income-related premiums, collected through the tax system, for retirees and people not working but with incomes greater than the poverty level and for employees over 60 years of age in firms sponsoring insurance; increased alcohol and cigarette taxes; and general tax revenues. The general revenues will be necessary to support premiums for low-income and unemployed people who pay no or reduced premiums, to pay for catastrophic coverage, and to cover costs for the elderly beyond premium revenues. We believe these expenditures are properly the responsibility of the public.

Our catastrophic costs program would be not only a public payment mechanism for costs in excess of \$50,000 per year but would also be a stimulus to development of high-cost case management techniques, reliance on centers of excellence, and cost-efficient care. Our goal is to encourage smart decision making to govern allocation of resources.

The ACP approach to publicly sponsored insurance would strengthen the constituency of public programs. By including employees and dependents from companies not sponsoring insurance, retirees, and anyone facing catastrophic costs, the publicly sponsored plans would have strong backing under this proposal. Every person would have a stake in the system.

#### Insurance plans and insurance reform

We believe an insurance-based system offers the best means of fostering a wide range of practice arrangements to suit the needs and preferences of patients and providers.

This does not mean we approve of how private insurers have handled coverage in the past. We propose substantial reforms to alter their practices. We also believe system administration is best handled at the decentralized level, under national criteria.

Insurance plans would not compete on the basis of benefits offered, because all plans would cover all effective and appropriate care. They would not compete by underpricing reimbursement to providers, because there would be uniform rates for all payers. And they would not compete by excluding sick people.

Insurance plans would compete on the basis of premium price and value offered to employer and public purchasers. By better administration and other efficiencies, a plan could offer a lower premium. Another plan might market itself as providing better value at the same or even a higher price—for example, by organizing a group of providers it believes provides higher quality care. Traditional indemnity plans reimbursing fee-for-service providers could continue under this approach and might compete by offering greater value—for example, unrestricted choice of providers. Insurers might also compete by offering benefits beyond those covered, although under the benefits process outlined below, we do not see much of a market for that option.

Our plan should reinforce the movement of physicians and hospitals, as well as purchasers and payers, to organize more effective and efficient delivery systems to enhance their competitiveness. There would be strong incentives to develop criteria for quality of care, measure outcomes, and help practitioners provide effective and efficient care.

Competition among insurers would be channeled in this positive direction through reforms to eliminate the current risk-avoidance practice of insurers. Insurers would be required to accept all applicants. There would be no exclusions of coverage due to health problems ("preexisting" conditions). Experience rating (premiums calculated on the health status of the group), which has made rates unaffordable for many small groups, would be eliminated in favor of adjusted community rating (premiums that reflect the health status of the entire community) for all employers.

Finally, with insurance for all medically effective and appropriate services, individual state health benefit mandates would be eliminated.

#### Underserved people

Even with extension of health insurance to all, there would likely remain underserved people, including the poor, minorities, and rural populations. Providing insurance coverage is insufficient if the barrier to care is lack of nearby physicians and health care facilities. People in inner cities and remote rural areas as well as migrant workers will need more than an insurance plan. We therefore support an expansion of the public health system, including community health centers, local health departments, and the National Health Service Corps, and other ways to deal with geographic maldistribution of health care workers and facilities. Education reforms and related incentives are essential for producing providers to meet the needs of the underserved.

Fiscal, professional, and lifestyle incentives will be necessary to attract and retain health professionals in underserved areas. Capital will be necessary to develop or upgrade facilities and equipment. More effective integration of health services will be re-

quired, including efficient transportation and communication. Telephone and computer-based links and mobile clinics may help to deliver care to patients in sparsely populated areas. Strategies must consider cultural differences that influence how care can be delivered effectively.

#### ASSURING HIGH-QUALITY AND COMPREHENSIVE HEALTH CARE

The College proposes a patient-oriented benefits determination process. Under our plan, a national health care commission would be responsible for determining covered benefits—with the requirement that all medically effective services be covered—and setting and allocating budgets. The commission would have representation from patients, physicians and other health professionals, employers, insurers, government, and other key sectors of society.

All effective and appropriate health services would be covered under all publicly sponsored and employer-sponsored plans. The scope of benefits covered would be based on medical effectiveness research and expert consensus. We would further ensure high-quality care by promoting practice guidelines, creating a scientifically reasoned system of quality assurance, and redefining malpractice protection.

#### Benefits determination

For determining benefits, we propose a cascading process structured around three questions of increasing specificity to the patient.

1. Is a service medically effective?
2. Is the service medically appropriate for a particular group of patients or set of clinical circumstances?
3. Is the service appropriate and of value to a particular patient?

#### Effectiveness

The question of whether a service is medically effective is answered by research or expert consensus. Effectiveness extends along a continuum from clearly ineffective, to unknown/unproven but promising, to somewhat/sometimes effective, to clearly effective care. Decisions at the extreme are clear, but decisions become complex for interventions in the middle range. Greatly expanded efforts in medical effectiveness research will be essential to ensure that clinical decisions would be based increasingly on scientific data and less on individual opinion. Meanwhile, we recognize that there are procedures and therapies that clinical consensus would deem effective but that have not been scientifically evaluated. Such interventions should not be excluded from coverage while their effectiveness is being measured, but measurement should be expedited.

Services that would be assessed for effectiveness would represent all aspects of health care: preventive care; primary care; medical, surgical, and psychiatric care both in-hospital and in outpatient facilities; ambulatory mental health and substance abuse care; oral health; rehabilitative services; and prescription drugs. The medical care needs of patients in home-care programs and nursing homes will also be included.

The national health care commission would be responsible for determining covered benefits and for establishing the global budget. Should rationing of care become necessary, this mechanism would allow decisions to be explicit and apply to everyone, in contrast to the rationing now done tacitly through the allocation of resources, and largely affecting the poor. These decisions will confront the commission clearly with the trade-offs between expanding medical technologies and limited resources.

The commission's proposals on what services would be covered would not be subject to selective change by Congress. Congress could reject the entire package, but not add, delete, or modify individual items.

#### Appropriateness according to guidelines

For services deemed effective the next step would be to determine the appropriateness of the service under practice guidelines developed by the clinical community. Guidelines may indicate that a particular procedure is effective for some patients but ineffective for others. As an example, annual screening mammography is effective and indicated routinely for women in their 50s but not in their 30s.

Practice guidelines should be professionally developed and viewed primarily as a means for assisting physicians and patients in making appropriate clinical decisions. They will also help correct over- and under-utilization. It is important they not be viewed as a cost-control mechanism.

Guideline development is a science in its infancy. The College has committed our resources to developing guidelines, and we call for increased public and private funding. For the present, guidelines should be applied judiciously, with reliance more on those for which there is strong scientific evidence and less on those for which there is controversy or insufficient evidence.

When practice guidelines are available, they would be tied to the profiling of practice patterns to determine if a physician is generally following the criteria for clinically appropriate use of services. "Generally following" is the key phrase: Oversight would look at patterns, not at individual case decisions. If a practice pattern consistently deviated from guidelines, there would be reason to challenge payment for services. If guidelines are not available, practice profiles would allow comparison with community norms.

#### Appropriateness for an individual patient

Clinical guidelines may not always apply to a specific patient, because guidelines are usually more general and apply to patient groupings. Individual patients may have unique characteristics not covered by the guidelines. A physician may decide, in consultation with the patient, that it is reasonable not to follow the guidelines. This decision will reflect individual clinical circumstances and the personal values of the patient. After the physician provides a service that is medically effective and appropriate for the patient, reimbursement would be made. There would be no questioning of decision making or denial of reimbursement. Payment could be challenged only retrospectively, and only if the physician's practice pattern, indicated through profiling, consistently departed from guidelines.

#### Other considerations

To promote innovation, the benefits determination process must accommodate experimental procedures, tests, and therapies. We propose that experimental diagnostic and therapeutic services be evaluated for clinical effectiveness. Insurance plans would cover experimental services if both the physician and patient agree to participate in a formal, scientific evaluation sanctioned by the national health care commission.

We believe the process we have described would provide reimbursement for all appropriate services. Some patients, however, will want services beyond those covered. Others will want amenities such as a hospital suite. Under our proposal, people can pay for these services out-of-pocket or through supple-

mental insurance, but those expenditures would not be tax-deductible or included in the national health care budget.

#### Quality assurance and utilization management

An essential element of systemic reform is restructuring the external oversight of quality of care. We believe physicians will accept the constraints necessary in a reformed system, particularly to control costs, if there is an end to the overwhelming regulatory intrusion that dominates practice today.

The goal of assuring quality has been displaced by the imperative of utilization management—a set of techniques designed primarily to drive down costs. Part of this trend has been the transfer of many of these review activities from the traditional setting of quality assessment (the clinical service, the hospital, the organized group practice) to the purview of insurance carriers, Professional Review Organizations, and a rapidly growing number of proprietary groups. These reviewers have relied mainly on time-consuming and intrusive case-by-case reviews. Review criteria are often unspecified and left to the judgment of the reviewer. The techniques are labor intensive, costly, and have not been shown to improve quality of care. Rather, they have intruded excessively into the daily clinical decisions of most physicians, and contributed to mounting frustration and dissatisfaction within the profession and among patients.

The College believes the primary focus of quality assurance must be returned to the medical profession and to health institutions. Clinicians should be responsible for providing high-quality, cost-effective care, and be held accountable for efficient use of resources. Concepts of continuous improvement should underlie this responsibility.

Under the proposed national health care budget, medical organizations would have the responsibility and incentive to monitor practice patterns because those would affect the resources available to the organization and the community. We envision a process tied to the second stage of the benefit determination process described earlier. Practice guidelines are used at this stage to determine the appropriateness of providing services in particular clinical circumstances. Profiling would indicate whether the overall pattern of a physician's decisions falls within the guidelines. Profiles would be relayed from the insurance plans to hospitals, organized delivery systems, and professional organizations so that they can identify outliers, determine reasons for the deviation, and help the practitioner make appropriate changes.

#### Malpractice reform

The nation must restore the medical liability system to its proper role: compensation for patients injured by substandard care. We propose substantial reforms of liability determination, as well as stronger efforts by the profession and licensing authorities to monitor physicians and current problems.

The College has been committed to improving the competence of practitioners, through writing practice guidelines (2) and developing criteria to establish skill levels for procedures (3). Professional standards help identify good care. Continuing education keeps practitioners current in basic and clinical science and will help physicians meet the important new requirement of periodic specialty board recertification.

The professional must take greater responsibility for monitoring itself. Physicians must identify colleagues who are impaired or show evidence of deficiencies, correct prob-

lems, or, if necessary, limit the practice of those impaired physicians. Licensing boards must have the resources and the authority to enforce standards. Data on quality of care will be essential to these efforts. Federal and state governments, insurers, accrediting agencies, institutions, and the profession must agree on indicators for monitoring quality of care.

Significant tort reforms are necessary to defuse the malpractice crisis and begin the retreat from the defensive medicine so ingrained in physician's patterns of thinking. Tort reforms may not have a dramatic impact, but they are a necessary beginning to restructuring the entire process of liability determinations. For various constitutional and political reasons, most states have been unable to enact meaningful tort reform. The malpractice crisis is a national problem that demands a national solution. Congress can and must take steps immediately to pass legislation that preempts state tort law for malpractice, with the following reforms: a cap on awards for non-economic damages (so-called "pain and suffering" awards); the elimination of suits seeking full damages from all parties (joint and several liability); an offset of awards if there are collateral sources of recovery (insurance, workers' compensation, and so forth); a penalty for frivolous lawsuits; modifications to the statute of limitations; and limits on attorney contingency fees.

Also, it should be noted that universal coverage would eliminate costly awards for future medical care.

We reaffirm that the profession must set and enforce standards for physicians who serve as expert witnesses (4). The testimony of these physicians should be subject to ongoing peer review.

Although the jury trial is an ingrained part of dispute resolution in the United States, we question whether it is the best method to achieve the goals of the malpractice system: identifying substandard care and compensating injured patients. The College has been a founding member of the AMA/Specialty Society Medical Liability Project, which formulated an innovative administrative process for liability determination (5). There would be administrative review and appeal, with final determination by a state board. This model deserves serious testing, supported by adequate federal funding. We also support testing alternatives, such as pre-trial screening panels, to eliminate claims not likely to have merit in court, and mandatory arbitration, in which parties to a dispute are bound by the decision of an arbitrator.

#### PROMOTING INNOVATION AND EXCELLENCE

The American health care system must foster innovation and excellence in medical education, research, and data-based decision making. The College proposes adequate and dedicated financial support for each of these components of the "infrastructure" necessary for the delivery of high-quality medical care.

#### Medical education

Reform of medical education is necessary to encourage and enable more students to become generalist physicians, to provide specialty care efficiently, and to prepare physicians to manage patients under the constraints of a health care budget.

A critical element of education reform is that all payers, both public and private, be required to contribute a fixed percentage of health expenditures to graduate education. In addition, appropriate mechanisms to fi-

nance training in ambulatory care settings must be developed.

Financial incentives could be used to achieve a balance of generalists and specialists. Financing of graduate medical education might be limited to the number of years required for residency training in general internal medicine, family practice, and general pediatrics. Payments per resident could be weighted for the training of generalists. Reduced or interest-free loans could be granted, or loan repayments deferred, only for residents training to be generalists. Loans might be partially or entirely forgiven for generalists practicing in underserved areas. Increased federal and state grants could be provided to support residency programs for generalists. Other, nonfinancial methods may be required, including capping the number of slots for nongeneralist training, and limiting the accreditation of new programs.

The nation must broaden opportunities for medical education. The government should supplement funding of undergraduate medical education to allow minorities and lower income students greater access. Funding is an increasingly urgent problem; three-fourths of graduating medical students have debts, with an average of over \$50,000 (6).

Optimal health care requires that physicians educate themselves actively throughout their careers. A new and more effective health care system will require even higher standards of physician competence. Thus, a design for greatly improved continuing medical education, including more meaningful curricula, more effective learning methods, better integration with guidelines, and other quality improvement techniques, as well as expanded, stable funding, should be included in planning for a new health care system.

#### Biomedical and health services research

A major virtue of the U.S. health care system is its capacity to be innovative—in diagnosis and treatment and in delivering and evaluating care. Sustained investment in basic and applied research is essential to improve the health of the American people. To assure continued vigor in biomedical, clinical, and health services research, the College supports (1) regular increases in appropriations for the National Institutes of Health and (2) a percentage set-aside from total health care expenditures (for example, one quarter of one percent) to secure predictable funding for clinical and health services research.

#### Medical information management

The College is committed to informed, data-based decision making. This philosophy underlies health care reform. Informed decision making requires data systems to support excellence, not only in medical practice, but also in planning, policy development, and system administration.

To understand the dynamics of medical care and variations in use of hospitals and technologies, a reformed system must adopt common diagnostic and procedural codes, common indicators of quality of care, and a common data set. Unique identifiers for hospitals, physicians, and health plans would need to be standardized for statistical profiling to be meaningful and for evaluations of care. In addition, population-based data are essential to promote the effective distribution of health resources (manpower, technology, and facilities).

#### CONTROLLING COSTS

The United States cannot afford, and will not achieve, universal access to care without controlling costs, and costs cannot be con-

trolled without systemwide reform. We must limit total health care spending, through a national health care budget and a matrix of national and local controls on the price, supply, and demand for health services. An effective strategy must incorporate both expenditure control and cost control. For expenditure control to be meaningful, participants must have tools to reduce costs; for example, if a community or a hospital is to achieve an expenditure target, it will have to identify and eliminate redundant capacity such as competing MRI units. Our proposals would influence forces that determine the cost and utilization of services.

We recognize that these proposals raise politically and procedurally difficult issues. It will take time and care to work out the details. But no plan for reform can succeed without substantial efforts to control spending.

#### National health care budget

At the heart of the College's proposals to control costs is the recognition that the health care system must operate within financial limits. We must adopt a national health care budget—a ceiling on total health expenditures, sometimes referred to as a "global" budget. A national budget would take into account changing health needs of the population (including aging), new technology, and general inflation. What the budget should be is uncertain now, but we start with the assumption that the current level of spending, projected to be more than \$800 billion in 1992, is enough to provide health care for everyone (7). This level reflects all the waste of the current system: administrative costs estimated by some in excess of 20 percent of spending, unnecessary utilization, duplicative facilities and equipment, overpriced care, and so on.

The national health care commission would recommend to Congress a health care budget for the nation, covering public and private spending and capital outlays. The commission, in consultation with state authorities, would develop a budget for each state based on its population and disease burden. The overall budget and state allocations would be updated periodically, based on changes in the variables that determine the need for health care and its true costs. In turn, states may choose to allocate funds to regional authorities within the state.

Providing good care within the constraint of fixed income is the underlying principle of the managed care industry (8). Other countries have shown that fee-for-service arrangements can operate within a budget, through negotiations over fees (9-12). Implementation of a national health care budget would be a forceful incentive for all providers, patients, and payers to begin to make decisions reflecting the need to operate within limits. The budget would give the authority to the planning process necessary to allocate resources.

#### Managing price: insurer-provider negotiations

States would be required to establish mechanisms for the employer-sponsored and publicly sponsored insurance plans to negotiate fees with physicians, hospitals, and other providers. Using systematic, research-based methods of valuing services, such as the resource-based relative value scale (RBRVS) for physicians and diagnosis-related groups (DRGs) for hospitals, insurers and providers would negotiate and agree on conversion factors to set yearly fee schedules. Uniform rates would apply under all plans within states or sub-state regions; all payers would pay the same price for the same serv-

ice. Qualified managed care organizations, such as prepaid group practices, would negotiate an overall budget with all insurers based on enrollment, age distribution of enrollees, and expected morbidity; they could develop their own compensation packages for health care professionals. Organized delivery systems would negotiate budgets for institutions and practitioners within the system, to be allocated to providers under their financial arrangements. To permit these negotiations, antitrust restrictions must be revised.

The health care budget would encourage trends such as regionalized services integrated vertically and horizontally, primary care networks, multifunction group practices, and new organizational and financial relationships between hospitals and their medical staffs, all of which should improve quality and reduce costs. Because operating under a budget is normally part of these arrangements, the transition to a national budget should be eased.

Payments under the various fee schedules, when multiplied by expected utilization of services, could not exceed the state's allocation under the national health care budget. A state health care agency would monitor utilization patterns by service category and study variations from predicted use. To stay within the state's allocation, the state (or regional agencies within the state) would have the authority to change the conversion factor for all providers and suppliers of medical services.

If a state's health care expenditures exceed its budget allocation, even after corrections to the conversion factor, health care spending would not come to a halt. Expenditures that cannot be attributed to unanticipated illnesses would trigger reductions in fee schedules or other remedial action for the following year. The budget is a device to introduce fiscal discipline and evaluate whether expenditures reflect expectations and goals; it is not a mechanism to cut necessary care.

Implementing the global health care budget will require extraordinary cooperation among providers. Physicians, hospitals, and other provider groups would have to work out who would represent them in negotiations and how they would relate to each other. They would also have to create a climate of clinical decision making in which the profession does not tolerate unnecessary care. The important impact of the global budget would be its incentive to eliminate unnecessary expense at all levels of the health system. It would promote cooperation among providers and others to figure out how best to meet the community's needs—an element largely missing in an open-ended system that encourages excessive care and generation of unlimited revenue.

The fee schedules negotiated between insurers and providers would be the total payment for services. Making reimbursement fair in a reformed system would eliminate the need for any additional charge to the patient, or "balance bill" (the amount above what the fee schedule allows).

#### *Managing supply: regulatory approaches*

Market forces have not led to appropriate distribution of health resources—manpower, technology, and facilities. Hospitals a short distance apart establish duplicative high-technology services. Running competing, partially utilized services is inefficient and leads to pressure to use the service regardless of clinical need. Freestanding outpatient facilities generate business to try to maximize revenue, and weaken hospitals by skim-

ming away many of the patients having lucrative procedures, while hospitals must maintain their facilities. Many elements of health care have become a business and have adopted a business mentality, and traditional goals of community service have become endangered. The problem is not limited to hospitals or freestanding facilities. Physicians are attracted to specialties where they are not needed, in areas already oversupplied. There is a growing critical shortage of primary care and generalist physicians and providers and facilities in rural and inner city areas.

We conceptualize two levels of regulation: a "macro" level having to do with the capacity, supply or inputs to the system—basically the limits within which care is delivered; and a "micro" level—the physician-patient encounter. The College believes there is an appropriate role for regulation at the macro level, governing the supply of health resources. Government can have substantial impact on costs, in a nonintrusive way, by regulating these "inputs" to the health care system: physician supply and specialization, technology, and capital investment. Micro-level regulation of the physician-patient encounter has failed and would be eliminated under our plan.

We propose that, under federal guidelines, states and communities establish targets for the supply of health resources, expressed, for example, in terms of the distribution and concentration of physicians and other health professionals, beds, and major technologies. Setting these targets would require careful planning and attention to national resources such as teaching hospitals and specialized centers. Enforcing them would require that the targets be linked to the payment system.

The nation must develop a national health manpower policy. Of special urgency is the need to increase the number of primary care and generalist physicians. This shift will be necessary to provide for the millions of people who will gain access to care, as well as to ensure that care is cost efficient. The output of training programs must change from the current distribution of 35% generalists and 65% specialists to a balance in the profession as a whole. To achieve this goal would require major changes in how the country educates medical students and residents and how they would be paid once they move into practice. Fees must be substantially augmented for the evaluation and management services that form the core of practice for generalists, and for physicians practicing in underserved areas.

#### *Managing demand*

Demand for services can be dampened by promoting individual responsibility. Patients must view good health as a lifelong endeavor, beginning with early prenatal care and maintained through careful habits and appropriate preventive care. Physicians must educate their patients about their diseases and the public about the benefits of health promotion and disease prevention, and funding must be available for these initiatives. In the long run, full insurance coverage for preventive services will do much to promote health and control spending.

Patients and families must understand that, in some circumstances, a diagnostic or therapeutic intervention is futile. Understanding is best accomplished in the context of a long-standing, doctor-patient relationship in which the patient is fully included in the decision-making process. The profession and public health authorities must teach patients more about reasonable expectations.

Research (13) and the experience of our members support the conclusion that a co-

payment (typically, a flat payment or a percentage of the allowed fee) required of the patient discourages unnecessary services. For low-income people, however, co-payment may also discourage necessary care. We accept the need for an appropriate co-payment as a useful restraint on demand, as well as a source of revenue for the system. However, we propose the elimination of co-payments for low-income patients, so that the entire fee would be covered by insurance. For others, co-payment would be limited to a specified percentage of the fee, and subject to an annual cap. We would hope that as both patients and physicians become more knowledgeable about medically appropriate care, the need for co-payments will diminish and ultimately cease.

Payment reform is an essential element of managing utilization. Reimbursement continues to favor procedures over careful evaluation of the patient, and high cost technology over less expensive procedures. The new Medicare fee schedule was based on the concept of equitable payment, but its implementation has further eroded payment for evaluation and management services. Until the system is restructured so that it values general medical care, incentives to overutilize procedures will continue to drive up spending.

Finally, there should be restraint on patient self-referral to a specialist or subspecialist. We propose that most patients establish a clinical relationship with a primary care or generalist physician who would refer to specialty services as needed. We recognize that some patients need ongoing care from subspecialists.

#### *Managing administrative costs*

The nation must recapture the billions of dollars wasted in administrative expenditures, and redirect that spending for medical care. We predict substantial savings from administrative simplification under the ACP plan. Eliminating experience rating and fee discounts and forcing companies to compete on premium price and value is likely to result in the consolidation of health insurance companies. Eliminating case-by-case review would also save money. On the public side, replacing the many current programs would save the substantial costs of maintaining separate bureaucracies and developing and enforcing divergent sets of rules.

We propose a highly simplified claims process. Providers would file claims with a single processing agent at the state level (either a state agency or a firm under contract). That agent would make payments to providers and bill the patient's insurance plan. Patients would require only a plastic card encoded with the name of their plan and the source of the financing. We must adopt a uniform claims form, and move as rapidly as is feasible to electronic filing and computerized patient records.

#### CONCLUSIONS

Any proposal for change implies gains and losses for the participants in a system. One criterion of the seriousness of a plan is the degree to which it asks all parties to accept responsibility for achieving its goals. The College plan asks everyone to be responsible for ensuring access to care, improving quality, and controlling costs.

The recommendations in this paper have evolved from our philosophy on the role of a professional society that holds the public's interest primary; from listening to our members who care for and about their patients and the practice of medicine; and from our assessment of what should and, we believe, can be done.

The key change is the acceptance of limits, both philosophically and in the reality of operating within a national health care budget. In contrast to an open-ended system, squandering resources on unnecessary care or on bureaucratic excess in a limited system means that those resources are not available for patients in need and are taken from responsible colleagues and institutions in the community. Combined with a decentralized approach to the allocation of resources, the demands of providing care for all when there are limits on spending will be a powerful force to engender cooperation among all parties in meeting the community's needs.

Learning to live within limits will require sacrifices. For patients, limits imply that they cannot have everything they want; for providers, investments and incomes must know some bounds; for insurers and other administrators, no more micro-managing the system; and for employers not providing health insurance, an end to their free ride.

What are the gains? All patients are guaranteed coverage for all effective and appropriate services. No one is without care, and there is no second-class care. Our plan restores to physicians, hospitals, and other providers their central role in meeting the community's health care needs. They receive appropriate compensation for all care, and are relieved of the regulatory intrusion that characterizes the current system. Government and other payers gain predictability of expenditures and limits on the rate of growth. And employers get control of their costs and a boost in their ability to compete. They also see an end to cost-shifting—the hidden tax for uncompensated care which they have paid through their private insurance premiums.

Finally, the College insists that reform must be comprehensive. We cannot modify one element of the system without affecting others. For example, expanding access to care would be a false promise if we do not produce more generalist physicians. Attempting to control costs becomes doubly difficult if we do not eliminate pressures for defensive medicine through liability reform. Comprehensive reform does not imply that all changes must be implemented at one time. Careful transition and phasing, particularly with regard to the financial impact, will be necessary under an overall strategy that relates the components and presents a clear plan for achieving an integrated system and comprehensive reform.

The American College of Physicians offers its professional and organizational commitment to the task of reforming health care. The proposal we have offered is a conceptual outline. We recognize that important and practical details must be completed. Financial projections must be developed and tested. We are prepared to adjust our thinking as our own analysis proceeds and as the public debate continues. We look forward to participating with all others to achieve universal access to care and comprehensive reform.

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#### NEW INDUCTEES TO THE ALBUQUERQUE SENIOR HALL OF FAME

Mr. BINGAMAN. Mr. President, today I would like to call the attention of my colleagues to three outstanding New Mexicans who were recently inducted into the city of Albuquerque's Senior Hall of Fame. In these days, when there seems to be a conspicuous lack of positive role models in this country, it is comforting to know that among the citizens of my home State of New Mexico and the 49 other States, local heroes are quietly working to improve the world around them. They are our Nation's true role models, and this is our opportunity to celebrate the efforts of three of them.

Charles Lanier has spent the last 40 years tirelessly promoting growth in Albuquerque. This successful businessman has, among other things, served Albuquerque as a city commissioner, the president of the chamber of commerce, and president of the United Community Fund. All the while he steered his own company, New Mexico Title, to great success. His latest goal, as chairman of the Economic Forum, is to create a unified plan of growth for New Mexico's fastest growing city.

Mandy Pino has left her indelible mark on the lives of the elderly of New Mexico. During her 12 years as manager of senior information services at

the Albuquerque Office of Senior Affairs she helped provide services such as home repair, handicapped accessibility, adult shared housing, and health insurance counseling. She has contributed her time and energy to countless organizations, including the League of Women Voters, the Governor's Constitutional Revision Commission, the Senior Coalition, the New Mexico Department of Human Services Health Care Reform Task Force, and the list goes on and on. During my 10 years in the Senate, I have had the pleasure of working with Mandy on several occasions, usually in her capacity as advocate for the elderly. I look forward to many more years of hard work and friendship.

Another outstanding New Mexican, Virginia Sears, had dedicated most of her life to public service. She spent many years in New Mexico's State agencies, working in the Governor's office, the attorney general's office, and offices of the congressional delegation. In 1980, she initiated a legal referral program for the elderly and has encouraged many of New Mexico's attorneys to provide services to the elderly poor. Her boundless energy, competence, trustworthiness, and unflinching dedication have reserved her a place in the hearts of many New Mexicans.

Indeed, all three of these people have reserved themselves a place in our hearts. By adding them to the Albuquerque Senior Hall of Fame we are only scratching the surface of recognizing their accomplishments and repaying their kindness. I hope you will join me today in congratulating Charles, Mandy, and Virginia and in singing the praises of these unsung heroes and others like them.

#### ENERGY BILL CONFERENCE REPORT

Mr. JEFFORDS. Mr. President, in good humor, I now know how Senator SYMMS felt as we considered the Clean Air Act at the end of the 101st Congress. I expect I am one of the minority that oppose the energy bill. I would like to spend a few minutes explaining why.

First, I know many of my colleagues are anxious to return home. Why is that? It is because right now, Americans do not like Congress. We do not need polls to tell us the obvious. You can hear it in coffee shops, you can see it in the papers, you can feel it in the air. Why, is this? It is because year after year we pass legislation claiming it is going to solve America's problems, yet the problems continue to grow. Here we go again.

The energy bill is being presented as a major step forward in American energy policy. It is not. Quite the opposite. If this bill is enacted, Americans will be worse off tomorrow than they are today. This bill fails to address one

of the major areas of energy use in this country: that of our continued and growing reliance on foreign oil.

America needs to know this: This bill does not address our dependence on foreign oil. When we start the next century, we will be more dependent on foreign oil than we are today. America needs to know this. We will be more dependent on foreign oil with each passing year. This energy bill will not reduce our dependence on foreign oil.

So why are we in such a rush to pass this bill?

I am willing to bet, Mr. President, that if you asked most Americans what they would like a national energy policy to do, they would say that they would like us to stop our dependence on Mid East oil. Americans know what the main energy problem is. It's oil. They, or their sons and daughters, just fought a war over oil. They remember.

But this bill does not reduce our dependence on foreign oil. If anything, passage of this bill is going to impede future efforts to pass meaningful energy legislation. Instead, we will ignore energy until the next gulf war. Then, how many of our sons and daughters will have to fight to keep the oil flowing? How many will die to maintain the American addiction?

Another war or Middle East crisis will come. We know this. Thousands of years of history make the changes of avoiding another war unlikely. All of the treaties and Middle East conferences may delay the inevitable, but they will not stop future conflict. We do not have the power to prevent all future conflicts. We do have the power, however, to stop our dependence on foreign oil.

Weeks, months, or years from now when the next oil disruption occurs, people are going to look back at the vote on this bill and ask, "how did my Senator vote?" They will say, "I thought Congress acted to end our reliance on Mid East oil when they passed that energy bill. At least, that is what they said this bill would do. How come gasoline prices have skyrocketed, how come we are in another energy-caused recession, how come my friends are losing their jobs how come my son or daughter has been called up to military service?" How come, Mr. President?

That is the question. How come? How come we may pass an energy bill that does not address our dependence on foreign oil? How come with 10 years without an energy policy we are in such a hurry to enact a bill that does not address our country's oil use? I wish I knew the answer.

Let us talk about jobs for a minute. That is a hot campaign issue. Which party will produce the most jobs for Americans? Well, like it or not, this is a jobs vote. Oh sure, some will campaign as being for jobs using tax bills, but as our colleagues from New York clearly illustrate, the tax bill was not

a jobs bill. The tax bill is a deficit enhancement bill. The American people are smart. They know what a tax bill is. It is taking away money from the middle class.

So then what is a jobs tax bill? It is taking away money from the middle class to provide jobs for the middle class. We are making them pay for their own jobs. And, for this, we expect them to thank us?

But let us not just stop there. If gets worse, Mr. President. We are not taking their money today, we are putting Americans deeper in debt for tomorrow. Many, many people are struggling to pay their bills. These people are hurting. Their credit is stretched to the limit. They cannot go to the bank and ask for more money. But, we go right to the bank and sign them up for even more debt and there is nothing they can do about it. And then we brag about it at election time. Look at the pork I brought home. Elect me.

There is another way and it would not require one new tax dollar. A real energy policy could be a legitimate jobs bill. But instead, this bill, Mr. President, is the status quo. Over the past 2 years, I have received letter after letter describing the 400,000 jobs lost in our energy industries. Another 60,000 to 70,000 jobs will be lost this year. Another 50,000 job losses are on the way after that.

To those unfortunate people, this bill offers nothing. They are not going to get their jobs back. The U.S. Senate can ensure this with their vote on the energy bill. With your yes vote, you might as well tell these people to look for jobs at one-fourth the salaries they previously had, because they are not going to get their jobs back.

It did not have to be that way. Instead of losing 50,000 more jobs, we could be creating over a million new jobs. Everyone here talks about creating new jobs. Well, if you are in the domestic energy industry, do not take out any new loans. You will not be able to repay them, because you will not have a job.

And, Mr. President, the losses in the energy industry are a precursor to new job losses to come. Every dollar we spend on foreign oil is a dollar that cannot be invested here to create American jobs. Our dependency on foreign oil is robbing us of future jobs. Like an addict, we are spending every dollar to satisfy our habit, not on investing in the future. As a result, our children will suffer.

Mr. President, this is unacceptable. Thus, as I have every year since 1979, I will continue to fight against our oil habit. I will be back next year to once again try to lead us on a new path. Someday, Mr. President, the American people are going to get fed up with our pro-OPEC energy policies. I hope they remember the day we vote on this energy bill.

Last, let us talk about the environment for awhile another hot campaign issue. A couple of weeks ago, there was a highly visible hearing in the Foreign Relations Committee on the Global Climate Convention. Our colleague from Tennessee was there as was the Administrator of the Environmental Protection Agency. Huge crowds were there as one said the administration wasn't doing enough, and another said the administration was getting a bun rap. Both were right.

Anyway, my colleagues may not know this, but there was actually a third panel. A panel of technical experts who know the ends and outs of our energy options. You may not know about this third panel because Senator PELL and I were the only Members to stick around to learn about the details. Once the cameras were gone, everyone else pretty much vanished into thin air, like so much carbon dioxide.

This third panel had some of the leading experts on global climate plus an industry representative. I asked Dr. Oppenheimer, a leading scientist with the Environmental Defense Fund to contrast the Clean Air Act with the national energy strategy with the energy bill. Of the Clean Air Act, he said it, and I quote, "will reduce ultimately by a few percent probably our carbon dioxide emissions." The Clean Air Act was directed at air pollution, but still will help reduce our emissions of global warming gasses.

Here is how he described the energy strategy:

The national energy strategy is supposed to be pointed towards, I suppose, having a rational energy policy but, in fact, it is seriously deficient in that at this point, the way it stands, it is a lost opportunity.

We passed a Clean Air Act that will do more to reduce carbon dioxide emissions than an energy bill. What does that tell you about the energy bill?

Dr. Oppenheimer was not alone in his criticism. Here is how Dr. Gibbons of the Office of Technology Assessment described the energy bill:

\*\*\* we have for a variety of reasons has to abandon the notion of the whole transportation liquid fuels issues in that debate. If you abandon a focus on our liquid fuels consumption, our imports, our enormous imports now, we are over 50 percent import dependent, then you ignore one of the central issues, both of our hopes to get CO<sub>2</sub> emissions down and our hopes to improve the economy. To me for instance, a trade between buying oil from the Persian Gulf versus taking that money as capital investment to save that oil by making more efficient automobiles is a pretty good trade. It brings jobs home. It spends that money at home.

That is what Dr. Gibbons had to say. That is what I and many, Americans believe to be true.

We could be creating jobs at home. We could be spending American money on Americans. But, Mr. President, I am afraid we have chosen to forget about the American energy worker. We are

going to pass a sound bite and not a sound policy.

Someday soon, Mr. President, the next oil crisis will occur. Any examination of history shows the Middle East to be unstable. When the next war comes, then, Americans will know that this bill was an oil smoke screen and not an oil policy. Then, what will my colleagues say? What will they say as Americans send their children off to war. I plan to say I opposed this bill. I plan to say that I did what I could to stop our dependence on oil from one of the most dangerous parts of the world. I hope many of my colleagues can say the same.

#### CONFERENCE REPORT ON THE NATIONAL AFFORDABLE HOUSING ACT

Mr. ADAMS. Mr. President, I applaud the conferees for reaching agreement on the National Affordable Housing Act, and join in urging my colleagues to quickly adopt the conference agreement. This act tackles many difficult issues, among them the issue of the mixing of elderly and disabled populations in public and other forms of federally assisted housing. I know that this has been an exceedingly difficult matter for the Members of both the Senate and House Committees with jurisdiction over housing, and that the Members have worked hard to find a fair and compassionate way to address it.

I believe the conferees have, in fact, achieved the appropriate balance in this bill. During the first session of this Congress the issue of mixing the elderly with younger persons with disabilities in assisted housing was brought to my attention in the form of a proposed amendment to my legislation reauthorizing the Older Americans Act [OAA]. It was my view that that particular proposal was not appropriate in terms of both substance and the legislative vehicle. My reading was that the proposed amendment would only exacerbate tensions with advocates for people with disabilities. So I rejected that proposal and said that not only would the issue be better addressed through housing legislation, but that resolution could only be reached by a truly joint effort by advocates for the elderly and the disabled.

As a member of the Subcommittee on Disability Policy as well as the chairman of the Subcommittee on Aging, I fully recognize the very real housing needs of both low-income older Americans and people with disabilities. Both need access to decent, safe and affordable housing. Unfortunately, the extraordinary reductions in Federal support for housing assistance over the past 12 years, coupled with the tremendous housing needs of these populations has created this issue. The bottom line is that the housing resources

are far too inadequate to meet the need. A recent report by the National Alliance for the Mentally Ill noted that over 30,000 persons with mental disabilities are in the nation's jails, not because they have committed terrible crimes, but because they have nowhere else to go.

Mr. President, this terrible situation has pitted the elderly who wish to reside in age-distinct housing against younger disabled individuals who have even fewer housing options than do the elderly. Make no mistake about it, the draconian housing policies of the Reagan-Bush administrations has brought us to the brink of a Hobson's Choice: provide more housing options for younger persons with disabilities by taking resources from the elderly poor.

While this issue has been the subject of tremendous debate during the deliberations on the housing bill, it has been the source of conflict and serious tension in many cities across the country. Newspaper articles have outlined in great detail numerous tragic stories concerning the mixing of older persons—mostly very old single women—and younger persons with disabilities—mostly young men—in common housing. This mix has sometimes been violent with tragic outcomes.

Seattle—my home town—has been no exception. Last year, I directed the staff director of my Aging Subcommittee to Seattle to get a first hand look at the situation there. He toured several different kinds of housing facilities. He visited the room of a retired member of the clergy who showed him the scars of a ricocheting bullet that entered his bedroom and exited just above his bed in which he was lying. The bullet had been fired by a young person residing in an adjacent room.

My staff member encountered older people who wanted to preserve the opportunity to live in housing that was intended to be for the elderly only. But he also spoke with older people who enjoyed the diversity of having people of different ages residing together. In short, older people in publicly assisted housing are like other people everywhere: Their needs and wants vary; they are not a homogeneous group. They want options. That's what our Nation's housing policy should encourage. I am convinced, as are my constituents, that local flexibility is essential to providing those options.

Mr. President, I would like to take a few more moments to describe an important effort in the city of Seattle, where the disabled currently outnumber the elderly in housing.

I am very proud of the work of my office in helping to bring together in Seattle a coalition of organizations and agencies that serve the elderly and the disabled to build a consensus on strategies and solutions to the mixed housing issue. Raising the issue through the Older Americans Act spawned a re-

sponse to the tension that was clearly increasing between advocates for the elderly and the disabled over access to federally assisted housing.

Through my Seattle office, the Task Force on Elderly/Disabled Housing for Seattle/King County, was convened comprised of representatives of key organizations serving persons with disabilities and the elderly; the Seattle Public Housing Authorities, law enforcement, Congressional offices, and others. For over a year, this group met regularly to debate the many issues associated with mixed housing and to attempt to reach agreement on what can and should be done about these issues. As far as I know, the task force created to deal with this problem in Seattle is unique in the Nation.

I am pleased to say that the majority of this group has just recently reached agreement on a "position statement" in which they conclude:

The solutions to this complex problem must be locally designed, flexible, multi-faceted, and creative based upon national standards but local conditions. At a minimum, these solutions should include strong management, more service and [emphasis added] housing reserved for persons aged 62 years or older.

Of particular note is the fact that they have concluded, as have the conferees, that we must maintain some housing solely for older persons aged 62 and over and that we must increase the amount of housing available to people with disabilities. The task force position statement includes a number of key principles and goals in addition to preserving age-distinct housing. These include improved housing options for disabled individuals, increased staff and support services—such as case management and referral services, a commitment from local housing providers to work with client populations to improve the current housing situation, planning through local comprehensive housing affordability strategies, and allegiance to laws and principles which ensure no discrimination.

The members of the Seattle housing task force that signed the position paper include: the Easter Seals Society of Washington; the Seattle-King County Area Agency on Aging; the Administrators of Council House, a section 236 project; the Seattle Housing Authority; the King County Mental Health Division; the administrator of Hilltop House; and the Puget Sound Council of Senior Citizens.

Mr. President, I am confident that my constituents who have worked so hard to reach consensus on tackling this tough issue will be pleased with the agreement reached on this bill. The conferees have largely adopted the House language on this matter and have provided additional protections and resources for nonelderly persons with disabilities. No one will argue that the conference agreement is perfect; certainly not from the perspec-

tives of each of the affected parties. It is a compromise that represents a sound and compassionate approach to guide housing policy in this area.

I have had the opportunity to work closely on the mixed housing issue over the past year with both the elderly and disability communities. They each care passionately about those they are committed to representing. I not only appeal to all affected parties to support this agreement and to ensure that it is implemented as smoothly as possible, but to work together to obtain the resources that are necessary if all low-income seniors and persons with disabilities are to have the decent and affordable housing options that they seek.

There are, of course, many other important provisions in the housing bill, including others that are very important for the elderly. As with the mixed housing issue, I believe the conferees have achieved a solid agreement on the key issues and compliment them for that. Earlier today, I introduced a housing bill that builds upon several provisions that are in this bill. I hope that these additional provisions will be given full consideration when the Congress turns again to housing policy.

Mr. President, I ask unanimous consent to insert in the RECORD a copy of the "Mixed Populations Position Statement" of the Task Force on elderly/disabled housing for Seattle/King County, WA.

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

**TASK FORCE ON ELDERLY/DISABLED HOUSING FOR SEATTLE/KING COUNTY, WA, MIXED POPULATIONS POSITION STATEMENT, SEPTEMBER 11, 1992**

The issue of "mixed-populations" or two very different groups of people living in the same low-income federally assisted housing which was initially intended for and occupied by elderly households has grown dramatically in the last few years. The increasing pressure of younger, disabled households moving into these buildings has created a situation which can no longer be ignored and must be addressed with logical and reasonable methods of relief if this type of housing is to be preserved as an affordable housing resource.

The solutions to this complex problem must be locally designed, flexible, multifaceted, and creative based upon national standards but local conditions. At a minimum, these solutions should include strong management, more services and housing reserved for persons aged 62 years or older.

An opportunity to reserve some housing solely for persons 62 years of age and older.

A commitment to maintain and/or increase the amount of housing available to the large numbers of disabled households on waiting lists.

Funding to develop new federally assisted housing resources (such as public housing and Section 8) which are appropriately designed and operated and in which service and treatment needs of the elderly and disabled persons can be met.

Authorization and funding for appropriate and adequate support services for federally assisted housing residents that will include

case management, assistance, and referral services.

A commitment on the part of local low-income housing providers to work cooperatively with other organizations and groups which represent client populations to insure that all needs are considered and addressed and which insures that there will be no large concentrations of disabled persons in a single facility. These local plans should be incorporated into the local Comprehensive Housing Affordability Strategy (CHAS).

Authorization and funding to provide adequate facility staffing which insures security and safety.

Allegiance to laws and principles which ensure no discrimination.

**CONFERENCE REPORT ON H.R. 429**

Mr. DECONCINI. Mr. President, the conference report currently before the Senate contains several titles that are important to the State of Arizona. These include the Grand Canyon Protection Act, the provision pertaining to the repair of the central Arizona project [CAP], water reuse projects in Phoenix and Tucson, and the San Carlos Indian water rights settlement legislation. I am most appreciative of the efforts of the committee to see that these worthy projects were included in the bill.

I would like to take a moment of the Senate's time to discuss the San Carlos Indian water rights settlement. This provision provides for the settlement of the water rights claims of the San Carlos Indian Tribe against a number of non-Indian parties. This legislation is extremely important to the water future of Arizona.

For the information of my colleagues, the United States on behalf of the tribe has filed claims for 292,406 acre/feet per year against a variety of parties. At the rate used by the Department of the Interior in previous settlements, the value of these claims is estimated to be \$511 million. This legislation resolves these claims. In return for extinguishing these claims, the tribe will receive 152,435 acre feet per year [AF/Y] of water from a variety of sources as well as sufficient money from the Federal Government, the State of Arizona, the city of Safford, Phelps Dodge and receipts from long-term leasing of water in order to develop the beneficial uses of this water on the reservation.

While I now support the San Carlos provision contained in this conference report, that has not always been the case. Let me explain.

The San Carlos legislation as introduced, proposed using the 33,000 acre feet in excess of the amount needed to satisfy the Ak-Chin Indian settlement to complete the water budget for the San Carlos settlement. However, Senator Goldwater and I successfully offered an amendment to the 1984 Ak-Chin legislation which specifically stated that any water not utilized by the Ak-Chin community for this settle-

ment would return to the central Arizona project to be reallocated to other project users. Because of this, the State of Arizona, the Central Arizona Water Conservation District, along with myself, were opposed to using the Ak-Chin surplus water for the San Carlos settlement.

To respond to this issue, the Senate passed version of the San Carlos bill contained a provision exempting irrigation districts receiving cap water from the ownership and full cost pricing limitations of Federal reclamation law. In return, these irrigation districts would have dropped their claims to the Ak-Chin surplus water. This solution was agreeable with all of the concerned parties in Arizona including this Senator.

However, the House deleted the provision which would have provided for the reclamation law exemptions while continuing to use the surplus Ak-Chin water in the settlement. Based upon Chairman MILLER's comments during floor consideration of the San Carlos bill, he indicated that he does not feel that Arizona's claim to the surplus Ak-Chin water is valid and, therefore, felt that the compensation provided for in the Senate bill for the relinquishment of the claims to the surplus Ak-Chin water was inappropriate.

I strongly disagreed with the other body's position and I was prepared to not let the San Carlos bill pass until this matter was resolved. I set out to find a compromise position that was agreeable to both the affected parties in Arizona and Chairman MILLER. After much discussion, the language that is now in section 3708(f) of this legislation was agreed upon. It provides that to the extent that the reallocation of the Ak-Chin surplus water as called for in the San Carlos settlement deprives the central Arizona project and its contractors of water rights recognized by the Ak-Chin Indian settlement—Public Law 98-530—there will be a compensation remedy available against the United States which will be determined through an expedited judicial review of the claim.

I feel that this is an adequate compromise and it is agreeable to this Senator.

Mr. President, I ask unanimous consent that a letter I sent to Chairman MILLER on September 14 which more fully explains the background on the Ak-Chin surplus water issue be included in the RECORD at this point.

Mr. President, I would like to express my gratitude to Chairman BRADLEY and Chairman JOHNSTON for their support of my position on this matter. I would also like to thank Chairman MILLER for his willingness to work with me to develop this compromise language.

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

U.S. SENATE,  
COMMITTEE ON APPROPRIATIONS,  
Washington, DC, September 14, 1992.

Hon. GEORGE MILLER,

Chairman, Committee on Interior and Insular  
Affairs, House of Representatives, Washing-  
ton, DC.

DEAR MR. CHAIRMAN: As you proceed to  
Conference on S. 429, the Reclamation  
Projects Authorization and Adjustments Act  
of 1992, I want to raise an issue with you that  
is critically important to the State of Ariz-  
ona.

As you know Title 39 of the Senate passed  
version of S. 429 contains the San Carlos In-  
dian Water Rights Settlement legislation.  
This provision is identical to S. 291, which  
has already passed the Senate. An almost  
identical version of this bill has passed the  
House as well. The difference between the  
two San Carlos bills will be an issue in the  
upcoming Conference on H.R. 429.

Initial drafts of the San Carlos legislation  
proposed using the 33,000 acre/feet of water  
known as the "Ak-Chin surplus water"  
(water which is in excess of the amount  
needed to satisfy the Ak-Chin Indian Com-  
munity's water settlement) to complete the  
water budget for the San Carlos settlement.  
However, Senator Goldwater and I cospon-  
sored an amendment to the 1984 Ak-Chin set-  
tlement legislation which specifically stated  
that any water not utilized by the Ak-Chin  
community for this settlement would return  
to the Central Arizona Project to be reallo-  
cated by the state. Consequently the state of  
Arizona, the Central Arizona Water Con-  
servation District (CAWCD), Arizona's agri-  
cultural water users and I opposed using the  
so called "Ak-Chin surplus water" for the  
San Carlos settlement as originally pro-  
posed.

This issue was resolved during mark-up of  
the San Carlos legislation before the Select  
Committee on Indian Affairs by an amend-  
ment that exempts irrigation districts re-  
ceiving CAP water from the ownership and  
full cost pricing limitations of federal re-  
clamation law. In return, these irrigation  
districts agreed to drop their claims to the  
"Ak-Chin surplus water". This solution was  
agreeable with all of the concerned parties  
including myself.

However, during consideration of S. 291 in  
the House, you objected to this provision.  
During floor debate on this matter, you ex-  
plained your reason for opposing this par-  
ticular provision as follows:

"The House amendment to S. 291 deletes  
Section 8(f) of the Senate bill. This provision  
would have exempted non-Indian irrigators  
who use water from the Central Arizona  
Project from the acreage limitation and full-  
cost pricing provisions of reclamation law.

"This provision was included in the Sen-  
ate-passed bill as a quid pro quo for the non-  
Indian irrigators, who have agreed to waive  
their claims to 33,000 acre-feet per year of  
water that will now become a part of the San  
Carlos settlement. The non-Indians believe  
that they had an entitlement to that water,  
and asked for relief from the requirements of  
reclamation law in return for waving their  
claims.

"Our review of the facts of this matter in-  
dicates that no such entitlement exists.

You stated that you based this assertion  
on information provided in a letter dated  
April 22, 1991 from Mr. Timothy Glidden,  
Chairman of the Department of Interior  
working group on Indian Water rights settle-  
ments.

After reading Mr. Glidden's April, 1991 let-  
ter I can only conclude that it is based on an

incomplete review of the issues surrounding  
the "AK-Chin surplus water" as well as re-  
versing previous Department policy which I  
am not convinced that he has the authority  
to do.

It appears that Mr. Glidden arrives at the  
conclusion that non-Indian agricultural  
users of CAP water are not entitled to the  
"AK-Chin surplus water" from only having  
reviewed the House versions of the 1984 Ak-  
Chin bill and legislative history. Mr. Glidden  
states in his April, 1991 letter:

"The history of the 1984 Ak-Chin Settle-  
ment is thoroughly explained in the Septem-  
ber 14, 1984, House of Representative Report  
(House Report); and therefore, it need not be  
repeated here.

Later in the letter, Mr. Glidden also states:  
"The House Report underscores the conclu-  
sion that the decision as to how the excess  
water was to be used was left to the Sec-  
retary's discretion."

The House Report referred to in Mr.  
Glidden's letter reflects the status of the Ak-  
Chin bill as it was passed by the House of  
Representatives on September 17, 1984.

However, this version of the Ak-Chin legis-  
lation raised significant concerns in Arizona.  
In a letter dated September 17, 1984 to the  
Arizona delegation, then-Governor Babbitt  
voiced his strong objection to the House  
passed Ak-Chin bill. He stated in this letter  
that one of his major concerns with the  
House-passed bill was that "[T]he net result  
in the transfer of much of the cost to poten-  
tial CAP water users."

The concerns about the "Ak-Chin surplus  
water" were addressed when the Senate con-  
sidered the Ak-Chin legislation. As men-  
tioned previously, Senator Goldwater and I  
addressed this issue by offering an amend-  
ment that provided that any of the water  
which the Secretary does not use in fulfill-  
ing his obligation to the Ak-Chin Indian  
Community goes to the Central Arizona Project.  
In explaining the amendment, Senator Gold-  
water said:

"The second amendment, technical in na-  
ture, merely reconfirms the fact that any of  
the surplus aggregate water which the Sec-  
retary of the Interior does not use in fulfill-  
ing his obligation to the Indians goes to the  
Central Arizona Project."

I stated:

"The first amendment (sic) clarifies a  
provision in the bill requiring that any water  
that is not utilized by the Ak-Chin commu-  
nity, will revert to the State for use by its  
CAP users for any water that is not used by  
the Indian Tribe."

This amendment was adopted and the bill  
was passed by the Senate on September 25,  
1984.

When the House of Representatives again  
considered the Ak-Chin legislation, Chair-  
man Udall reviewed the purposes of the Sen-  
ate amendments and with respect to the  
"Ak-Chin surplus water" amendment, he  
said the following:

"The second amendment clarifies that the  
balance of the water not needed to fulfill the  
Secretary's specific delivery obligation to  
the Ak-Chin shall be allocated to the Central  
Arizona Project."

The amended measure was adopted by the  
House and was signed into law by the Pres-  
ident on October 19, 1984 as Public Law 98-530.

Based upon the foregoing, I think it is  
clear that Congress did indeed intend for the  
"Ak-Chin surplus water" be dedicated as  
part of the Central Arizona Project supplies.

I would like to touch briefly upon the re-  
versal of Administration's position on the  
subject of the "Ak-Chin surplus water" as

expressed in Mr. Glidden's April 1991 letter.  
In a letter dated September 12, 1984, the Sec-  
retary of the Interior forwarded to Chairman  
Udall the Department's views of the Ak-Chin  
legislation. In this letter, Secretary Clark  
makes the following statement:

"Additionally, the new arrangement will  
provide ancillary benefits to the water users  
of central Arizona. We intend that any of the  
water not needed to satisfy Ak-Chin's re-  
duced entitlement will be available for allo-  
cation in the State of Arizona. It appears  
that in normal years we will be able to pro-  
vide over 30,000 acre-feet annually to the  
State between 1988 and 2010 and 8,000-30,000  
acre-feet later in 21st century. The acqui-  
sition of this lower Colorado River water en-  
sures its diversion to central Arizona for use  
by Ak-Chin or other users. [attachment 5]

In a letter to me dated September 17, 1984,  
Secretary Clark stated:

"The legislation [Ak-Chin] allows that any  
water not needed to satisfy Ak-Chin's re-  
duced entitlement will be available for CAP  
allocation in the State of Arizona."

As you can see, Secretary Clark stated the  
Department's position on the "Ak-Chin sur-  
plus water" with clarity and the Senate  
amendment reinforced that position. Con-  
sequently, Glidden's April 22, 1991 letter is an  
obvious reversal of previous Department pol-  
icy. By all indications, this reversal appears  
to be arbitrary and unsupported on Mr.  
Glidden's part and I feel it should not be  
used as the basis for Congressional action.

After having established the validity of Ariz-  
ona's entitlement to the "Ak-Chin surplus  
water", the question is then what con-  
stitutes an appropriate consideration for the  
use of these water resources in the San Car-  
los settlement. The Senate felt that exempt-  
ing Arizona CAP water users from the own-  
ership and full cost pricing limitations of  
federal reclamation law was appropriate  
compensation for the relinquishment of the  
claims to the "Ak-Chin surplus water."

Which brings us to the point we are at  
today. Passage of the San Carlos settlement  
legislation is vitally important. It settles  
the legitimate water rights claims of the San  
Carlos Apache Tribe as well providing ancil-  
lary benefits to other non-Indian parties.  
However, enactment of this legislation must  
not come at the expense of uninvolved third  
parties. Therefore, I would appreciate the op-  
portunity to discuss this matter with you  
personally so that we may resolve the im-  
passes that is preventing the passage of the  
San Carlos settlement legislation. My staff  
will be willing to arrange a time when we  
can meet. Should you have any questions,  
please do not hesitate to contact either my-  
self or David Steele of my staff at 4-4521.

Warmest regards, as always.

Sincerely,

DENNIS DECONCINI  
U.S. Senator.

[From the CONGRESSIONAL RECORD, Nov. 26,  
1991]

SAN CARLO APACHE TRIBE WATER RIGHTS  
SETTLEMENT ACT OF 1991

Mr. MILLER of California. Mr. Speaker, I  
move to suspend the rules and pass the Sen-  
ate bill (S. 291) to settle certain water rights  
claims of the San Carlos Apache Tribe, as  
amended.

The Clerk read as follows:

S. 291

*Be it enacted by the Senate and House of Rep-  
resentatives of the United States of America in  
Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "San Carlos Apache Tribe Water Rights Settlement Act of 1991".

**SEC. 2. CONGRESSIONAL FINDINGS.**

(a) **SPECIFIC FINDINGS.**—The Congress finds and declares that—

(1) it is the policy of the United States, in fulfillment of its trust responsibility to Indian tribes, to promote Indian self-determination and economic self-sufficiency, and to settle, wherever possible, the water rights claims of Indian tribes without lengthy and costly litigation;

(2) meaningful Indian self-determination and economic self-sufficiency depend on the development of viable Indian reservation economies;

(3) qualification of rights to water and development of facilities needed to utilize tribal water supplies effectively is essential to the development of viable Indian reservation economies, particularly in arid western States;

(4) on November 9, 1871, and by actions subsequent thereto, the United States Government established a reservation for the San Carlos Apache Tribe in Arizona;

(5) the United States, as trustee for the San Carlos Apache Tribe, obtained water entitlements for the Tribe pursuant to the Globe Equity Decree of 1935; however, continued uncertainty as to the full extent of the Tribe's entitlement to water has severely limited the Tribe's access to water and financial resources necessary to develop its valuable agricultural lands and frustrated its efforts to reduce its dependence on Federal program funding and achieve meaningful self-determination and self-sufficiency;

(6) proceedings to determine the full extent and nature of the Tribe's water rights are currently pending before the United States District Court in Arizona and in the Superior Court of the State of Arizona in and for Maricopa County, as part of the General Adjudication of the Gila River System and Source;

(7) recognizing that final resolution of pending litigation will take many years and entail great expense to all parties, continue economically and socially damaging limits to the Tribe's access to water, prolong uncertainty as to the availability of water supplies and seriously impair the long-term economic planning and development of all parties, the Tribe and its neighboring non-Indian communities have sought to settle their dispute to water and reduce the burdens of litigation;

(8) after lengthy negotiations, which included participation by representatives of the United States Government, the Tribe, and neighboring non-Indian communities of the Salt River and Gila River Valleys, who are all party to the General Adjudication of the Gila River System and Source, the parties are prepared to enter into an Agreement to resolve all water rights claims between and among themselves, to quantify the Tribe's entitlement to water, and to provide for the orderly development of the Tribe's lands;

(9) pursuant to the Agreement, the neighboring non-Indian communities will relinquish claims to approximately 58,735 acre-feet of surface water to the Tribe, provide the means of storing water supplies of the Tribe behind Coolidge Dam on the Gila River in Arizona to enhance fishing, recreation, and other environmental benefits, and make substantial additional contributions to carry out the Agreement's provisions; and

(10) to advance the goal of Federal Indian policy and to fulfill the trust responsibility

of the United States to the Tribe, it is appropriate that the United States participate in the implementation of the Agreement and contribute funds for the rehabilitation and expansion of existing reservation irrigation facilities so as to enable the Tribe to utilize fully its water resources in developing a diverse, efficient reservation economy.

(b) **PURPOSES OF ACT.**—It is the purpose of this Act—

(1) to approve, ratify, and confirm the Agreement to be entered into by the Tribe and its neighboring non-Indian communities,

(2) to authorize and direct the Secretary of the Interior to execute and perform such Agreement, and

(3) to authorize the actions and appropriations necessary for the United States to fulfill its legal and trust obligations to the Tribe as provided in the Agreement and this Act.

**SEC. 3. DEFINITIONS.**

For purposes of this Act:

(1) "Active conservation capacity" means that storage space, exclusive of bank storage, available to store water which can be released through existing reservoir outlet works.

(2) "Agreement" means that agreement among the San Carlos Apache Tribe; the United States of America; the State of Arizona; the Salt River Project Agricultural Improvement and Power District; the Salt River Valley Water Users' Association; the Roosevelt Water Conservation District; the Arizona cities of Chandler, Glendale, Globe, Mesa, Safford, Scottsdale and Tempe, the town of Gilbert; Buckeye Water Conservation and Drainage District, Buckeye Irrigation Company, the Phelps Dodge Corporation and the Central Arizona Water Conservation District, together with all exhibits thereto, as the same is executed by the Secretary of the Interior pursuant to sections 10(c) and 11(a)(7) of this Act.

(3) "CAP" means the Central Arizona Project, a reclamation project authorized under title III of the Colorado River Basin Project Act of 1968 (43 U.S.C. 1521 et seq.).

(4) "CAWCD" means the Central Arizona Water Conservation District, organized under the laws of the State of Arizona, which is the contractor under a contract with the United States, dated December 15, 1972, for the delivery of water and repayment of costs of the Central Arizona Project.

(5) "Globe Equity Decree" means the decree dated June 29, 1935, entered in the United States of America v. Gila Valley Irrigation District, et al., Globe Equity 59, in the District Court of the United States in and for the District of Arizona, and all decrees and decisions supplemental thereto.

(6) "Reservation" means the reservation authorized by the Treaty with the Apache Nation dated July 1, 1852 (10 Stat. 979), established by the Executive orders of November 9, 1871 and December 14, 1872, as modified by subsequent Executive orders and Act of Congress including the Executive order of August 5, 1873.

(7) "RWCD" means the Roosevelt Water Conservation District, an irrigation district organized under the laws of the State of Arizona.

(8) "Secretary" means the Secretary of the Interior.

(9) "SRP" means the Salt River Project Agricultural Improvement and Power District, a political subdivision of the State of Arizona, and the Salt River Valley Water Users' Association, an Arizona Corporation.

(10) "SCIP" means the San Carlos Irrigation Project authorized pursuant to the Act

of March 7, 1928 (45 Stat. 200, 210), and administered by the Bureau of Indian Affairs.

(11) "Tribe" means the San Carlos Apache Tribe, a tribe of Apache Indians organized under section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 987; 25 U.S.C. 476), and duly recognized by the Secretary.

**SEC. 4. WATER.**

(a) **REALLOCATION OF WATER.**—The Secretary shall reallocate, for the exclusive use of the Tribe, all of the water referred to in subsection (f)(2) of section 2 of the Act of October 19, 1984 (98 Stat. 2698), which is not required for delivery to the Ak-Chin Indian Reservation under that Act. The Secretary shall exclude, for the purposes of determining the allocation and repayment of costs of the CAP as provided in Article 9.3 of Contract No. 14-06-W-245, Amendment No. 1, between the United States and CAWCD dated December 1, 1988, and any amendment or revision thereof, the costs associated with such water from CAWCD's repayment obligation and such costs shall be nonreimbursable.

(b) **PARTIAL SATISFACTION OF CLAIMS.**—Notwithstanding any other provision of this Act, in the event the authorizations contained in section 8(b) do not become effective, the water referred to in subsection 4(a) of this Act shall constitute partial satisfaction of the Tribe's claims for water in the proceeding entitled "In Re the General Adjudication of All Rights To Use Water in the Gila River System and Source, Maricopa County Superior Court Nos. W-1, W-2, W-3, and W-4 (consolidated), as against the parties identified in section 3(2) of this Act.

(c) **ADDITIONAL ALLOCATIONS.**—The Secretary shall reallocate to the Tribe an annual entitlement to 14,655 acre-feet of water from the Central Arizona Project having a CAP municipal and industrial priority, which the Secretary previously allocated to Phelps Dodge Corporation in the Notice of Final Water Allocations to Indian and non-Indian water users and Related Decisions, dated March 24, 1983 (48 F.R. 12466 et seq.). The Tribe shall pay the United States or, if directed by the Secretary, CAWCD, all operation, maintenance and replacement costs associated with such CAP water. Except as provided in subsection (e)(3) of section 6, water service capital charges, or any other charges or payments for such CAP water other than operation, maintenance and replacement costs shall be nonreimbursable. The Secretary shall exclude, for the purposes of determining the allocation and repayment of costs of the CAP as provided in Article 9.3 of Contract No. 14-06-W-245, Amendment No. 1, between the United States and CAWCD dated December 1, 1988, and any amendment or revision thereof, the costs associated with such water from CAWCD's repayment obligation and such costs shall be nonreimbursable.

(d) **ADDITIONAL ALLOCATION.**—The Secretary shall reallocate to the Tribe an annual entitlement to 3,480 acre-feet of water from the Central Arizona Project having a CAP municipal and industrial priority, which the Secretary previously allocated to the city of Globe, Arizona in the Notice of Final Water Allocations to Indian and Non-Indian Water Users and Related Decisions, dated March 24, 1983 (48 F.R. 12466 et seq.). The Tribe shall pay the United States or, if directed by the Secretary CAWCD, all operation, maintenance and replacement costs associated with such CAP water. Except as provided in subsection (e)(3) of section 6, water service capital charges, or any other charges or payments of such CAP water

other than operation, maintenance and replacement costs shall be nonreimbursable. The Secretary shall exclude, for the purposes of determining the allocation and repayment of costs of the CAP as provided in Article 9.3 of contract No. 14-06-W-245, Amendment No. 1, between the United States and CAWCD dated December 1, 1988, and any amendment or revision thereof, the costs associated with such water from CAWCD's repayment obligation and such costs shall be reimbursable.

(e) WATER STORAGE POOL.—Notwithstanding the Act of June 7, 1924 (43 Stat. 475), as amended by the Act of March 7, 1928 (45 Stat. 200, 210), in order to permit the Tribe to maintain permanently a pool of stored water for fish, wildlife, recreation and other purposes, the Secretary shall designate for the benefit of the Tribe such active conservation capacity behind Coolidge Dam on the Gila River in Arizona as is not being used by the Secretary to meet the obligations of SCIP or irrigation storage, except that any water stored by the Tribe shall be the first water to spill ("spill water") from Coolidge Dam. The water stored by the Tribe shall be, at the Tribe's designation, the water provided to the Tribe pursuant to subsections (a), (c) and (d) of this section, its entitlement of 12,700 acre-feet of water under its Tribal CAP Delivery Contract dated December 11, 1981; the water referred to in section 10(f), or any combination thereof. A pro rata share of evaporation and seepage losses shall be deducted daily from the Tribe's stored water balance as provided in the Agreement. The Tribe shall pay an equitable share of the operation and maintenance costs for the water stored for the benefit of the Tribe, subject to the Act of July 1, 1932 (47 Stat. 564, 25 U.S.C. 386 et seq.). The water stored by the Tribe pursuant to this subsection shall not be subject to apportionments pursuant to Article VIII(2) of the Globe Equity Decree. Not later than January 31 of each year, the Secretary shall notify the United States District Court for the District of Arizona of the Tribe's stored water balance as of January 1 of that year. The Secretary shall notify said Court of the Tribe's stored water balance at least once per calendar month and at such more frequent intervals as conditions, in the Secretary's judgment, may require.

(f) EXECUTION OF AGREEMENT.—The Secretary shall execute the Agreement which establishes, as between and among the parties to Agreement, the Tribe's permanent right, except as provided in paragraphs 13.0, 14.0 and 15.0 of the Agreement, to the on-reservation diversion and use of all ground water beneath the Tribe's Reservation, subject to the management plan referred to in section 10(D) of this Act, and all surface water in all tributaries within the Tribe's Reservation to the mainstreams of: The Black River, the Salt River below its confluence with the Black River, the San Pedro River and the Gila River, including the right, except as provided in paragraphs 14.0 and 15.0 of the Agreement, to fully regulate and store such water on the tributaries. The Tribe's rights to the mainstream of Black River, San Pedro River and the Gila River shall be as provided in the Agreement and the Globe Equity Decree. With respect to parties not subject to the waiver authorized by subsection 8(b) of this Act, the claims of the Tribe and the United States, as trustee for the Tribe, are preserved.

(g) GILA RIVER EXCHANGES.—Any exchange pursuant to this legislation of Gila River water for water supplied by the CAP shall not amend, alter or conflict with the exchanges authorized by section 304(f) of the

Colorado River Basin Project Act (43 U.S.C. 1524(f)).

#### SEC. 5. RATIFICATION AND CONFIRMATION OF CONTRACTS.

(a) RATIFICATION OF CONTRACT.—Except as provided in section 10(i), the contract between the SRP and the RWCD District dated October 24, 1924, together with all amendments thereto and any extension thereto entered into pursuant to the Agreement, is ratified, confirmed, and declared to be valid.

(b) SUBCONTRACT.—The Secretary shall revise the subcontract of the Roosevelt Water Conservation District for agricultural water service from the CAP to include an addendum substantially in the form of Exhibit "A" to the Agreement and to execute the subcontract as revised. Notwithstanding any other provision of law, the Secretary shall approve the conversion of agricultural water to municipal and industrial uses authorized by the addendum at such time or times as the conditions authorizing such conversions, as set forth in the addendum, are found to exist.

(c) RESTRICTIONS.—The lands within RWCD and SRP shall be free from the ownership and full cost pricing limitations of Federal reclamation law and from all full cost pricing provisions of Federal law.

(d) DISCLAIMER.—No person, entity or lands shall become subject to the provisions of the Reclamation Reform Act of 1982 (43 U.S.C. 390aa et seq.) or any full cost pricing provision of Federal law by virtue of their participation in the settlement or their execution and performance of the Agreement, or the use, storage or delivery of CAP water pursuant to a lease, sublease or exchange of water to which the Tribe is entitled under this Act.

(e) FULL COST PRICING PROVISIONS.—The lands within the Tribe's Reservation shall be free from all full cost pricing provisions of Federal law.

(g) CERTAIN EXTENSIONS AUTHORIZED.—Notwithstanding any other provision of law or any other provision of this Act, the Secretary, subject to tribal approval, is authorized and directed to: extend the term of that right-of-way permit granted to Phelps Dodge Corporation on March 8, 1950, and all amendments thereto, for the construction, operation and maintenance of an electrical transmission line and existing road for access to those facilities over the lands of the Tribe; extend the term of that right-of-way permit numbered 2000089 granted on July 25, 1944, to Phelps Dodge Corporation, and all amendments thereto, for the construction, use, operation and maintenance of a water plant, pipeline, canal, water flowage easement through Willow Creek and existing road for access to those facilities over the lands of the Tribe; and grant a water flowage easement through the portions of Eagle Creek flowing through the Tribe's Reservation. Notwithstanding any other provision of law, each such right-of-way and flowage easement shall be for a term expiring on March 8, 2090, and shall be subject to the right of Phelps Dodge to renew the rights-of-way and flowage easements for an additional term of up to 100 years, subject to payment of rental at a rate based upon fair market retail value.

#### SEC. 6. WATER DELIVERY CONTRACT AMENDMENTS; WATER LEASE, WATER WITHDRAWAL.

(a) AMENDMENT OF CONTRACT.—The Secretary shall amend the CAP water delivery contract between the United States and the Ak-Chin Indian Community dated December 11, 1980, and the contract between the United States and the Ak-Chin Indian Community

dated October 2, 1985, as is necessary to satisfy the requirements of section 4(a) of this Act.

(b) CONTRACT AMENDMENT.—The Secretary shall amend the CAP water delivery contract between the United States and the Tribe dated December 11, 1980 (hereinafter referred to as the "Tribal CAP Delivery Contract"), as follows:

(1) To include the obligation by the United States to deliver water to the Tribe upon the same terms and conditions set forth in the Tribal CAP Delivery Contract as follows: water from those sources described in subsections (a), (c), and (d) of section 4 of this Act; except that the water reallocated pursuant to such subsections shall retain the priority such water had prior to its reallocation. The cost to the United States to meet the Secretary's obligation to design and construct new facilities to deliver CAP water shall not exceed the cost of construction of the delivery and distribution system for the 12,700 acrefeet of CAP water originally allocated to the Tribe.

(2) To extend the term of such contract to December 31, 2100, and to provide for its subsequent renewal upon the same terms and conditions as the Tribal CAP Delivery Contract, as amended.

(3) To authorize the Tribe to lease or to enter into an option or options to lease the water to which the Tribe is entitled under the Tribal CAP Delivery Contract, as amended, within Maricopa, Pinal and Pima Counties for terms not exceeding one hundred years and to renew such leases.

(4) To authorize the Tribe to lease water to which the Tribe is entitled under the Tribal CAP Delivery Contract, as amended, to the city of Scottsdale under the term and conditions of the Water Lease set forth in Exhibit "B" to the Agreement.

(5) To authorize the Tribe to lease water to which the Tribe is entitled under the Tribal CAP Delivery Contract, as amended, including, but not limited to, the cities of Chandler, Glendale, Goodyear, Mesa, Peoria, Phoenix, Scottsdale, Temple and the town of Gilbert.

(c) APPROVAL OF AMENDMENTS.—Notwithstanding any other provision of law, the amendments to the Tribal CAP Delivery Contract set forth in Exhibit "C" to the Agreement are hereby authorized, approved and confirmed.

(d) CHARGES NOT TO BE IMPOSED.—The United States shall not impose upon the Tribe the operation, maintenance and replacement charges described and set forth in section 6 of the Tribal CAP Delivery Contract or any other charge with respect to CAP water delivered or required to be delivered to the lessee or lessees of the options to lease or leases herein authorized.

(e) WATER LEASE.—Except as provided in paragraph (3) of this subsection, any Water Lease entered into by the Tribe as authorized by section 6 shall specifically provide that—

(1) the lessee shall pay all operation, maintenance and replacement costs of such water to the United States, or if directed by the Secretary, to CAWCD;

(2) except as provided in paragraph (3) of this subsection, the lessee shall not be obligated to pay water service capital charges or municipal and industrial subcontract charges or any other charges or payment for such CAP water other than the operation, maintenance and replacement costs and lease payments; and

(3) with respect to the water reallocated to the Tribe pursuant to subsections (c) and (d)

of section 4, the Tribe or lessee shall pay any water service capital charges or municipal and industrial subcontract charge for any water use or lease from the effective date of this Act through September 30, 1995.

(f) ALLOCATION AND REPAYMENT OF COSTS.—For the purpose of determining allocation and repayment of costs of the CAP as provided in Article 9.3 of Contract Numbered 14-06-W-245, Amendment No. 1, between the United States of America and CAWCD dated December 1, 1988, and any amendment or revision thereof, the costs associated with the delivery of water to which the Tribe is entitled under the Tribal Delivery Contract, as amended, to the lessee or lessees of the options to lease or leases herein authorized shall be nonreimbursable, and such costs shall be excluded from CAWCD's repayment obligation.

(g) AGREEMENTS.—The Secretary shall, in consultation with the Tribe, enter into agreements necessary to permit the Tribe to exchange, within the State of Arizona, all or part of the water available to it under its Tribal CAP Delivery Contract, as amended.

(h) RATIFICATION.—As among the parties to the Agreement, the right of the city of Globe to withdraw and use water from under the Cutter subarea under the Agreement, as limited and conditioned thereunder, is hereby ratified and confirmed.

(i) USE OF WATER.—As among the parties to the Agreement, the right of the city of Stafford to withdraw and use water from the Bonita Creek watershed as provided in the Agreement, as limited and conditioned thereunder, is hereby ratified and confirmed.

(j) WITHDRAWAL AND USE OF WATER.—As between the Tribe and Phelps Dodge, the right of Phelps Dodge to divert, withdraw and use water as provided in the Agreement, as limited and conditioned thereunder, is hereby ratified and confirmed.

(k) PROHIBITIONS.—Except as authorized by this section, no water made available to the Tribe pursuant to the Agreement, the Globe Equity Decree, or this Act may be sold, leased, transferred or in any way used off the Tribe's Reservation.

#### SEC. 7. CONSTRUCTION AND REHABILITATION; TRUST FUND.

(a) DUTIES.—The Secretary is directed—

(1) pursuant to the existing authority of the Colorado River Basin Project Act (42 U.S.C. 1501 et seq.) to design and construct new facilities for the delivery of 12,700 acre-feet of CAP water originally allocated to the Tribe to tribal reservation lands at a cost which shall not exceed the cost for such design and construction which would have been incurred by the Secretary in the absence of the Agreement and this Act; and

(2) to amend the contract between the United States Economic Development Administration and the Tribe relating to the construction of Elgo Dam on the San Carlos Apache Indian Reservation, Project No. 07-81-000210, to provide that all remaining repayment obligations, owing to the United States on the date of the enactment of this Act are discharged.

(b) FUND.—There is established in the Treasury of the United States a fund to be known as the "San Carlos Apache Tribe Development Trust Fund" (hereinafter called the "Fund") for the exclusive use and benefit of the Tribe. The Secretary shall deposit into the Fund the funds authorized to be appropriated in subsection (c) and the \$3,000,000 provided by the State of Arizona pursuant to the Agreement. There shall be deposited into the Fund any monies paid to the Tribe or to the Secretary on behalf of the Tribe from

leases or options to lease water authorized by section 6 of this Act.

(c) AUTHORIZATION.—There are authorized to be appropriated \$18,800,000 in fiscal year 1993, and \$19,600,000 in fiscal year 1994, together with interest accruing thereon beginning one year from the date of enactment of this Act at rates determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding Federal obligations of comparable maturity, to carry out the provisions of subsection (b).

(d) USE OF FUND.—when the authorizations contained in section 8(b) of this Act are effective, the principal of the Fund and any interest or income accruing thereon may be used by the Tribe to put to beneficial use the Tribe's water entitlement, to defray the cost to the Tribe of CAP operation, maintenance and replacement charges as appropriate, and for other economic and community development purposes. The income from the Fund shall be distributed by the Secretary to the San Carlos Apache Tribe only upon presentation to the Secretary of a certified copy of a duly enacted Resolution of the Tribal Council requesting distribution and a written budget approved by the Tribal Council. Such income may thereafter be expended only in accordance with such budget. Income not distributed shall be added to principal. The principal from the Fund may be distributed by the Secretary to the San Carlos Apache Tribe only upon presentation to the Secretary of a certified copy of a duly enacted Resolution of the Tribal Council requesting distribution and a written budget approved by the Tribal Council and the Secretary. Such principal may thereafter be expended only in accordance with such budget: *Provided, however,* That the principal may only be utilized for long-term economic development projects. In approving a budget for the distribution of income or principal, the Secretary shall, in accordance with regulations promulgated pursuant to subsection (e) of this section, be assured that methods exist and will be employed to ensure the use of the funds shall be in accordance with the approved budget.

(e) REGULATIONS. The Secretary shall, no later than 30 days after the date the authorizations contained in section 8(b) are effective, promulgate regulations necessary to carry out the purposes of subsection (d).

(f) DISCLAIMER.—The United States shall not be liable for any claim or cause of action arising from the Tribe's use or expenditure of monies distributed from the Fund.

#### SEC. 8. SATISFACTION OF CLAIMS.

(a) FULL SATISFACTION OF CLAIMS.—Except as provided in subsection (e) of this section, the benefits realized by the Tribe and its members under this Act shall constitute full and complete satisfaction of all members' claims for water rights or injuries to water rights under Federal, State and other laws (including claims for water rights in ground water, surface water, and effluent) from time immemorial to the effective date of this Act. Notwithstanding the foregoing, nothing in this Act shall be deemed to recognize or establish any right of a member of the Tribe to water on the Tribe's Reservation.

(b) RELEASE.—The Tribe, on behalf of itself and its members, and the Secretary on behalf of the United States, are authorized, as part of the performance of the obligations under the Agreement, to execute a waiver and release, except as provided in the Agreement, of all claims of water rights or injuries to water rights (including water rights in ground water, surface water and effluent),

from time immemorial to the effective date of this Act, and any and all future claims of water rights (including water rights in ground water, surface water and effluent), from and after the effective date of this Act, which the Tribe and its members may have, against the United States, the State of Arizona or any agency or political subdivision thereof, or any other person, corporation, or municipal corporation, arising under the laws of the United States, the State of Arizona or otherwise.

(c) ADDITIONAL RELEASES.—Except as provided in the Agreement, the United States shall not assert any claim against the State of Arizona or any political subdivision thereof, or any person, corporation or municipal corporation, arising under the laws of the United States, the State of Arizona or otherwise in its own right or on behalf of the Tribe based upon—

(1) water rights or injuries to water rights (including water rights in ground water, surface water and effluent) of the Tribe and its members, or

(2) water rights or injuries to water rights (including water rights in ground water, surface water and effluent) held by the United States on behalf of the Tribe and its members.

(d) SAVINGS PROVISION.—In the event the authorizations contained in subsection (b) of this section do not become effective pursuant to section 11(a), the Tribe and the United States shall retain the right to assert past and future water rights claims as to all Reservation lands.

(e) DISCLAIMER.—Nothing in this Act shall affect the water right or claims related to the San Carlos Apache Allotments outside the exterior boundaries of the Reservation.

#### SEC. 9. ENVIRONMENTAL COMPLIANCE.

(a) NO MAJOR FEDERAL ACTION.—Execution of the settlement agreement by the Secretary as provided for in section 10(c) shall not constitute a major Federal action under the National Environmental Policy Act (42 U.S.C. 4321 et seq.). The Secretary shall carry out all necessary environmental compliance during the implementation phase of this settlement.

(b) AUTHORIZATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out all necessary environmental compliance associated with the settlement under this Act, including mitigation measures adopted by the Secretary.

(c) LEAD AGENCY.—With respect to such settlement, the Bureau of Reclamation shall be designated as the lead agency in regard to environmental compliance, and shall coordinate and cooperate with the other affected Federal agencies as required under applicable Federal environmental laws.

(d) ENVIRONMENTAL ACTS.—The Secretary shall comply with all aspect of the National Environmental Policy Act (42 U.S.C. 4321 et seq.) and the Endangered Species Act (16 U.S.C. 1531 et seq.), and other applicable Federal environmental Acts and regulations in proceeding through the implementation phase of such settlement.

#### SEC. 10. MISCELLANEOUS PROVISIONS.

(a) WAIVER OF SOVEREIGN IMMUNITY.—In the event any party to the Agreement files a lawsuit in any United States district court relating only and directly to the interpretation or enforcement of this Act or the Agreement, naming the United States of America or the Tribe as parties, authorization is hereby granted to joining the United States of America or the Tribe, or both, in any such litigation, and any claim by the United States of America or the Tribe to sovereign immunity from such suit is hereby waived.

(b) **CERTAIN CLAIMS PROHIBITED.**—The United States of America shall make no claims for reimbursement of costs arising out of the implementation of this Act or the Agreement against any lands within the San Carlos Apache Indian Reservation, and no assessment shall be made with regard to such costs against such lands.

(c) **APPROVAL OF AGREEMENT.**—Except to the extent that the Agreement conflicts with the provisions of this Act, such Agreement is hereby approved, ratified and confirmed. The Secretary shall execute and perform such Agreement as approved, ratified and confirmed. The Secretary is authorized to execute any amendments to the Agreement and perform any action required by any amendments to the Agreement which may be mutually agreed upon by the parties.

(d) **GROUND WATER MANAGEMENT PLAN.**—The Secretary shall establish a ground water management plan for the San Carlos Apache Reservation which, except as is necessary to be consistent with the provisions of this Act, will have the same effect as a management plan developed under Arizona law.

(e) **AMENDMENT TO THE ACT OF APRIL 4, 1938.**—The Act of April 4, 1938 (52 Stat. 193; 25 U.S.C. 390) is amended by inserting immediately before the period at the end thereof a colon and the following: "Provided further, That concessions for recreation and fish and wildlife purposes on San Carlos Lake may be granted only by the governing body of the San Carlos Apache Tribe upon such conditions and subject to such limitations as may be set forth in the constitution and bylaws of such Tribe."

(f) **SAN CARLOS RESERVOIR.**—There is hereby transferred to the Tribe the Secretary's entitlement of 30,000 acre-feet of water, less any evaporation and seepage losses from the date of acquisition by the Secretary to the date of transfer, which the Secretary may have acquired through substituting CAP water for water to which the Gila River Indian Community and the San Carlos Irrigation and Drainage District had a right to be released from San Carlos Reservoir and delivered to them in 1990.

(g) **LIMITATION.**—No part of the Fund established by section 7(b) of this Act, including principal and income, or income from options to lease water or water leases authorized by section 6, may be used to make per capita payments to members of the Tribe.

(h) **DISCLAIMER.**—Nothing in this Act shall be construed to repeal, modify, amend, change or affect the Secretary's obligations to the Ak-Chin Indian Community pursuant to the Act of October 19, 1984 (98 Stat. 2698).

(i) **WATER RIGHTS.**—Nothing in this Act shall be construed to quantify or otherwise affect the water rights, claims or entitlements to water of any Arizona tribe, band or community, including, but not limited to, the Gila River Indian Community and the White Mountain Apache Tribe, other than the San Carlos Apache Tribe.

(j) **PLANET RANCH.**—The Secretary is authorized and directed to acquire, with the consent of and upon terms mutually acceptable to the city of Scottsdale ("city") and the Secretary, all of the city's right, title and interest in Planet Ranch located on the Bill Williams River in Arizona, including all water rights appurtenant to that property, and the city's January 1988 application filed with the Arizona Department of Water Resources to appropriate water from the Bill Williams River through a land exchange based on fair market value. If an exchange is made with land purchased by the Bureau of Reclamation for the construction and oper-

ation of the Central Arizona Project, then, upon commencement of repayment by CAWCD of the reimbursable costs of the Central Arizona Project, the fair market value of those lands so exchanged shall be credited in full against the annual payments due from CAWCD under Article 9.4(a) of Contract No. 14-06-W-245, Amendment No. 1, between the United States and CAWCD dated December 1, 1988, and any amendment or revision thereof, until exhausted: Provided, however, That the authorized appropriation ceiling of the Central Arizona Project shall not be affected in any manner by the provisions of this subsection.

(k) **REPEAL.**—Section 304(c)(3) of the Colorado River Basin Project Act (43 U.S.C. 1524(c)(3)) is hereby repealed. This subsection does not authorize transportation of water pumped within the exterior boundary of the Federal reclamation project established prior to September 30, 1968, pursuant to the Act of June 17, 1902 (32 Stat. 388; 43 U.S.C. 391), as amended and supplemented, across project boundaries.

(l) **WATER RIGHTS.**—Nothing in this Act shall be construed to affect the water rights or the water rights claims of any Federal agency other than the Bureau of Indian Affairs on behalf of the San Carlos Apache Tribe, nor shall anything in this Act be construed to prohibit the United States from confirming in the Agreement, except on behalf of Indian tribes other than the San Carlos Apache Tribe, the Gila River and Little Colorado River watershed water rights of other parties to the Agreement by making express provisions for the same in the Agreement.

#### SEC. 11. EFFECTIVE DATE.

(a) **EFFECTIVE DATE OF AUTHORIZATION.**—The authorization contained in section 8(b) of this Act shall become effective as of the date the Secretary causes to be published in the Federal Register a statement of findings that—

(1) the Secretary has fulfilled the requirements of sections 4 and 6;

(2) the Roosevelt Water Conservation District subcontract for agricultural water service from CAP has been revised and executed as appropriated in section 5(b);

(3) the funds authorized by section 7(c) have been appointed and deposited into the Fund;

(4) the contract referred to in section 7(a)(2) has been amended;

(5) the State of Arizona has appropriated and deposited into the Fund \$3,000,000 as required by the Agreement;

(6) the stipulations attached to the Agreement as Exhibits "D" and "E" have been approved; and

(7) the Agreement has been modified, to the extent it is in conflict with this Act, and has been executed by the Secretary.

#### (b) CONDITIONS.—

(1) If the actions described in paragraphs (1), (2), (3), (4), (5), (6), and (7) of subsection (a) of this Act have not occurred by December 31, 1994, subsections (c) and (d) of section 4, subsections (a) and (b), of section 5, section 6, subsection (a)(2), (c), (d), and (f) of section 7, subsections (b) and (c) of section 8, and subsections (a), (b), (c), (d), (e), (g), (h), (j), and (l) of section 10 of this Act, together with any contracts entered into pursuant to such section or subsection, shall not be effective on and after the date of enactment of this Act, and any funds appropriated pursuant to section 7(c), and remaining unobligated and unexpended on the date of the enactment of this Act, shall immediately revert to the Treasury, as general revenues,

and any funds appropriated by the State of Arizona pursuant to the Agreement, and remaining unobligated and unexpended on the date of the enactment of this Act, shall immediately revert to the State of Arizona.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, if the provisions of subsections (a) and (b) of section 5 of this Act have been otherwise accomplished pursuant to provisions of the Act of October 20, 1988, the provisions of paragraph (1) of this subsection shall not be construed as affecting such subsections.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. MILLER] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. RHODES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MILLER].

#### GENERAL LEAVE

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 291, the Senate bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

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

Mr. Speaker, I rise in support on S. 291, the San Carlos Apache Tribe Water Rights Settlement of 1991.

The House passed a similar bill in the 101st Congress. Earlier this year, the Committee on Interior and Insular Affairs held a joint hearing on this legislation with the Senate Select Committee on Indian Affairs. The Senate passed S. 291 on October 8, 1991.

The State of Arizona and its Indian and non-Indian residents have all shown tremendous leadership in formulating settlements to Indian water disputes. I congratulate all those who have participated in putting the San Carlos settlement together.

The House amendment to S. 291 deletes section 8(f) of the Senate bill. This provision would have exempted non-Indian irrigators who use water from the central Arizona project from the acreage limitation and full-cost pricing provisions of reclamation law.

This provision was included in the Senate-passed bill as a quid pro quo for the non-Indian irrigators, who have agreed to waive their claims to 33,300 acre-feet per year of water that will now become a part of the San Carlos settlement. The non-Indians believe they had an entitlement to that water, and asked for relief from the requirements of reclamation law in return for waiving their claims.

Our review of the facts of this matter indicates that no such entitlement exists. In particular, I call the attention of my colleagues to a letter dated April 22, 1991, from Mr. Timothy W. Glidden, who chairs the Interior Department's working group on Indian water settlements. Mr. Glidden's letter presents the facts which justify deletion of section 8(f) of the Senate version of the bill. It is my understanding that the minority is agreeable to this amendment. I ask that this letter be inserted in the RECORD.

Mr. Speaker, the terms of the San Carlos settlement included in S. 291 will go a long way toward resolving years of water disputes in Arizona. Everyone agrees that the water rights of tribes in Arizona and elsewhere in the West have been wrongfully taken from them by non-Indians in many cases. Enactment of S. 291 will right some of these wrongs.

I urge my colleagues to support passage of this important bill.

Mr. Speaker, the letter to which I referred is as follows:

U.S. DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
Washington, DC, April 22, 1991.

Hon. GEORGE MILLER,  
Vice Chairman, Committee on Interior and Insular Affairs, House of Representatives, Washington, DC.

DEAR MR. VICE CHAIRMAN: On March 21, 1991, the Department of the Interior (Department) provides testimony at the joint Senate-House Hearing on H.R. 748 and S. 291, the "San Carlos Indian Water Rights Settlement Act of 1991." During the hearing, Mr. Hayes and Mr. Swan identified several specific concerns which needed to be addressed before the Administration could support the settlement. They also stated the Administration's belief as to how important it was to outline the Administration's position on two critical aspects of the subject legislation—the Scottsdale/Planet Ranch land exchange and the Ak Chin component of the water budget. Resolution of these two issues would be moving the settlement in the proper direction; however, the Administration remains opposed to the settlement unless the subject legislation is amended to address all of the concerns identified in the testimony.

First, it is our understanding that the San Carlos Tribe (Tribe), the local settlement participants and the Arizona delegation all favor the addition of a provision which would facilitate a land exchange between the Federal Government and the City of Scottsdale. This exchange would transfer Bureau of Reclamation acquired lands (mostly within the City's limits) to the City in exchange for the City's land and water rights along the Bill Williams River in Western Arizona.

This new provision is an important component to this legislation for two reasons. First, the water lease between the Tribe and the City provided by the settlement makes it possible for the City to consider the transfer of its Planet Ranch property to the Federal Government. The new land and water rights will be an important addition to the Bill Williams Unit of the Havasu National Wildlife Refuge, which will relieve tension between the Federal Government and the City in the area of water rights. Second, by acquiring the City's existing water rights and by perfecting a right for which the City has applied under state law, the Federal Government will ensure in perpetuity the constant flow of a sizeable quantity of water into Lake Havasu for the benefit of the Central Arizona Project (CAP).<sup>1</sup>

We cannot overstate the importance of acquiring the Planet Ranch property from the perspective of maintaining the health and vi-

ability of the Bill Williams Wildlife Refuge. As a result, we have worked diligently with the City's representatives to make the exchange possible. Set forth below is our proposed language, which we urge you to add as an amendment to this legislation:

Section 10. Miscellaneous Provisions

(1) The Secretary is authorized to acquire, upon terms mutually acceptable to the City of Scottsdale ("the City") and Secretary, all of the City's right, title and interest to the Planet Ranch located on the Bill Williams River in Arizona; including all water rights appurtenant to that property and the City's January 1988 application to appropriate water from the Bill Williams River ("City Property"). The Secretary shall acquire full fee simple title to the City Property through a land exchange pursuant to authorities in the National Wildlife Refuge System Administration Act of 1966. All lands and interests acquired by the Secretary under this provision, including all water rights appurtenant to that property, shall be managed as an addition to the Bill Williams Unit of the Havasu National Wildlife Refuge, hereafter designated the Bill Williams National Wildlife Refuge, a unit of the National Wildlife Refuge System.

(2) If an exchange is made with land acquired by the Bureau of Reclamation for the construction and operation of the Central Arizona Project, the original cost of those lands so exchanged shall be deducted from the cost of said project to be allocated for determining repayment to the United States; provided however, that the authorized appropriation ceiling of the Central Arizona Project shall not be affected in any manner by the provisions of this subsection; provided further, that said lands shall be exchanged at their fair market value.

For the reasons stated above, the Planet Ranch exchange is a critical aspect of this legislation. We, therefore, urge that it be included as a part of the final bill. If you have any questions about this proposal we will be pleased to respond.

The second critical aspect is the proposed use of the excess Ak Chin water as a part of this settlement. At the hearing on similar legislation introduced in 1990, both the Arizona Department of Water Resources (DWR) and the Central Arizona Water Conservation District (CAWCD) opposed the settlement legislation on the basis of their opposition to the utilization of the Ak Chin supply. We want to provide the committees with our position and give you the benefit of our thinking on this matter.

We favor the use of the excess Ak Chin water for this settlement. In fact, we see the Ak Chin water as a critical component, since without it we fully expect that the settlement will not work and that viable alternative sources will not be found. In order for you to understand our position, it is necessary that we explain a number of points.

1. The history of the 1984 Ak Chin Settlement is thoroughly explained in the September 14, 1984, House of Representatives Report (House Report); and therefore, it need not be repeated here. It is sufficient to note that the Ak Chin Settlement was structured solely with water from Arizona's 2.8 million annual entitlement from the Colorado River. In other words, there were no contributions, either in water or money, from the local parties who would have faced litigation against the Ak Chin Community and the United States.

In order to provide for the settlement, the Secretary obtained, with the approval of Congress, 50,000 acre-feet (A/F) of Colorado

River water from the Yuma-Mesa Division of the Gila Project, and then reallocated that water for use on the Ak Chin Reservation, to be delivered via the CAP canal system.<sup>2</sup> The 50,000 A/F were added to the Ak Chin Tribe's existing CAP allocation of 58,300 A/F per year for a total of 108,300 A/F available for settlement purposes.

However, the settlement provided that in most years a quantity of 75,000 A/F per year would be delivered to the Ak Chin Community—see section 2(a) of P.L. 98-530, 98 Stat. 2698. This leaves an ordinary year surplus of 33,300 A/F per year, and it is this surplus which is proposed for use in the San Carlos Settlement. Importantly, the San Carlos Settlement expressly provides that the use of this supply in the San Carlos Settlement shall in no way impact the rights of the Ak Chin Community under the Ak Chin Settlement.

2. The essence of the argument against the use of the excess Ak Chin water in this settlement is that in the Ak Chin legislation the excess water was somehow committed to general CAP uses, and could thereafter not be used for dedicated Indian purposes. We disagree with this conclusion.

The 58,300 A/F allocation to the Ak Chin Community was made in the Secretary's CAP allocation order published in the Federal Register on March 24, 1983. That decision created an Indian CAP water pool of 309,828 A/F. In our view, that pool was not changed by the Ak Chin legislation, and the Secretary has never taken any administrative action to reduce the pool. Thus, that pool of CAP water remains available for use on Indian reservations, unless the Secretary decides to reallocate the water for some other CAP purpose, including allocation to non-Indians.

Our conclusion that the excess water remains where it was first allocated is supported by the House Report. On page 12, the House Report states: "It is the intent of the Committee that the Yuma-Mesa Division reallocation be the first segment of the permanent supply the Secretary is obligated to deliver. Any water in excess of the Secretary's obligation [to deliver 75,000 A/F per year] would be from the Ak Chin's CAP allocation." We strongly agree with the Committee's views, and it has always been the Department's position that the higher-priority Yuma-Mesa reallocation water should be the first-used foundation for the Ak Chin excess supply. As a result, the excess water will always be the unused portion of the Ak Chin CAP allocation, which was allocated as a part of the Indian CAP pool in 1983.

Most importantly, in the Ak Chin legislation Congress did not expressly direct the Secretary to utilize the excess Ak Chin water in a specific manner. Rather, section 2(k) of the Ak Chin Act speaks in general terms as to what the Secretary may do with the excess water:

(k) The water referred to in subsection (f)(1) shall be for the exclusive use and benefit of the Ak-Chin Indian Community, except that whenever, the aggregate water supply referred to in subsection (f) exceeds the quantity necessary to meet the obligations of the Secretary under this Act, the Secretary shall allocate on an interim basis to the Central Arizona Project any of the water

<sup>1</sup>The exchange will transfer to the U.S. Fish and Wildlife Service state law certificated water rights in the amount of approximately 14,400 acre-feet (A/F) per year, which will be changed from consumptive uses to instream flow type uses. The exchange will also transfer Scottsdale's pending application for an additional water right on the Bill Williams River. The Fish and Wildlife Service will perfect this right under State law for non-consumptive instream flow type purposes. Together these new rights will amount to approximately 40-50,000 A/F per year. The acquisition of the Planet Ranch property and the maintenance and perfection of the water rights involved will be totally a result of the utilization of government resources. If the Bureau of Reclamation acquired lands were not used for these purposes, they would be sold at public auction and the proceeds would be credited to the CAP costs with any excess over the original acquisition costs being deposited in the U.S. Treasury.

<sup>2</sup>By the Act of July 30, 1947, Congress had authorized the use of up to 300,000 A/F of water per year for use within the Yuma-Mesa Division. Since a need for that much water had not been demonstrated, the Division's annual entitlement was contractually reduced to 250,000 A/F as a result of the Ak Chin settlement.

referred to in subsection (f) which is not required for delivery to the Ak-Chin Indian Reservation under this Act.

The House Report underscores the conclusion that the decision as to how the excess water was to be used was left to the Secretary's discretion. Again on page 12 of the House Report, the committee states: "It is the intent of the Committee that water not needed to satisfy the Secretary's delivery obligation [75,000 A/F per year] be available for allocation in the State of Arizona." Similarly, on page 13 of the House Report, in specific reference to section 2(k) of the Ak Chin legislation, the Committee explains the purpose of section 2(k) and states that: "It is the intent of the Committee that any such excess water be allocated for use in Arizona." Senator Goldwater's comments on the Senate floor, printed in the Congressional Record (September 25, 1984), also support this position: "The second amendment [in section 2(k)], technical in nature, merely reconfirms the fact that any of the surplus aggregate water which the Secretary of the Interior does not use in fulfilling his obligation to the [Ak Chin] Indians goes to the Central Arizona Project."

These comments reflect an understanding by the Committee, and the Congress, of the Secretary's broad authority under section 5 of the 1929 Boulder Canyon Project Act, 43 U.S.C. 617 et. seq., to allocate and contract for the use of water from the Colorado River within the lower basin area. In order to change that authority, or to circumscribe the Secretary's discretion in this area, we believe that the words of Congress must be clear and express. That did not happen in the Ak Chin legislation.

3. A second argument, which has been made, is that certain verbal understandings were established in the final hours of the Ak Chin legislation wherein the excess water was committed to non-Indian CAP users. The stated reason for the understanding was that the non-Indian CAP users deserved such a benefit in return for the utilization of the Yuma-Mesa water (50,000 A/F) which would have been diverted by the CAP in future years if that supply was not needed at the Yuma-Mesa Division. In other words, since that portion of the Yuma-Mesa water was not being used, the diversion of that water by the CAP was expected and that expectation was impacted by the reallocation.

We believe that this is not a case where the words of Congress are unclear, and if there were any ambiguity, the House Report provides the legislative history to support the conclusion that the Secretary retained the authority to use the excess water as he determines—as long as the use is within Arizona.

There is an alternate argument that the non-Indian CAP users were entitled to the Yuma-Mesa water, and therefore deserved some compensation in the form of a deal concerning the excess water. We do not give this argument great weight.

First, the fact that CAP may have used the unused Yuma-Mesa water would not have given the CAP a contract right to that water. The entitlement belonged to the Yuma-Mesa District; and therefore, at best the CAP only had an expectation of using that water. Even if Bureau of Reclamation or DWR water supply studies contributed to the expectation, that expectation did not ripen into a right.

Second, this Department must give full respect to the contract water rights of Colorado River users until such rights are withdrawn, canceled, or reduced by action of the

Secretary or the Supreme Court. Thus, we cannot view all unused entitlements or portions of entitlements along the Arizona side of the Colorado River as somehow belonging to the CAP. For example, CAP may presently divert the unused City of Kingman entitlement, but the City of Kingman has projections for the use of that water. Even if Kingman cannot put its unused water to beneficial use, we have a clear expectation that the Kingman entitlement will be reallocated in the future for use within Mojave County. In other situations, unused supplies may be secured for use by the CAP.

Third, the Yuma-Mesa water was not simply reallocated by unilateral action of the Secretary. Rather, an agreement was reached with the Yuma-Mesa Division, and various forms of compensation were provided in order to obtain the consent of the Division in regard to the reduction of its contract entitlement. Thus, the notion that the non-Indian CAP users were entitled to "compensation" for the utilization of that water in the Ak Chin Settlement when the Government had already provided compensation to the Yuma-Mesa Division for the same water, seems to ignore the circumstances which led to the acquisition of the Ak Chin water.

4. We feel it is important to note that the Ak Chin Settlement was somewhat unique in that it was not supported by local contributions. The Federal Government provided the whole solution to the Ak Chin Settlement via the Community's CAP allocation and the acquired Yuma-Mesa water. In addition, the Government even faces money damage penalties if the Congressionally established supply is not delivered annually by the Secretary.

We see this as significant in light of opposition to the San Carlos legislation. As we believe you understand, only a few of the many CAP subcontractors are opposing this legislation on the basis of the Ak Chin excess water. Among that small group are the large CAP-user irrigation districts in Pinal County, such as Maricopa Stanfield and the Central Arizona Irrigation and Drainage District (CAIDD). These entities apparently support proposition that any uncommitted CAP water, which in their view is the excess AK Chin water, would enure to the benefit of the CAP agricultural users.

This position contains an inherent contradiction. The Ak Chin water was allocated by the Secretary; and therefore, was never available for use by other CAP water users. In addition, the United States bore the cost of purchasing the Colorado water used to satisfy the Ak Chin water claims. Therefore, since the United States acquired the water for the Ak Chin settlement, there could be no rights which would accrue to other CAP water users.

We disagree with the position that CAP agricultural users obtained some type of commitment to benefit from the excess Ak Chin water. We are confident that these CAP water users do not have valid legal claims to the excess water. If this legislation is enacted, a few of the agricultural entities may persist and take their claims to the Claims Court; however, we feel strongly that such claims will be rejected in that forum.

5. Finally, we wish to address this problem on a scale which is broader than the technical argument.

Many of the CAP subcontractors are the same entities at risk in the Gila River adjudication as a result of Indian water claims.

These entities at risk face essentially three choices: (1) litigation, (2) reach a settlement by giving up some of their present

uses from local sources, or (3) acquire or consent to the use of some other source of water which can be used as the basis for a settlement. Clearly the excess Ak Chin water represents a utilization of alternative number 3.

By supporting the use of the excess Ak Chin water for this settlement, which could have been reallocated by the Secretary to non-Indian users at some point in the future, the non-Indian settlement participants are making a choice to utilize an available component of the CAP supply to structure this settlement as opposed to giving up some of, or more of, the water they presently enjoy from local supplies. We see using this future water which may or may not become an entitlement as a reasonable choice.

The point is that the Ak Chin water is a critical component of this settlement in that it provides a significant portion of the settlement water budget. Without this source we assume that the settlement will fail, and we see no viable alternative solutions. Accordingly, all of us are left with no choice. Is the excess Ak Chin water an acceptable component to this settlement, or do we oppose that action to the detriment of the settlement? Based on the reasons outlined above, we support the use of the excess Ak Chin water.

In conclusion, let me say that we recognize that the Ak Chin matter is complex and the historical record is important to a clear understanding of our position. We also want the committees to have a full and complete understanding or our analysis so that you can see that we have carefully considered the problem.

Our recommendation is that you support the inclusion of the excess Ak Chin water in this settlement. We also recommend that you add the Planet Ranch exchange provision set forth herein as a way to greatly protect and enhance a unit of the national wildlife refuge system, and provide a tangible and long-term benefit to the State and CAWCD in regard to the security of the CAP water supply.

The Office of management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report for the consideration of the committee.

Thank you for your attention to our concerns.

Sincerely,

TIMOTHY W. GLIDDEN,  
Chairman, Working Group on  
Indian Water Settlements.

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

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

(Mr. RHODES asked and was given permission to revise and extend his remarks.)

Mr. RHODES. Mr. Speaker, I naturally rise in support of this legislation, and I would be remiss if I did not begin by thanking the chairman of the full committee, the gentleman from California, Mr. MILLER, for his assistance in getting this Senate bill to the floor with the House amendment so that we can pass the bill here in the last day of the session and proceed to conference with the Senate to resolve the remaining differences which exist in the bill.

The chairman has very, very adequately explained the process that got us to this point, and I am in full agreement with 95 percent of the chairman's statement. The chairman knows which 5 percent I am not in agreement with, and we will be continuing discussions about that 5 percent as we go along toward conference with the Senate.

This is a very important bill for the State of Arizona. It resolves a longstanding dispute

and it rights many longstanding wrongs in favor of the San Carlos Apache Indians.

But as important as righting those wrongs is the fact that, with resolution of this dispute, the parties to the dispute now have an element called certainty. They now know, or will know, what their rights are as it pertains to certain quantities of water, ground water and surface water, in the State of Arizona.

This is important to the Indians; it is important to the cities who are parties to the settlement; it is important to the State of Arizona.

Without this element of certainty being acquired by the parties to this agreement, they all faced years and years of costly and expensive litigation in order for a judicial determination of various and sundry rights they have.

While that litigation is continuing, they are unable to plan for their futures, unable to know what degree of certainty they have to their wear rights and their ability to go forth into the next century.

So, achieving this negotiated settlement is an extremely important event in the lives of the participants and the lives of those who are parties to the agreement. I commend everybody who has been involved.

I certainly want to thank my fellow members of the Arizona delegation here in the House, our two Senators, Senator MCCAIN and Senator DECONCINI, for their assistance.

I again thank the gentleman from California [Mr. MILLER] and all of our staffs who worked very hard on this legislation.

Mr. Speaker, I yield such time as he may consume to the gentleman from Arizona [Mr. KYL].

Mr. KYL. I thank my colleague for yielding. I would like to express my appreciation to him and to Chairman MILLER for their work on this bill. I too support the bill.

The San Carlos Indian Tribe is in my congressional district, as are many of the communities which will benefit from the resolution of the disputes which this bill will help resolve. The only concern that we have is the change that has been made in the legislation that was alluded to by the chairman. The compromise that was delicately put together here is, to some extent, disrupted as a result of this change, but time is of the essence here. It is important this bill move to conference so these issues can be discussed.

One of the most critical things is the fact that litigation is pending, as my colleague from Arizona pointed out, and the longer that litigation proceeds and the further down the road it gets, the more difficult it is to reach these kinds of compromise agreements.

We are very concerned that unless we can bring it up soon and get this legislation passed, we may have missed the opportunity to reach a negotiated settlement which would be in the interests of all of the parties.

So, time is important. We do urge that our colleagues support this legislation, move the bill to conference, and there we can try to iron out those items upon which we currently differ.

It is legislation well worth supporting.

Mr. RHODES. Mr. Speaker, I urge our colleagues to support passage of this legislation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MILLER of California. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

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 Senate bill, S. 291, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

OFFICE OF THE GOVERNOR,  
Phoenix, AZ, September 17, 1984.

*The Arizona Congressional Delegation.*

I am writing to voice objection to the proposed legislation amending the Ak Chin Settlement Act of 1978. I object for two reasons. First, this bill is being rammed through Congress with unseemly haste. There have been no public hearings, and many affected Arizona CAP users have not been made aware of its contents, much less given an opportunity to testify. Legislating in this manner could severely damage the Arizona consensus, which has been the basis of our success on Central Arizona Project issues.

Second, the bill is unsound. The Ak Chin issue was settled in Congress back in 1978. Now the Interior Department is proposing to change that deal by taking up to 10% of the CAP supply from other users in times of shortage. This action will gravely damage the rights of users in Tucson, in the Phoenix metropolitan area and the eleven other Indian tribes with CAP allocations. I recognize that, if this bill passes, it will probably not have any impact while any of us are still in office. But water settlements are forever. And we have an obligation to make settlements that are reasonable and just for all Arizonans in generations to come.

The proposed legislation would purchase development rights to 50,000 acre feet/year of unused Colorado River water, allotted by statute in 1947 to the Yuma Mesa Division of the Gila Project. In the 37 years since 1947, irrigation on the Yuma Mesa failed to fully develop so that over 5,000 acres remain undeveloped and on the order of 50,000 AF of authorized use remain unutilized each year. The Arizona Department of Water Resources in estimating the water supply that would be available to the CAP and firm enough to support our cities' growth, assumed that this 5,000 acres would never develop; in fact, that, if necessary, the State would oppose development, and that the supply was therefore available of the CAP. All unused Colorado River supplies were factored into the determination of what remained for CAP after all preexisting obligations were met. You are aware, I'm sure, that Assistant Solicitor of Interior Joseph Membrino in a widely circulated legal memorandum dated January 30, 1984, concluded that permanent rights to receive the full allotment on the Yuma Mesa Division had not been developed and the unused portion could be reallocated for use elsewhere.

Since Yuma Mesa Division rights are senior to CAP rights, the unused Yuma Division supplies became the most valuable portion of the CAP supply. Their loss would reduce by 50,000 AF/yr or 8% the firm supply of the CAP that can be made available to the Gila River, Salt River, San Carlos, Fort McDowell, Camp Verde Chichu, San Xavier, Shuk Toak, Pasqua Yaqui, Tonto Apache, and Yavapai Prescott Reservations and 71 non-Indian communities.

While the proposed legislation would reduce the level of authorized consumptive use in the Yuma Mesa Division from 300,000 to 250,000 acre feet/yr, it once again fixes the authorized irrigated acreage at 40,000 acres.

The 1982 Annual States Report of the Bureau of Reclamation shows that only 37,491 acres were actually in irrigation, including roads, canals, ditches, and farm buildings. The actual acreage irrigated would be at least 5% less or approximately 35,000 acres. The proposed legislation, hence, would reconfirm the district's right to expand, albeit at a lesser consumptive use rate. If the district grows that too would require additional reductions in CAP firm supplies in the future.

Secretary Clark in his letter of September 7, 1984 to Chairman Udall, implies that the taking of the 50,000 acre feet will adversely affect CAP water users only in drought years and that in wetter years it will supplement supplies to CAP. This can hardly be the case when all unused supplies along the Colorado River have already been counted in as part of the CAP supply. And if so, why has the Secretary reserved unto the Ak Chin Indian Community in Section 2(k) of the Act the exclusive use and benefit of the 50,000 AF/yr and unto himself the authority to contract, on an interim basis, "... for the allocation of any of the water. . . which is not required for delivery to the Ak Chin Indian Reservation under this Act."

The Federal government committed in 1978, once and for all, to a settlement of the Ak Chin claims that would have provided a new supply that had little adverse impact on Arizonans and would have been constructed and operated totally at Federal expense. Subsequently, the Administration determined that this solution would prove more expensive than had been anticipated. Now the Administration, without negotiating with the State and CAP water users, is proposing to switch to an approach that doesn't create a new supply but is clearly less expensive for the Federal government. That net result is the transfer of much of the cost to potential CAP water users.

The Administration rejected the first Papago settlement on the grounds that the Federal government had not been represented adequately in the negotiations and too much of the cost of implementation fell on the Federal government. The Administration insisted that we go back and renegotiate with its full participation. Here we find ourselves in a similar position. The Federal government has made no real effort to negotiate with the State and the other water interests that now find themselves being asked to bear a substantial share of the costs.

We recognize that the Ak Chin water rights issue represents a problem that must be solved, and soon. Nevertheless, we must object to the proposed solution and the efforts to rush it through the Congress without proper negotiations and hearings.

We have been, and remain, willing negotiators. We believe there is a solution that will prove fair and acceptable to all interests. We believe that the settlement should be patterned after the Papago model and should include a combination of these two elements:

1. The development of new water by purchasing and retiring on a voluntary basis sufficient acreage on Federal Reclamation projects along the Colorado River.

2. Establish a trust fund modeled on the Papago Settlement to pay damages to the Ak Chin Indian Community in the few years that there will be a shortage.

I stand ready to give priority attention to negotiation of a balanced and equitable settlement of the Ak Chin issue.

Sincerely,

BRUCE BABBITT,  
Governor.

[From the CONGRESSIONAL RECORD, Sept. 25, 1984]

**Measures Passed:**

*Water Rights of the Ak-Chin Indian Community:* Senate passed H.R. 6206, relating to the water rights of the Ak-Chin Indian Community, after agreeing to the following amendment proposed thereto:

Goldwater-DeConcini Amendment No. 4391, decreasing the amount of acreage from 40,000 to 37,187 acres which the Yuma-Mesa Division is allowed to irrigate, providing that any of the surplus aggregate water which the Secretary of the Interior does not use in fulfilling his obligation to the Indians goes to the Central Arizona Project, creating a special fund designed to address concerns raised in Arizona regarding the potential effect of the revised Ak-Chin settlement on other water users, and putting the remaining Papago Tribe's water rights claims on the same footing as the claims of other Tribes under the Statute of Limitations.

[From the CONGRESSIONAL RECORD, Sept. 25, 1984]

**WATER RIGHTS OF THE AK-CHIN INDIAN COMMUNITY**

Mr. STEVENS. Mr. President, I ask that the Chair lay before the Senate H.R. 6206 relating to the water rights of the Ak-Chin Indian community.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 6206) relating to the water rights of the Ak-Chin Indian Community.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

**AMENDMENT NO. 4391**

Mr. STEVENS. Mr. President, I send an amendment to the desk on behalf of the Senator from Arizona, Mr. GOLDWATER, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. GOLDWATER and Mr. DECONCINI, proposes an amendment numbered 4391.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

Paragraph (2) of subsection (g) is amended to read as follows:

(2) Such two hundred and fifty thousand acre-feet of water shall not be used to irrigate more than thirty-seven thousand one hundred and eighty seven acres of land in the Yuma Mesa Division, specifically: six thousand five hundred and eighty-seven acres in the North Gila Valley Irrigation District; ten thousand six hundred acres in the Yuma Irrigation District; and twenty thousand acres in the Yuma Mesa Irrigation and Drainage District. Additional land in the Yuma Mesa Irrigation and Drainage District may be irrigated if there is a corresponding reduction in the irrigated acreage in the other districts so that at no time are more than thirty seven thousand one hundred and eighty seven acres being irrigated in the Yuma Mesa Division.

Subsection (k) of section 2 is amended to read as follows:

(k) The water referred to in subsection (f)(1) shall be for the exclusive use and bene-

fit of the Ak-Chin Indian Community, except that whenever the aggregate water supply referred to in subsection (f) exceeds the quantity necessary to meet the obligations of the Secretary under this Act, the Secretary shall allocate on an interim basis to the Central Arizona Project any of the water referred to in subsection (f) which is not required for delivery to the Ak-Chin Indian Reservation under this Act.

Immediately following section 6, insert the following new section; and renumber the following sections accordingly:

SEC. 7. (a) There is hereby authorized to be appropriated the sum of \$1,000,000 for payment to the fund referred to in subsection (b). Subject to appropriations, the Secretary shall pay a sum of \$1,000,000 to such fund.

(b) No portion of the sum referred to in subsection (a) shall be paid unless—

(1) The Central Arizona Water Conservation District establishes a fund to be administered by the District for voluntary acquisition or conservation of water from sources within the State of Arizona for use in central Arizona in years when water supplies are reduced; and,

(2) The Central Arizona Water Conservation District has contributed the sum of not less than \$1,000,000 to such fund: *Provided*, That if the contribution of not less than \$1,000,000 by the District to such fund has not been fully paid as provided in this section within two years of the date of enactment of this Act, the authorization for appropriation and payment of the sum referred to in subsection (a) shall terminate.

(c) If the provisions of this section are for any reason not implemented as herein provided, the other sections of this Act shall remain unaffected thereby.

At the end of the bill insert the following new section:

SEC. 10. (a) Section 311 of the Southern Arizona Water Rights Settlement Act of 1982 (96 Stat. 1283) is amended to read as follows:

"SEC. 311. The provisions of section 2415 of title 28, United States Code, shall apply to any action relating to water rights of the Papago Indian Tribe or of any member of such Tribe which is brought—

"(1) by the United States for, or on behalf of, such Tribe or member of such Tribe, or

"(2) by such Tribe."

(b) The amendment made by this section shall not apply with respect to any action filed prior to the date of enactment of this Act.

Mr. GOLDWATER. Mr. President, the legislation we are considering, H.R. 6206, is an amended version of the proposal I introduced in the Senate on September 17, 1984, and I urge my colleagues to support it and the amendments I am offering to this House-passed bill.

H.R. 6206 amends the Ak-Chin Water Settlement Act of 1978, which represents the first legislative settlement of an Indian tribe's water rights. This new legislation has evolved because of the Department of the Interior's inability to implement the provisions of that settlement.

Under the terms of the existing public law, the Ak-Chin Indian community waived all of its past and future claims to the water resources associated with the reservation, which effectively freed the non-Indian community in the vicinity from the threat of water litigation. In exchange, the U.S. Government was to identify, acquire, and deliver 85,000 acre-feet of water annually to Ak-Chin beginning in 1984. Delivery was to be in two phases: An interim supply of water in the 1984 to 2002 period and a permanent water

supply no later than 2003; however, because of potential conflicting water rights, prohibitive water development costs, and insufficient ground water supply, that interim water has never been delivered to the Indian community.

As it became apparent that the Interior Department could not implement the settlement on a timely basis, discussions between Interior Department officials and the Ak-Chin Indian community resulted in an agreement-in-principle which is embodied in H.R. 6206. The major features are as follows: First, the United States agreed to secure for Ak-Chin its permanent water supply for delivery in 1988 via the central Arizona project [CAP]; second, the United States agreed to provide a series of benefits with a present value of about \$28 million in place of water deliveries in the 1984 to 1987 period; third, Ak-Chin agreed to reduce its statutory water entitlement from 85,000 acre-feet annually to 75,000 acre-feet annually in normal and wet years and 72,000 acre-feet annually in dry years; and fourth, Ak-Chin would not sue the United States for breach of contract and seek the statutorily provided damages for failing to deliver water in the 1984 to 1987 period.

The next step was for the Department to acquire water. This was done by an agreement-in-principle, also embodied in this legislation, with the Yuma-Mesa division of the Gila reclamation project, in which 50,000 acre-feet of Yuma-Mesa's water provided by the Boulder Canyon Project Act of 1922 is being reallocated. The priority for use of this water is senior to that of CAP deliveries. In exchange for the reallocation, \$11.7 million in benefits will be furnished to the Yuma-Mesa division. Approximately \$9.4 million of this is earmarked for water conservation measures within the division to ensure more efficient use of water in the division. The division's districts will also be relieved of \$2.3 million in repayment obligations still outstanding on the Gila project.

Mr. President, it should be pointed out that the bill does not allow the Ak-Chin community to use its water off reservation. There had been some concern among other Western States as there was a provision in the original bill which would have allowed the Indian community to sell or exchange its water off reservation; however, this provision was deleted on the House floor. We are talking about on-reservation water use only.

The first of my amendments decreases the amount of acreage, from 40,000 acres to 37,187 acres, which the Yuma-Mesa division is allowed to irrigate. The Yuma-Mesa people offered to do this to contribute to the water conservation program which is intended to result in additional Colorado River water being conveyed to central Arizona as a result of this settlement.

The second amendment, technical in nature, merely reconfirms the fact that any of the surplus aggregate water which the Secretary of the Interior does not use in fulfilling his obligation to the Indians goes to the central Arizona project.

As for the third amendment, the creation of a special fund is designed to address concerns raised in Arizona regarding the potential effect of the revised Ak-Chin settlement on other water users. The fund will be established to provide proceeds that may be used in future years, when overall water shortages occur, to acquire water to offset the impacts, if any, of the Ak-Chin settlement on available water supplies.

The fund will require a one-time \$1 million Federal contribution that must be matched by the local water users. It is in accord with

the cost-sharing principles enunciated by the administration. Moreover, there will be no continuing Federal liabilities related to the administration of the fund. It will be administered by a local entity—the Central Arizona Water Conservation District—and is specifically for the acquisition of water in years of water shortage. The fund is not intended to be used for new water development projects nor can it be used to produce money for contributions to other projects requiring Federal cost sharing or to offset existing Federal repayment obligations. The provision of seed money to the fund in the near future will ensure that sufficient proceeds are generated to permit the acquisition of the potentially needed water for central Arizona.

The last amendment is unrelated to the Ak-Chin proposal. It would put the remaining Papago Tribe's water rights claims on the same footing as the claims of other tribes under the statute of limitations. This technical amendment cures a defect in the Southern Arizona Water Settlement Act of 1982, but in no way does it affect the water rights settled in that act.

Mr. President, the State of Arizona, the Arizona Congressional Delegation, and the Department of the Interior all support the revised Ak-Chin Water Settlement Act and the amendments I have proposed. Again, I urge my colleagues' support for this measure.

Mr. President, I ask unanimous consent that a memorandum pertaining to this matter be printed in the RECORD.

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

**PAPAGO WATER RIGHTS CLAIMS: STATUTE OF  
LIMITATIONS  
REQUESTED ACTION**

The Papago Tribe of Arizona requests that corrective legislation be enacted by the 98th Congress to afford the Tribe the same time for commencing any action relating to its claims for damages for injuries to water as is granted to all other Indian tribes by Section 2415 of Title 28, United States Code, as amended.

Unless such legislation is promptly enacted, the Tribe must file suit by December 31, 1984 under the terms of Section 311 of P.L. 97-293 (96 Stat. 1274) or it will be barred from bringing an action. If the Tribe is compelled to file, there will be thousands of defendants, including the United States. The tribal litigation expense would be hundreds of thousands of dollars and the combined expense of the defendants would be in the millions of dollars. The pendency of the litigation will cause severe economic and social disruption in central Arizona.

**BACKGROUND AND NEED**

Section 311 of P.L. 97-273 extended the time for the Papago Tribe for bringing action on claims for injuries to water to December 31, 1984. This provision was adopted at a time when it appeared that a general extension would not be enacted. It was part of a compromise agreed to by the Tribe in return for agreeing to delete from P.L. 97-293 settlement provisions relating to the Tribe's water rights in the Chuichu area of the Sells Reservation and the Gila Bend Reservation. At that time it was believed that legislation setting these water rights would be enacted by December 31, 1984.

Settlement negotiations are in progress and legislation has been introduced in the House and Senate (S. 2855, S. 2856, H.R. 5968 and H.R. 5969). There is no time left to com-

plete negotiations and pass settlement legislation in this Congress.

Subsequent to enactment of P.L. 97-293, the Congress granted a general extension of the time for filing suit "except as otherwise provided by the Congress:" (P.L. 97-293). As a result, the Tribe's claims for injuries to water were excluded.

On August 10, 1984, Papago tribal officials met with many of the major water users who would necessarily be defendants in such litigation and after discussion of proposed settlement solutions, the tribe requested support for an extension of the statute of limitation to enable fruitful negotiation to continue and eliminate the necessity of litigation at this time. The Tribe received a favorable response to its request. A copy of those in attendance is attached hereto. To our knowledge, there is no opposition to the proposed corrective legislation the Tribe proposes.

**AK-CHIN WATER SETTLEMENT**

Mr. DECONCINI. Mr. President, I am a co-sponsor of the amendments being offered by Senator GOLDWATER to the Ak-Chin water settlement legislation, H.R. 6206, now being considered by this body. These amendments in no way affect the water rights assigned to the Ak-Chin community under the agreement in the legislation, but instead will provide mechanisms to allow the State to recover a portion of the water that will be lost as a result of the new water settlement.

The first amendment clarifies a provision in the bill requiring that any water that is not utilized by the Ak-Chin community, will revert to the State for use by its CAP customers. This essentially technical amendment will require the Secretary to contract with other CAP users for any water that is not used by the Indian tribe.

The second amendment establishes a water conservation fund to be administered by the Central Arizona Water Conservation District [CAWCD] in the amount of \$2 million. Revenues accruing in the fund will be made available to the State of Arizona to utilize in so-called dry years when water availability is insufficient to meet the commitments for CAP water allocations, and to enhance water availability in central Arizona through whatever conservation methods the CAWCD deems appropriate. The funds will be used to pay agricultural users not to irrigate in these dry years, thus freeing up valuable water for use elsewhere in the State. Because the 50,000 acre-feet of water being transferred to the tribe from the Yuma Mesa Irrigation District has been factored into the State's allocations for CAP water, the State will experience a water shortage in the dry years and will not have the ability to meet its commitments to provide water to its CAP customers at the levels contracted. When there is sufficient water availability, the trust fund will not be used but the revenues will accrue interest.

This approach makes a lot of sense to me and to the State. Under the terms of the existing Ak-Chin Water Settlement Act, the Secretary is required to pay damages to the tribe throughout the period in which a permanent supply of water is not developed. It is my understanding that the cost of damages over the next several years is in the range of \$60 million. The trust fund approach will cost Interior \$1 million but end up saving the Federal Government tens of millions of dollars in future year damages. The costs of the fund will be shared by the CAWCD, which will contribute a matching \$1 million to the fund. At the same time, the new legislation will resolve the Ak-Chin water issue once and for all.

The third amendment being proposed is not related to the Ak-Chin settlement, but will alleviate another Indian water problem. The amendment will extend the statute of limitations for the filing of claims to water rights for the Papago Tribe in the Gila Bend and Chuichu areas of the Papago Indian Reservation. The Congress is presently reviewing legislation to settle the claims to water in the Chuichu and Gila Bend areas but will not take final action before the existing statute of limitations expire on December 31, 1984. Negotiations of water settlements are far preferable to lengthy and costly litigation but Congress has not had sufficient time to act. Extension of the statute of limitations will protect the Papago Tribe's right to seek damages against the Federal Government should the legislation not be successful.

Mr. President, the entire Arizona congressional delegation and the Governor have been consulted on these amendments. I believe there is virtual agreement that these amendments are necessary to protect the rights of the State while at the same time resolving the long-standing question of how the Secretary of the Interior will provide a permanent supply of water to the Ak-Chin community. Issues involving water rights are never easy ones to resolve. While the State raised many concerns over the proposed water agreement outlined in the pending legislation, I believe many of those concerns will be put to rest with the addition of these new provisions. At the same time, had the State and the entire congressional delegation been consulted on the elements of the new agreement, the Department of the Interior could have alleviated controversy over the new water settlement prior to the bill's introduction.

There are cities in Arizona which may be adversely impacted as a result of the pending water settlement legislation, the city of Phoenix, in particular, has serious concerns that the amount of funds to be derived from the conservation trust fund will be insufficient to meet the needs of central Arizona in several consecutive dry years. I share their concerns and continue to believe that the Federal contribution should be raised from \$1 million to \$3 million with an equal increase to the CAWCD's contribution. However, because my negotiations with the Secretary of the Interior to reach agreement on these higher levels have not been successful, I will reluctantly concede to the levels outlined in the amendment. I do expect, at the same time, that if these levels prove insufficient in future years, that the Interior Secretary will seek an increased authorization.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Arizona [Mr. GOLDWATER].

The amendment (No. 4391) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GOLDWATER. I move to lay that motion on the table.

The motion to lay on the table 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 the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. GOLDWATER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. I thank my good friend from Arizona.

Mr. GOLDWATER. It is a pleasure. I thank my friend from Alaska.

#### AK-CHIN WATER RIGHTS

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6206) entitled "An Act relating to the water rights of the Ak-Chin Indian community," with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 6, strike out all after line 17 over to and including line 6 on page 7 and insert:

(2) Such two hundred and fifty thousand acre-feet of water shall not be used to irrigate more than thirty-seven thousand one hundred and eighty-seven acres of land in the Yuma Mesa Division, specifically: six thousand five hundred and eighty-seven acres in the North Gila Valley Irrigation District; ten thousand six hundred acres in the Yuma Irrigation District; and twenty thousand acres in the Yuma Mesa Irrigation and Drainage District. Additional land in the Yuma Mesa Irrigation and Drainage District may be irrigated if there is a corresponding reduction in the irrigated acreage in the other districts so that at no time are more than thirty-seven thousand one hundred and eighty-seven acres being irrigated in the Yuma Mesa Division.

Page 10, strike out lines 5 to 13, inclusive, and insert:

(k) The water referred to in subsection (f)(2) shall be for the exclusive use and benefit of the Ak-Chin Indian Community, except that whenever the aggregate water supply referred to in subsection (f) exceeds the quantity necessary to meet the obligations of the Secretary under this Act, the Secretary shall allocate on an interim basis to the Central Arizona Project any of the water referred to in subsection (f) which is not required for delivery to the Ak-Chin Indian Reservation under this Act.

Page 12, after line 24, insert:

SEC. 7. (a) There is hereby authorized to be appropriated the sum of \$1,000,000 for payment to the fund referred to in subsection (b). Subject to appropriations, the Secretary shall pay a sum of \$1,000,000 to such fund.

(b) No portion of the sum referred to in subsection (a) shall be paid unless—

(1) the Central Arizona Water Conservation District establishes a fund to be administered by the District for voluntary acquisition or conservation of water from sources within the State of Arizona for use in central Arizona in years when water supplies are reduced; and

(2) the Central Arizona Water Conservation District has contributed the sum of not less than \$1,000,000 to such fund: Provided, That if the contribution of not less than \$1,000,000 by the District to such fund has not been fully paid as provided in this section within two years of the date of enactment of this Act, the authorization for appropriation and payment of the sum referred to in subsection (a) shall terminate.

(c) If the provisions of this section are for any reason not implemented as herein provided, the other sections of this Act shall remain unaffected thereby.

Page 13, line 1, strike out "Sec. 7." and insert "Sec. 8."

Page 13, line 4, strike out "Sec. 8." and insert "Sec. 9."

Page 13, after line 10, insert:

SEC. 10. (a) Section 311 of the Southern Arizona Water Rights Settlement Act of 1982 (96 Stat. 1283) is amended to read as follows:

"Sec. 311. The provisions of sections 2415 of title 28, United States Code, shall apply to any action relating to water rights of the Papago Indian Tribe or of any member of such Tribe which is brought—

"(1) by the United States for, or on behalf of, such Tribe or member of such Tribe, or

"(2) by such Tribe."

(b) The amendment made by this section shall not apply with respect to any action filed prior to the date of enactment of this Act.

Mr. UDALL (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Arizona?

Mr. MCCAIN. Mr. Speaker, reserving the right to object, I yield to the chairman of the committee for an explanation of the Senate amendment.

Mr. UDALL. Mr. Speaker, on Monday, September 17, the House passed H.R. 6206, a bill to resolve the water rights claims of the Ak-Chin Indian Tribe in central Arizona. H.R. 6202 modified the 1978 act that provided an interim and permanent water supply for the Ak-Chin Community.

As I stated when the bill was pending before the House, the revised settlement represents an agreement reached among the Secretary of the Interior, the Ak-Chin community, and the irrigators in the Yuma Mesa irrigation district. Under the terms of this new accord, the Ak-Chin community has agreed to accept less water than under the original settlement, and to forego action for damages against the Secretary for failure to deliver water in 1984.

On the Senate side, four amendments were adopted. These amendments address some legitimate concerns that were raised by the Governor of Arizona, about the impact of the settlement on Arizona's overall water future.

The amendments are supported by the entire Arizona congressional delegation, and by Secretary Clark, and their inclusion in the legislation satisfies the concerns of the Governor and the State water department.

The first Senate amendment decreases the amount of acreage which the Yuma Mesa irrigation district will be allowed to irrigate in the future. This reduction in use along the Colorado River will enable additional water to be available for municipal and industrial users in central Arizona.

The second amendment clarifies that the balance of the water not needed to fulfill the Secretary's specific delivery obligations to the Ak-Chin shall be allocated to the central Arizona project.

The bill directs the Secretary to deliver 50,000 acre-feet of Colorado River water as the first component of the Ak-Chin's water supply. Additional water, up to 75,000 acre-feet in normal years and 72,000 acre-feet in dry years will come from the community's central Arizona project allocation. Water from those sources in excess of the community's settlement shall be allocated by the Secretary to the CAP.

The third amendment creates a fund, jointly funded by the United States and the State, to acquire water in shortage years to

offset the impact, if any, of the Ak-Chin settlement on municipal and industrial CAP water supplies and the supplies available for other Arizona Indian tribes.

The fund is created by means of a one-time contribution of \$1 million by each party.

The final amendments clarifies the status of the water rights claims of the Papago Indian Tribe. It places the Papago claims on an equal footing with the claims of other Indian tribes, regarding the application of the statute of limitations for filing legal actions. This amendment is a technical, clarifying amendment.

Mr. MCCAIN. Further reserving the right to object, Mr. Speaker, I thank the gentleman from Arizona.

Mr. Speaker, H.R. 6206 is extremely important, not only to the Ak-Chin Indian community and to water users in Arizona, but to all Indian tribes and States where Indian water claims remain unresolved.

The 1978 Ak-Chin settlement was considered a model. The product of extensive negotiations, it promised benefits to all parties concerned and eliminated prospects of long and costly litigation. However, to date the United States has been unable to fulfill its part of the bargain. This failure has raised serious questions about the commitment of the United States to make good on its solemn promises written in law. These questions in turn have cast a cloud over the credibility of negotiated settlements as desirable alternatives to litigation. If the Ak-Chin do not get the water they bargained for in good faith and for which they waived their valuable claims, then no other tribe in the country can be reasonably expected to negotiate their claims rather than litigate. That is why this legislation is so important.

As passed by the House last week, H.R. 6206 would amend the 1978 settlement by incorporating the terms of a recent agreement between the Secretary of the Interior and the Yuma-Mesa irrigation district. It would also reduce Ak-Chin's water entitlement by 10,000 acre-feet, from 85,000 to 75,000 acre-feet in normal years, and to 72,000 acre-feet in water-short years. Under the agreement, the Secretary would acquire 50,000 acre-feet of Yuma-Mesa's Colorado River water under the Gila reclamation project in return for an \$11.7 benefit package.

The Secretary would use this water, together with Ak-Chin's central Arizona project [CAP] entitlement of 58,300 acre-feet, to meet his legal obligation to provide water to Ak-Chin.

As passed by the Senate, H.R. 6206 contains amendments by Senators GOLDWATER and DECONCINI that address concerns expressed by the State and other water users. I believe these amendments improve the bill and should be agreed to by the House. In short, the Senate amendments limit the amount of irrigated acreage in the Yuma-Mesa irrigation district, ensure that any water surplus to Ak-Chin's entitlement would be available only to the central Arizona water conservation district for CAP purposes, and establish a trust fund to buy water from agricultural users along the Colorado River to guarantee the Ak-Chin supply in dry years. The effect of these amendments, together with water conservation measures in the Yuma-Mesa benefit package and Ak-Chin's, is to minimize the impact of the overall settlement on CAP supplies at worst; at best, they will increase the firm supply of water available for CAP over current estimates.

H.R. 6206 represents a commitment by the United States and by the Reagan administration to resolve outstanding Indian water

claims via negotiated settlements that are equitable to Indians and non-Indians alike. This legislation will fulfill the congressional intent of the 1978 act at nearly two-thirds less cost to the United States than the original settlement. It protects local water interests and, above all, it enables the United States to keep its promises to the Ak-Chin. This is meritorious legislation, and I urge my colleagues to concur in the Senate amendments and pass it.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Arizona?

There was no objection.

A motion to reconsider was laid on the table.

THE SECRETARY OF THE INTERIOR,

Washington, September 12, 1984.

Hon. MORRIS K. UDALL,

Chairman, Committee on Interior and Insular Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This is to provide you with our views on H.R. 6206, a bill "Amending the Act of July 28, 1978 (P.L. 95-328) relating to the water rights of the Ak-Chin Indian Community and for other purposes."

We support enactment of the Committee amendment in the form of a substitute to H.R. 6206.

H.R. 6206 would authorize and direct the Secretary of the Interior to provide a permanent supply of water for the Ak-Chin Community by January 1, 1988. This supply would consist of the aggregate of the (1) the reallocation by the Secretary of 50,000 acre-feet of Colorado River water currently authorized for beneficial consumption by the Yuma Mesa Division of the Gila Project, and (2) an allocation from the Central Arizona Project. H.R. 6206 would provide benefits to the Yuma Mesa Division and provide funds for water conservation measures. Additionally, H.R. 6206 would provide for damages to the Community in the event the Secretary fails to provide the agreed supply in certain years. Finally, H.R. 6206 would authorize the appropriation of funds to assist the Community in using its water supply.

#### BACKGROUND

In 1978, Congress enacted Public Law 95-328 (92 Stat. 409), which provides for the settlement of the Ak-Chin Indian Community's claims to water for its reservation in central Arizona. Arizona officials, leaders of the Ak-Chin Indian Community, the non-Indian water users in central Arizona, the committees in the Congress, and representatives of this Department worked to enact the Ak-Chin settlement which represented the first legislative settlement of an Indian tribe's water rights.

In formulating a water policy for this Administration, we have concluded that negotiated settlements are the most appropriate means of resolving Indian water rights disputes. Accordingly, we looked forward to implementing the 1978 Act, which would provide benefits, not only to the Ak-Chin Indian Community, but also to non-Indian water users in central Arizona. However, as we proceeded to implement the settlement, we discovered that many of the assumptions that Congress made in enacting the settlement have not been borne out by later events. The facts persuaded us that the basic objective of the settlement—to provide water to the Ak-Chin Reservation—could not be met by following the terms of the 1978 Act.

Public Law 95-328 requires the United States to identify, acquire, and deliver 85,000

acre-feet of water annually to Ak-Chin commencing in 1984.

The facts persuaded us that the basic objective of the settlement—to provide water to the Ak-Chin Reservation—could not be met by following the terms of the 1978 Act.

Public Law 92-328 requires the United States to identify, acquire, and deliver 85,000 acre-feet of water annually to Ak-Chin commencing in 1984. Delivery could occur in two phases: provision of an interim supply of water in the 1984-2002 period and provision of a permanent supply as soon as possible but no later than 2003. The prior Administration embarked on an effort to provide the Community its interim supply by development of the Vekol Valley wellfield. We subsequently discovered three major flaws in this approach. First, the cost of wellfield development and an associated delivery system reached \$100 million and Congress had authorized less than half that amount in the 1978 Act. Second, this expenditure did not secure any permanent water. Third, it appeared that most of the groundwater in the Vekol Valley was under the Papago Indian Reservation and development of the water for the benefit of Ak-Chin may have had an adverse effect on the Papagos.

As a consequence of these discoveries, we concluded that it was necessary to find alternative means of fulfilling the 1978 Act. Breaching our obligations to Ak-Chin was rejected as being grossly inequitable. The Community had, through the 1978 Act, already waived all of its past and future claims to the water resources appurtenant to the Reservation. This waiver freed the non-Indian community in the vicinity from the threat of water litigation. We deemed it highly inequitable to deny the Indians the water benefits of the 1978 Act while the non-Indian interests have enjoyed the benefits of the same Act since its enactment.

These conclusions lead us to begin discussions with Ak-Chin regarding how we might amend the Act to satisfy their congressionally granted water entitlement and protect the interests of the Nation's taxpayers. These discussions led to the execution of an Agreement-in-Principle with the Community in September 1983 designed to fulfill the spirit of Public Law 95-328. Its major features are as follows:

(1) The United States agreed to secure for Ak-Chin its permanent water supply for delivery in 1988 via the Central Arizona Project (CAP).

(2) The United States agreed to provide a series of benefits with a present value of approximately \$28 million (including \$18.4 million of appropriated funds) in lieu of water deliveries in the 1984-1987 period.

(3) Ak-Chin agreed to reduce its statutory water entitlement from 85,000 acre-feet annually to 75,000 acre-feet annually in normal and wet years and 72,000 acre-feet annually in dry years.

(4) Ak-Chin would not sue the United States for breach of contract and seek the statutorily provided damages for failing to deliver water in the 1984-1987 period.

We are persuaded that this cooperative agreement more clearly fulfills the intent of the 1978 Act and does so at substantially less cost than the prior course of action. The proposed substitute to H.R. 6206 embodies and fully elaborates on this agreement.

Since that agreement was signed, we have been engaged in an effort to secure the congressionally mandated permanent water supply for Ak-Chin. We determined at the outset, however, to pursue acquisition of this supply in a manner that would not adversely

affect existing water users in Arizona. In addition, despite the legal authorities enabling us to proceed unilaterally, we sought to acquire this water via cooperative means.

On September 5, 1984, the Department signed an Agreement-in-Principle with the irrigation districts comprising the Yuma-Mesa Division of the Gila Reclamation Project to reallocate 50,000 acre-feet of the Colorado River available for beneficial consumptive use by the Division pursuant to the Boulder Canyon Project Act of 1928. The priority for use of this water is senior to that for CAP deliveries. The bulk of this water is presently unused and may be reallocated to Ak-Chin without adverse effects on the agricultural development in the Yuma area. In consideration for the reallocation, \$11.7 million in benefits will be furnished to the Division by the Federal Government. Moreover, funds authorized to be appropriated by this Act—\$9.4 million—could be used for water conservation measures within the Division to ensure more efficient use of water in the Division. Not only has this cooperative arrangement secured for Ak-Chin its permanent water supply, it also facilitates water conservation on the lower Colorado River.

Additionally, the new arrangement will provide ancillary benefits to the water users of central Arizona. We intend that any of the water not needed to satisfy Ak-Chin's reduced entitlement will be available for allocation in the State of Arizona. It appears that in normal years we will be able to provide over 30,000 acre-feet annually to the State between 1988 and 2010 and 8,000-30,000 acre-feet later in the 21st century.\* The acquisition of this lower Colorado River water ensures its diversion to central Arizona for use by Ak-Chin or other users.

#### SECTION-BY-SECTION ANALYSIS

The first section of H.R. 6206 would make congressional findings and declarations concerning Public Law 95-328 and the revised Ak-Chin water settlement.

Section 2 of H.R. 6206 would amend section 3 of Public Law 95-328 by substituting a new section to embody the agreements (1) between the Community and the United States, and (2) between the irrigation districts comprising the Yuma Mesa Division and the United States.

Sections 2(a), (b) and (c) would outline the responsibilities of the Secretary to provide water to the Community, as follows:

(1) In normal years, not less than 75,000 acre-feet.

(2) In shortage years (pursuant to section 310(b) of the Colorado River Basin Project Act (P.L. 90-537)) no less than 72,000 acre-feet.

(3) In wet years, an additional 10,000 acre-feet, if requested by the Community and certain conditions exist.

Section 2(d) would provide that the Secretary must deliver the permanent supply at appropriate flow rates, subsection (e) would authorize the Secretary to design, construct, operate, maintain and replace facilities necessary to deliver water to the southeast corner of the reservation.

\*Ak-Chin's CAP allocation is 58,300 acre-feet. The CAP allocation and the acquired water are the sources to supply AK-Chin its entitlement. As these sources total 108,000 acre-feet in normal years and the Community's entitlement is 75,000 acre-feet, up to 33,000 acre-feet will be available for allocation in the State of Arizona.

Section 2(f) would define the sources of the permanent supply of water as being the aggregate of the reallocation to the Community from the Yuma Mesa Division and the

community's allocation of Central Arizona Project water. We note that it is the intent of the legislation that the Yuma Mesa Division reallocation is the first segment of the permanent supply in reaching amounts the Secretary would provide in subsections (a) and (c). Any water that is determined to be surplus would be from the Central Arizona Project allocation.

Further, should for any reason supply arrangement in this Act not be executed subsection (f)(3) would provide that the Secretary continues to have an obligation to provide a permanent water supply to the Community.

Public Law 90-537, the Colorado River Basin Project Act, recognized that the then contract rights in the Yuma area had an equal priority with California and Nevada water users and had priority water users to be delivered to the Central Arizona Project water users. The 50,000 acre-feet of water that would be delivered, under this Act to the Ak-Chin Indian community would have the same priority, equal with, the water contracts of the Yuma Mesa Division Districts and other Districts in the Yuma Area in existence in 1968, the date of the passage of the Public Law 90-537. It is the intent of this Act to preserve that priority.

Section 2(f)(3) is designed to ensure that any actions taken by Congress in enacting this legislation or actions taken pursuant to it shall not affect the Secretary's authority to administer Colorado River water.

The issue of the scope of the Secretary's authority arose because the Department had advised the water users in the Yuma Mesa Division that the Secretary may have the authority under the Boulder Canyon Project Act to reallocate water which had not been put to use for more than twenty-five years to fulfill the water delivery obligation created by the Ak-Chin settlement in Public Law 95-328. In meetings with the irrigation districts of the Yuma Mesa Division, representatives of the districts disagreed with that analysis of the Secretary's authority. Eventually the Department and the districts agreed to negotiate for the reallocation of water and avoid a legal confrontation on that issue. In the course of negotiating for a water supply it became apparent that in addition to the unused water, some developed water also could be salvaged through water conservation programs in the districts.

The consumptive use of water from the Colorado River lands of the Yuma Mesa Division as well as other lands along the lower Colorado River is the subject of an extensive ongoing analysis by the Bureau of Reclamation in cooperation with the lower basin states. So far, however, a definitive accounting has not been completed. Since it cannot be known at this time how much of the fifty-thousand acre-feet of water committed to this settlement is unused and how much will be the product of the water consideration programs anticipated in the proposed legislation, agreement was reached that this legislation would have no effect whatsoever on the issue of Secretarial authority.

Section 2(g) would reduce by 50,000 acre-feet the 300,000 acre-feet of Colorado River water allocated for annual beneficial consumptive use to the Yuma Mesa Division of the Gila Project, and would authorize the amending of contracts between the Division and the United States. Additionally, it would provide funding to the Division to replace, rehabilitate and repair delivery systems within the Division, and for on-farm and district water conservation measures. We believe that these beneficial conservation

measures would enhance water use efficiency in southwestern Arizona. With the reallocation of this water to the Ak-Chin Indian Community, there will be no return flow credits to the Colorado River and this represents a diversion of 50,000 acre-feet from the river.

The passage of this bill and subsequent implementation would relieve the three districts of the Yuma Mesa Division of the acreage limitation and pricing provisions of the Reclamation Reform Act of 1982. We will consider requests by the districts for extensions of time for the filing of reporting forms. Furthermore, we will defer the district's construction repayment obligation due in December of this year which are discharged by this Act. If for any reason the Act is not fully implemented then the reporting forms not received will be required and the funds deferred collected.

The contract amending authorization and the water conservation provisions in this bill would not be considered as providing supplemental or additional benefits to the districts, nor are they to be reimbursable to the United States. We believe that the benefits derived from the water conservation measures and from the source of water for the Ak-Chin Community are in the nation's interest.

Sections 2(h) and 2(i) would provide penalties should the Secretary be unable to deliver the amounts required by subsection (a) and (c) to the Community.

Section 2(j) would authorize the community to devote the permanent water supply to any use, including but not limited to agricultural, municipal, industrial, commercial, mining or recreational, but only within the State of Arizona. This would include the right to sell, exchange or temporarily dispose of the water within the Pinal Active Management Area. However, the community would not be authorized to permanently alienate the supply.

Under section 2(k) the Secretary would be authorized to contract for the allocation of any water in subsections (f)(1) which is excess to the Secretary meeting the obligations to the community. It is our understanding that any such water would be allocated pursuant to close consultation with the State of Arizona.

Section 3 would authorize certain payments to the community and fully discharge the Secretary from penalty provisions of Public Law 95-328 for years 1984 through 1987 once the payments are made.

Section 4 would provide that the reallocation of water from the Yuma Mesa Division to the Community pursuant to this Act not take place until proper contracts and waivers are executed and funds are appropriated and transferred.

Section 5 would provide assurance to the Community that the Secretary would still be liable under Public Law 95-328 should the water supply segment from the Yuma Mesa Division not be available.

Section 6 would provide that any new budget authority would not be effective until fiscal year 1986.

Section 7 would provide that nothing in this Act is intended to affect the existing authorities of the Secretary with regard to the Colorado River in any way.

#### CONCLUSION

In order to execute these agreements fully, passage of the Committee substitute to H.R. 6206 will be required. The original provisions of the 1978 Act must be amended and the terms of the water reallocation agreement must be authorized and ratified. Accordingly, we strongly urge you to expedite pas-

sage of H.R. 6206 this session. Such prompt action will finally fulfill the promises tendered to Ak-Chin six years ago.

These agreements are in the national interest as they fulfill previous congressional intent at a cost substantially less than that of the previous plan. In addition, the agreements are a continuing demonstration of this Administration's commitment to resolve outstanding Indian water claims via negotiated settlements that are equitable to Indians and non-Indians alike.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program, however, the Administration has not had sufficient time to review this legislation and additional views may be provided subsequently.

Sincerely,

WILLIAM CLARK.

THE SECRETARY OF THE INTERIOR,  
Washington, September 17, 1984.

HON. DENNIS DECONCINI,  
U.S. Senate, Washington, DC.

DEAR SENATOR DECONCINI: As you are aware, Amendments to the 1978 Ak-Chin Settlement Act (P.L. 95-328) have been introduced by Congressman Udall (H.R. 6206) and Senator Goldwater (S. 2976). The proposed legislation would effectively fulfill the promises made to the Ak-Chin Indian Community in 1978 by authorizing the implementation of agreements reached with the Ak-Chin Indian Community and the three irrigation districts of the Yuma Mesa Division of the Gila Project. I am in full support of these settlement agreements and the legislation.

H.R. 6206 and S. 2976 would authorize and direct the Secretary of the Interior to provide a permanent supply of water for the Ak-Chin Community by January 1, 1988. This supply would consist of the aggregate of (1) the reallocation by the Secretary of 50,000 acre-feet of Colorado River water currently available for beneficial consumption by the Yuma Mesa Division of the Gila Project, and (2) an allocation from the Central Arizona Project. H.R. 6206 and S. 2976 would provide benefits to the Yuma Mesa Division and continue to provide protection to the Community in the event the Secretary fails to provide the agreed-to supply in certain years. Finally, the legislation would authorize the appropriation of funds to assist the Community in using its water supply.

#### BACKGROUND

In 1978, Congress, with your leadership, enacted the Ak-Chin legislation (Public Law 95-328), which provided for the settlement of the Ak-Chin Indian Community's claims to water for its reservation in central Arizona. Arizona officials, leaders of the Ak-Chin Indian Community, the non-Indian water users in central Arizona, the committees in the Congress, and representatives of this Department worked diligently to enact the Ak-Chin settlement which represented the first legislative settlement of an Indian tribe's water rights.

In formulating a water policy for this Administration, we have concluded that negotiated settlements are the most appropriate means of resolving Indian water rights disputes. Accordingly, we looked forward to implementing the 1978 Act, which would provide benefits, not only to the Ak-Chin Indian Community, but also to non-Indian water users in central Arizona. However, as we proceeded to implement the settlement, we discovered that many of the assumptions that Congress made in enacting the settlement have not been borne out by later events.

Public Law 95-328 requires the United States to identify, acquire, and deliver 85,000 acre-feet of water annually to Ak-Chin commencing in 1984. Delivery could occur in two phases: provision of an interim supply of water in the 1984-2002 period and provision of a permanent supply as soon as possible but no later than 2003. The prior Administration embarked on an effort to provide the Community its interim supply by development of the Vekol Valley wellfield. We subsequently discovered three major flaws in this approach. First, the cost of wellfield development and an associated delivery system reached \$100 million. Congress had authorized less than half that amount in the 1978 Act. Second, this expenditure did not secure any permanent water. Third, most of the groundwater in the Vekol Valley was under the Papago Indian Reservation and development of the water for the benefit of Ak-Chin would have had an adverse effect on the Papagos.

As a consequence of these discoveries we concluded that it was necessary to find alternative means of fulfilling the 1978 Act. Breaching our obligations to Ak-Chin was rejected as being grossly inequitable and costly due to the damages provision in the 1978 Ak-Chin Settlement Act. The Community had, through the 1978 Act, already waived all of its past and future claims to the water resources appurtenant to the Reservation. This waiver freed the non-Indian community in the vicinity from the threat of water litigation. We deemed it highly inequitable to deny the Indians the water benefits of the 1978 Act while the non-Indian interests have enjoyed the benefits of the same Act since its enactment.

These conclusions lead us to begin discussions with Ak-Chin regarding how the Act might be amended to satisfy the congressionally granted water entitlement and protect the interest of the Nation's taxpayers. These discussions led to the execution of an Agreement-in-Principle with the Community in September 1983 designed to fulfill the spirit of Public Law 95-328. Its major features are as follows:

(1) The United States agreed to secure for Ak-Chin its permanent water supply for delivery in 1988 via the Central Arizona Project (CAP).

(2) The United States agreed to provide a series of benefits with a present value of approximately \$28 million (including \$18.4 million of appropriated funds) in lieu of water deliveries in the 1984-1987 period.

(3) Ak-Chin agreed to reduce its statutory water entitlement from 85,000 acre-feet annually to 75,000 acre-feet annually in normal and wet years and 72,000 acre-feet annually in dry years.

(4) Ak-Chin would not sue the United States for breach of contract and seek the statutorily provided damages for failure to deliver water in the 1984-1987 period.

The Department is persuaded that this cooperative agreement more clearly fulfills the intent of the 1978 Act and does so at substantially less cost than development of the Vekol Valley wellfield. We did consider other alternatives, including the possibility of retiring agricultural lands, but in all cases these were considerably more costly and less likely to accomplish the goals of the cooperative agreement.

Since the Ak-Chin agreement was signed, the Department has been engaged in an effort to secure the permanent water supply for Ak-Chin in a manner that would minimize the effect on existing water users in Arizona. In addition, despite the legal authori-

ties enabling the Department to proceed unilaterally, we sought to acquire this water via cooperative means.

On September 5, 1984, the Department signed an Agreement-in-Principle with the irrigation districts comprising the Yuma-Mesa Division of the Gila Reclamation Project to reallocate 50,000 acre-feet of the Colorado River available for beneficial consumptive use by the Division pursuant to the Boulder Canyon Project Act of 1928. The priority for use of this water is senior to that for CAP deliveries. The bulk of this water is presently unused and may be reallocated to Ak-Chin without adverse effects on the agricultural development in the Yuma area. For the reallocation, \$11.7 million in benefits will be furnished to the Division by the Federal Government. Moreover, funds authorized to be appropriated by this Act—\$9.4 million—will be used for water conservation measures within the Division to ensure more efficient use of water in the Division. This cooperative arrangement has secured for Ak-Chin its permanent water supply, and also facilitates water conservation on the lower Colorado River.

Additionally, the new arrangement will provide ancillary benefits to the water users of central Arizona. The legislation allows that any of the water not needed to satisfy Ak-Chin's reduced entitlement will be available for CAP allocation in the State of Arizona. It appears that in normal years the State should receive over 30,000 acre-feet annually between 1988 and 2010 and 8,000-30,000 acre-feet later in the 21st century.<sup>1</sup> The acquisition of this lower Colorado River water ensures its availability for diversion to central Arizona for use by Ak-Chin or other users.

Some concerns have been raised about what effect this new arrangement may have on water availability for the Central Arizona Project. The Bureau of Reclamation has reviewed the Ak-Chin water settlement agreements and has concluded that there would be minimum effect on the long-term CAP municipal and industrial water users. Specifically, the Secretary's CAP allocations assumed that 18,500 acre-feet of Yuma-Mesa Division water would be available for diversion to central Arizona. A substantial portion of the Division's water rights are currently unused. Moreover, significant water savings are expected to accrue from the \$9.4 million water conservation program authorized by H.R. 6206/S. 2976. The combination of unused water and water savings may exceed 80,000 acre-feet. Consequently, transfer of 50,000 acre-feet of this water to Ak-Chin would leave more than 18,500 acre-feet for diversion to CAP. Hence H.R. 6206/S. 2976 should have no effect on the Secretary's CAP allocations to municipal and industrial users.

In cases of Colorado River water shortages, the 50,000 acre-feet Yuma-Mesa Division transfer to Ak-Chin would continue to have its present priority over CAP deliveries. As a result, municipal and industrial water users could be potentially affected, although the probability of a water shortage of the magnitude to affect municipal and industrial users over the next 30 years is remote.

The Bureau of Reclamation has also indicated that with the implementation of Plan 6 (particularly the construction of the regu-

<sup>1</sup> Ak-Chin's CAP allocation is 58,300 acre-feet. The CAP allocation and the acquired water are the sources to supply Ak-Chin its entitlement. As these sources total 108,300 acre-feet in normal years and the Community's entitlement is 75,000 acre-feet, up to 33,000 acre-feet will be available for CAP allocation in the State of Arizona.

latory feature, the New Waddell Dam) there will be minimal impacts on the CAP aqueduct capacity to deliver water. Potential problems occur only during wet years when maximum CAP diversions are made. At these periods it may be difficult to "squeeze" in the extra Ak-Chin water through the CAP aqueduct system.

In addition, the Department intends to initiate negotiations with the Central Arizona Water Conservation District once the legislation is approved to provide for the wheeling of the Yuma-Mesa water to the Ak-Chin Community.

#### CONCLUSION

In order to execute these agreements fully, Congressional authorities will be required. The original provisions of the 1978 Act must be amended and the terms of the water reallocation agreement must be authorized and ratified. Accordingly, we strongly urge you to expedite passage of H.R. 6206 and S. 2976 this session. Such prompt action will finally fulfill the promises tendered to Ak-Chin 6 years ago.

These agreements are in the national interest as they fulfill previous congressional intent at a cost substantially less than that of the previous plan. In addition, the agreements are a continuing demonstration of this Administration's commitment to resolve outstanding Indian water claims via negotiated settlements that are equitable to Indians and non-Indians alike.

I have enjoyed our successful partnership on numerous water issues important to Arizona, including the passage of the dam safety and Hoover legislation, and the progress on both Plan 6 and the Tucson Aqueduct. I look forward to continuing that successful partnership in meeting the future water needs of Arizona.

I hope this clarifies the intent of H.R. 6206 and S. 2976, and I would appreciate your support of the Ak-Chin water settlement agreement.

Sincerely,

WILLIAM CLARK.

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

#### EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

#### MESSAGE FROM THE HOUSE

##### ENROLLED BILLS SIGNED

A message from the House of Representatives announced that the Speaker has signed the following enrolled bills:

S. 3195. An act 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;

H.R. 3157. An act to provide for the settlement of certain claims under the Alaska Native Claims Settlement Act, and for other purposes;

H.R. 3379. An act to amend section 594 of title 5, United States Code, relating to the authorities of the Administrative Conference; and

H.R. 5925. An act to amend title VII of the Civil Rights Act of 1964 to establish a revolving fund for use by the Equal Employment Opportunity Commission to provide education, technical assistance, and training relating to the laws administered by the Commission.

The enrolled bills were subsequently signed by the Acting President pro tempore [Mr. KOHL].

At 11:49 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House passed the following bills; each without amendment:

S. 1181. An act for the relief of Christy Carl Hallien of Arlington, Texas;

S. 2834. An act to designate the United States Post Office Building located at 100 Main Street, Millsboro, Delaware, as the "John J. Williams Post Office Building"; and

S. 3144. An act to amend title 10, United States Code, to improve the health care system provided for members and former members of the Armed Forces and their dependents, and for other purposes.

The message also announced that the House agrees to the amendment of the Senate to the amendments of the Senate to the amendment of the Senate to the bill (H.R. 2152) to enhance the effectiveness of the U.N. international drift net fishery conservation program.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 2263) to amend title 5, United States Code, with respect to certain programs under which awards may be made to Federal employees for superior accomplishments or cost savings disclosures, and for other purposes.

The message also announced that the House agrees to the amendments of the Senate to the bill (H.R. 2321) to establish the Dayton Aviation Heritage National Historical Park in the State of Ohio, and for other purposes.

The message further announced that the Speaker makes the following modification in the appointment of conferees in the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4996) entitled "An Act to extend the authorities of the Overseas Private Investment Corporation, and for other purposes";

As additional conferees from the Committee on Banking, Finance and Urban Affairs for consideration of section 501 of the House bill, and modifications committed to conference: Ms. OAKAR, Mr. NEAL of North Carolina, and Mr. LEACH.

The message also announced that the House has passed the following bills and joint resolutions, in which it requests the concurrence of the Senate:

H.R. 2164. An act to amend the Congressional Budget and Impoundment Control Act of 1974 to establish procedures for the expedited consideration by the Congress of certain proposals by the President to rescind amounts of budget authority;

H.R. 3336. An act for the relief of Florence Adeboyeku;

H.R. 3598. An act to amend title 49, United States Code, to provide for verification of weights, and for other purposes;

H.R. 5164. An act for the relief of Craig B. Sorensen and Nita M. Sorensen;

H.R. 5572. An act to designate May of each year as "Asian/Pacific American Heritage Month";

H.R. 5749. An act for the relief of Krishabthi Sava Kopp;

H.R. 5923. An act for the relief of Anna C. Massari;

H.R. 6017. An act to implement for the United States the United Nations Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment;

H.R. 6124. An act to amend the Food, Agriculture, Conservation, and Trade Act of 1990, to improve health care services and educational services through telecommunications, and for other purposes;

H.R. 6125. An act to enhance the financial safety and soundness of the banks and associations of the Farm Credit System, and for other purposes;

H.R. 6127. An act to amend the Perishable Agricultural Commodities Act, 1930, to prescribe conditions under which a transferee shall be deemed to have received trust assets with notice of the breach of the trust, and for other purposes;

H.R. 6128. An act to amend the United States Warehouse Act to provide for the use of electronic cotton warehouse receipts, and for other purposes;

H.R. 6129. An act 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, and for other purposes.

H.J. Res. 529. Joint resolution supporting the planting of 500 redwood trees from California in Spain in commemoration of the quincentenary of the voyage of Christopher Columbus and designating the trees as a gift to the people of Spain; and

H.J. Res. 560. Joint resolution waiving certain enrollment requirements with respect to any appropriation bill for the remainder of the One Hundred Second Congress.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 353. A concurrent resolution expressing the sense of the Congress that the United States should assume a strong leadership role in implementing the decisions made at the Earth Summit by developing a national strategy to implement Agenda 21 and other Earth Summit agreements through domestic policy and foreign policy, by cooperating with all countries to identify and initiate further agreements to protect the global environment, and by supporting and participating in a high-level United Nations Sustainable Development Commission.

ENROLLED BILL SIGNED

A message from the House of Representatives announced that the Speaker has signed the following enrolled bill:

H.R. 5678. An act making appropriations for the Departments of Commerce, Justice,

and State, the Judiciary, and related agencies 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].

ENROLLED BILL SIGNED

At 2:28 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 5488. An act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, 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].

At 3:35 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4250) to authorize appropriations for the National Railroad Passenger Corporation, and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5006) 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.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5368) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1993, 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. 376. A concurrent resolution providing for the preparation of official duplicates of certain legislative papers.

ENROLLED BILL SIGNED

The message further announced that the Speaker has signed the following enrolled bill:

H.R. 5518. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1993, and for other purposes.

The enrolled bill was subsequently signed by President pro tempore [Mr. BYRD].

At 5:19 p.m., a message from the House of Representatives, delivered by

Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5427) making appropriations for the legislative branch for the fiscal year ending September 30, 1993, and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5504) making appropriations for the Department of Defense for the fiscal year ending September 30, 1993, and for other purposes.

At 5:50 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 bill (S. 1569) to implement the recommendations of the Federal Courts Study Committee, and for other purposes; with an amendment, in which it requests the concurrence of the Senate.

At 6:32 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1252. An act to authorize the State Justice Institute to analyze and disseminate information regarding the admissibility and quality of testimony of witnesses with expertise relating to battered women, and to develop and disseminate training materials to increase the use of such experts to provide testimony on criminal trials of battered women, particularly in cases involving indigent women;

H.R. 1253. An act to amend the State Justice Institute Act of 1984 to carry out research and develop judicial training curricula, relating to child custody litigation;

H.R. 2448. An act to provide for the minting of medals in commemoration of Benjamin Franklin and to enact a fire service bill of rights;

H.R. 3161. An act to authorize functions and activities under the Federal Property and Administrative Services Act of 1949, to amend laws relating to Federal procurement, and for other purposes;

H.R. 4363. An act to amend title 11 of the United States Code to exclude from the estate of the debtor certain interests in liquid and gaseous hydrocarbons;

H.R. 4797. An act to direct the United States Sentencing Commission to make sentencing guidelines for Federal criminal cases that provide sentencing enhancements for hate crimes;

H.R. 5304. An act to provide that a State court may not modify an order of another State court requiring the payment of child support unless the recipient of child support payments resides in the State on which the modification is sought, or consents to seeking the modification in such other State court;

H.R. 5328. An act to amend title 35, United States Code, with respect to the late payment of maintenance fees;

H.R. 5602. An act granting the consent of Congress to the Interstate Rail Passenger Network Compact;

H.R. 5862. An act 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;

H.R. 5998. An act for the relief of the Wilkinson County School District, in the State of Mississippi;

H.R. 6050. An act to facilitate recovery from recent disasters by providing greater flexibility for depository institutions and their regulators, and for other purposes;

H.R. 6072. An act to direct expedited negotiated settlement of the land rights of the Kenai Natives Association, Inc., under section 14(h)(3) of the Alaska Native Claims Settlement Act, by directing land acquisition and exchange negotiations by the Secretary of the Interior and certain Alaska Native corporations involving lands and interests in lands held by the United States and such corporations; and

H.R. 6094. An act to improve supervision and regulation with respect to the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Federal Home Loan Bank System, and for other purposes.

#### ENROLLED JOINT RESOLUTION SIGNED

The message also announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 560. Joint resolution waiving certain enrollment requirements with respect to any appropriation bill for the remainder of the One Hundred Second Congress.

The enrolled joint resolution was subsequently signed by the President pro tempore [Mr. BYRD].

At 7:28 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills; each without amendment:

S. 225. An Act to expand the boundaries of the Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park, Virginia;

S. 758. An Act to clarify that States, instrumentalities of States, and officers and employees of States, acting on their official capacity, are subject to suit in Federal court by any person for infringement of patents and plant variety protections, and that all the remedies that can be obtained in such suit that can be obtained in a suit against a private entity;

S. 759. An Act to amend certain trademark laws to clarify that States, instrumentalities of States, and officers and employees of States acting in their official capacity, are subject to suit in Federal court by any person for infringement of trademarks, and that all the remedies can be obtained in such suit that can be obtained in a suit against a private entity;

S. 1146. An Act to establish a national advanced technician training program, utilizing the resources of the Nation's two-year associate-degree-granting colleges to expand the pool of skilled technicians in strategic advanced-technology fields, to increase the productivity of the Nation's industries, and to improve the competitiveness of the United States in international trade, and for other purposes; and

S. 2661. An Act to authorize the striking of a medal commemorating the 250th anniversary of the founding of the American Philosophical Society and the birth of Thomas Jefferson.

The message also announced that the House agrees to the report of the com-

mittee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 776) to provide for improved energy efficiency.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 5400) to establish in the Department of Veterans Affairs a program of comprehensive service for homeless veterans; with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bills, each with an amendment, in which it requests the concurrence of the Senate:

S. 1002. An Act to impose a criminal penalty for flight to avoid payment of arrearages in child support; and

S. 2481. An Act to amend the Indian Health Care Improvement Act to authorize appropriations for Indian health programs, and for other purposes.

The message further announced that the House has passed the following bills, each with amendment, in which it requests the concurrence of the Senate:

S. 893. An Act to amend title 18, United States Code, to impose criminal sanctions for violation of software copyright; and

S. 1985. An Act to establish a Commission to review the Bankruptcy Code, to amend the Bankruptcy Code in certain aspects of its application to cases involving commerce and credit and individual debtors and add a temporary chapter to govern reorganization of small businesses, and for other purposes.

#### ENROLLED BILLS SIGNED

At 11:05 p.m., a message from the House of Representatives announced that the Speaker has signed the following enrolled bills:

H.R. 5427. An Act making appropriations for the Legislative Branch for the fiscal year ending September 30, 1993, and for other purposes; and

H.R. 5677. An Act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1993, and for other purposes.

Under the authority of the order of today, October 5, 1992, the enrolled bills were subsequently signed by the Acting President pro tempore [Mr. MITCHELL].

At 11:27 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5334) to amend and extend certain laws relating to housing and community development, and for other purposes.

The message also announced that the House of Representatives having proceeded to reconsider the bill (S. 12) to amend the Communications Act of 1934 to provide increased consumer protection and to promote increased competition in the cable television and related markets, and for other purposes, returned by the President of the United

States with his objections, to the Senate, in which it originated, it was

Resolved, That the said bill pass, two-thirds of the House of Representatives agreeing to pass the same.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 5013) 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.

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. 379. A concurrent resolution directing the Clerk of the House of Representatives to make certain corrections in the enrollment of the bill H.R. 5006.

ENROLLED BILL SIGNED

The message further announced that the Speaker has signed the following enrolled bill:

H.R. 2144. An Act 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.

At 1:55 a.m., a message from the House of Representatives announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 429) to amend certain Federal reclamation laws to improve enforcement of acreage limitations, and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4996) to extend the authorities of the Overseas Private Investment Corporation, and for other purposes.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 382. A concurrent resolution directing the Clerk of the House of Representatives to make corrections in the enrollment of H.R. 429.

At 4:55 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate 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.

The message also announced that the House agrees to the amendments of the Senate to the bill (H.R. 5008) to amend

title 38, United States Code, to reform the formula for payment of dependency and indemnity compensation to survivors of veterans dying from service-connected causes, to increase the rate of payments for benefits under the Montgomery GI bill, and for other purposes; with amendments, in which it requests the concurrence of the Senate.

ENROLLED BILLS SIGNED

At 11:15 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:

H.R. 5368. An act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1993, and for other purposes.

H.R. 5504. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1993, and for other purposes.

At 3:25 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, without amendment:

S. 1664. An act to establish the Keweenaw National Historical Park, and for other purposes.

S. 2625. An act to designate the United States courthouse being constructed at 400 Cooper Street in Camden, New Jersey as the "Mitchell H. Cohen United States Courthouse".

S. 2875. An act to amend the National School Lunch Act and the Child Nutrition Act of 1966 to better assist children in homeless shelters, to enhance competition among infant formula manufacturers and to reduce the per unit costs of infant formula for the special supplemental food program for women, infants, and children (WIC), and for other purposes.

S. 2941. 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.

S. 2964. An act 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.

S. 3224. An act to designate the United States Courthouse to be constructed in Fargo, North Dakota the Quentin N. Burdick United States Courthouse.

S. 3309. An act to amend the Peace Corps Act to authorize appropriations for the Peace Corps for fiscal year 1993 and to establish a Peace Corps foreign exchange fluctuations account, and for other purposes.

S. 3327. An act to amend the Agricultural Adjustment Act of 1938 to permit the acreage-acre transfer of an acreage allotment or quota for certain commodities, and for other purposes.

H.R. 3088. An act to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to authorize funds received by States and units of local government to be expended to improve the quality and availability of DNA records; to authorize the establishment of a DNA identification index; and for other purposes.

H.R. 4542. An act to prevent and deter auto theft.

H.R. 4844. An act to restore Olympic National Park and the Elwha River ecosystem and fisheries in the State of Washington.

H.R. 5617. An act to provide Congressional approval of a Governing International Fishery Agreement, and for other purposes.

H.R. 6133. An act to enable the United States to maintain its leadership in land remote sensing by providing data continuity for the Landsat program, to establish a new national land remote sensing policy, and for other purposes.

H.R. 6135. An act to authorize appropriations to the National Aeronautics and Space Administration for research and development, space flight, control and data communications, construction of facilities, research and program management, and Inspector General, and for other purposes.

H.R. 6138. An act to amend the Consolidated Farm and Rural Development Act.

H.R. 6163. An act to designate certain Federal buildings.

H.R. 6165. An act to amend certain provisions of law relating to establishment, in the District of Columbia or its environs, of a memorial to honor Thomas Paine.

H.R. 6167. An act to provide for the conservation and development of water and related resources, to authorize the United States Army Corps of Engineers civil works program to construct various projects for improvements to the Nation's infrastructure, and for other purposes.

H.R. 6180. An act to authorize appropriations for the National Telecommunications and Information Administration, and for other purposes.

H.R. 6181. An act to amend the Federal Food, Drug, and Cosmetic Act to authorize human drug application, prescription drug establishment, and prescription drug product fees, and for other purposes.

H.R. 6182. An act to amend the Public Health Service Act to establish the authority for the regulation of mammography services and radiological equipment, and for other purposes.

H.R. 6183. An act to amend the Public Health Service Act to provide protection from legal liability for certain health care professionals providing services pursuant to such Act.

H.R. 6184. An act to amend the National Trails System Act to designate the American Discovery Trail for study to determine the feasibility and desirability of its designation as a national trail.

H.R. 6185. An act to implement the recommendations of the Federal Courts Study Committee, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution:

S. Con. Res. 140. A concurrent resolution relating to humanitarian relief and the human rights situation in Sudan.

The message further announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 89. A concurrent resolution expressing the sense of Congress that expert testimony concerning the nature and effect of domestic violence, including descriptions of the experiences of battered women, should be admissible when offered in the State court by a defendant in a criminal case.

H. Con. Res. 383. A concurrent resolution concerning United States participation in a Cascadia Corridor commission.

H. Con. Res. 384. A concurrent resolution providing for the sine die adjournment of the second session, 102d Congress.

The message further announced that the House agrees to the report of the

committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 347) to amend the Defense Production Act of 1950 to revitalize the defense industrial base of the United States, and for other purposes.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3635) to amend the Public Health Service Act to revise and extend the program of block grants for preventive health and health services, and for other purposes.

The message further announced that the House agrees to the amendments of the Senate to the bill (H.R. 5237) to amend the Rural Electrification Act of 1936 to improve the provision of electric and telephone service in rural areas, and for other purposes.

The message also announced that the House agrees to the amendments of the Senate to the bill (H.R. 5258) to provide for the withdrawal of most favored nation status from the Federal Republic of Yugoslavia and to provide for the restoration of such status if certain conditions are fulfilled.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 5483) to modify the provisions of the Education of the Deaf Act of 1986, and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5739) to reauthorize the Export-Import Bank of the United States.

The message further announced that the House has passed the bill (S. 2890) to provide for the establishment of the Brown versus Board of Education National Historic Site in the State of Kansas, and for other purposes; with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the bill (S. 3134) to expand the production and distribution of educational and instructional video programming and supporting educational materials for preschool and elementary school children as a tool to improve school readiness, to develop and distribute educational and instructional video programming and support materials for parents, child care providers, and educators of young children, to expand services provided by Head Start Programs, and for other purposes; with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House has passed the bill (S. 3100) to authorize and direct the Secretary of the Interior to convey certain lands in Cameron Parish, LA, and for other

purposes; with an amendment, in which it requests the concurrence of the Senate.

#### MEASURES REFERRED

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

H.R. 2164. An act to amend the Congressional Budget and Impoundment Control Act of 1974 to establish procedures for the expedited consideration by the Congress of certain proposals by the President to rescind amounts of budget authority; pursuant to the order of August 4, 1977, referred jointly to the Committee on the Budget and the Committee on Governmental Affairs.

H.R. 3336. An act for the relief of Florence Adeboyeku; to the Committee on the Judiciary.

H.R. 5164. An act for the relief of Craig B. Sorensen and Nita M. Sorensen; to the Committee on the Judiciary.

H.R. 5749. An act for the relief of Krishabthi Sava Kopp; to the Committee on the Judiciary.

H.R. 5923. An act for the relief of Anna C. Massari; to the Committee on the Judiciary.

H.R. 6017. An act to implement for the United States the United Nations Convention Against Torture and Other Cruel Inhumane or Degrading Treatment or Punishment; to the Committee on Foreign Relations.

#### EXECUTIVE AND OTHER COMMUNICATIONS

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

EC-3971. A communication from the President and CEO of the Resolution Trust Corporation and the President of the Thrift Depositor Protection Oversight Board, transmitting jointly, pursuant to law, the unaudited financial statements of the Corporation for the six month period ending June 30, 1992; to the Committee on Banking, Housing, and Urban Affairs.

EC-3972. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the annual report on the operations of the Exchange Stabilization Fund for fiscal year 1991; to the Committee on Banking, Housing, and Urban Affairs.

EC-3973. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, a report on a transaction involving a medium-term financial guarantee to support United States exports to the Russian Federation; to the Committee on Banking, Housing, and Urban Affairs.

EC-3974. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on direct spending or receipts legislation; to the Committee on the Budget.

EC-3975. A communication from the Secretary of Commerce, transmitting, pursuant to law, the report regarding the Saltonstall-Kennedy Grant program for 1991-1992; to the Committee on Commerce, Science, and Transportation.

EC-3976. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Serv-

ice, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3977. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3978. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3979. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3980. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report containing operating, statistical, and financial information about the Government's helium program; to the Committee on Energy and Natural Resources.

EC-3981. A communication from the Vice President of the Tennessee Valley Authority (Employee Relations), transmitting, pursuant to law, an update on the status of labor-management negotiations with certain groups; to the Committee on Environment and Public Works.

EC-3982. A communication from the Chairman of the United States International Trade Commission, transmitting, pursuant to law, the annual report on the impact of the Caribbean Basin Economic Recovery Act for calendar year 1991; to the Committee on Finance.

EC-3983. A communication from the Comptroller General, transmitting, pursuant to law, a report entitled "Reports and Testimony: August 1992"; to the Committee on Governmental Affairs.

EC-3984. A communication from the Secretary of Education, transmitting, pursuant to law, notice of final regulations—Assistance to States for the Education of Children with Disabilities Program and Preschool Grants Program; to the Committee on Labor and Human Resources.

EC-3985. A communication from the President of the United States Capitol Historical Society, transmitting, pursuant to law, the annual report of the U.S. Capitol Historical Society for 1991-1992; to the Committee on Rules and Administration.

EC-3986. A communication from the Acting Secretary of Veterans Affairs, transmitting, a draft of proposed legislation to amend title 38, United States Code, to provide for a re-designation of certain positions within the Department of Veterans' Affairs; to the Committee on Veterans' Affairs.

#### REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BYRD, from the Committee on Appropriations:

Special report entitled "Revised Allocation to Subcommittees of Budget Totals

from the Concurrent Resolution for Fiscal Year 1993" (Rept. No. 102-455).

By Mr. INOUE, from the Select Committee on Indian Affairs, with amendments and with a preamble:

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 (Rept. No. 102-456).

By Mr. INOUE, from the Select Committee on Indian Affairs, with an amendment in the nature of a substitute and an amendment to the title:

S. 2617. A bill to provide for the maintenance of dams located on Indian lands in New Mexico by the Bureau of Indian Affairs or through contracts with Indian tribes (Rept. No. 102-457).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. GLENN, from the Committee on Armed Services:

The U.S. Army National Guard officer named herein for appointment in the Reserve of the Army of the United States in the grade indicated below, under the provisions of title 10, United States Code, sections 593(a), 3371 and 3384:

To be major general

Brig. Gen. Richard C. Alexander, xxx-xx-x...

By Mr. NUNN, from the Committee on Armed Services:

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 RECORD of January 22, March 10, March 18, March 24, April 28, June 2, June 4, June 11, July 1, August 4, September 9, September 10, September 22, September 23, September 25, and September 30, 1992 at the end of the Senate proceedings.)

\*\*In the Air Force there is 1 appointment to the grade of brigadier general (John J. Allen) (Reference No. 457-8)

\*Colonel Donald E. McAuliffe, ANG to be brigadier general (Reference No. 819)

\*\*In the Marine Corps there are 2 appointments to the grade of colonel (list begins with Robert E. Braithwaite) (Reference No. 851-3)

\*\*In the Naval Reserve there are 4 promotions to the grade of captain (list begins with Stephen P. Axtell) (Reference No. 944-2)

\*In the Navy there are 2 promotions to the grade of rear admiral (list begins with Philip James Coady, Jr.) (Reference No. 964-2)

\*\*In the Navy there is 1 promotion to the grade of captain (list begins with Jerry Wayne Bean) (Reference No. 969-3)

\*In the Air Force there is 1 appointment to the grade of brigadier general (list begins with Lawrence E. Stellmon) (Reference No. 993-3)

\*\*In the Marine Corps there are 27 appointments to the grade of lieutenant colonel (list begins with Mark S. Barnhart) (Reference No. 997-3)

\*\*In the Marine Corps there are 5 appointments to the grade of major (list begins with Gregory D. Bates) (Reference No. 1109-3)

\*\*In the Navy there are 13 promotions to the grade of commander (list begins with Steven Patrick Albert) (Reference No. 1111-2)

\*Vice Admiral James D. Williams, USN to be placed on the retired list in the grade of vice admiral (Reference No. 1148)

\*\*In the Naval Reserve there are 203 promotions to the grade of commander (list begins with Carl H. Abelein) (Reference No. 1196-2)

\*In the Air Force Reserve there is 1 appointment to the grade of major general (William P. Bland, Jr.) (Reference No. 1205-2)

\*\*In the Marine Corps there are 234 appointments to the grade of major and below (list begins with Donald R. Gibbs) (Reference No. 1214)

\*In the Army there are 28 promotions to the grade of major general (list begins with Robert B. Rosenkranz) (Reference No. 1220)

\*\*In the Marine Corps Reserve there are 2 appointments to the grade of colonel (list begins with Peder A. Anderson) (Reference No. 1226-3)

\*\*Lieutenant Colonel David C. Arney for appointment as permanent professor at the United States Military Academy (Reference No. 1267)

\*\*Colonel Douglas M. Padgett, ANG to be brigadier general (Reference No. 1297)

\*\*In the Marine Corps Reserve there are 119 appointments to the grade of colonel (list begins with Francis P. Ahearn Jr.) (Reference No. 1314)

\*In the Army there is 1 appointment to the grade of major general and below (Ronald R. Blanck) (Reference No. 1346)

\*Colonel Jerome V. Foust, USA to be brigadier general (Reference No. 1347)

\*\*In the Air Force there are 40 promotions to the grade of colonel and below (list begins with Bruce A. Brown) (Reference No. 1349)

\*\*In the Air Force Reserve there are 16 promotions to the grade of lieutenant colonel (list begins with Robert K. Baldwin) (Reference No. 1350)

\*\*In the Army Reserve there are 32 promotions to the grade of colonel and below (list begins with Clark H. Babl) (Reference No. 1351)

\*In the Army there are 3 promotions to the grade of lieutenant colonel (list begins with David A. Boothe) (Reference No. 1352)

\*\*In the Army there are 13 promotions to the grade of lieutenant colonel (list begins with Patrick J. Berger) (Reference No. 1353)

\*\*In the Army there are 7 promotions to the grade of lieutenant colonel and below (list begins with Douglas C. Andrews) (Reference No. 1354)

\*\*In the Air Force Reserve there are 1,039 promotions to the grade of colonel and below (list begins with Donald E. Abston) (Reference No. 1355)

\*\*In the Army Reserve there are 70 promotions to the grade of colonel and below (list begins with Albert L. Frazier) (Reference No. 1356)

\*\*In the Army there are 91 promotions to the grade of colonel (list begins with Dave Arnot) (Reference No. 1357)

\*\*In the Army there are 1,285 promotions to the grade of lieutenant colonel (list begins with Gary K. Abe) (Reference No. 1358)

\*\*In the Army there are 510 appointments to the grade of second lieutenant (list begins with Jeffrey M. Abel) (Reference No. 1359)

\*\*In the Air Force there are 177 appointments to the grade of second lieutenant (list begins with Barbara E. Allmart) (Reference No. 1362)

\*\*In the Air Force there are 1,033 promotions to the grade of colonel and below (list begins with William Agrella) (Reference No. 1363)

\*\*In the Army Reserve there are 608 promotions to the grade of lieutenant colonel (list begins with Friebe B. Abole) (Reference No. 1364)

\*In the Army there are 16 appointments to the grade of major general and below (list begins with Richard C. Alexander) (Reference No. 1366)

\*General Jimmie V. Adams, USAF to be placed on the retired list in the grade of general (Reference No. 1372)

\*General James P. McCarthy, USAF to be placed on the retired list in the grade of general (Reference No. 1373)

\*Lieutenant General Charles G. Boyd, USAF to be general (Reference No. 1374)

\*In the Army there are 38 promotions to the grade of brigadier general (list begins with James F. Hennessee) (Reference No. 1375)

\*Lieutenant General Robert L. Rutherford, USAF to be general (Reference No. 1387)

\*Major General Jay W. Kelley, USAF to be lieutenant general (Reference No. 1388)

\*In the Air Force Reserve there are 13 appointments to the grade of major general and below (list begins with Tandy K. Bozeman) (Reference No. 1389)

\*\*In the Marine Corps Reserve there are 137 appointments to the grade of lieutenant colonel (list begins with Gary D. Anderson) (Reference No. 1390)

\*Lieutenant General James T. Callaghan, USAF for appointment to the grade of lieutenant general on the retired list (Reference No. 1396)

\*Lieutenant General Joseph W. Ashy, USAF for reappointment to the grade of lieutenant general (Reference No. 1397)

\*\*In the Air Force Reserve there are 3 appointments to the grade of lieutenant colonel (list begins with Walter K. Kaneakua) (Reference No. 1407)

\*\*In the Air Force Reserve there are 24 promotions to the grade of lieutenant colonel (list begins with Joseph Amara) (Reference No. 1408)

\*Rear Admiral (1h) Patrick William Drennon, USN to be rear admiral (Reference No. 1415)

\*\*In the Army Reserve there are 7 appointments to the grade of colonel and below (list begins with Gino L. Ventresca) (Reference No. 1416)

\*\*In the Army Reserve there are 229 promotions to the grade of colonel (list begins with Pando Angelisanti) (Reference No. 1417)

\*\*In the Naval Reserve there are 162 promotions to the grade of captain (list begins with Rise Lavonne Barkhoff) (Reference No. 1418)

\*\*In the Navy there are 390 promotions to the grade of commander (list begins with Mark F. Abel) (Reference No. 1419)

\*\*In the Navy there are 1,048 promotions to the grade of lieutenant commander (list begins with Glen Charles Ackermann) (Reference No. 1420)

\*\*In the Navy Reserve there are 429 promotions to the grade of commander (list be-

gins with Joel Michael Alcoff) (Reference No. 1421)

\*\*In the Navy there are 255 promotions to the grade of lieutenant commander (list begins with Bradley McInt Anderson) (Reference No. 1422)

\*Rear Admiral (Selectee) Douglas J. Katz, USN to be vice admiral (Reference No. 1429)  
Grand total: 8,333.

By Mr. NUNN, from the Committee on Armed Services:

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. David M. Bennett, U.S. Navy,

xxx-xx-xxxx

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. Richard C. Macke, U.S. Navy,

xxx-xx-xxxx

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. Henry Viccellio, Jr., xxx-xx-xxxx  
U.S. Air Force.

#### 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. JEFFORDS:

S. 3316. A bill to amend the Employee Retirement Income Security Act of 1974 to provide for the treatment of settlement agreement reached with the Pension Benefit Guaranty Corporation; to the Committee on Labor and Human Resources.

By Mr. HATCH:

S. 3317. A bill to amend the State Justice Institute Act of 1984 to carry out research, and develop judicial training curricula, relating to child custody litigation; to the Committee on the Judiciary.

S. 3318. A bill to authorize the State Justice Institute to analyze and disseminate information regarding the admissibility and quality of testimony of witnesses with expertise relating to battered women, and to develop and disseminate training materials to facilitate the appropriate use of such experts to provide testimony in criminal trials of battered women, particularly in cases involving indigent women; to the Committee on the Judiciary.

By Mr. BROWN:

S. 3319. A bill to reduce the legislative branch budget by 50 percent; to the Committee on Appropriations.

S. 3320. A bill to eliminate the price support and production adjustment programs for milk, cotton, rice, honey, and tobacco, and for other purposes; to the Committee on Appropriations.

S. 3321. A bill to control the growth of mandatory spending; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions

that if one Committee reports, the other Committee have thirty days to report or to be discharged.

S. 3322. A bill to reduce the Federal budget deficit by eliminating entitlement and other mandatory payments by the United States to wealthy individuals and large corporations; to the Committee on Governmental Affairs.

S. 3323. A bill to prohibit the use of funds for continued United States membership in, and payments to, certain international commodity organizations, and for other purposes; to the Committee on Foreign Relations.

S. 3324. A bill to reduce the Federal subsidies for Amtrak and to require Amtrak to eliminate unprofitable routes; to the Committee on Commerce, Science, and Transportation.

By Mr. DECONCINI:

S. 3325. A bill to authorize appropriations for the Patent and Trademark Office in the Department of Commerce for fiscal year 1993, to provide that States are subject to suit for certain infringements of patents and plant variety protections, and infringements of trademarks, and for other purposes; considered and passed.

By Mr. HARKIN (for himself and Mr. GRASSLEY):

S. 3326. A bill to amend the Federal Deposit Insurance Act; considered and passed.

By Mr. FORD (for himself and Mr. MCCONNELL):

S. 3327. A bill to amend the Agricultural Adjustment Act of 1938 to permit the acre-for-acre transfer of an acreage allotment or quota for certain commodities, and for other purposes; considered and passed.

By Mr. KENNEDY (for himself, Mr. ADAMS, Mr. SIMON, Mr. DECONCINI, Mr. WELLSTONE, Mr. DODD, and Mr. SEYMOUR):

S. 3328. A bill to provide for necessary medical care for former civilian prisoners of war; to the Committee on Labor and Human Resources.

By Mr. ROTH (for himself, Mr. DOLE, Mr. BOREN, Mr. MOYNIHAN, Mr. COHEN, and Mr. LIEBERMAN):

S. 3329. A bill to enhance the competitiveness of the United States in the global economy through the establishment of a Department of Trade as an executive department of the Government, and for other purposes; to the Committee on Governmental Affairs.

By Mr. METZENBAUM (for himself and Mr. THURMOND):

S. 3330. A bill to make a technical amendment of the Clayton Act; considered and passed.

By Mr. JEFFORDS:

S. 3331. A bill to provide for the establishment of a nation-wide, universal access health coverage program, and for other purposes; to the Committee on Finance.

By Mr. GARN:

S. 3332. A bill to establish the San Rafael Swell National Trails and Recreation Area in the State of Utah, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DeCONCINI:

S. 3333. A bill to establish the National Commission on Civil Justice Reform; to the Committee on the Judiciary.

S. 3334. A bill to authorize the Secretary of Agriculture to convey certain lands in the State of Arizona, and for other purposes; to the Committee on Energy and Natural Resources.

S. 3335. A bill to establish the Casa Malpais National Historic Park, in Springerville, Ar-

izona and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. GLENN:

S. 3336. A bill to encourage the acquisition and use of resource efficient materials in construction, repair, and maintenance of Federal buildings; to the Committee on Environment and Public Works.

By Mrs. KASSEBAUM (for herself, Mr. HATCH, and Mr. DODD):

S. 3337. A bill to amend the Federal Food, Drug, and Cosmetic Act to allow for additional deferred effective dates for approval of applications under the new drug provisions, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BREAUX:

S. 3338. A bill to promote fair trade for the United States shipbuilding and repair industry; to the Committee on Finance.

By Mr. ADAMS:

S. 3339. A bill to improve housing for elderly persons that is assisted by the Federal Government, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

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

S. 3340. A bill to amend title XIX of the Social Security Act to improve the program related to home and community based care; to the Committee on Finance.

By Mr. BROWN:

S. 3341. A bill to amend the Federal Water Pollution Control Act to provide for the use of biomonitoring and whole effluent toxicity testing in connection with publicly owned treatment works, and for other purposes; to the Committee on Environment and Public Works.

By Mr. DeCONCINI (for himself and Mr. HATCH):

S. 3342. A bill relating to copyright compulsory licensing reform; to the Committee on the Judiciary.

By Mr. KOHL:

S. 3343. A bill to amend the Social Security Act to require States to reinvest in State and local child support collection efforts any reimbursements and incentive payments received under part D of title IV, and for other purposes; to the Committee on Finance.

By Mr. ADAMS:

S. 3344. A bill to amend the Job Training Partnership Act to establish a job training program for mature or older workers, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. ROCKEFELLER (for himself and Mr. MOYNIHAN):

S. 3345. A bill to designate the Gallipolis Locks and Dam, Ohio River, Ohio and West Virginia, as the "Robert C. Byrd Locks and Dam"; read the first time.

By Mr. CRANSTON (for himself, Mr. KENNEDY, Mr. NUNN, Mr. GLENN, Mr. DeCONCINI, Mr. ROCKEFELLER, Mr. GRAHAM, Mr. AKAKA, Mr. DASCHLE, Mr. SIMPSON, Mr. THURMOND, Mr. MURKOWSKI, Mr. JEFFORDS, Mr. KOHL, Mr. DOLE, Mr. SPECTER, and Mr. WELLSTONE):

S. 3346. A bill to establish a health registry of veterans of the Persian Gulf War, to authorize health examinations of such veterans, to coordinate and improve research on the health consequences of military service in the Persian Gulf theater of operations during the Persian Gulf war, and for other purposes.

By Mr. INOUE (for himself and Mr. MCCAIN):

S. 3347. A bill to establish within the Office of the Secretary of the Department of the In-

terior a permanent Working Group on Indian Water Rights Settlements; to the Select Committee on Indian Affairs.

By Mr. HATCH (for himself, Mr. STEVENS, Mr. MURKOWSKI, Mr. SMITH, and Mr. WALLOP):

S. 3348. A bill to improve the availability of quality, affordable health care for all Americans, and for other purposes; to the Committee on Finance.

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

S. 3349. A bill entitled the "Justice Improvements Act."; read the first time.

By Mr. ADAMS:

S. 3350. A bill to amend the Public Health Service Act and the Social Security Act to improve the organ procurement and transplantation process, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BREAUX:

S. 3351. A bill to amend the Internal Revenue Code of 1986 to defer estate taxes on family farms and businesses; to the Committee on Finance.

By Mr. LIEBERMAN:

S. 3352. A bill to create an environmental innovation research program, and for other purposes; to the Committee on Environment and Public Works.

By Mr. SPECTER:

S. 3353. A bill to amend section 848 of the Internal Revenue Code of 1986 to provide that certain noncancellable accident and health insurance policies of small insurance companies be treated in the same manner as group life insurance contracts; to the Committee on Finance.

By Mr. WALLOP:

S. 3354. A bill entitled "The Private Sector Whistleblowers' Protection Act of 1992"; to the Committee on Governmental Affairs.

S. 3355. A bill to amend chapter 6 of title 5, United States Code, relating to regulatory flexibility analysis; to the Committee on Governmental Affairs.

By Mr. DANFORTH:

S. 3356. A bill to amend the Civil Rights Act of 1964 to encourage mediation of charges filed under title VII of such Act and the Americans with Disabilities Act of 1990, to amend the Revised Statutes to encourage mediation of complaints filed under section 1977 of the Revised Statutes, and to decrease resort to the courts; to the Committee on Labor and Human Resources.

By Mr. DANFORTH:

S. 3357. A bill to abolish punitive damages in certain cases and provide in their place procedures and substantive standards for assessment of punitive fines; to the Committee on the Judiciary.

By Mr. D'AMATO:

S. 3358. A bill to limit the amount of funds that may be used for administrative expenses under chapter 1 of title I of the Elementary and Secondary Education Act of 1965, to conduct a study regarding the share of Federal funds used for administrative expenses by State and local recipients under certain Federal education programs, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. LIEBERMAN:

S. 3359. A bill to direct the Secretary of Defense, the Secretary of Commerce, and others to select a private consortium to establish and administer a national network of advanced technology manufacturing application and education centers, and for other purposes; to the Committee on Armed Services.

By Mr. LIEBERMAN (for himself and Mr. PRYOR):

S. 3360. A bill to provide for a program for the diversification of the activities of certain Federal laboratories; to the Committee on Armed Services.

By Mr. MOYNIHAN:

S. 3361. A bill to amend title IV of the Social Security Act to improve access to health insurance coverage through child support enforcement procedures, and for other purposes; to the Committee on Finance.

By Mr. NICKLES:

S.J. Res. 346. Joint resolution to provide for the payment of fair and equitable consideration in satisfaction of the claims of certain Kaw Indians; to the Select Committee on Indian Affairs.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mrs. KASSEBAUM (for herself, Mr. DECONCINI, and Mr. SIMON):

S. Res. 355. A resolution expressing the sense of the Senate regarding the democratic elections in Angola, to the Committee on Foreign Relations.

By Mr. WOFFORD (for himself, Mr. SPECTER, and Mr. WIRTH):

S. Res. 356. A resolution to establish a John Heinz Fellowship Program; considered and agreed to.

By Mr. WALLOP:

S. Con. Res. 141. A concurrent resolution to provide that each committee of the Congress that reports employee benefit legislation shall secure an objective analysis of the impact of such legislation on employment and international competitiveness, and include such analysis in the committee report; to the Committee on Rules and Administration.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JEFFORDS:

S. 3316. A bill to amend the Employee Retirement Income Security Act of 1974 to provide for the treatment of settlement agreements reached with the Pension Benefit Guaranty Corporation; to the Committee on Labor and Human Resources.

#### PENSION BENEFIT GUARANTY CORPORATION LEASE SETTLEMENTS ACT OF 1992

● Mr. JEFFORDS. Mr. President, I rise to offer a bill to amend the Employee Retirement Income Security Act. It will solidify a recent settlement made by the government agency that insures defined benefit pension plans, the Pension Benefit Guaranty Corporation [PBGC], and Eastern Airlines. Since October 1990, Eastern Airlines has owed the PBGC nearly 700 million dollars in unpaid pension plan contributions. Recently, the PBGC and Eastern Airlines have come to a settlement of PBGC's claim on Eastern's pension liabilities. The agreement has been approved by the court and Eastern's other creditors are not opposed to it.

The settlement will bolster the retirement security of over 60,000 Eastern Airlines pensioners. It will also protect the PBGC, the agency that insures de-

finer benefit pensions, from further financial ruin.

However, due to the novelty of the arrangement, some legal questions remain outstanding. My bill would resolve this issue by specifically permitting in law, what has already been agreed to by the parties involved. It clarifies that the PBGC, which obtained 15 planes in the settlement, can lease back these planes to Eastern Airline's parent company, Continental Airlines.

This will enable the PBGC to obtain the maximum amount it can from Continental Airlines. The more money the PBGC can obtain for Eastern's pension debt, the less money that will have to be obtained through raising PBGC premiums paid by other plan sponsors. PBGC premiums have already risen 700% over the last 10 years. Therefore, I urge my colleagues to support this bill.●

By Mr. BROWN:

S. 3319. A bill to reduce the legislative branch budget by 50 percent; to the Committee on Appropriations.

S. 3320. A bill to eliminate the price support and production adjustment programs for milk, cotton, rice, honey, and tobacco, and for other purposes; to the Committee on Appropriations.

S. 3321. A bill to control the growth of mandatory spending; pursuant to the order of August 4, 1977, referred jointly to the Committee on the Budget and the Committee on Governmental Affairs.

S. 3322. A bill to reduce the Federal budget deficit by eliminating entitlement and other mandatory payments by the United States to wealthy individuals and large corporations; to the Committee on Governmental Affairs.

S. 3323. A bill to prohibit the use of funds for continued United States membership in, and payments to, certain international commodity organizations; to the Committee on Commerce, Science, and Transportation.

S. 3324. A bill to reduce the Federal subsidies for Amtrak and to require Amtrak to eliminate unprofitable routes; to the Committee on Commerce, Science, and Transportation.

#### DEFICIT REDUCTION LEGISLATION

● Mr. BROWN. Mr. President, today I am introducing six bills to control spending and reduce the Federal budget deficit by more than \$260 billion over the next 5 years.

Never in the history of our country have we been so deeply indebted. We are the biggest debtor nation in the world. Our gross national debt tops \$4 trillion.

Interest on the public debt is now the third biggest expense in the Federal budget. Net interest payments on the debt total more than \$200 billion a year. That's about \$550 million a day.

The deficit is like a blackhole in space. It sucks up the wealth of our Na-

tion and saps our economic strength. It threatens the well-being of our children and our children's children.

The cause of our budget deficit is runaway, wasteful, and unnecessary government spending. Americans are not undertaxed. Since 1980, revenues to the Federal Treasury have increased 113 percent, but Federal spending has increased 146 percent.

Controlling spending is the answer to reducing the deficit. These six proposals would, collectively, reduce Federal spending by more than \$260 billion over 5 years.

Cut Congress' budget. The best place to begin is right here in Congress. The first bill would make a 50-percent across-the-board reduction in funding for the legislative branch. This saves \$6 billion over 5 years.

Congress' budget outlays increased from \$1.367 billion in 1982 to \$2.760 billion in 1992, a 102-percent increase.

Our Nation's population has increased only 7 percent over the last 20 years, but congressional staff have increased 43 percent. Congress has the largest staff of any deliberative body in the world—10 times larger than that of Great Britain, Germany, Canada, and Japan.

In 1981, Members of Congress were paid \$60,662, compared to \$129,500 in 1992, a 113-percent increase. Annual salary, benefits, staff, and other spending on Members of Congress work out to about \$5 million per Senator and about \$2 million for each Representative. Congress' own personal police force on Capitol Hill has 1,200 police officers, nearly the size of the San Diego, CA Police Force.

Last week we took a small step toward reining in Congress' excessive budget by agreeing to an amendment offered by Senator SEYMOUR and myself to cut legislative branch appropriations 5 percent in fiscal year 1993, 10 percent in fiscal year 1994, and 15 percent in fiscal year 1995 from the fiscal year 1992 level. We also agreed to end abusive slush funds which have allowed tens of millions of dollars in unspent, excess appropriations to be carried over from year to year in Congress' own budget and to be used indiscriminately with no public accountability. Money now in the slush funds would be returned to the Treasury to reduce the deficit.

Unfortunately, this amendment probably will not survive the conference committee. This is unfortunate. We cannot expect others to support reducing spending if we are unwilling to set an example ourselves.

End farm subsidies for dairy, cotton, rice, honey, and tobacco. The second bill would eliminate Federal farm subsidies for dairy, cotton, rice, honey, and tobacco commodities. Farm subsidies encourage the production of excessive surpluses, impede access to foreign markets, and erode the ability of our farmers to compete.

The Government has become the surrogate market for many subsidized commodities. In some years, for example, the Government honey ended up on grocery store shelves in its place.

Ironically, farmers who produce commodities not covered by Federal farm programs enjoy a better return on their investment than farmers who participate in the programs.

Then, or course, there is the incredibly schizophrenic policy of our Government which has spent hundreds of millions of dollars to both promote the production of tobacco and the consumption of its products, while simultaneously funding research and health care to cure and treat the diseases smoking causes.

Our farmers are among the most efficient and productive in the world. It is time for the Government to get out of agriculture, to allow our producers to realize their full potential, and to save taxpayers' hard earned dollars. This bill would save \$10 billion over 5 years.

Limit increases in mandatory spending to cost of living and new beneficiaries. The third bill is aimed at non-Social Security mandatory spending. Mandatory spending, excluding interest on the debt, is projected to grow \$650 billion in fiscal year 1992 to almost \$1 trillion per year by fiscal year 1997. Mandatory spending is now more than twice the size of all defense-related spending. We will not be able to reduce the budget deficit significantly until we control the growth of mandatory spending. To ignore mandatory spending would be to ignore 50 cents out of every dollar the Government spends.

My bill would limit increases in mandatory spending to adjustments to take into account increased beneficiaries and cost of living. According to the Congressional Budget Office, this proposal would save \$184 billion over the next 5 years.

End Federal subsidies to the wealthy. The fourth bill I am introducing would end Federal subsidies to the wealthy. It is aimed at non-Social Security entitlement spending. The proposal would end Federal subsidies to individuals with annual adjusted income over \$120,000 and corporations with annual receipts over \$5 million.

Most entitlement programs were intended to help the needy, not to subsidize the rich. However, even in programs where eligibility to receive assistance is based on need, there are wealthy individuals and corporations receiving Government payments. For example, the Congressional Budget Office has estimated that in fiscal year 1991 individuals with incomes above \$150,000 per year received \$50 million in food stamps, Aid to Families with Dependent Children, and supplemental security income. Those with incomes above \$125,000 received \$65 million from these programs. This is wrong. The bill would save approximately \$53 billion over 5 years.

End U.S. aid to international anticonsumer commodity groups. The fifth bill would end U.S. financial contributions to those international commodity organizations which are anticonsumer.

Certain international commodity organizations which are intended to stabilize commodity prices are not in the best interest of American consumers. More often than not, these groups, by removing a product from the influence of the marketplace, support prices at inappropriately higher levels than they would otherwise be in a free market.

In effect, these international commodity organizations levy a hidden tax on consumers in the form of excess costs which could total hundreds of millions of dollars. The bill provides that no funds may be appropriated to continue U.S. membership in, or make payments to, four groups: the International Coffee, Jute, Natural Rubber, and Tropical Timber Organizations. This would save about \$7.5 million.

The bill also requires the Secretary of State to review all international commodity organizations to which the United States is a party and to submit a plan to withdraw from those organizations that set commodity prices which are artificially higher for American consumers than they would be in a free market and which result in restraining the supply and availability of products to American consumers.

Reduce subsidies to AMTRAK. The sixth bill I am introducing today would cut Federal subsidies to AMTRAK. Since 1971, AMTRAK has received about \$15 billion in taxpayer subsidies even though the rail carrier accounts for less than 1 percent of total intercity rail mileage nationally.

The Federal subsidy to AMTRAK costs U.S. taxpayers \$25 per passenger trip, or about 10 cents per passenger mile, while Federal subsidies average about 0.1 cent per mile for bus, automobile, and airline modes of transportation.

The bill requires Federal subsidies to AMTRAK to be reduced by not less than \$2.5 billion over the next 5 years. It also requires the elimination of unprofitable routes.

I offer these six proposals, which would reduce spending by more than \$260 billion over 5 years, as a headstart on attacking the deficit next year and will reintroduce them when the new Congress convenes in January. ●

By Mr. KENNEDY (for himself, Mr. ADAMS, Mr. SIMON, Mr. DECONCINI, Mr. WELLSTONE, Mr. DODD, and Mr. SEYMOUR):

S. 3328. A bill to provide for necessary medical care for former civilian prisoners of war; to the Committee on Labor and Human Resources.

CIVILIAN EX-PRISONERS OF WAR HEALTH AND DISABILITY BENEFITS ACT OF 1992

Mr. KENNEDY. Mr. President, I rise today to introduce legislation to ad-

dress the health and disability needs of American civilian ex-prisoners of war.

In 1948, Congress passed the War Claims Act which extended health, disability and detention benefits to American civilians interned by the Japanese during World War II. Most of these individuals were private citizens residing in the Philippines at the outbreak of the war. The act created a War Claims Commission to administer benefits to these individuals—a function that was eventually taken over by the Office of Worker's Compensation Programs in the Department of Labor.

At the time the War Claims Act was enacted, the needs of other POW groups had long since been addressed. Former military POW's had access to well-established health and disability benefits through the Veterans Administration. Compensation programs for Federal employees interned in wartime prison camps were authorized in 1916 by amendments to the Federal Employees Compensation Act, while similar benefits for the employees of independent Federal contractors were established in 1942 with the enactment of the Defense Base Act.

Like these other ex-POW's, former civilian internees can suffer from a number of physical and psychological conditions associated with their internment. Among the most common internment-related conditions are gum disease, or periodontosis, which can be caused by poor diet, and post-traumatic stress syndrome.

Despite the importance of the 1948 law in securing health and disability benefits for civilian ex-POW's, several problems are associated with this law. First, the Act covers only civilian ex-POW's who were interned in the Philippines and other Japanese-controlled territories during World War II. According to the Civilian Ex-POW Committee, this provision excludes 2,900 persons who were detained during World War II in Europe and non-U.S. territories in Asia. Moreover, the exclusion denies coverage to approximately 100 American civilians detained in Korea and Vietnam during the past conflicts in those two regions.

Second, the process for filing claims under the program is burdensome and inconsistent with the more streamlined approach used to administer health and disability benefits to other categories of ex-POW's. The Department of Veterans Affairs automatically approves claims related to presumptive conditions for military ex-POW's—conditions widely recognized as having been caused or exacerbated by periods of internment. But former civilian POW's must document that an injury or medical condition is related to their detention, no matter how common the condition.

Finally, disability benefits established by the War Claims Act have been artificially constrained and eroded by

45 years of inflation. Under current law, the level of disability benefits is set at an amount equal to a portion of the national average weekly wage in 1948. The benefit level itself has been updated since 1948 to account for the increases in both wages and the cost of living. In addition, such benefits are capped at a lifetime maximum of \$7,500. By contrast, the Federal Employees Compensation Act [FECA], the law covering civilian ex-POW's who were Federal workers or Federal contractors at the time of their capture, imposes no such limit on a claimant's total disability compensation. In addition, that law automatically adjusts disability benefit levels for increases in the cost of living.

The Civilian Ex-Prisoner of War Health and Disability Benefits Act of 1992 corrects these deficiencies. Under this bill all civilian ex-POW's from World War II and the Korean and Vietnam conflicts would be eligible to receive health and disability benefits. This eligibility extension also applies to civilians who went into hiding to avoid becoming prisoners of war during those conflicts.

As for the determination of benefits eligibility, this bill would extend to civilian POW's the same "presumptive" conditions used by the VA to evaluate claims filed by former military POW's.

Benefit levels would also be updated by the measures. Specifically, the bill would peg weekly disability payments to the levels established by FECA, thereby creating parity with ex-POW's who were Federal workers or employees of Federal contractors when they were interned.

I am pleased to be joined today by six of my colleagues in introducing this legislation. I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 3328

*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 "Civilian Ex-Prisoner of War and Health and Disability Benefits Act of 1992".

#### SEC. 2. MEDICAL CARE AND DISABILITY BENEFITS.

(a) ELIGIBILITY.—A former civilian prisoner of war is entitled to receive necessary medical care and disability benefits for any injury or disability resulting from the period of interment or hiding. Any presumptive medical and dental condition related to a period of interment provided for former military prisoners of war under section 1112(b) of title 38, United States Code, shall be extended to former civilian prisoners of war and shall be considered to have been incurred in or aggravated by such period of interment or hiding without regard to the absence of any record of such injury.

(b) PAYMENT OF BENEFITS.—Prompt monetary payment or reimbursement shall be fa-

cilitated for reasonable and necessary expenditures for all medical treatment, including rehabilitation, mental health services, and dental care, provided for under this section for which a claim and any documentation determined necessary for by the Secretary of Labor has been filed with the Secretary of Labor.

(c) WAIVER OF LIMITATIONS.—There shall be no limitation on the total medical or disability benefits which a person may receive for any injury or disability resulting from the period of interment or hiding.

(d) RATE OF COMPENSATION.—Compensation for disability shall be equal to the weekly equivalent of the minimum monthly rate of compensation payable for a total disability covered by chapter 81 of title 5, United States Code, as computed under section 8112(a) of such title.

(e) CREDITING BENEFITS UNDER THE SOCIAL SECURITY ACT.—The benefits provided by this section to any individual shall be reduced to the extent such benefits are provided under title XVIII of the Social Security Act, or any private insurance, for the same medical condition or disability.

#### SEC. 3. ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—The Secretary of Labor shall establish an advisory committee to be known as the Former Civilian Prisoner of War Committee (hereafter in this section referred to as the "advisory committee"). The members of the advisory committee shall be appointed by the Secretary of Labor from the general public and shall include appropriate representatives of former civilian prisoners of war and individuals who are recognized authorities in fields pertinent to the injuries and disabilities prevalent among former civilian prisoners of war.

(b) AUTHORITY OF THE SECRETARY OF LABOR.—The Secretary of Labor shall determine the number, terms of service, and pay and allowances of members of the advisory committee. The Secretary of Labor shall consult with and seek the advice of the advisory committee with respect to the administration of benefits under this Act.

(c) REPORT.—Not later than January 1, 1994, the Secretary of Labor shall submit to Congress a report on the programs and activities of the Department of Labor that pertain to those former civilian prisoners of war. The Secretary of Labor shall include in the report—

(A) an assessment of the needs of such civilian prisoners of war with respect to health and disability benefits;

(B) a review of the programs and activities of the OWCP designed to meet such needs; and

(C) such recommendations as the advisory committee considers to be appropriate.

(d) INFORMATION ON BENEFITS.—Not later than 90 days after the date of enactment of this Act, and at appropriate times thereafter, the Secretary of Labor shall seek out former civilian prisoners of war and provide them with information regarding applicable changes in law, regulations, and services to which such citizens are entitled by virtue of the amendments made by this Act.

#### SEC. 4. REGULATIONS.

The Secretary of Labor shall prescribe regulations as may be necessary to ensure that benefits provided to former civilian prisoners of war under this Act are coordinated with and do not duplicate any benefits provided such persons under the War Claims Act.

#### SEC. 5. DEFINITIONS.

For purposes of this Act—

(1) the term "former civilian prisoner of war" means a person determined by the De-

partment of Labor, in consultation with the Department of State and the Department of Defense, as being someone who, being then a citizen of the United States was forcibly interned by an enemy government or its agents, or a hostile force, or who went into hiding in order to avoid capture by such government, its agents, or hostile force, during a period of war, or other period for at least 30 days, including those interned or who went into hiding during the Asian-Pacific Theater or in the European Theater of World War II during the period beginning September 1, 1939, and ending December 31, 1946, in Korea during the period beginning June 25, 1950, and ending July 1, 1955, or in Vietnam during the period beginning February 28, 1961, and ending on the date designated by the President by Executive order as the date of termination of the Vietnam conflict, except—

(A) a person who at any time voluntarily gave aid to, collaborated with, or in any manner served such government, or

(B) a person who at the time of his capture or entrance into hiding was—

(i) a person within the purview of the Act entitled "An Act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes", approved September 7, 1916, as amended, and as extended; or

(ii) a person within the purview of the Act entitled "An Act to provide benefits for the injury, disability, death, or enemy detention of employees of contractors with the United States, and for other purposes", approved December 2, 1942, as amended; or

(iii) a regularly appointed, enrolled, enlisted, or inducted member of any military or naval force; and

(2) The term "hostile force" means any nation, or any national thereof, or any other person serving a foreign nation—

(A) engaged in war against the United States or any of its allies; or

(B) engaged in armed conflict, whether or not war has been declared, against the United States or any of its allies.

By Mr. ROTH (for himself, Mr. DOLE, Mr. BOREN, Mr. MOYNIHAN, Mr. COHEN, and Mr. LIEBERMAN):

S. 3329. A bill to enhance the competitiveness of the United States in the global economy through the establishment of a Department of Trade as an executive department of the Government, and for other purposes; to the Committee on Governmental Affairs.

#### TRADE REORGANIZATION ACT OF 1992

Mr. ROTH. Mr. President, in April I introduced a bill aimed at broadly reforming the Federal Government. The time has come to take a serious look at consolidating departments and programs and I am confident that ways can be found to make our Federal Government more effective, more efficient, and more responsive to the needs of the American people. As the President recently announced in his speech before the Detroit Economic Club, "At a time when companies across the country have been restructuring, increasing efficiency, all to prepare for the economic competition of tomorrow, the Federal Government faces an obligation to do the same."

Consistent with this approach, I am today introducing a bill to establish a Cabinet-level Department of Trade. While there are many areas of our Government that call for reform, none is more urgent or important than trade. Consolidation of our Government trade functions will achieve several goals. First, by streamlining our Government's trade functions, the United States will finally be able to speak with a single, strong voice on trade matters. Second, a new department dedicated to trade will expand our exports by giving American firms and workers the tools necessary to compete and win in international competition. Finally, by enhancing our ability to compete in the global economy, a Cabinet-level Department of Trade will create new American jobs.

Mr. President, a Trade Department is by no means a new idea. I introduced legislation in 1983 and again in 1987 to create such a department. Other Members of Congress, both in the House and in the Senate, have also advocated various models of trade reorganization during the past decade. But I would say to you today that although the idea of a Cabinet-level Trade Department is not a new idea, it is an idea whose time has come.

The climate has changed and even our most staid American companies are reorganizing and restructuring for the future. Just as America prevailed in the cold war, we must continue to lead the world in the global economy of the next century. Strong trade means a strong America. A carefully crafted, full-bore trade organization promises to provide us with a trade infrastructure that will be a source of strength and reliability for years to come. I agree with former Secretary of State James A. Baker III that "we need to streamline and overhaul the business of government so public servants will help the private sector to be an engine of opportunity, competition, and achievement."

For those who would contend that organizational change will not bring substantive change, I must strongly disagree. In the trade war in which we are engaged, we are losing ground because of our divided trade leadership. As it stands now, our trade interests have no central authority to turn to for straight, dependable, consistent information on trade policy, and our trade competitors are free to "shop the system" for the best deal for their particular interests. American simply can no longer afford such a scattershot approach to trade. In "A Japan That Can Say No," Shintaro Ishihara writes:

Relations are very poor between the Department of Commerce and the U.S. Trade Representative. [The USTR] and [the Secretary of Commerce] quarreled like dogs and monkeys, they never got along and were always bad mouthing each other.

Lack of clear trade leadership creates confusion and allows our economic

competitors to use divide-and-conquer tactics to influence the trade policy-making process. If we really want to restake our claim in the international marketplace, we must get organized and project a strong, resolute trade presence to the world that will command respect and serve our domestic trade interests. As I have heard Senator MOYNIHAN say before: "Organization isn't everything, but disorganization isn't anything." Mr. President, we need to put trade at the very top of the organizational structure of our Government.

#### HISTORY

These sentiments have been echoed repeatedly over the last decade by our Government's trade leaders.

The late Malcolm Baldrige, who as many of you know was a great proponent of trade reorganization, testified before the Committee on Governmental Affairs in 1983 that "our national interest in trade deserves the most effective organization we can design for the challenges just ahead. Those that are carrying out policy should be in the same Department as those making it. \* \* \* If we are to meet the challenges of foreign competition and maintain and enhance the multilateral framework for trade, we must take the institutional steps that will be necessary to meet those challenges. Trade policy formulation, negotiation, regulation, and promotion are closely intertwined. They cannot efficiently or effectively be artificially separated in different Cabinet-level organizations." Secretary Baldrige concluded: "We need a Cabinet-level Department that can act to assure that the U.S. economy gets maximum benefit from international trade."

The U.S. Trade Representative during Malcolm Baldrige's tenure as Commerce Secretary, former Senator William Brock, emphasized that a unified trade department would "give our Nation the single voice for trade that will permit this President or any President to develop and implement a coherent and aggressive approach to trade that is so essential to our future."

Similarly, former Trade Representative and Ambassador to Russia Robert Strauss testified before the Committee on Governmental Affairs in 1983 that the establishment of a Department of Trade "could provide us with one single voice to speak on trade matters" and "would give trade issues a higher visibility within our Government and send a signal to our partners that trade policy will no longer be relegated to secondary status." Ambassador Strauss openly worried that other nations, seeing the fragmented responsibilities for trade in the U.S. Government, would see that "we do not take trade issues seriously. One of the strengths of the proposal is its potential for longer-range policy planning, particularly with regard to an aggressive export policy."

Finally, shortly before his appointment as Secretary of Commerce, William Verity testified before the Governmental Affairs Committee that the creation of a Cabinet-level Department of Trade would "elevate trade to a top national priority" and that he fully supported the idea.

There is a long and diverse history of prominent support favoring the establishment of a Cabinet-level Department of Trade. And what was true in the past is even more true today. While I understand that it is not easy to abandon the status quo, we should heed the seasoned advice of our top trade officials and get organized for the future.

#### STRUCTURE

The new Department will consolidate our principal executive branch trade functions and will incorporate the related economic affairs and business elements of the existing Commerce Department. As such, the International Trade Administration, the functions of the Under Secretary for Economic Affairs except for the Bureau of the Census, the U.S. Travel and Tourism Administration and the Bureau of Export Administration will move from the Department of Commerce to provide analytical and policy implementation support for the new Department. The Export-Import Bank, the Overseas Private Investment Corporation, the U.S. Trade and Development Program and the Bureau of Private Enterprise of AID will also be transferred to the new Department.

The Department of Trade will comprise a work force of less than 4,000, making it the leanest Department in the U.S. Government. But while the new Department promises to be lean, it will also be muscular. In this regard, the bill directs the new Secretary of Trade to submit a report to Congress and the President containing recommendations for the establishment of a Professional Trade Service Corps to ensure that our trade personnel are of the highest caliber.

Under the reorganization, the remaining elements of Commerce will be reassigned to other areas of the Government resulting in no net gain in the number of Cabinet departments. For example, the Technology Administration and the National Oceanic and Atmospheric Administration will become independent agencies under the reorganization. The Technology Administration will also gain the added resources of the National Telecommunications and Information Administration and the Patent and Trademark Office. Finally, the Bureau of the Census will transfer to the Department of Labor and the Minority Business Development Agency will move to the Small Business Administration.

#### LEADERSHIP

Under my trade reorganization legislation, the U.S. Trade Representative will become the new Secretary of

Trade and will continue to be responsible for trade policy, coordination and negotiation. Such an approach reflects the sensible principle that in restructuring Government, we should start with organizations and processes that work. And the USTR does work. But it can also work better. By elevating the USTR to the Secretary level and by consolidating trade leadership in one office—that of the Secretary of Trade—there should no longer be any question as to who is boss when it comes to matters affecting U.S. trade interests.

Moreover, from their newly elevated vantage point within the Secretary's office, our trade representatives will be able to draw upon the integrated resources of the Department of Trade to carry out their trade negotiation and policymaking responsibilities. As it stands now, the USTR must draw on the resources of the Commerce Department to get its job done. The small staff at USTR is just not sufficient to handle all of the detailed work required for aggressive 301 cases or for increasingly complex negotiations such as NAFTA and the Uruguay round. Under my trade reorganization proposal, American businesses will benefit from a Trade Department second to none. For the first time in the history of the United States, a single Department dedicated to trade will be responsible for both policymaking and policy implementation.

#### TRADE POLICY AND ANALYSIS

The legislation establishes a new Bureau of Trade Policy and Analysis to provide analytical and policy support to the Secretary of Trade. While our trade agenda has expanded enormously over the past decade, our ability to meet new needs has not. The future areas of major trade negotiation will be in the areas such as competition policy and the environment. The issues are no longer just tariffs and typical nontariff barriers, but are more fundamental issues about the way in which major market economies are structured and organized and how they affect trade patterns. There are also issues related to the growing regionalism in the world economy and how that will affect the evolution of our trade system as we know it.

Clearly, addressing these and other crucial trade issues requires additional expertise and resources as USTR beyond a few more staff. One only has to look at the number of trade negotiations we have had with Japan and the number of USTR officials staffing them. Amazingly, there are only five professional staff in the USTR's Japan and China office, and one of them focuses exclusively on China. Of course the USTR can ask Commerce to handle the detailed tasks, but USTR has no management control over the results. This kind of management inefficiency stifles creativity and hampers quality performance—elements that are in-

creasingly important as we seek to break new ground in our international trade agreements and in the implementation of domestic trade laws.

That is one very important reason why this legislation takes the two components within the Commerce Department now responsible for assisting the USTR in bilateral and multilateral trade negotiations—the International Economic Policy and Trade Development offices—and places them under the leadership of the new Secretary of Trade. These two components, in addition to the Office of Economic Analysis, will comprise the Bureau of Trade Policy and Analysis. The Bureau will ensure that our trade negotiators have the organizational support they deserve while providing American business with a central point of contact within the Department.

#### TRADE LAWS

Second, the United States must do a better job of monitoring and enforcing its trade agreements. The Uruguay round itself, if concluded successfully, will require an enormous amount of close attention and monitoring to ensure that our trading partners fulfill their obligations under the agreement. There needs to be a more focused effort aimed at enforcing U.S. trade laws and monitoring existing agreements to ensure that our businesses are getting a fair shake. That is why the legislation that I am introducing today combines the forces of both the Export and Import Administrations in a new Bureau of Trade Administration designed to ensure that all our trade agreements and laws are enforced to their fullest extent.

#### EXPORT PROMOTION

Third, and perhaps most importantly, we must consolidate our Government's export promotion programs. As in other areas of trade, our export promotion functions are dispersed throughout the Government. What we need is a national export vision. A new Bureau of Export Promotion will increase our ability to compete abroad by combining our trade marketing and financing arms under one roof. Although the U.S. and Foreign Commercial Service has made significant improvements in our Government's export promotion functions, we can still do much more. As it stands now, only one-third of our manufacturing companies are exporting. This legislation brings together five components essential to enhancing our export promotion efforts: the U.S. and Foreign Commercial Service, the Trade and Development Program, the Export-Import Bank, the Overseas Private Investment Corporation [OPIC] and the U.S. Travel and Tourism Administration.

The centerpiece of the new Bureau of Export Promotion—the U.S. and Foreign Commercial Service—will be beefed up in two important respects. First, the Administrator of the U.S.

Travel and Tourism Administration will report to the Director General of the U.S. and Foreign Commercial Service and will continue to be responsible for conducting programs designed to increase U.S. export earnings through travel and tourism. Second, the Trade and Development Program, currently associated with the Agency for International Development, will also transfer to the Commercial Service. That program supports feasibility studies by U.S. firms and is intended to win substantial follow-up contracts for project implementation, again boosting exports.

It is also crucial that we provide U.S. businesses with the financial backing to compete in world markets. Under the reorganization, the Under Secretary of Trade for Export Promotion will become the Chairman of both Ex-Im and OPIC. Ex-Im will continue to provide direct credits, guarantees, and insurance, plus intermediary loans to commercial banks and will work closely with the U.S. and Foreign Commercial Service in beefing up exports. Similarly, OPIC will operate financial services and political risk insurance to encourage U.S. investment in developing countries.

I should point out that care has been taken not to disrupt aspects of our current trade organization that have performed well in advancing our trade interests. Accordingly, the legislation does not propose to diminish the role of the Foreign Agricultural Service, the State Department, or the Treasury in matters affecting our international trade. But we do want to ensure that these agencies are working together. Because the Government's export promotion programs are not funded based on a Government-wide strategy or set of priorities, it is unclear whether export promotion resources are being channeled into areas with the greatest potential return. Consequently, taxpayers do not have reasonable assurances that Government's resources are being effectively used to emphasize sectors and programs with the highest potential returns.

In an effort to rationalize our Government's export promotion efforts, this legislation also directs the new Secretary of Trade, as Chairman of the Trade Promotion Coordinating Committee, to submit a coordinated annual appropriations request for trade promotion functions of all agencies represented on the Committee consistent with their relative strategic importance and in accordance with a national export strategy put forth by the Committee. The idea is to increase overall U.S. exports. Quite simply, increased exports mean more jobs for more Americans. As I have said many times before, the number one issue facing our Nation is the creation of new jobs. U.S. exports have accounted for 70 percent of our economic growth since

1988, and today support the jobs of more than 7.5 million Americans. We must continue to expand our exports by giving American firms and workers the tools to compete and win in international competition.

#### CONCLUSION

The importance of our ability to compete in international markets is central to our future economic growth, our domestic welfare, and our national security. The world has fundamentally changed in recent years and one thing remains absolutely clear—our competitive posture in world markets will be a number one determinant of our national strength in years ahead. As the President has repeatedly stated, "The defining challenge of the 90's is to win the economic competition. To win the peace, we must be a military superpower, an economic superpower, and an export superpower."

There has never been a stronger case for trade reorganization than today. We simply cannot afford to wait any longer to restructure our trade forces. As the Republican leader stated earlier this year: "We have been debating trade reorganization for years. Let's stop debating and start reorganizing in a way that will give us a lean, mean governmental structure to attack our trade problem." As we near adjournment, I urge every one of my colleagues to give this proposal the serious consideration it deserves and to join with me in moving this bill through the new Congress and on to the President.

Mr. DOLE. Mr. President, I rise to join my colleague and friend Senator ROTH in introducing the Trade Reorganization Act of 1992. This Act coordinates the Federal Government's management of the myriad of trade departments and Federal export promotion and credit programs by creating a single Cabinet-level department dedicated to enhancing U.S. competitiveness abroad.

The end of the cold war and the fall of communism, are signals of a tomorrow defined by new challenges for America. Challenges not so much of military might, but of economic strength, stability, and prosperity.

America must face this new economic challenge with the same commitment, determination, and vigor that was the hallmark of our triumph over communism. Tomorrow's battlefield will be the international marketplace where Germany, Japan, Korea, and other economic superpowers will aggressively compete. The measure of a nation will shift from the size of its military arsenal to the range of its technological development, innovation, and productivity.

For America to prosper in this new global environment, business and Government must work cooperatively in a coordinated manner. For its part Government must: reduce the regulatory

burden on business which undermines competitiveness; maintain stable economic policies that ensure investment capital is available and affordable; improve our education system so that an educated and highly skilled work force is ready to compete; and apply a balanced fiscal policy which lowers spending, keeps tax rates low and provides a clear and certain Tax Code on which to make long-term business decisions.

The reality is that the challenges of tomorrow are here today. We must begin now to focus on the measures necessary to remove impediments to business and encourage a new level of American competitiveness that will preserve and enhance America's economic security. The Trade Reorganization Act of 1992 provides that starting point.

Clearly the national interest and the economic security of the United States demand that the Federal Government actively promote and facilitate American exports. The importance of trade to our economy is evidenced by the extensive network of programs and services the Federal Government offers to aid American exporters. We know, for example, that approximately 24,000 jobs are created by every billion dollars in exports. Federal Government programs to help exporters identify possible market opportunities in foreign nations, provide financing, and help monitor current economic conditions in foreign nations will fall far short of their potential benefit if not administered properly. Unfortunately, the cohesiveness and coordination necessary to make these programs truly helpful to American business is lacking.

A single Department of Trade will ensure that U.S. business has the tools to combat the new economic challenges of tomorrow.

Failure to improve the trade apparatus of the Federal Government will impose a significant impediment to American businesses competing abroad. Failure to meet the new challenge of tomorrow will result in plant closings, economic deterioration at home, high unemployment, and ultimately the erosion of our own economic and national security.

The Trade Reorganization Act of 1992 would establish a new Department of Trade incorporating the critical functions performed by the U.S. Trade Representative and the International Trade Administration. In effect, the U.S. Trade Representative would become the new Secretary of Trade. The Department of Trade would integrate the trade and economic affairs components of the Commerce Department, Export-Import Bank, Overseas Private Investment Corporation, and the Bureaus of Private Enterprise and Trade and Development of the Agency for International Development.

The Trade Reorganization Act will not add to the bureaucracy of the Fed-

eral Government nor will it add to its overall size. Instead it takes a commonsense approach to trade administration by taking the Government's critical trade programs and putting them under the administration of a single department. The new Department of Trade will provide American businesses with one-stop shopping.

The nontrade agencies within the Department of Commerce would be relocated to other agencies and departments. For example, the Bureau of Census would move to the Department of Labor. The Office of National Oceans and Atmosphere would become an independent agency.

Perhaps the most advantageous aspect of creating a Department of Trade will be its ability to draw from other agencies, heretofore not actively involved or unaware of their potential contributions to promoting U.S. competitiveness through trade. For example, the end of the cold war means that our intelligence agencies must adjust to a new world dynamic not governed as sharply by the events of the cold war. The Secretary of Trade, as a Cabinet official, can work with our agencies and bring stronger presence to the negotiating table as we seek to open new markets and participate in the ongoing integration of economic interest in Europe and our own hemisphere.

The Senate Finance Committee has already begun the process of examining our trade administration. I commend Senators BENTSEN and PACKWOOD for having those hearings and I look forward to working with them next year to develop legislation that takes a bold and aggressive approach to trade expansion and trade competitiveness for the United States.

Mr. President, I commend Senator ROTH for his work on the Trade Reorganization Act of 1992. It is an important first step in getting the process moving. I look forward to working with him in the months ahead to fine-tune this legislation and develop an effective and comprehensive approach to the challenges of tomorrow.

Mr. BOREN. Mr. President, I would like to speak briefly on the bill introduced today by my friend Senator ROTH, the Trade Reorganization Act of 1992. I am glad to be a cosponsor of this legislation, which I believe holds the broad outlines for the reform needed in our trade-related agencies at the end of the cold war.

I have spoken often of the need to change our thinking to reflect the sweeping changes in the world over the last several years. This bill will change not only our thinking, but our institutions as well. It would establish a Department of Trade, built around the U.S. Trade Representative Office and the International Trade Administration. Within this new Cabinet agency, there will be bureaus for export promotion, trade administration, and

trade policy and analysis. In short, Mr. President, all the sundry Government agencies today which deal with trade will now be put under one roof. That is good government. That is common sense.

Let me make clear, Mr. President, that this is a first step. I hope this bill will be the basis for a long overdue debate on the way the Federal Government responds to this new era of economic competition.

I will say that I have several concerns with the way the bill is constructed. For instance, I am concerned about the bill's creation of a Deputy Director of Central Intelligence for Economic and Trade Intelligence, to be confirmed by the Senate, and a CIA Economic and Trade Intelligence Directorate. Currently, Mr. President, there is one Deputy DCI, a general deputy, and I do not think it would be advisable to create a second position to focus just on one of the areas of concern to policymakers.

I am also wary of creating additional positions which are subject to Senate confirmation. The DCI, the existing Deputy DCI, and the CIA Inspector General are currently the only positions confirmed by the Senate. In general, Mr. President, I believe it is preferable to keep positions in the intelligence community nonpolitical, and to rely on congressional oversight and monitoring, rather than the confirmation process.

In addition, Mr. President, I am hopeful that when we reconsider this legislation next year, we will also take on a fundamental reform of our foreign aid programs. For too long, the Agency for International Development has ignored the concept that we can help ourselves while helping others.

The recent revelations about AID efforts to export American jobs to Third World countries is only the most egregious, and most recent, example of a foreign aid policy which is blind to the new imperatives of economic competitiveness. For several years now, Senators BENTSEN, BYRD, BAUCUS, and LIEBERMAN have joined me in changing the way we give foreign aid, to replace cash giveaways with credits that will establish long-term economic relationships. This concept of aid for trade must be part of the discussions next year on how to overhaul our governmental trade apparatus.

But Mr. President, notwithstanding these concerns, I believe this bill is significant, and I believe it will set the terms of the discussion that almost certainly will occur next year about the importance of trade development to our national security.

The world has changed, the threats have changed, and the challenges have changed. It is time, Mr. President, to ensure that our institutions change as well. The bill moves us boldly in that direction, and I hope it will receive full

and serious consideration in the next Congress.

Mr. COHEN. Mr. President, I am pleased to join Senators ROTH, DOLE, and BOREN in introducing the Trade Reorganization Act of 1992. I think it is a very positive step toward improving U.S. trade policy and our efforts to promote exports.

Currently, Federal efforts to promote U.S. exports are spread among 10 different Federal agencies. The result has been an inefficient and overly bureaucratic system for trying to help U.S. businesses sell their wares overseas. A recent General Accounting Office [GAO] report found a serious lack of coordination among these agencies and recommended that U.S. export promotion programs be consolidated. The act we are introducing today will go a long way toward that end.

Streamlining the Federal bureaucracy will not only eliminate wasteful Government spending but it will greatly improve the service that small businesses receive from the Federal Government. In fact, the ultimate objective of this legislation should be to make whatever bureaucratic changes are necessary to improve our frontline efforts to help businesses—in very particular terms—to export their products. One-stop shopping for businesses looking for export assistance is essential.

Exports already account for about 10 percent of our gross domestic product [GDP]. This figure is sure to grow. As such, it is critical that the Federal Government provide concrete and timely assistance to U.S. small businesses. Many businesses have little or no experience in exporting. The Federal Government can play an invaluable role in helping these businesses compete in the world market. U.S. companies will not benefit from opening foreign markets unless they have the know-how to access these markets. Consolidating the Federal bureaucracy will enhance the Government's ability to give these businesses the knowledge they need.

While I support the general provisions of the Act, I have serious concerns with two provisions added after I had originally agreed to cosponsor the bill. Section 263 appears to be intended to create a CIA Deputy Director for trade and economic matters analogous to the existing CIA Deputy Directors for Operations, intelligence, science and technology, planning and coordination, and administration.

This section would mandate in statute part of the structure of the CIA and politicize the proposed new deputy director by making appointees subject to Senate confirmation. Just a year ago, the Senate debated an amendment that raised these same issues. Senator GLENN proposed writing into statute the positions of Deputy Directors for intelligence and operations and sub-

jecting them to Senate confirmation. As recommended by numerous past directors of Central Intelligence, the Senate rejected that amendment, 38-59. Voting against the amendment were the sponsor and several cosponsors of this bill.

A second concern regards section 262's requirement that "the National Security Adviser" appoint a "deputy national security adviser" to "advocate" for economic and trade issues. This poses the odd situation of creating a statutory deputy to a nonstatutory Assistant to the President, and giving that position a specific function in an organization whose structure and functions have quite properly been reserved solely to the President's discretion.

I wholeheartedly agree that our intelligence apparatus and the National Security Council should provide better support in defining and achieving of Nation's economic and trade objectives. Perhaps a CIA Deputy Director for economic and trade matters would be helpful in this regard. But we must be careful not to create more problems than we solve. I look forward to working with the Senators ROTH, DOLE, BOREN, and others in addressing these matters in the coming months.

By Mr. JEFFORDS:

S. 3331. A bill to provide for the establishment of a nationwide universal access health coverage program, and for other purposes; to the Committee on Finance.

MEDICORE HEALTH ACT OF 1992

Mr. JEFFORDS. Mr. President, I rise today to introduce the MediCORE Health Act of 1992.

As we draw near the end of what some have called the American Century, Americans can proudly reflect on a tumultuous 100 years during which our Nation served as the giver, and protector, of freedom throughout the world. We can take just pride that we, at a price terribly high in lives and treasure, turned aside totalitarianism and, in its place, offered freedom to untold millions throughout the world. Freedom flourishes today on planet Earth and for that we can take some credit.

But much remains to be done here at home. Sometimes, in our just eagerness to come to the aid of others, the needs of this Nation have been put aside. Today, I say that we must pledge that before we depart from the American Century, we must fulfill this Nation's founding promise of equality in a key area of our national life, that of health care. Let the writers of this century's history record that in the 20th century's closing years, the people of America, at long last, became free of the fear that they would, at some time in their lives, be without the means to provide themselves and their loved ones with health care. Let it be said that a just and caring government

heeded the call of its just and courageous people and produced a fair and equitable nationwide health care system that guaranteed a basic, comprehensive, respectable level of health care to every American from birth to death.

It seems to me that once, in the far earlier days of this century, Americans generally believed that they all were getting a rather fair shake in dealing with illness and well-being. Certainly the current health care dilemma in our country encourages many of us, rightly or wrongly, to be nostalgic about our health care delivery system of, say, five or six decades ago.

That was as system, one reminisces, that recognized health care as the truly personal matter that we feel it still should be.

The centerpiece of that system was, of course, the family doctor—in my case a Doctor Hines of Rutland, VT. The Doc Hines we all knew and loved, knew you and your relatives personally, had your medical records in their heads without having to ask, and were ready to offer well-meaning, friendly advice on subjects not limited to pills and prognosis. They seldom saw a day off and would come to your house any time of day or night. Their time constraints dictated honesty and they were in no way reluctant to say when they thought one's problems were "in your head" or that the medical treatment sought was unnecessary. A realistic view of life and death was a requirement for doctor and patient alike in that compassionate, workable health care system of yesteryear.

It was, really, a rationing system managed by the good doctors, with the understanding, the support, of their patients. They took cases in order of importance, the sickest got the most prompt attention. Most of the doctors charged according to the patient's ability to pay. Sometimes those without cash paid for medical attention with a fresh chicken or an apple pie. It was business done, care rendered, person to person.

Let's face it, for good or ill those times of simplicity are in most ways behind us. Today we find ourselves with a multiple payer employer-based system—or nonsystem—fraught with inequities and frustrations. Complex third party control has replaced the house call. The system that has evolved since the days of Doc Hines is in many ways wasteful and coldly impersonal. And the inflationary excesses it fosters absolutely compel reform. Societal, or public, concerns about health care delivery have replaced the once indispensable truly personal level of administering care through concern. The real challenge in addressing these societal issues is to maintain a modicum of the personal scale that characterized our family-doctor days of yore, and that we still cherish, while being

realistic, even at times businesslike, in our compassion.

I have developed a plan which I believe will meet this challenge. It's the MediCORE Health Act of 1992. MediCORE is a nationwide, universal health care proposal meshing Federal standards and cost control, State flexibility in design and shared Federal/State financing. It is based on the premise that resources spent on health care in the United States today should be sufficient to guarantee affordable, accessible and adequate health care for all Americans.

Before explaining how MediCORE would work, I believe it is important to examine why I believe comprehensive, systemwide reform is imperative. In other words: how did we get here? Many factors have contributed to our fall from the innocence of earlier times. Obviously, key factors are the astounding advances in high technology medicine requiring high specialization and high cost hardware. We clearly lead the world in these advances. If technology were the only measure, I would have to say we have the best health care system in the world. And any new system must retain this advantage—for our sake and the sake of scientific progress in the world.

However good we have been at creating technology, we've proven far less adept at its equitable and cost-efficient distribution. Experience shows that whatever rational allocation of spending might have been expected of a theoretically free market, when it comes to high tech health care, the result is neither rational nor free. We spend too much money on the high technology of acute care at both ends of life, and neglect preventive and primary care. The guidelines we need for cost efficient and ethically appropriate distribution of our marvelous medical high tech are not inherent in our fragmented health care market system. Until we provide the market with these guidelines, our technology will continue to be a double-edged sword—offering brilliant scientific progress without corresponding social benefit.

But it would be too easy if high technology were the only problem. Our loss of health care innocence has also left us saddled with a complex and privileged employer-based multipayer insurance system.

It started with the shortage of labor resulting from World War II. Wage and price controls were instituted to stop employers from competing for workers on the basis of wage increases. But Yankee ingenuity was not to be denied and a loophole was created and, suddenly, fringe benefits were not considered to be wage increases. So employers offered, and unions sought, health care insurance as a fringe benefit. The IRS next determined that providing health care insurance for workers was

a legitimate, deductible cost of doing business and, moreover, should not count as taxable income to workers. Finally the National Labor Relations Board decided in 1948 that health benefits were a legitimate subject of collective bargaining. There followed a proliferation of company sponsored health care plans and, lo and behold, the present hodgepodge structure of multipayer employer-based health insurance was imposed on our Nation—to grow out of control like topsy. Those historical events, not any reasoned analysis that employers are best placed to organize health benefits, brought about the current basic system for delivering health care to Americans. That system, of course, is not etched in the Bill of Rights.

Accident though they may be, the consequences of these historical events on the shaping of our health system have been profound and devastating. I wonder if a committee of geniuses, instructed to devise a truly inefficient and inequitable system, could have surpassed the present conundrum.

The current tax-driven health care system allows those corporate employers who can afford it, to provide to some very fortunate workers so-called Cadillac or first dollar coverage, and then deduct 100 percent of the premiums as an ordinary business expense. The employees don't even pay any income tax on these healthy benefits. There is absolutely nothing in this structure to encourage the thrifty and prudent use of health care. The normal market force of employer or consumer economy is effectively blunted by Government subsidized employer-based largesse.

Everyone else finds themselves, by varying degrees, significantly disadvantaged by the Tax Code. Those who are self-employed can deduct just 25 percent of their health insurance costs as business expense. All others are allowed to deduct health insurance costs only in excess of 7.5 percent of adjusted gross income. Any further health care costs are paid for with after-tax dollars. The system discriminates against the relatively disadvantaged and discourages these people from obtaining the care they need—producing a reverse of the desirable effect.

By its very nature, an employment-based insurance system leads to gaps in private health insurance coverage, crippling in terms of both the cost and personal pain inflicted. By most estimates there are at least 37 million un- or under-insured individuals in our country. The number is probably greater and is certainly growing. Small wonder. While those employed by large companies are well cared for; far, far more Americans work for smaller businesses that have huge problems in acquiring, for them, consistent, affordable, and adequate coverage. Eighty-

five percent of our uninsured are employed, or are members of workers' families. Half the working uninsured are in businesses with less than 25 employees. More than 22 percent of the self-employed are, themselves, without health insurance and they, in turn, employ 32 percent of the work force. The unemployed, and those between jobs in these recessionary times, obviously receive no private sector coverage unless they can afford extravagant nongroup rates. People find themselves locked in to unwanted jobs, and unwilling to strike out on new ventures, due to the uncertainty of obtaining coverage elsewhere.

And there is a significant multiplier effect from each working individual not covered, or who loses coverage, in the employer-based system. This happens because many people derive their insurance secondhand from relatives. The entitlement to care of these dependents is determined by the fortunes of their relatives. Wives often derive coverage from husbands, husbands from wives, and all are subject to the vicissitudes of death, divorce, retirement and job loss or change. Children are hardest hit. The percentage of children without health insurance increased by 13 percent between 1983 and 1988 and continues to rise. The cycle of deprivation persists with 10 to 12 million children having no public or private health insurance. Billie Holliday's lyrics were never so true: "God bless the child that's got his own."

Of course the individuals who fall into these coverage cracks generally get the acute care they need, although usually very belatedly, very expensively playing catch-up health care too late in hospital emergency rooms. This so-called uncompensated care must be paid for by someone, so the costs are shifted in concealed and indirect ways to doctors and other providers first, next to employers and the insured, and ultimately to governments and the taxpayers. Our market mechanism may not be controlling costs, but it does appear efficient in shifting costs.

That shift has been most dramatic to the business community. During the last 2 years, health care costs to large- and medium-sized employers have risen more than 46 percent. If those rates of increase continue, and they will under an unreformed system, benefit costs will exceed salaries by the year 2005. That's right, the cost of health benefits will exceed all moneys paid in salaries to American workers. And keep in mind that every cent that business is forced to spend on providing health care drives up the cost of our goods and services. Just the management of employee health care benefits has become a complex and expensive matter that weighs heavily on our businesses as they struggle to compete. With Japan now spending a third less per capita on health care than the United States, it's

easy to identify one of the secrets of their mysterious competitiveness. American jobs are clearly in jeopardy in the face of this unfair foreign competition.

Obviously, an employer-based health care system, even in prosperous times, by definition creates inherent access gaps. Therein are the poor and the elderly. Because private insurance doesn't even pretend to reach these people, Government has been called upon to help. Our system of health care no longer is basically private. It can best be described as quasi-public/quasi-private, with approximately 41 percent of costs being paid for by the Government, including State and local government expenditures.

The two major governmental programs designed to cover these gaps are, of course, Medicaid to assist the indigent and Medicare for senior citizens. Well-intentioned as they certainly were, these efforts to deal with targeted and isolated segments of the population not otherwise entitled to health care have worsened overall cost inflation and intensified further cost shifting back to the private insurance sector.

With the advent of Medicaid and Medicare in 1965 the third party payment system was complete, intended to complement the private sector. Unfortunately, the Government insurance plans incorporated the very same basic inflationary defects that already were rampant in the private sector. Provider-oriented reimbursement policies were instituted in Medicare, and often in State Medicaid programs, that awarded doctors and other providers with reimbursement on the basis of reasonable costs for services. These reimbursement policies encourage providers to furnish the maximum of services, necessary or not, to maximize income. Not that the targeted populations minded too much. The elderly and poor beneficiaries of the Government programs, just like their counterparts under most private insurance, had little or no incentive to question costs—and in fact demanded more and more services. In both the public and private sectors, acute care, with front-end coverage, was emphasized at the expense of long term, preventive, and primary care. Thus the fundamental quality of care received in the United States was jeopardized.

Massive inflation in public health care programs resulted and continues, outstripping, even, inflation in the private health care sector. In constant dollars, the cost of Medicaid in 1985 was more than three times what it was in 1970. Costs are expected to increase 38 percent between 1991 and 1993. The program has grown from 10.2 percent of State budgets to 13.6 percent since 1987, and has outpaced every other area of State budget outlays for 3 straight years. In spite of this, Medicaid, which

was designed for the poor, is now rightly being criticized as a program that is first driving middle-income citizens into poverty before they qualify for assistance. Medicaid now covers only 40 percent of those below the poverty level. And poverty is increasing in our country.

In constant dollars, the cost of medicare in 1985 was four times what it was in 1970. The program has grown from 10 percent of national health expenditures in 1970 to 16.5 percent in 1989, and Medicare is now the Nation's largest healthcare finance item, costing \$104.5 billion in fiscal year 1990, up from \$34 billion in 1980. The Medicare Program is, of course, beset with an increasingly aging population. People 65 and over currently spend four times as much for health care as those under 65.

The reaction of Congress to these utilization and cost spirals has been predictable. Since the 1970's it has tried often to squeeze prices to providers and reduce or restrict services and benefits. Recently, for hospitals, this effort has been exemplified in the Medicare prospective payment reimbursement system for diagnostic related groups [DRG's]. Sadly, as with other narrowly targeted cost controls, the results have been merely to shift costs to activities not covered by controls. While I support the latest patch that has been applied—the RBRVS system to cover physician fees—it is no basic answer to Medicare's problems. Inflation goes unchecked and more and more concern is being raised about the quality of care in the Medicare Program. Although piecemeal controls might hold down rates of increases in one place, they have a nasty way of popping up somewhere else as providers fight to maintain their incomes.

The cost shift from these underfunded and overburdened government programs has, in turn, contributed to the sharply escalating premiums that businesses are paying—the very businesses meant to benefit most from our tax-driven system. While total health care expenditures soar, rising by 10.5 percent in 1990, business expenditures rise even faster, producing annual employer cost increases of 17 percent to 23 percent in recent years. Private employer health plan costs rose from an average of \$1,645 per employer to \$3,605 between 1984 and 1991, a 119-percent increase. In 1965, health expenditures were less than 9 percent of pretax corporate profits, while in 1986 they were almost 53 percent, and have stayed at about that level since. Health care costs are destroying U.S. companies' balance sheets. Small businesses have been proportionally hard hit, with premium hikes varying between 20 percent and 100 percent in 1989, for example.

These spiraling costs have caused big business to react in a number of ways. For one, more and more CEO's have joined in the quest for fundamental,

comprehensive reforms that would alter the employer-based structure. Such corporate concern is driven by fears that health care costs are eroding American companies' ability to compete.

Second, more than half of America's biggest employers have switched from commercial insurers to self-insurance in an effort to avoid expensive State mandates and, hopefully, avoid excessive administrative costs of multipayer commercial insurance. Currently, 20 cents of every health care dollar are spent on advertising.

The move to self-insurance has been broad based with the percentage of self-insuring companies of 100 or more employees growing from 19 percent in 1979 to 49 percent in 1987. Some have attained limited cost relief, at least temporarily. One survey found that per employee cost among self-funded plans averaged \$3,469 in 1991, compared with \$3,736 among insured plans.

The result of the self-insurance movement, of course, has been further division of the health care market into haves and have nots. Smaller companies, which lack the resources to consider self-insurance, are struck with the unattractive options of increasingly regulated and expensive traditional insurance, or of no insurance at all.

Another common business attempt at cost control has been to increase employee cost sharing through combinations of increased deductibles and coinsurance, or the requiring of employees to pay more of their health insurance premiums. But cost sharing is already high in the private, just as in the public, sector and according to some estimates, older Americans are now paying as much for health as before Medicare. Small businesses, those that still provide health care, are most prone to the benefit-tightening trend. By dropping health care benefits, they are, of course, contributing to the growing pool of uninsured people in the United States and increasing burdens on larger companies through larger dependent coverage.

The reaction of labor to health care belt tightening has been strong and quick: in four-fifths of labor disputes in the past 2 years the main fight has been over health care benefits. Workers now exhibit an increasing willingness to accept lower wages to maintain health benefits. Clearly, health benefits are worth more over the long run given the high rate of medical cost inflation and the fact that salary increases are taxed, while health benefits are not.

As working Americans with company health coverage are faced with scaling back or an end to benefits long taken for granted, retirees of both financially healthy and unhealthy companies are even more threatened. Employers paid approximately \$9 billion for retiree

health care in 1988 and the cost of some corporate retiree plans are growing 15 percent each year. Even healthy companies no longer include retiree health as part of the benefits package. As for struggling companies, a GAO survey of 40 companies that filed recently for bankruptcy found that almost half had terminated retiree health benefits, leaving more than 90,000 retirees responsible for their own coverage, either permanently or temporarily. Since the Federal Government doesn't insure benefits as it does pensions, workers ordinarily have no guarantee, other than good faith, they will receive promised retiree benefits. As more and more companies adopt this restrictive approach to retirees, the pressure on Government increases, and the inflationary/cost shifting cycle takes another spin.

More promising cost cutting options being adopted by business involve such change as switching to HMO's, PPOs, Point of Service or other "alternative delivery" or managed care plans. These plans vary widely: some require only second opinions before surgery. But the better programs offer patients the care they need on a prepayment basis, eliminating fee-for-services inflationary incentive to excessive treatment. Patient choice is limited to varying extents and financial incentives, for providers as well as consumers, to limit care are built in. Enrollees are restricted to network providers and must see a primary care physician, gatekeeper, before going on to a specialist. HMO enrollment grew from 9.1 million in 1980 to 35.1 million in 1991, a 286-percent increase and an average increase of 13 percent per year during that period. But, overall growth for the 3 years since 1989 has been less than 5 percent per year.

I do believe that managed care initiatives will be central to any reform. However, by themselves they will not get the job done. Often HMOs or other managed care forms offer a one-time cut in costs, only to see spending growth continue to match the inflation of the fee-for-service sector. Between 1990 and 1991, HMO medical plan costs increased from \$2,683 to \$3,046, a 13.5 percent increase. PPO plan costs grew 13.7 percent. This compares to fee-for-service indemnity plan cost increases of \$3,161, to \$3,355, up 13 percent. The previous 2 years, fee-for-service increases averaged 21 percent, while HMO cost rises averaged 16 percent. That's just not enough progress.

It is becoming increasingly evident that the problem of health care cost inflation is too pervasive to cure on a company-by-company basis. Indeed, since the real advent of managed care, the rise in average health care costs has consistently been twice the annual general inflation rate. The scope of reform, while incorporating managed care, must be significantly broader if a

true difference is to be made. It must affect the system's basic structure on a systemwide, nationwide basis.

Central to the nationwide system today, of course, is the health insurance industry itself. Hardly anyone—business, labor, health providers and, probably, the industry itself—likes the way it's working. The industry is failing to deliver on its most fundamental promise—to provide certainty or peace of mind to health care beneficiaries. This paramount failure cannot be tolerated.

A number of outside influences have contributed to the distorted role the commercial insurance industry plays today. The principal influence, I believe, is the Tax Code adopted in the 40's. This has heavily favored employer-group health insurance over other methods of organizing and purchasing medical care. As a consequence, insurers have been forced to deal with companies as their insurance groups, or risk pools, rather than with other more sound pools from an insurance point of view: Pools that would be reasonably large, stable, and contain a sufficient random mix of risks within the membership.

Company-limited risk pools have, moreover, spawned the multitude of insurers we have in the industry today, over 1,500, contributing greatly to excessive systemwide administrative costs and redtape hassles for employers, providers, and consumers. In addition, the company groups are further segregated by the insurance industry: Those companies in which workers tend to be younger or healthier than average are charged below average premiums, while those with older or sicker workers bear above average premiums. Insurance companies are competing essentially on a rating basis, using narrow pool populations and characteristics, rather than on the design and price of benefit packages.

Finally, with tax-induced employer group insurance, the role of the employee, the consumer, is greatly diminished as the employer makes the decision to provide insurance. If provided, the employee has little or no say about whom it is purchased from or about benefits or coverage terms. This hardly represents an effective market system, the customer isolated from critical decisions and, until premiums skyrocket, with neither the employer nor the employee really concerned about cost or utilization.

Due to the squeeze on commercial insurers from medical expenditure inflation, they are not exempt either, and the effects of inflationary reimbursement policies favorable to providers, the insurers have increasingly adopted a number of objectionable survival policies. These include preexisting conditions exclusions, other exclusions on the extent of coverage, and limitations on coverage for preventive care. "Cher-

ry picking" is another defensive practice whereby some insurance companies cover only healthier groups and individuals. In addition to depriving many of coverage, the practice causes a disproportionate burden on nonprofit providers, the so-called Blues [BC/BS], required by statute to pick up unwanted bad risks of the private sector, further evidence of fragmentation of the market. A growing number of "Blues" are experiencing severe financial difficulties. Cherry picking causes the greatest concern in the small group market of course, the very sector of our economy that creates the most new jobs.

The most troublesome development, however, relates to the prevalent practice of writing employer-group insurance on an annual basis only, renewable optionally by the insurer on the basis of experience rating. This means that if a company has a bad experience one year with some employees, it may be required to drop their coverage, pay significantly higher premiums, or do without insurance altogether the following year. The same experience rating practice is applied to individual and family policies as well, leaving individuals without coverage when they most need insurance.

Experience rating, with premiums jumped or policies withdrawn or renegotiated on a short-term basis, is less reliable insurance against future risk than annualized prepayment for medical care. Whatever the protection, it's uncertain and fails to provide the peace of mind without which no health system is worth its salt. Assurance against health care calamity is one basic value against which any health care system must be measured. The current U.S. system denies this value to far too many.

Certainty in our current system, it seems, is limited to the certainty of a continuation of soaring costs and limited access. During the 1980's, health care costs for an average family grew 147 percent while average family income rose 88 percent. As a result, some 35 to 40 million Americans lack health coverage and some 20 million others are inadequately covered. Meanwhile, costs of medical care continue to rise at almost three times the CPI. We already spend more of GNP on health care than any other developed nation. This spending is expected to jump by 11 percent, to \$817 billion in 1992, 14 percent of GNP. And some say it will consume 26 percent of GNP by year 2030. Despite this spending explosion, many surveys and experts find the United States lagging behind the rest of the industrialized world in key areas of health care.

Many factors contribute to this crisis. An aging population, increasing poverty, lifestyles; crime, drugs, alcohol, tobacco, et cetera, malpractice issues and increasingly sophisticated

medical tests and procedures all play a part. But in my opinion, for reasons I have just outlined, the basic structure of our employer-based system is badly flawed. Time is of the essence. So, too, is systemwide, fundamental reform.

Mr. President, it has been said that a problem does not exist unless there is an alternative. I believe our health care problem exists because I believe, if we are bold enough, there is an alternative.

I have been at work for nearly 2 years now on that alternative. For guidance, I formed a health care reform advisory committee, HCRAC, composed of 30 Vermonters, including health care providers, consumers, insurers and representatives of business and State government. I'm much indebted to them for their time and effort. My staff and I traveled to Canada to study the system our able neighbors to the north have devised and which seems to be pleasing many Canadians. We examined and compared the organization and financing of systems used by many nations, from quasi-private to almost completely public. We were careful to examine the English, Japanese, and German plans.

It was a daunting job and we were pleased to accept help. Dr. Roger Taylor of the Wyatt Co. and Dr. David Brailer, of the Wharton School of Business' department of economics, critiqued our efforts. And we owe thanks to CBO, GAO, CRS, and the Vermont Health Department. The financial and budgetary aspects of our proposal were prepared with the analytical and data support of CBO and the Joint Committee on Taxation.

To be effective, health care reform must be goal-driven. The goal I set was to correct the serious and basic structural defects of the current U.S. health care system that I outlined earlier. Incremental reform, I am utterly convinced, will not get the job done. Only through comprehensive systemwide change can we achieve:

Straightforward and equitable financing, independent of employer-based distortions;

Cost control at current levels of spending and effective health care;

Equal entitlement for Americans of all ages and socioeconomic status to a comprehensive core of quality health care services and benefits;

Primary State responsibility for the design and administration of State programs, with adequate Federal financial support and focused policy guidance; and

State delivery plans that will provide both consumers and providers greater real health care choice and more direct participation in health care delivery through managed market competition.

The MediCORE Health Act of 1992, which I introduce today, has been designed to provide these advantages within a system that reserves key roles

for market forces. MediCORE is a nationwide, universal health care proposal meshing Federal standards and cost control, State flexibility in design and shared Federal/State financing. It would be a federation of State-run or regionally-run and designed health care programs. All State programs would be required to comply with Federal guidelines. The cost of MediCORE would be shared by the Federal Government and the States—70 percent paid by the Federal Government and 30 percent by the States. All funds, however, would be dispensed through the States which would have ultimate responsibility for management and administration of their own health care programs. The benefits of efficient management would benefit the State users.

The Federal MediCORE Board, the Board, a quasi-independent body, would be composed of Presidentially appointed members representing all elements of U.S. society concerned with health care. The principal duties of the Board would be to:

Develop a comprehensive package of CORE Services to be funded within the constraints of the MediCORE Budget;

Develop well defined Federal guidelines for the equitable and efficient delivery of CORE services by State or regional authorities; and

Provide general oversight for the implementation of MediCORE, without micro-managing the States or regions.

Designing CORE Services that are comprehensive yet fiscally responsible will be the Board's main challenge. Our choice is not, as some would suggest, between a system that can provide everything for everyone and one that involves rationing. Our task, rather, is to create a system that makes, and does not avoid, the necessary health care and ethical policy judgments required as the basis for an intelligent and compassionate health care system. Under MediCORE, this challenge must be dealt with in the first instance by the Board and then by the States or regions; but ultimately by us all.

The Board is to start from such consensus as it determines now exists in our Nation concerning the basic health benefits to which everyone is entitled. A medically necessary CORE Services package will be prepared from a review of Federal programs such as Medicare and Medicaid, insurance plans available to Federal employees, and widely used private plans such as Blue/Cross Blue/Shield. The Board is required to include certain essential elements in the CORE Services, including prescription drugs, mental health/substance abuse treatment, rehabilitative services and long-term health, custodial or personal assistance. An emphasis is placed on preventive and primary care.

But the Board's mission is not open-ended. CORE Services must be consistent with fiscal responsibility. That means, under the MediCORE Health

Act, that the services must be designed so they can be reasonably funded from a predetermined share of national health care expenditures on which the MediCORE budget is based. Straightforward, equitable and realistic budgeting and funding are key to the system MediCORE would put in place.

The bill's fundamental financing premise is this: That resources spent on health care today should be sufficient to guarantee affordable, accessible and adequate health care for all Americans. Some savings should be realized by adopting a single State administrative entity. Administrative cost economy estimates range as high as \$100 billion per year. Competition among providers will replace the non-effective competition among insurers. Additional saving may be realized from malpractice reform, preventive care, the elimination of unnecessary procedures—all features of the MediCORE Program.

However, with MediCORE such savings will not be relied upon until they materialize. Contrary to other proposals, MediCORE does not accrue these savings but rather provides realistic financing on the basis of current health care expenditures.

The bill establishes equitable burdens for individuals, employers and State and Federal Governments. It also attempts to keep aggregate burdens roughly in line with today's, although the financing methods would change markedly. Costs will rise for the more affluent taxpayers and earners. Obviously, costs will also rise for employers who don't now provide health care, but they would remain significantly below what other proposals impose.

Other critical factors have been considered in designing the bill's funding mechanisms. One prime goal was the elimination of current tax treatment inequities in health care delivery. Specifically, greater fairness is sought in the treatment of employees of large and small companies, of those whose income is principally earned and of those who live on unearned income.

The bill is also sensitive to, and avoids, the adverse consequences of an excessive payroll tax burden on U.S. businesses' international competitiveness. Similarly, an eye has been kept on the future by attempting to leave room for funding necessary pension benefit expansion.

We have used CBO's total health care expenditures in the United States in 1991 as the basis for our MediCORE financing analysis. Financing for CORE Services is predicated on actual health care expenditures and designed to allow those expenditures to increase only at rates pegged to productivity and increases in real wages and income.

Certain elements of national health care expenditures would be outside MediCORE financing altogether. For

example, discretionary spending, e.g. "hotel" services, cosmetic surgery, and other procedures of lesser utility, would be excluded from MediCORE. They amount to slightly more than \$60 billion based on the 1991 figures. Another \$80 billion would be financed directly by out-of-pocket costs; co-pays, co-insurance, and deductibles on benefits other than preventive care, for MediCORE services. MediCORE guidelines would limit cost sharing to a global maximum of 15 percent of CORE Services, about half today's out-of-pocket expenses. Cost sharing would be phased in for low-income families and individuals. States would be allowed to use this revenue source towards their share of MediCORE costs. The States would have latitude to design the cost sharing in order to both raise the necessary funds and encourage appropriate utilization.

On the other hand, the MediCORE program would add significant preventive care services, free of cost sharing, long-term health, custodial and personal assistance care to current health care utilization in the United States. It would expand the WIC Program to make it an entitlement. It's estimated these would add approximately \$40 billion to the cost of MediCORE.

Based on these assumptions and including the supplements, the total cost of MediCORE, the MediCORE budget, is calculated at about \$575 billion in 1991 dollars. The Federal Government would be responsible for 70 percent, or approximately \$400 billion which would constitute the Federal MediCORE contribution. After deducting the roughly \$185 billion raised and spent on Medicare, not including part B premiums, Medicaid and Federal employee health care in 1991, that means some \$215 billion in additional revenues would be needed to fund the Federal contribution.

The principal means for raising this revenue would be a 6 percent payroll tax. Liability for the 6 percent would be divided, with 4 percent the employer's responsibility, and 2 percent withheld from the employee's pay. The employee contribution would be capped at the first \$100,000 of earnings but leave uncapped the employer payroll tax of 4 percent on all wages, salaries and bonuses. Employees, not employers, could deduct the payroll tax from their income.

To provide equitable funding participation by all those with adequate income, a new health premium of 6 percent also would be applied to each taxpayer's adjusted gross income with caps and on a graduated rate basis. The vast majority of taxpayers would have little or no additional liability beyond their payroll tax, since the payroll tax would be deductible.

The combined 6 percent payroll tax and adjusted gross income health premium would raise about \$215 billion,

the approximate equivalent of the additional revenues needed to fund the Federal MediCORE contribution for 1991. Federal funding for CORE SERVICES is, therefore, structured on a pay-as-you-go basis and, because of annual budgeting, would remain on that balanced basis in the future.

State governments would be responsible for the remaining 30 percent of MediCORE costs, the total "State share." The initial total State share, based on 1991 figures, would be \$170 billion. The States could set off against this liability the \$80 billion in direct out-of-pocket cost sharing permitted under MediCORE guidelines. Thus the net State share liability is \$90 billion, roughly equal to actual total State expenditures for health care in 1991. States could also recapture at least a portion of their current spending on health care for Government employees. In addition present State Medicaid expenditures would be freed to apply toward the State share.

Total Federal spending for CORE SERVICES in each year would be limited to the amount of funds raised for the MediCORE trust fund. Those funds would be derived from two sources: First, the 6-percent payroll and the adjusted gross income premium which would increase only with rises in wages and income and second, general fund transfers equal to the current Medicare, Medicaid and Federal employees' programs, growth in which would be pegged to general economic conditions. Increases in trust fund funding therefore, and consequently MediCORE spending, won't exceed increases in productivity and/or real wages and income. The Board must live within these budgetary constraints, or apply to Congress for exceptional relief.

If in any 1 year, despite the best efforts of the Board, estimated costs of CORE SERVICES are anticipated to exceed funds expected to be made available from the trust fund, the Board would recommend to Congress: (a) the manner and methodology to reduce CORE SERVICES to meet the funding limitations, (b) the additional amount necessary from Congress to meet the cost estimates, or (3) a combination of services reduction and additional funds. Unless Congress acts within 2 months of the recommendation to provide additional funds, the Board is required to implement the specified reductions in CORE SERVICES. Through this budgetary process, the basic cost containment goals of MediCORE would be achieved and enforced. Health care costs in the future would be based on current health care spending plus limited growth rates pegged to productivity and real income growth. Only States or Congress could increase funds to the MediCORE program to provide greater coverage.

Budgetary discipline is only one, albeit a central, aspect of changes to be

required and accomplished under MediCORE. Important shifts in the burdens borne by the various segments of our society, and shifts in advantages enjoyed by some segments, would occur under this proposal. We must understand and appreciate those shifts.

#### THE FEDERAL GOVERNMENT

MediCORE will certainly ease the single greatest dilemma facing the Federal Government, and American taxpayers—the Federal budget deficit increases due to escalating health care costs. According to CBO figures, if unchecked, Federal health care expenditures would increase from \$232 billion in 1993 to \$615 billion in 2002, a 165-percent rise. Under MediCORE cost containment, the projected rise falls to \$336 billion in 2002, only a 58-percent rise. That would represent a \$1.24 trillion cure during the 10-year period—not enough to eliminate the problem but enough to make a huge start at it, and a big relief for our economy and the taxpayers. A recently released October 1992 CBO report on Economic Implications of Rising Health Care Costs confirms our Federal budget reduction analysis.

MediCORE would, of course, increase the share of health care expenditures paid for by the Federal Government. This is unavoidable as we move from an employer-based to a publicly financed system. But, the additional funds needed to finance this shift would be raised by dedicated taxes on a pay-as-you-go basis and would not contribute to Washington's fiscal irresponsibility. On the contrary, perhaps the example set by the MediCORE budget could serve as a model for dealing with other areas of the budget that are too rapidly rising.

The increased Federal share of health care expenditures does not mean a big new Federal bureaucracy. Quite the contrary. Medicare would be eliminated as a separate federally administered program and would be reconstituted into the State, or regional, programs. I am of the opinion that the States, not the Federal Government, are in the best position to manage health care, being more accountable and accessible to the people. The net effect of MediCORE would be a downsizing of bureaucracy in Washington.

The MediCORE Board and organization, including the new National Data Bank System, would require coordination with the Department of Health and Human Resources. A close working relationship would be necessary, also, with the departments and agencies that remain totally outside the MediCORE structure, such as DOD, VA and the NIH programs. The MediCORE Act calls for a study by the Board of the best way to accomplish reorganization and of how to determine which current activities and programs in the Federal domain would better be the States' responsibility.

#### STATES

MediCORE's primary financing purpose is to collect what is presently being paid to private insurers, and by private individuals for uncompensated services and redistribute these moneys to the States. Under MediCORE, the States' own financial burden for CORE services would roughly equal their expenditures for health care in 1991. All MediCORE funds, however, including the 70-percent Federal contribution, would be dispensed through the States which will have ultimate responsibility for management and administration. This would translate into significant numbers of Federal dollars flowing to the States. Based on 1991 statistics, for example, my own small State of Vermont would receive more than \$800 million, Kansas about \$4.5 billion, and California more than \$64 billion. Since States are in the forefront of health care reform, this would be most appropriate. The States simply will not be able to do the job without such Federal support.

Federal revenue would be dispensed pursuant to per capita formulas allowing adjustment for such factors as age and sex, patterns that dictate health care use and cost. Further adjustments would be made for State variance in such areas as poverty, rural/urban population ratio and numbers of illegal immigrants. The adjustments could drive Federal support about 3 percent above or below the standard 70 percent basic Federal contribution.

MediCORE is a States' rights bill. Provided the States comply with the Federal guidelines, they would have the latitude to do things their way. However, the guidelines do strongly encourage the States to give marketplace competition, free enterprise, an important role. It is suggested that, where feasible, the States include two or more CORE services delivery plans within their State program so market forces can function, through managed competition, to control costs. States are also requested to include at least one CORE services delivery plan that would permit significant freedom of choice by consumers among health care providers, including doctors. States could assess additional charges for such plans. Finally, managed care programs that share responsibility for cost and outcome management with health care providers, or provider networks, are endorsed for the States' consideration.

The States' latitude in design extends to the content of CORE services. States would have the possibility of varying the benefit package, provided the Board determines such plans are substantially equivalent to the Federal model. States could also provide services over and above the core, but at their own expense.

The States would, of course, receive technical and other assistance and su-

pervision from the Board in complying with the Federal guidelines and cost containment methods. A model MediCORE administration manual would be developed for the States covering all aspects of administration required for a State program, including model fee schedules and outcomes review procedures. These may, but need not necessarily be, implemented by a State.

While States would have flexibility in complying with the cost containment and other standards of MediCORE, to receive accreditation the State would be required to demonstrate to the Board that its program will contain effective cost containment and provider payment methodologies. Effective outcomes evaluation and ethical analysis procedures would be required, as would proper quality assurances mechanisms.

#### INDIVIDUALS

All individuals will be covered for CORE services under one seamless system that does away with present fragmentation: children and the elderly, the poor and not so poor, the employed, unemployed, self-employed and retirees—all would be covered equally. Special provisions are included for the homeless and illegal immigrants who would receive the very same benefits. Entitlement to coverage would be individual—no one need derive coverage from a family member. In Billie Holiday's terms: "Everyone would have his own."

Everyone would also pay for health care on the basis of income through the 2-percent payroll tax and the adjusted gross income premium on unearned income. The 2 percent would be deductible.

MediCORE will clearly be less expensive for those at the lower end of the income spectrum than the current health system. A family of four, for example, with annual income of \$13,000 would realize a savings of close to \$2,300.

As income rises, the savings persist but diminish. The same family earning \$52,000 a year, would have savings of approximately \$1,400 over what it pays currently. At around the \$130,000 income level, the costs to the family would be roughly equal under both systems. Beyond that income level however, families would pay more under MediCORE than currently.

Though seamless, different categories of the population would draw particular advantages from differing aspects of MediCORE:

Children would enjoy an expanded WIC entitlement and benefit especially from an emphasis on preventive and primary care, immunization and screening services, and educational and counseling programs;

The over-65 would no longer be segregated into Medicare since those benefits would be reconfigured or reengi-

neered into MediCORE; additional services would be provided the elderly, as all others, such as prescription drugs, long-term health, custodial or personal assistance care; a study would be conducted by the Board to determine the desirability and feasibility of a national service program for individuals under the age of 25 to provide assistance to older people in their homes;

The poor would be entitled to Medicaid-like benefits, but would no longer be relegated to a special, stigmatized program; the benefit levels for the poor would be raised from Medicaid levels over a relatively short time span;

MediCORE will ensure that the long-needed parity between the treatment of mental and physical conditions will be achieved;

A study will be conducted by the Board into the feasibility and desirability of a program to provide for reduced cost sharing for CORE services to those certified as being free of substance abuse or engaged in an approved physical fitness program; and

Cost sharing under MediCORE would be limited to a global maximum of 15 percent.

MediCORE will provide one further essential advantage to individuals and families alike. That would be consistent and reliable protection from health care financial calamities. Greater peace of mind will accrue to all enrollees from birth to death. We all are entitled to this basic security.

#### EMPLOYERS

Employers will be free of escalating private insurance premiums for CORE Services under publicly financed MediCORE. This will certainly be welcomed by those large- to medium-sized companies currently providing health care to their employees. The heads of such companies in Vermont tell me their premiums now account for approximately 10 to 11 percent of the cost of payroll. Rate increases are such that premium costs are cutting into 20 or 25 percent of company profits.

Instead of the premiums, businesses will pay a 4-percent payroll tax. This tax has been designed to place a fairer burden on U.S. companies compared to their worldwide competitors. And a fairer burden it would be: for a company with less than 20 employees we estimate the savings to be realized from MediCORE over the current insurance system would be approximately \$41,000 a year. As the number of employees grows, of course, the savings grow. A company of over 1,000 employees would have yearly savings of roughly \$4,500,000.

On the other hand costs would necessarily rise for small- to medium-sized companies that do not now furnish their employees with any health care or with inadequate insurance. No companies will be exempt from the MediCORE payroll tax on the basis of their size. All employees will be cov-

ered under MediCORE. A 4-percent payroll tax compares very favorably with equivalent taxes of our sister developed nations—with France at over 19 percent, Germany over 13 percent and Japan at 8 percent. It compares favorably with the other proposals now before Congress—pay-or-play for example would impose a tax of at least 9 percent on those companies that refuse to play.

Smaller companies will benefit from the fact that MediCORE is a comprehensive reform program with effective global cost containment mechanisms. They need not fear a continuance of the escalating inflation that dissuades them currently from obtaining health insurance for their employees.

Since MediCORE will prohibit employer-based and employer-organized private insurance for CORE services, business will be out of the business of managing health benefits and will be able to apply those resources elsewhere.

Business may also be relieved of obligations they now have toward current or future retirees in the event of the enactment of MediCORE. To eliminate any unjust enrichment that might result, the act provides for a study of the possible recapture of these costs from employers. The study would also provide for the fair treatment of employees with respect to taxation of retirement income should a recapture program be approved. Sums to be recaptured could be significant if estimates of employers' current retiree benefits obligations are to be believed. MediCORE would apply the sums against expected transition costs.

#### PRIVATE INSURERS

Private insurers would play changed but key and emerging roles in the MediCORE structure. Although they could no longer directly provide insurance for CORE Services, States of regions would use private insurers in the following ways:

Under contract as the single administrative entity for the States; and

To furnish the various health delivery plans, including managed care and other alternative delivery systems, that will be required, for managed competition to be put in place by the States.

The number of private insurance companies will undoubtedly decrease, with consequent savings in advertising and administrative costs and less hassle for providers and consumers. But competition between the remaining larger companies should thrive. That competition will be on a socially productive basis: on the basis of the design and price of benefits packages and the efficiency of delivery systems.

Private insurers would also furnish the supplemental or second-tier insurance that will be allowed to wrap around CORE Services.

## PROVIDERS

Health delivery plans to be utilized in the MediCORE Program will be designed with financial incentives for providers, as well as consumers, built in. Providers will no longer be required to maximize services, even unnecessary services, in order to maximize profits. They will have a direct stake in the efficient delivery of effective medicine, and should be contributors to the MediCORE cost containment processes.

Doctors and other providers can look forward to professional liability reform under MediCORE. The board is instructed to conduct a study of Federal and State malpractice laws and State proposals for the reform of those laws. Based on this study the Board will develop a model malpractice/alternative dispute/claims dispute resolution reform law. The States will then have a limited period of time in which to adopt laws in substantial conformity with the model.

## VETERANS

MediCORE recognizes and will maintain the independent responsibility of the Department of Veterans Affairs for the special needs and rights of veterans. A study will be conducted by the Board to identify opportunities for entering into sharing arrangements with the VA in order to optimize the use of medical and mental health facilities in the United States. The study would further consider the feasibility and desirability of permitting the VA to enter into agreements with States to provide expanded care to veterans. The goal will be to maximize use of currently underutilized VA facilities.

Obviously, the task of restructuring this Nation's health care system will not be an easy one. I and my staff have spent nearly 2 years preparing MediCORE and I know the difficulties. But out of this massive exercise have emerged two prime conclusions:

First, the task can be accomplished. Second, the task must be accomplished.

This Nation cries out for health care reform. Americans are long overdue to be given the right to a comprehensive core of basic health care. And if we do not act to shackle the monster that is the growing cost of health care in America, this Nation's monstrous deficit could consume our national future.

No, it will not be easy. And if progress is to be made, every American must face the reality of limitations on what America can afford to provide in terms of health care.

But if we proceed, if we deal with all the questions, face all the daunting problems, we can provide Americans with a better, more secure living.

The time to act is at hand. History and the people demand action. The States, prominently including my brave little State of Vermont, are moving ahead on their own. And they cannot succeed without our help.

My plan, MediCORE, is one way to go. It is, I think, a good way to achieve a noble goal. The people of this Nation now see the light of a new century dawning across the still-vast horizon of the American future. There are clouds on that horizon, however, the clouds of fear and uncertainty. How much clearer that dawn can be if all Americans have their own when it comes to health care.

Mr. President, I ask unanimous consent to print in the RECORD CBO's Economic Implications of Rising Health Care Costs.

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

October 1992.

## CBO'S ECONOMIC IMPLICATIONS OF RISING HEALTH CARE COSTS

By the turn of the century, health care costs will consume 18 percent of the nation's gross domestic product (GDP). The increase, CBO analysis point out in their latest study, "Economic Implications of Rising Health Care Cost," will significantly affect the economy, squeezing household and government budgets and diverting resources from other priorities. And because there is no mechanism in the current health care delivery system—either a market or a governmental regulatory plan—that ensures that benefits match costs, consumers may not be getting their money's worth.

Although businesses initially pay a major portion of the costs of employer-provided health insurance, workers eventually bear most of the burden in the form of lower real wages and reduced nonmedical fringe benefits, according to CBO analysts. Thus, contrary to popular belief, the rising costs of employer-provided insurance have little direct effect on the long-term international competitiveness or profits of most businesses.

Employer-provided health insurance absorbed more than half of the increase in workers' real compensation between 1973 and 1989 (two years in which the economy was operating at full capacity), even though it accounted for 5 percent or less of the total compensation of workers. And the rising costs of private health insurance have led some employers to drop coverage, which in turn reduces access to affordable health insurance—and hence to high-quality medical care.

Government budgets are also being squeezed by rising health costs. At the federal level, Medicare and Medicaid are the only major budget categories (besides interest on the federal debt) that are projected to grow over the next 10 years. By 2002, the costs of these two programs alone will amount to about 90 of all discretionary spending on defense, domestic, and international programs. If Medicare and Medicaid are not financed through higher taxes or reduced nonhealth spending, the budget deficit will increase significantly, reducing the nation's investment in new plants and equipment and holding down the growth of U.S. incomes. And although employers' costs for health insurance do not strongly affect U.S. competitiveness, a larger budget deficit would clearly harm it.

Rising costs of health care will pinch state and local governments as well. CBO projects that spending on health care at the state and local levels will increase some 10 percent a year to about \$244 billion by the turn of the

century. Because almost all states have balanced budget requirements, these costs will have to be financed by higher taxes or spending cuts and thus crowd out their priorities.

If the federal costs for Medicare and Medicaid over the decade could be held to their 1991 share of GDP—and the savings used for deficit reduction—the outlook for the nation's economy would brighten considerably. The federal deficit would drop to 1 percent of GDP by 2002, which would completely reverse the growth of the deficit during the 1980s. Moreover, a smaller budget deficit would boost capital investment, help U.S. industry compete better in the international marketplace, and increase U.S. incomes by 2.4 percent by 2002.

Mr. JEFFORDS. Mr. President, I could go on, for I know that action will not come this year. But I do know that I am now hopeful for the first time that there are ways we can solve both the health care problem and the basic part of the deficit problem if we work together and are not afraid to change those things which have been wrapped into our system for so many years which were inconsistent with the ability to accomplish these goals.

Mr. President, I thank everyone for their attention and hopefully they will take notice of what we are offering today so that next year, the year of the solution, we can all work together to come up with this program or some program that will solve not only the health care problems but also the deficit problems that we face. If we do not, then we will not have done our job.

Mr. President, I yield the floor.

Mr. SASSER. Mr. President, I commend and congratulate the distinguished Senator from Vermont for the insight that he has brought to the floor of the Senate today and all my colleagues regarding the great crisis facing this country, and that is the crisis of health care and how it is to be paid.

I look forward in the next Congress to working with the very able Senator from Vermont [Mr. JEFFORDS] in trying to find a solution to the problem of health care and its costs and make it available to all Americans in need of it. I earnestly believe many of the propositions that have been advanced today by the distinguished Senator from Vermont are going to be very helpful to us as we travel down this very difficult road to solving this problem.

Mr. JEFFORDS. Mr. President, I thank the Senator for his very kind remarks and I look forward to working with him.

By Mr. GARN:

S. 3332. A bill to establish the San Rafael Swell National Trails and Recreation Area in the State of Utah, and for other purposes; to the Committee on Energy and Natural Resources.

SAN RAFAEL SWELL NATIONAL TRAILS AND RECREATION AREA

• Mr. GARN. Mr. President, I am pleased to introduce legislation to create Utah's first National Trails and

Recreation Area dedicated for use by off road vehicles [ORV's] in a matter compatible with other multiple uses. These other uses include geological, palenotological, archaeological, and many historical uses.

Thousands of Utahns enjoy ORV's for recreational activity throughout the year. I know of no better place than this scenic area of Utah to create a new Bureau of Land Management-administered National Trails and Recreation Area. The BLM is highly qualified to administer this area for the benefit of the thousands of people from Utah and around the Nation who will visit the area.

Mr. President, over the next few years there will be a concerted effort by the people of Utah to put together a statewide BLM wilderness bill. As a State, Utah is so beautiful that many areas across the State will be considered for designation as permanent wilderness. Many will argue that the San Rafael Swell merits wilderness designation.

I would submit that a balanced statewide wilderness package must include nonwilderness multiple-use areas such as the one I am proposing. First of all, if all the scenic and beautiful areas of the State are designated wilderness other legitimate multiple-use activities will, in fact, be denied. Thus I believe it is imperative to set aside areas which are not as restrictive as wilderness for uses by ORV's.

Second, ORV's do have a place on the public lands. Environmentally, I submit it is far better to designate specific areas for sport utility vehicles and dirt bikes—both motorized and otherwise—under dedicated management by BLM professionals. People will have an enjoyable experience in a beautiful area. Why should these people be denied the same opportunities for outdoor recreation of their choice as a backpacker in a wilderness area?

A balanced BLM wilderness bill should include the release from Wilderness Study Area [WSA] status of those areas which are better utilized with emphasis on another nonwilderness multiple use. Wilderness designations on the public lands should be balanced on a statewide basis with opportunities for all.

Earlier this year, I joined Congressman HANSEN and Senator HATCH in supporting the creation of a National Conservation Area in the Escalante River Canyon country. This proposal for the Rafael Swell is part of an effort which Utah's elected officials should give consideration to as a piece of the overall statewide wilderness puzzle. I hope future Utah officials will give it a fair chance. Local support for the concept is strong, just as there will be considerable opposition. But, that's democracy and no one need fear such diversity of opinion.

As I leave the U.S. Senate, I take pride in having played a role in the cre-

ation of the statewide National Forest Wilderness system in Utah. I thought it was a fair and balanced package when it was passed by the Congress of 1984, and now, 8 years later, I am even more convinced it was a good bill. I commend my Utah colleagues who all played significant roles in the successful creation of that legislation: Representative JIM HANSEN, Representative DAN MARRIOTT, Representative HOWARD NIELSON, Senator ORRIN HATCH, and finally the late Gov. Scott Matheson. These Utahns put their State's overall interest before their own personal wishes. Together, acting in a bipartisan way, Utah received the benefits of numerous public hearings and involvement.

Given the national significance of the BLM wilderness proposals for Utah, this same kind of teamwork by the new congressional delegation and Governor will be absolutely essential. Because national environmental group interest in dictating the terms of the bill to Utah is so high, the Utah delegation will have to show leadership and the willingness to be creative, listen, and compromise in order to achieve a balanced BLM wilderness bill which protects the multiple use concept.

I have confidence in the people of Utah when it comes to managing the public lands upon which they must depend for their own livelihoods. Outside environmental advocates have a legitimate role in the process, but they should not be allowed to turn rural Utah into an economic wasteland under the guise of protecting wilderness values. The good people of rural Utah must be actively engaged in the BLM wilderness process in order to prevent such an outcome and to make certain an economic base is maintained.

I leave the Senate with the knowledge that the multiple-use system of public land management is under siege. The very laws which enabled the settlement of the American West are under full scale attack on an annual basis. Assaults on the mining law and laws governing livestock grazing, attacks against Revised Statute 2477 right-of-ways over public roadways, the imposition of wilderness, and the abuse of the appeals process to block legitimate timber sales on our national forests, all pose an ominous threat to the people residing in Utah's rural cities and towns. It is the responsibility of Utah's next generation of leaders to protect the values that made us the people we are. ●

By Mr. DECONCINI:

S. 3333. A bill to establish the National Commission on Civil Justice Reform; to the Committee on the Judiciary.

NATIONAL COMMISSION ON CIVIL JUSTICE  
REFORM ACT OF 1992

● Mr. DECONCINI. Mr. President, I am introducing legislation today to estab-

lish a National Commission on Civil Justice Reform. This new Commission is needed to address the inability of the current administration and Congress to develop a comprehensive legislative proposal for civil justice reform.

Mr. President, recent congressional debates on civil justice reform have, unfortunately, centered only on specific areas of tort liability. For example, less than a month ago the Senate briefly considered product liability reform legislation offered by a bipartisan group of Senators. Because I felt there was a great need to debate that bill, I voted for cloture but there were insufficient votes to break a threatened filibuster. It is my firm belief that the focus of discussion should be expanded beyond this small, yet important piece of the civil justice system.

S. 640, the Kasten-Rockefeller product liability reform bill, like many other civil justice reforms proposed to date, focused too much upon the interests of individual litigants and too little upon the interests of the general public and other litigants, both defendant and plaintiff alike. The recent product liability reform debate stands as the best evidence that the civil justice reform debate needs to be removed from the political process since recent debates on S. 640 and other piecemeal approaches have yielded only political stalemates.

Mr. President, there are probably as many in this body who believe that there is no need for any Federal civil justice reform, especially product liability legislation, as there are those who believe it is absolutely imperative. Senators who oppose reform fear that it could have very negative consequences upon the State civil court system.

Mr. President, there are also Senators who believe other deficiencies exist in the civil justice system that warrant greater attention than product liability law reform. I tend to agree. What I think we need is a thorough examination of the civil justice system at every level, including a review of all current proposals for improvements in our system. In short, each aspect of civil justice reform in the United States deserves a full hearing in an environment less polarized by political and economic interests.

For these reasons, I am introducing legislation today to create a National Commission on Civil Justice Reform composed of 16 members. Four appointments are to be made by each of the following for the life of the Commission: the President, the President pro tempore of the Senate, and the Speaker of the House of Representatives. In addition, two appointments are to be made by the Chief Justice and two appointments are to be made by the Conference of Chief Justices.

The Commission would be charged: First, to solicit the views of a wide va-

riety of individuals, businesses, and groups concerned about improving the fairness, effectiveness and efficiency of the civil justice system in the United States; second, to evaluate the merits of current proposals to reform the civil justice system, including medical malpractice and product liability reform; third, to examine the merits of emerging options in dispute resolution to improve the civil justice system, including mediation and arbitration; fourth, to make legislative proposals for reforming the current system of resolving disputes; and fifth, to prepare and submit a report, within 18 months after the date of its first meeting, to Congress, the Chief Justice, and the President which includes any legislative and administrative recommendations it deems appropriate.

Mr. President, a 1992 benchmark national survey commissioned by the National Institute for Dispute Resolution indicates most Americans believe that the civil justice system is not working as well as they believe it should. Once informed of the potential legal options available to settle their disputes, and overwhelming majority of them, 82 percent, indicate they would choose mediation or arbitration over trial. Savings in time and money that characterize mediation and arbitration were important to the survey respondents, but more important were factors of fairness and direct participation in the search for resolution of their conflicts.

Mr. President, I concur with the judgment of the American public that dispute resolution alternatives to trial may well advance civil justice reform. As such, I am proposing that one of the duties of the Commission is to specifically examine expanded use of alternative methods of dispute resolution.

In conclusion, Mr. President, my purpose in introducing this bill is to begin a dialog with a broad array of individuals and groups which have divergent views on civil justice reform. It is my intention to utilize the break between Congresses to develop a consensus on the mechanics, composition, and scope of such a national Commission before reintroduction in the 103d Congress. I urge all of my colleagues to take a look at the bill as introduced and participate in crafting new legislation for reintroduction.

Mr. President, I ask unanimous consent that the full text of my bill be entered in the RECORD immediately following the conclusion of my remarks.

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

S. 3333

*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 Civil Justice Reform Act of 1992".

#### SEC. 2. ESTABLISHMENT.

There is established a commission to be known as the "National Commission on Civil Justice Reform" (here after referred to as the "Commission").

#### SEC. 3. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 16 members as follows:

(1) Four members appointed by the President, 1 of whom shall be designated as Chairman by the President.

(2) Four members appointed by the President pro tempore of the Senate.

(3) Four members appointed by the Speaker of the House of Representatives.

(4) Two members appointed by the Chief Justice.

(5) Two members appointed by the President of the Conference of Chief Justices.

(b) TERM.—Members of the Commission shall be appointed for the life of the Commission.

(c) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but the Commission may provide for the taking of testimony and the reception of evidence at meetings at which there are present not less than 4 members of the Commission.

(d) INITIAL APPOINTMENTS.—The first appointments made under subsection (a) shall be made within 60 days after the date of enactment of this Act.

(e) FIRST MEETING.—The first meeting of the Commission shall be called by the Chairman and shall be held within 90 days after the date of enactment of this Act.

(f) VACANCY.—A vacancy on the Commission resulting from the death or resignation of a member shall not affect its powers and shall be filled in the same manner in which the original appointment was made.

(g) CONTINUATION OF MEMBERSHIP.—If any member of the Commission who was appointed to the Commission as a Member of Congress or as an officer or employee of the Government leaves that office, or if any member of the Commission who was not appointed in such a capacity becomes an officer or employee of the Government, the member may continue as a member of the Commission for not longer than the 90-day period beginning on the date the member leaves that office or becomes such an officer or employee, as the case may be.

#### SEC. 4. DUTIES OF THE COMMISSION.

The duties of the Commission are—

(1) to solicit the views of a wide variety of individuals, businesses, and groups concerned about improving the fairness, effectiveness and efficiency of the civil justice system in the United States;

(2) to evaluate the merits of current proposals to reform the civil justice system in the United States, including medical malpractice reform and product liability reform;

(3) to examine the merits of emerging dispute resolution options to improve the civil justice system in the United States, including mediation and arbitration;

(4) to make legislative proposals for reforming the current system of litigating disputes in the Nation; and

(5) to prepare and submit to Congress, the Chief Justice, and the President a report which includes legislative proposals in accordance with section 8.

#### SEC. 5. COMPENSATION OF THE COMMISSION.

(a) PAY.—

(1) NONGOVERNMENT EMPLOYEES.—Each member of the Commission who is not otherwise employed by the United States Government shall be entitled to receive the daily equivalent of the annual rate of basic pay

payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which he or she is engaged in the actual performance of duties as a member of the Commission.

(2) GOVERNMENT EMPLOYEES.—A member of the Commission who is an officer or employee of the United States Government shall serve without additional compensation.

(b) TRAVEL.—Members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

#### SEC. 6. STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.

(a) STAFF.

(1) APPOINTMENT.—The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint, and terminate an executive director and such other personnel as are necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The Chairman of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter II of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(b) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services of experts and consultants under section 3109(b) of title 5, United States Code.

#### SEC. 7. POWERS OF THE COMMISSION.

(a) HEARINGS AND MEETINGS.—The Commission or, on authorization of the Commission, a panel of at least 4 members of the Commission, may hold such hearings, sit and act such time and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

(b) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any Federal department, agency, or court information and assistance necessary to enable it to carry out this Act. Upon request of the Chairman of the Commission, the head of such agency or department shall furnish such information or assistance to the Commission.

(c) FACILITIES AND SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such facilities and support services as the Commission may request. Upon request of the Commission, the head of a Federal department or agency may make any of the facilities and services of such agency available to the Commission to assist the Commission in carrying out its duties under this Act.

(d) EXPENDITURES AND CONTRACTS.—The Commission or, on authorization of the Commission, a member of the Commission may make expenditures and enter into contracts for the procurement of such supplies, services, and property as the Commission or member considers appropriate for the purposes of carrying out the duties of the Commission. Such expenditures and contracts may be made only to such extent or in such amounts as are provided in appropriations Acts.

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

(f) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

#### SEC. 8. REPORT.

The Commission shall submit to the Congress, the Chief Justice, and the President a report not later than 18 months after the date of its first meeting. The report shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislative or administrative action as it considers appropriate.

#### SEC. 9. TERMINATION.

The Commission shall cease to exist on the date that is 60 days after the date on which it submits its report under section 8.

#### SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated \$1,500,000 to carry out this Act.

#### SEC. 11. EFFECTIVE DATE.

This Act shall take effect on the date of enactment. •

By Mr. DECONCINI:

S. 3334. A bill to authorize the Secretary of Agriculture to convey certain lands in the State of Arizona, and for other purposes; to the Committee on Energy and Natural Resources.

#### ARIZONA SEDONA RANGER STATION RELOCATION ACT

• Mr. DeCONCINI. Mr. President, today I am introducing legislation that will enable the Forest Service to better serve the residents of Sedona, AZ, and the users of the nearby Conconino National Forest. I am doing that at the end of this Congress so that we can use the intervening 3 or 4 months to work on this legislation, involve the affected parties, and be ready to move forward as the 103d Congress convenes.

Mr. President, the Forest Service is an organization which is only as effective as its ability to reach and serve the users of our national forests. Unfortunately, the current remote and inconvenient location of the Sedona Ranger Station places barriers between the Forest Service and the very people it is supposed to serve.

Currently, visitors to the Sedona area are met with a frustrating experience in attempting to locate the Sedona Ranger Station. Situated off a residential road and surrounded by a school, a resort, and a neighborhood of single-family homes, the ranger station has simply outgrown its immediate surroundings. It is a virtual island engulfed by the city of Sedona, concealing it from the millions who visit the area each year.

The current Sedona Ranger Station is situated on 21 acres, 6.5 of which are useable. The remaining acreage is comprised primarily of steep hillsides. Another problem with the current location of the station is that its responsibilities often conflict with the neighbors' expectations of a residential and resort community. During the fire season, the neighborhood is subjected to late-night activities, noise, and lights. Normal daytime activities produce congestion and noise not typically en-

countered in a residential community. Moreover, the increased traffic poses a serious safety hazard for student's of the nearby school.

Because the office is actually a renovated Forest Service house, floor loading exceeds code limitations. Employee workspace is cramped, the reception area and conference rooms are half of what is needed, and parking is inadequate. Accessibility for persons with physical disabilities is sorely deficient.

Because the problems with the current Sedona Ranger Station simply cannot be corrected, I am introducing legislation which I believe offers a sensible, cost-efficient solution. If enacted, my bill would allow the Department of Agriculture to convey the land on which the current ranger station is located for no less than the fair market value. Funds from the sale would then be made available to the Conconino National Forest for the construction of a new facility for the Sedona Ranger Station.

Relocating the station will be good for the Forest Service, the community of Sedona, and the millions who visit this magnificent area each year.

I hope that my colleagues will join me in passing this legislation.

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. 3334

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

#### SECTION 1. SEDONA RANGER STATION LAND CONVEYANCE.

(a) IN GENERAL.—Subject to subsections (b) and (c), the Secretary of Agriculture (referred to in this section as the "Secretary") may convey, by quitclaim deed, all right, title, and interest of the United States in and to the approximately 21.09375-acre tract of lands (including improvements on the lands) that has the following legal description:

GILA AND SALT RIVER MERIDIAN

COCONINO COUNTY, ARIZONA

TOWNSHIP 17 NORTH, RANGE 6 EAST, SECTION 7

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NE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ .

(b) CONDITIONS.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), any conveyance pursuant to subsection (a) shall be conditioned on the Secretary's entering into one or more agree-

ments that are sufficient to ensure, to the satisfaction of the Secretary, that, collectively, all persons with whom the agreements are to be made will construct, on a site to be determined by the Secretary, improvements for administrative purposes for the Coconino National Forest in Arizona (referred to in this section as the "administrative improvements") that are equal in value to the lands and improvements authorized to be conveyed by subsection (a).

(2) METHODS OF EXCHANGE.—

(A) SERIES OF TRANSPORTATION.—The lands and improvements may be conveyed by a series of transactions.

(B) PAYMENT.—At the discretion of the Secretary, each person to whom conveyances are to be made under this section may deposit sums in an amount not less than the fair market value, to be determined at the time of conveyance, of the lands and improvements conveyed to the person. The sums deposited with the Secretary shall remain available until expended by the Secretary for the purpose of constructing the administrative improvements.

(3) UNEQUAL VALUE.—

(A) PAYMENT.—If the value of any lands and improvements authorized to be conveyed by subsection (a) to a person exceeds the value of the administrative improvements that the person agrees to have constructed in exchange for the conveyance, the person shall make a payment to the United States in an amount equal to the difference in value.

(B) AVAILABILITY OF FUNDS.—The amount described in subparagraph (A) shall remain available to the Secretary until expended for the purpose of acquiring other lands needed for national forest purposes in the Coconino National Forest in Arizona.

(c) PROCEDURE FOR OFFERS.—

(1) PUBLIC OFFERS.—The Secretary shall solicit public offers for the lands and improvements authorized to be conveyed under subsection (a).

(2) OPENING.—All offers shall be publicly opened at the time and place stated in the solicitation notice issued pursuant to paragraph (1) and in accordance with the administrative requirements of the Secretary.

(3) CONSIDERATION OF VALUES.—The Secretary shall consider the respective values of the lands and improvements authorized to be conveyed under subsection (a) and the administrative improvements before entering into an agreement or land exchange with any person whose offer conforming to the solicitation notice issued pursuant to paragraph (1) is determined by the Secretary to be most advantageous to the Federal Government.

(4) REJECTION OF OFFERS.—Notwithstanding any other provision of this section, the Secretary may reject any offer if the Secretary determines that the rejection is in the public interest.

By Mr. DECONCINI:

S. 3335. A bill to establish the Casa Malpais National Historic Park, in Springerville, AZ, and for other purposes; to the Committee on Energy and Natural Resources.

#### CASA MALPAIS NATIONAL HISTORIC PARK

• Mr. DeCONCINI. Mr. President, today I am introducing legislation which would establish the Casa Malpais National Historical Park in Springerville, AZ. This legislation is critical to properly protect, interpret, and open to the public the Casa Malpais archeological ruins. I am introducing this legislation

at the close of this Congress so that we can use the intervening 3 or 4 months to work on this legislation, involve the affected parties and be ready to move forward as the 103d Congress convenes.

Mr. President, the Casa Malpais ruins are the largest and most complex ancient Mogollon communities in the United States. The site contains a large masonry pueblo, a great kiva complex, several masonry stairways, a prehistoric trail, numerous isolated rooms, catacombs, sacred chambers, and various rock art panels. The ruins were occupied by the Mogollon Tribes sometimes between A.D. 1250 and 1400.

The town of Springerville along with the Zuni and Hopi Tribes have done an exceptional job at preserving the site for more than a year. Even with limited funding and facilities, more than 30,000 visitors have come to see the remains of this ancient civilization. With the site designated as a national historical park, it is estimated that the number of visitors could grow to more than 90,000 in each of the next 5 years.

It is this Senator's opinion that Casa Malpais is truly a national treasure and deserves preservation. This archeological site represents a unique and rare cultural resource of unusual interest to the general public and substantial scientific significance.

Under my legislation, the Casa Malpais would be included in the National Park system and be named "The Casa Malpais National Historic Park." The bill would establish an advisory board appointed to oversee the planning and management of the park. Members of this advisory board would include members of the Hopi and Zuni Tribes, members of the local community, the archeological community, and Park Service personnel. My legislation provides for a significant amount of local control over the management of the park. I have done this because of local efforts thus far to preserve and interpret the Casa Malpais site.

Legislation has already been introduced in the House by Congressman KOLBE to provide Park Service assistance for the development of the Casa Malpais site. My bill takes this a step further by actually designating it as a national historical park. I believe that the significance of this site warrants much more than just assistance and that it should be put on the map as a national historical park. The Casa Malpais site is every bit as important to the development of this Nation as the other national historical parks throughout the country.

The Casa Malpais site has great potential. I am pleased to be able to offer to my colleagues the opportunity and ability to be a part of this project that will mature into a world-class historical interpretive site upon passage of this legislation. I ask that my colleagues join me in supporting this worthy endeavor.

I ask unanimous consent that the bill as well as a letter that I have received from the mayor of Springerville appear in the RECORD.

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

S. 3335

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

CASA MALPAIS NATIONAL HISTORIC PARK

SECTION 1. SHORT TITLE AND CONGRESSIONAL FINDINGS.

(a) This Act may be cited as the "Casa Malpais National Historical Park Establishment Act of 1992".

(b) The Congress finds that—

(1) the Casa Malpais is historically and culturally significant to the State of Arizona, the town of Springerville and the Nation;

(2) the Native American population in Arizona and New Mexico has shown strong and sincere interest in the preservation and interpretation of their heritage through the protection of the Casa Malpais;

(3) the Town of Springerville has played a significant role in the preservation of the cultural resources of the Casa Malpais through a program of interpretation and preservation of the landmark;

(4) the Casa Malpais National Historic Landmark was occupied by one of the largest and most sophisticated Mogollon communities in the United States;

(5) the landmark includes a 58 room masonry pueblo, including stairways, Great Kiva complex, and fortification walls, a prehistoric trail, and catacomb chambers where the deceased were placed; and

(6) the Casa Malpais was designated as a national historic landmark by the Secretary of the Interior in 1957.

SEC. 2. ESTABLISHMENT OF CASA MALPAIS NATIONAL HISTORIC PARK.

(a) In order to preserve, for the benefit and enjoyment of present and future generations, that area in Arizona containing the nationally significant Casa Malpais, and other significant natural and cultural resources, there is hereby established the Casa Malpais National Historical Park (hereinafter in this Act referred to as the "park") as a unit of the National Park System. The park shall consist of approximately 35 acres, a map of which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior, and in the office of the mayor of the Town of Springerville, Arizona.

(b) The park shall be administered by the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") and the Town of Springerville, Arizona (hereinafter in this Act referred to as the "Town"), in accordance with section 3.

(c) Within 6 months after the date of enactment of this Act, the Secretary shall file a legal description of the park with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives. Such legal description shall have the same force and legal description as if included in this Act, except that the Secretary may correct clerical and typographical errors in such legal description. The legal description shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior, in the State of Arizona, and in the office of the mayor of the Town of

Springerville, Arizona: Provided, That the Secretary may from time to time, after completion of the general management plan referred to in section 108(a), make minor adjustments to the park boundary by publication of a revised map or other boundary description in the Federal Register.

SEC. 3. ADMINISTRATION AND MANAGEMENT OF THE PARK.

(a)(1) To achieve the purposes of this Act, the Secretary, in cooperation with the Town, shall formulate a comprehensive plan for the protection, preservation, interpretation, development and maintenance of the site.

(2) Within eighteen months following the date of enactment of this section, the Secretary shall transmit the plan to the President of the Senate and the Speaker of the House of Representatives.

(b) The Secretary may, pursuant to cooperative agreement—

(1) provide technical assistance to the Town or unit of local government in the management, protection, and interpretation of the site; and

(2) make periodic grants, which shall be supplemental to any other funds to which the grantee may be entitled under any other provision of law, to the Town or local unit of government for the annual costs of operation and maintenance, including but not limited to, salaries of personnel and the protection, preservation, and rehabilitation of the site.

(c) The Secretary is authorized to enter into cooperative agreements with either the Town under which the Secretary may manage and interpret any lands owned by Town and the state of Arizona, respectively, within the boundaries of the Park.

(d) In order to encourage a unified and cost effective interpretive program of the natural, cultural and recreational resources of the Casa Malpais and its environs, the Secretary is authorized to enter into cooperative agreements with other Federal, State, and local public departments and agencies, Indian tribes, and nonprofit entities providing for the interpretation of these resources. Such cooperative agreements may also provide for financial and technical assistance for the planning and implementation of interpretive programs and minimal development related to these programs.

SEC. 4. LAND USE PLANNING.

The Secretary may participate in land use planning conducted by appropriate local authorities for lands adjacent to the park and may provide technical assistance to such authorities and affected landowners for such planning.

SEC. 5. EXISTING TRANSMISSION OR DISTRIBUTION FACILITIES.

Nothing in this Act shall be construed as authorizing or requiring revocation of any interest or easement for existing transmission or distribution facilities or prohibiting the operation and maintenance of such facilities within or adjacent to the park boundary.

SEC. 6. GENERAL MANAGEMENT PLAN.

(a) Within 3 years from the date of enactment of this Act, the Secretary, in cooperation with the Town and the State, shall develop and transmit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives, a general management plan for the park consistent with the purposes of this Act, including, but not limited to—

(1) a statement of the number of visitors and types of public use within the park which can be accommodated in accordance

with the protection and preservation of its resources;

(2) a resource protection program;

(3) a general interpretive program;

(4) a general development plan for the park, including proposals for a visitor's center and recreation facilities, and the estimated cost thereof; and

(b) The general management plan shall be prepared in consultation with the Casa Malpais National Historical Park Advisory Commission established pursuant to section 7, appropriate Indian tribes and their civil officials, the Arizona Historical Preservation Office, and other interested parties.

**SEC. 7. CASA MALPAIS NATIONAL HISTORICAL PARK ADVISORY COMMISSION.**

(a) There is hereby established the Casa Malpais National Historical Park Advisory Commission (hereinafter in this Act referred to as the "Commission"). The Commission shall be composed of members appointed by the Secretary on the recommendation of the mayor of Springerville for terms of 5 years as follows:

(1) one member, who shall have professional expertise in history and/or archaeology, appointed from recommendations submitted by the Governor of the State of Arizona;

(2) one member, who shall have professional expertise in history and/or archaeology appointed from recommendations submitted by the mayor of the Town of Springerville, Arizona;

(3) one member, who shall have professional expertise in Indian history or ceremonial activities, appointed from recommendations submitted by the Inter-Tribal Council of Arizona;

(4) one member, who shall have professional expertise in outdoor recreation;

(5) one member, who shall be an affected landowner;

(6) one member, who shall have professional expertise in cultural anthropology;

(7) one member from the general public;

(8) the Mayor of the Town of Springerville or his or her designee, ex officio; and

(9) the Director of the National Park Service, or his or her designee, ex officio.

(b) Any member of the Commission may serve after the expiration of his or her term until a successor is appointed. A vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(c) Members of the Commission shall serve without pay. While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5, United States Code.

(d) The Chair and other officers of the Commission shall be elected by a majority of the members of the Commission to serve for terms established by the Commission.

(e) The Commission shall meet at the call of the Chair or a majority of its members, but not less than twice annually. Six members of the Commission shall constitute a quorum. Consistent with the public meeting requirements of section 10 of the Federal Advisory Committee Act (5 U.S.C. App.), the Commission shall, from time to time, meet with persons concerned with Indian history and historic preservation, and with other interested persons.

(f) The Commission may make such by-laws, rules, and regulations as it considers

necessary to carry out its functions under this Act. Section 14(b) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(g) The Commission shall advise the Secretary and the Town on the management and development of the park, and on the preparation of the general management plan referred to in section 6(a). The Secretary, or his or her designee, shall from time to time, but at least semiannually, meet and consult with the Commission on matters relating to the management and development of the park.

**SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as may be necessary for the purposes of this Act.

TOWN OF SPRINGERVILLE,  
Springerville, AZ, October 5, 1992.

Re Casa Malpais National Historic Park.

Senator DECONCINI,

Hart Senate Office Building, Washington, DC.

DEAR SENATOR DECONCINI: On behalf of the Town Council and the Town of Springerville, I would appreciate your accepting this letter as our strong support for the passage of the Casa Malpais National Park Bill.

We have managed the beginning of this project by providing hard cash dollars, equipment, labor and a museum site.

We feel that the site is a very important and significant archaeological project and would be a valuable asset among the Parks of the United States.

Last but not least, we feel that the Park would be of value to our Town and the surrounding area in strengthening a soft economy picture in Apache County.

We appreciate the work and effort you have applied to this Bill and our Town stands ready to assist in any way possible.

Very truly yours,

BARBARA HUNTER,  
Mayor. ●

By Mr. GLENN:

S. 3336. A bill to encourage the acquisition and use of resource efficient materials in construction, repair, and maintenance of Federal buildings; to the Committee on Environment and Public Works

FEDERAL RESOURCE-EFFICIENT BUILDING MATERIALS ACT OF 1992

● Mr. GLENN. Mr. President, I rise today to introduce the Federal Resource-Efficient Building Materials Act, legislation to encourage the purchase and use by the Federal Government of building products made from recycled, reclaimed, or reused material.

As many of my colleagues are well aware, this Nation is facing a growing solid waste problem. Tougher environmental regulations, combined with continued population growth, have created a situation where it is getting tougher and tougher to dispose of our garbage.

One positive development that has come from our solid waste problem has been the boost to recycling. Over the last decade, numerous government and industrial programs have sprung up to try to prevent paper, plastics, glass, and other materials from entering into the wastestream. However, these pro-

grams have not been without their faults. One problem has been that the supply of materials to be recycled far exceeds the demand for their recycled end-products. Without incentives to stimulate demand for recycled products, market failure results—and we end up failing to fully achieve our goal of preventing materials from entering the solid wastestream.

I believe that the building industry offers enormous potential to energize the market for products made from recycled, or as I have defined in the legislation—resource-efficient materials. As I speak, the National Association of Homebuilders is completing construction of a demonstration home in Marlboro, MD, made from resource-efficient materials. Some of the innovative products and technologies incorporated in this home include:

A concrete foundation system using both recycled polystyrene and polypropylene;

Insulation made from recycled polystyrene and Newspaper;

Steel beams, framing, and doors made from recycled scrap metal; and,

Carpeting made from recycled plastic bottles.

My bill provides \$20 million to establish a 3 year pilot program run by the General Services Administration [GSA] to demonstrate the acquisition and use of these and other resource-efficient building materials in Federal Buildings. In addition, the legislation creates an advisory board served by representatives of industry, government, and the environmental and scientific community to oversee the implementation of the program and study its results. Upon completion of the pilot program, GSA would then issue guidelines to all Federal agencies to both maximize the use of resource-efficient materials and minimize the generation of solid waste in all new construction. These guidelines would be based on the recommendations of the advisory board.

Recently, my staff showed me a piece of manufactured lumber displayed at a trade show here in town by ARW Polywood—a small business from the city of Lima in my home State of Ohio. Eighty percent of ARW's product is made from waste plastics picked up from roadside recycling, with the remaining 20 percent consisting of residual Plastics made by Proctor & Gamble that would otherwise be thrown out or disposed of. This plastic lumber has many applications: Building additions and decks; boat docks; and outdoor furniture, to name a few. In the short space of just 1 year, ARW's annual revenues have shot up from \$50,000 to \$2 million, thanks to sales of this product.

As ARW and others are demonstrating, our Nation can improve environmental protection while fostering economic growth, job creation, and com-

petitiveness. The environment and the economy need not be the bitter foes as some have falsely made them out to be. I believe with the proper policies in place—such as those espoused in my bill—we can create a win-win situation for both the environment and the economy.

Recently, I also asked GAO to assess the Federal Government's R&D efforts in recycling and waste reduction, with a particular focus on how well it transfers technological innovations to the private sector. In addition, I want to know how we measure up with other industrial nations in these areas. The OECD has estimated that the world market for environmental goods and services is growing at annual real growth rate of 5 to 6 percent and will reach \$300 billion by the year 2000. Japan and Germany, in particular, are pursuing aggressive Government policies to target this market. We must do the same for our industry.

I plan to have hearings on these topics before my Committee on Governmental Affairs in the next Congress. I believe that without foresight and proactive support from the Federal Government, we will not only lose opportunities throughout the world to win the market for environmental technologies, but fail to capitalize on the large potential here at home. ●

By Mrs. KASSEBAUM (for herself, Mr. HATCH, and Mr. DODD):  
S. 3337. A bill to amend the Federal Food, Drug, and Cosmetic Act to allow for additional deferred effective dates for approval of applications under the new drugs provisions, and for other purposes; to the Committee on Labor and Human Resources.

**BETTER PHARMACEUTICALS FOR CHILDREN ACT**  
● Mrs. KASSEBAUM. Mr. President, I rise today to introduce legislation to improve the safety and effectiveness of pharmaceutical products used by children. I am pleased that Senators HATCH and DODD are joining me as original sponsors in this effort.

Specifically, this legislation creates incentives for drug manufacturers to test the impact of drug products in pediatric populations. At present, such testing is performed only haphazardly.

Mr. President, the use in children of pharmaceuticals developed for adults is an area which so far has not received the attention it deserves. Under current law, physicians have the discretion to use any lawfully marketed drug for any patient, according to their best judgement. Ordinarily, this discretion works well, as it allows physicians to adapt available medications to the needs of their patients. There are particular challenges, however, in wisely using children drugs which were developed with adults in mind.

With the exception of certain drugs with known and significant pediatric uses, pharmaceutical products are sel-

dom studied in younger populations. What this means is that physicians who wish to use these drugs for pediatric patients are forced to estimate pediatric dosages from the dosages found to be safe and effective in adults.

Such estimates are sometimes uncertain, owing to the fact that children—particularly those under 2 years of age—frequently metabolize drugs differently than do adults. Further, some drugs can be less safe in children than in adults, even when appropriate doses are used.

The problem, Mr. President, is that there is little incentive for manufacturers to perform studies for medications which they do not intend to market for children and which are therefore expected to return little additional revenue from that source. For these reasons, children have long been considered therapeutic orphans.

Mr. President, the legislation I am introducing today will address this problem by providing special incentives to help assure more widespread and consistent testing of drug products for use in children.

Specifically, the Better Pharmaceuticals for Children Act draws on our successful experience with the marketing exclusivity provision of the Federal Food, Drug, and Cosmetic Act to grant 6 months' marketing exclusivity for products for which FDA-approved pediatric studies are conducted.

The bill creates a new section in the Food, Drug, and Cosmetic Act, modeled on corresponding subsections of section 505(j)(4)(D), the marketing exclusivity portion of the Drug Price Competition and Patent Term Restoration Act. A drug qualifying for this exclusivity would not be subject to new generic competition for 6 months after the expiration of its patent or other exclusivity under current law.

Importantly, the legislation in its current form restricts its focus solely to drugs not ordinarily studied in children. Thus, it excludes antibiotic, anti-asthmatic, and anti-allergy medication, as well as drugs with indications for diseases or conditions that occur only in children. As is the case currently, sponsors of such child-oriented therapies should expect to perform pediatric studies as a matter of course.

Primary beneficiaries of this bill will be children in need of safe and effective medications. Also helped will be pediatricians, who will have more confidence in using appropriately labeled drugs, as well as greater availability of specific pediatric dosage forms.

Mr. President, this is an area which deserves our closest attention. I know each of us would do anything to help a sick child, and an incentive for drug sponsors to perform pediatric studies takes a step in that direction.

I am not alone in my interest in increasing the testing of pharmaceutical products in children. In preparing this

legislation, it has been my pleasure to work with both the American Academy of Pediatrics and with the Pharmaceutical Manufacturers Association. Input from officials at the Food and Drug Administration has also been very helpful. I look forward to continuing this cooperation when work on this issue resumes next year.

Obviously, Mr. President, I do not submit this bill with the expectation that the Senate will act upon it before adjournment. Rather, it is my hope that its introduction today will provide a vehicle for discussion in coming months of the concepts I have discussed. I invite comment and suggestions from interested Senators and outside groups, and I hope that when the new Congress convenes, we will be in a position to consider this proposal expeditiously.

I ask that the text of the bill and a legislative summary be included in the RECORD following my remarks.

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

S. 3337

*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 "Better Pharmaceuticals for Children Act".

**SEC. 2. PEDIATRIC STUDIES MARKETING EXCLUSIVITY.**

Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 501 et seq.) is amended by inserting after section 505 the following new section:

**"PEDIATRIC STUDIES FOR NEW DRUG APPLICATIONS**

"SEC. 505A. (a) If an application submitted under section 505(b)(1) is approved on or after the date of enactment of this section, and such application includes reports of pediatric studies described and requested in subsection (c), and such studies are completed and the reports thereof submitted in accordance with subsection (c)(2) or completed and the reports thereof accepted in accordance with subsection (c)(3), the Secretary may not make the approval of an application submitted under section 505(b)(2) or section 505(j) which refers to the drug for which the section 505(b)(1) approval is granted effective prior to the expiration of 6 months from the earliest date on which the approval of such application for the drug under section 505(b)(2) or section 505(j), respectively, could otherwise be made effective under the applicable provisions of this chapter.

"(b) If the Secretary makes a written request for pediatric studies described in subsection (c) to the holder of an approval under section 505(b)(1) for a drug, and such studies are completed and the reports thereof submitted in accordance with subsection (c)(2) or completed and the reports thereof accepted in accordance with subsection (c)(3), the Secretary may not make the approval of an application submitted under section 505(b)(2) or section 505(j) which refers to the drug subject to the section 505(b)(1) approval effective prior to the expiration of 6 months from the earliest date on which an approval of such application under section 505(b)(2) or section 505(j), respectively, could otherwise be made effective under the applicable provisions of

this chapter. Nothing in this subsection shall affect the ability of the Secretary to make effective a section 505(b)(2) or section 505(j) approval for a subject drug if such approval is proper under such subsection and is made prior to the submission of the reports of pediatric studies described in subsection (c).

"(c)(1) The Secretary may, pursuant to a written request for studies after consultation with the sponsor of an application or holder of an approval for a drug under section 505(b)(1), agree with the sponsor or holder for the conduct of pediatric studies for such drug.

"(2) If the sponsor or holder and the Secretary agree upon written protocols for such studies, the studies requirement of subsection (a) or (b) is satisfied upon the completion of the studies in accordance with the protocols and the submission of the reports thereof to the Secretary. Within 30 days after the submission of the report of the studies, the Secretary shall determine if such studies were or were not conducted in accordance with the written protocols and so notify the sponsor or holder.

"(3) If the sponsor or holder and the Secretary have not agreed in writing on the protocols for the studies, the studies requirement of subsection (a) or (b) is satisfied when such studies have been completed and the reports accepted by the Secretary. Within 60 days after the submission of the reports of the studies, the Secretary shall accept or reject such reports and so notify the sponsor or holder. The Secretary's only responsibility in accepting or rejecting the reports shall be to determine, within 60 days, that the studies fairly respond to the written request and that such studies have been conducted and reported in accordance with commonly accepted scientific principles and protocols.

"(4) As used in this section, 'pediatric studies' or 'studies' means at least one human clinical investigation in a population of adolescent age or younger.

"(d) If the Secretary determines that an approval of an application under section 505(b)(2) or section 505(j) for a drug may be made effective after submission of reports of pediatric studies under this section but before the Secretary has determined whether the requirements of subsection (c) have been satisfied, the Secretary may delay the effective date of any approval under section 505(b)(2) or section 505(j), respectively, until the determination under subsection (c) is made, but such delay shall not exceed 60 days. In the event that the requirements of this section are satisfied, the 6-month period referred to in subsection (a) or (b) shall be deemed to have begun on the date an approval of an application under section 505(b)(2) or section 505(j), respectively, would have been permitted absent action under this subsection.

"(e) The Secretary shall publish notice of any determination that the requirements of subsection (c)(2) or (c)(3) have been met and that approvals for the drug will be subject to deferred effective dates under this section.

"(f) This section shall not apply in any case in which the indication or indications with respect to which the studies under subsection (c) are requested are for anti-allergy or antiasthmatic diseases or conditions or for diseases or conditions that occur solely in persons of adolescent age or younger."

THE BETTER PHARMACEUTICALS FOR CHILDREN ACT LEGISLATIVE SUMMARY, SENATOR NANCY LANDON KASSEBAUM

Section 101 is the short title: the "Better Pharmaceuticals for Children Act."

Section 102 amends the Federal Food, Drug, and Cosmetic Act to establish a new section 505A granting six months of marketing exclusivity to holders of approvals for certain pharmaceuticals who perform pediatric studies requested by the Food and Drug Administration (FDA).

Sec. 505A (a) provides six months of exclusivity in pre-approval cases, in which pediatric studies as defined in the new act are performed and included in a 505(b)(1) application. Subsection (a) specifies that the secretary is to review the studies and determine that they satisfy the standards of subsection (c)(2) or (c)(3), as appropriate.

Further, in order to receive exclusivity, the approval must occur on or after the date of enactment—the act is not retroactive. The six-month period is to start on the earliest date on which an approval of the application for a generic copy of the drug could otherwise be made effective.

Sec. 505A (b) provides six months exclusivity in post-approval cases, in which pediatric studies are requested, performed, and submitted/approved after the drug has received its 505(b)(1) approval. Subsection (b) specifies that the secretary is to review the studies and determine that they satisfy the standards of subsection (c)(2) or (c)(3), as appropriate.

The six-month period is to start on the earliest date on which the approval of an application for a generic copy of the drug could otherwise be made effective. Subsection (b) also specifies that the secretary may make a generic approval effective, if it is otherwise proper, even after a request for pediatric studies has been made, but before submission of the study reports. This should be read in conjunction with subsection (d), which provides that once the study reports are submitted and while they are under review by the secretary, the secretary has the discretion to delay any generic approval until the subsection (c)(2) or (c)(3) determination has been made.

Sec. 505A (c) states that the studies triggering the act's grant of exclusivity must have been requested in writing by the secretary, and defines "pediatric studies" as at least one human clinical investigation in a population of adolescent age or younger.

Sec. 505A (c)(2) and (c)(3) set forth the secretary's responsibilities in reviewing the studies. In the (c)(2) case, the sponsor or holder of the approval and the secretary agree in advance, in writing, on the manner in which the studies are to be performed and reported. Thus, the secretary's subsequent review is limited to a determination that the studies were or were not conducted in accordance with the written protocols. A thirty-day limit is set on this largely ministerial task.

In the (c)(3) situation, the sponsor or holder and the secretary do not enter into a written agreement on the study protocols, and the sponsor or holder performs the studies according to its own judgment of the efforts which will satisfy the secretary's written request. In this case, the secretary's responsibility and discretion are broader: to determine that the extent and nature of the studies fairly respond to the written request, and that they have been conducted and reported in accordance with commonly accepted scientific principles and protocols. Accordingly, the time limit provided is doubled, to sixty days.

Sec. 505A (d) provides for the case where a written request has been made, studies completed and submitted to the secretary, and, during secretarial review, the drug's protec-

tion under patent or other exclusivity provisions lapses. Under such circumstances the secretary has the discretion to delay a generic approval until the (c)(2) or (c)(3) determination has been made and exclusivity granted or denied. However, the delay period does not act to extend the six-month exclusivity, if granted, since the six-month period is deemed to have begun running on the earliest date the generic approval could otherwise have been made effective.

Sec. 505A (e) states that the secretary shall publish notice that (c)(2) or (c)(3) requirements have been met for a drug, thus furnishing notice to potential applicants for generic approvals of the grant of exclusivity under this act.

Sec. 505A (f) bars the benefits of the act to drugs targeted at conditions occurring solely in children, and in certain broad classes of medications (anti-allergy and antiasthmatic drugs) which routinely bear pediatric indications and which therefore are normally studied in pediatric populations before approval.●

By Mr. BREAUX:

S. 3338. A bill to promote fair trade for the U.S. shipbuilding and repair industry; to the Committee on Finance.

SHIPBUILDING TRADE REFORM ACT

Mr. BREAUX. Mr. President, I am introducing a bill today that is intended to address the very serious problem of shipbuilding in this country and the foreign shipbuilding subsidies that are doing such grave harm and damage to the American shipbuilding industry. Some may say that, well, you are introducing a bill with only a matter of hours, perhaps, before the Congress goes out of session. Why are you doing it so late?

I will respond by pointing out that what I am introducing today, hopefully, will be a compromise and is representative of many hours and, in fact, many months of work that many of us who have been spending time trying to come up with a legislative solution to this problem have so far been unable to reach.

I think perhaps the bill being introduced today is reflective of a potential compromise which will, first, address the issue; second, be able to be signed by the President; and, third, bring some real help and assistance to the shipyards of this country, which are in a very precarious state of existence.

It is clear that American shipyards, because of our technology and experience in the work force can compete in shipyards in any country in the world.

What our shipyards cannot compete against, Mr. President, is other countries. Other countries do not have to worry about making a profit; they do not have to worry about the bottom line. They have only one goal when they are involved in shipyards and shipbuilding; that is, to provide an industrial base and jobs for the citizens of their countries.

American shipyards operate under different standards and have different needs. While we produce a quality product, we must also do so at a price that is competitive in the world market.

Therefore, it is clear that since 1981—when the American shipyards lost any help or assistance from our Government, when our Government, under the Reagan administration, said you are on your own, go out and do what you can, and sent our shipyards afloat in a world which was replete with subsidies—that our shipyards are competing with shipyards operating that have clear advantages. That act by the administration at that time really signed the death certificate for the American ship industry as we know it unless we take some action, which we are now attempting to do today.

In an effort to reach a compromise on this issue, which has been so difficult because of different perspectives of what needs to be done, this legislation which I am introducing today incorporates portions of S. 3192, which I had previously introduced, as well as portions of H.R. 2056, which is commonly known as the Gibbons bill, which has been referred in the Senate to the Senate Finance Committee.

As an example, the bill I am introducing defines the term "subsidies" in the same manner as the Gibbons bill. We are clear on what type of unfair practices we are aimed at. Also, the definition of subsidies, and the fact that it is the same definition as in the Gibbons bill indicates clearly that the foreign practices in my bill are the same practices targeted in the Gibbons bill.

This subsidy definition represents a summary of the findings of the Organization for Economic Cooperation and Development [OECD] working group number 6 concerning shipyard subsidy practices. The definition of subsidies includes public ownership of shipyards. "Public sector ownership of commercial ship construction facility" is intended to include any degree of public sector ownership in a commercial ship construction facility such as, for example, those shipyards which are owned in whole or in part, or otherwise controlled or held directly or indirectly, by Sembawang Holding which is an undertaking of the Government of the Republic of Singapore. Also, nothing in this bill is intended to interfere with the operation of the treaty between the United States and Iceland for the carriage of military cargo destined for NATO facilities in Iceland. This bill also includes the investigation and blacklist concepts that are in the Gibbons bill.

Our bill differs, however, from the so-called Gibbons bill in the penalties that are available and imposed after these illegal subsidies are determined to exist. Under my bill, the penalties lie only against "affected vessels."

One of the problems with the Gibbons legislation was that instead of trying to target countries that were providing these illegal subsidies, the Gibbons bill, with a very broad brush, hit tar-

gets that had nothing to do with the subsidizing practices of the foreign country.

Our legislation says that penalties will lie against affected vessels, and these affected vessels are defined as vessels registered in the countries on the blacklist that would be established, which would include those countries that are in fact subsidizing their ship construction industry, on their ship repair industries, and also vessels owned by entities or citizens of those countries.

Mr. President, it makes no sense, in my opinion, to penalize American-owned vessels that had nothing to do with the establishment of those subsidies. An American company with a vessel that was built in a country which subsidizes their shipbuilding industry is not the proper target. The proper target is the country that provides those subsidies.

So in our legislation, Mr. President, the penalties would lie against those affected vessels, which would be vessels registered from the countries on the blacklist as an offending country, and also vessels owned by citizens or entities of that offending country. I think that gives us the proper target, which was one of the main defects with the so-called Gibbons bill. We set up two standards that would have to be met before the penalties could go into effect.

For vessels that are already there, vessels that were built and constructed before enactment of this legislation, the Secretary of Commerce must find that those subsidies which these foreign countries provide in actuality create conditions unfavorable to the ability of any U.S. shipbuilder to engage in the construction of vessels for international commerce.

In other words, what we are saying is simply that for the vessels already in existence, if they are registered in or are owned by citizens or entities of a country which provides a subsidy, there has to be a finding that those subsidies, in effect, contributed to conditions which were unfavorable to our shipyards to be able to build a ship.

Now, for vessels that are going to be constructed after the enactment of this legislation, no such injury test is required. The difference is, I think, very obvious. We are putting these countries on notice from today that if they are constructing ships with subsidies, the fact that those subsidies exist is going to be sufficient for this legislation to kick in and for penalties to, in fact, be imposed.

For these new vessels which would be built after this legislation is adopted, we have a range of penalties the Secretary may impose. We are not narrowing it down and telling him what to do. We are only saying you must do something. And the penalties he can choose from are as follows.

He can impose one or more of the following sanctions: First, he can limit sailings, that is, limit the sailings of those ships into this country; he can provide a monetary penalty of up to \$1 million per voyage on those vessels; he can direct Customs to refuse clearance of those vessels into the United States or he can direct the Coast Guard to deny entry of those subsidized vessels into any U.S. port.

Now, for existing vessels already built, the penalties are different. After the Secretary makes the finding I mentioned, that a subsidy exists and such subsidy has created conditions unfavorable to U.S. shipyards, then for these existing vessels the Secretary must impose one of the following penalties: First, he can limit the sailings; or, second, he can impose this monetary penalty of up to \$1 million per voyage.

Finally, another major difference in this bill and the so-called Gibbons bill is that its focus, as I indicated, is clearly more on the country which is subsidizing shipbuilding and repair work, rather than on the individual ships that were built or repaired in those countries' shipyards.

This bill would not mandate, for instance, the repayment of all the subsidies that individual ships had received by foreign countries. The Gibbons bill would have required repayment of not only all subsidies provided on every ship that would come into a U.S. port, but also every ship in that shipowner's fleet, whether it entered a U.S. port or not.

Mr. President, I suggest this bill represents a fair compromise, a compromise that is workable. One of the problems I have had, as have others who have the same concern I have represented this afternoon, is the fact that if you go too far by requiring too much to be done against these offending countries, it is clear this administration would not sign the bill.

On the other hand, if we did not go far enough, those shipyards which are surely, every day, losing a little bit of their ability to compete in the world market would not be able to support the legislation if it did not do enough.

I think some bill that will become law is needed. It is very important we craft a proper compromise. I suggest that this proposal today, which is going to be available to Members to review, represents that fair compromise. It imposes some very tough penalties after subsidies have been determined to exist. Second, it hits the right target. It does not do us any good to shoot ourselves in our own foot in order to make a point. I think that is exactly what the Gibbons bill would have done.

The second point is the Gibbons bill would not be signed by the President. So that left us with very little to point to as an accomplishment.

So, Mr. President, I submit today a bill to be printed and made available to

my colleagues, and hopefully, in the next couple of days we have remaining in this session, we will be able to find a way to, in fact, take this compromise, adopt it in the Senate, send it to our colleagues in the other body, and have them accept it as well, and then send it to the President under conditions which I think would indicate he will, in fact, be able to support this legislation.

By Mr. ADAMS:

S. 3339. A bill to improve housing for elderly persons that is assisted by the Federal Government, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

SUPPORT SERVICES IN HOUSING ACT

• Mr. ADAMS. Mr. President, I rise today to introduce legislation to make much needed improvements in the Federal housing programs that serve the elderly and persons with disabilities. Dramatic reductions in funding for low-income housing during the Reagan and Bush administrations have resulted in inadequate low-income housing in America's cities. Despite these draconian cuts, there still are things we can do to use available funds to better meet the diverse housing needs of the elderly and persons with disabilities.

I fervently hope that before we adjourn this Congress, we will send a reauthorized National Affordable Housing Act [NAHA] to the President for his signature. If we do, and the President signs it, it will be for a 2-year period. Therefore, the next Congress will again turn its attention to the Nation's low-income housing needs. If the NAHA legislation doesn't get signed into law, the necessity of dealing with these programs will be even more urgent.

The House version of the pending housing bill includes several key changes with regard to housing and the elderly that were introduced by Representative MARILYN LLOYD, the esteemed chair of the Subcommittee on Housing and Consumer Interests of the House Select Committee on Aging. I hope that these provisions will be in the conference agreement that we should take up before we adjourn.

Representative LLOYD's provisions would provide an important boost to our efforts to more effectively respond to the service and housing needs of poor and frail older Americans. We must continue to build upon this work and to strengthen the linkages between housing and long-term care policy.

I will not be here when the 103d Congress convenes. Before I leave to return to private life, however, I am compelled to focus the attention of my colleagues in the Senate on this important issue. Therefore, I am introducing this bill in the hope that it will provide a foundation in the next Congress for further deliberations and action on the needs of older and disabled tenants of publicly assisted housing.

Great numbers of older tenants of assisted housing are aging in place. As they age and become increasingly frailer, they too often face losing their independence and being forced into a nursing home because modest services that would keep them in their apartment or home are not available. The legislation that I am introducing would help to meet those needs and keep older and disabled tenants independent.

First, this bill will address problems in the Department of Housing and Urban Development with regard to federally assisted housing by establishing an Assistant Secretary for Supportive Housing. This new position would carry the responsibility for administration of the supportive housing programs of the Department; for assisting or providing for housing project management staff members who coordinate the provision of supportive services in projects, including service coordinators; and coordination with the Secretary of Health and Human Services for the provision of supportive services in housing.

This legislation would also require a comprehensive review of multifamily housing projects designed to serve elderly persons or families, at least once every 4 years. These reviews would include a review of supportive service needs of all the residents—elderly persons and persons with disabilities alike—and services provided, as well as modernization needs, personnel needs, and financial needs of these projects. Further, the reviews would include local housing markets with respect to the need, availability, and cost of housing for elderly and disabled persons and families.

Mr. President, these periodic reviews are vital to adapting facilities over time to address changing resident needs, particularly as residents age in place. The reviews also are crucial to determining the adequacy of funding levels and priorities of the Department of Housing and Urban Development and the geographic targeting of those resources.

While this bill focuses primarily on improvements in elderly housing, the improvements in access to supportive services, directed by an Assistant Secretary for Supportive Housing, would also benefit persons with disabilities, many of whom have needs similar to those of elderly persons which must be met if they are to maintain their independence and avoid institutionalization.

This bill calls for the creation of one-stop housing assistance application centers for elderly persons and persons with disabilities. These one-stop centers would coordinate with public housing agencies, State and local governments, and other organizations to assist individuals and families in applying for and obtaining housing assistance.

Coordination of housing assistance services would improve efficiency in the administration of housing assistance programs by eliminating duplication of efforts and reducing the need for several agencies to deal with the same applicant regarding the same request. More importantly, however, coordination of housing assistance services would streamline the process of seeking and obtaining housing assistance for many low-income elderly persons and persons with disabilities and, thus, reduce the difficulty and frustration associated with finding suitable assisted housing.

Mr. President, two additional features of this legislation, revised congregate housing services and the expansion of the service coordinator program to the full range of federally assisted housing, are especially significant in that they link elderly residents with critical, but often difficult-to-access services. Under the congregate services program, preference would be given to eligible residents having the greatest economic need and the greatest risk of being placed in institutions. Under the service coordinator provisions, training would be required for all service coordinators and standards set for that training.

As you know, many elderly residents in assisted housing have aged in place and find themselves in need of outside supportive services. Very often the provision of these services can make the difference, particularly for the frail elderly, between remaining independent and living with dignity, or being forced into nursing homes or other institutions for long-term care. Not only is this last option far more costly, but it is not what most elderly individuals want. Service coordinators, working with service providers, can more effectively meet the needs of frail elderly residents, taking into account their desires and ability and willingness to pay for such services.

Finally, Mr. President, this legislation calls for a mixed-income project demonstration and would authorize the use of up to 10 percent of section 202 funds for partial funding of mixed income projects for the elderly. These funds could be used in conjunction with multifamily mortgage insurance, thus acknowledging the vital importance of residentially based models of long-term care. By providing supportive services in full apartments, frail elderly residents in assisted living facilities can maintain their independence longer. These modifications to the Mortgage Insurance Program would help to promote this promising, highly desirable, and less costly, alternative to institutional care.

Mr. President, I urge my colleagues to take this legislation up in the 103d Congress and make these important changes in housing policy. I ask unanimous consent that a copy of the text of

the bill and a summary of its provisions be printed in the RECORD.

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

S. 3339

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

**SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the "Supportive Services in Housing Act of 1992".

(b) **TABLE OF CONTENTS.**—

Sec. 1. Short title and table of contents.

**TITLE I—GENERAL IMPROVEMENTS TO PROGRAMS PROVIDING HOUSING FOR THE ELDERLY**

Sec. 101. Assistant Secretary for supportive housing.

Sec. 102. Review of programs.

Sec. 103. One-stop location for application for housing assistance.

**TITLE II—SECTION 202 SUPPORTIVE HOUSING FOR THE ELDERLY**

Sec. 201. Mixed-income project demonstration.

**TITLE III—REVISED CONGREGATE HOUSING SERVICES**

Sec. 301. Eligibility of residents for supportive services.

**TITLE IV—SERVICE COORDINATORS IN FEDERALLY ASSISTED HOUSING**

Sec. 401. Required training.

Sec. 402. Project-based section 8 housing.

Sec. 403. Multifamily housing assisted under National Housing Act.

Sec. 404. Rural rental housing.

Sec. 405. Revised congregate housing services program.

Sec. 406. Section 202 supportive housing for the elderly.

Sec. 407. Public housing.

**TITLE V—MORTGAGE INSURANCE FOR ASSISTED LIVING FACILITIES**

Sec. 501. Eligibility of assisted living facilities for mortgage insurance under section 232.

**TITLE I—GENERAL IMPROVEMENTS TO PROGRAMS PROVIDING HOUSING FOR THE ELDERLY**

**SEC. 101. ASSISTANT SECRETARY FOR SUPPORTIVE HOUSING.**

(a) **ESTABLISHMENT AND DUTIES.**—Section 4(b) of the Department of Housing and Urban Development Act (42 U.S.C. 3533(b)) is amended—

(1) by inserting "(1)" after the subsection designation; and

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

"(2) There shall be in the Department an Assistant Secretary for Supportive Housing, who shall be one of the Assistant Secretaries, and shall have the powers and duties prescribed by the Secretary. The Assistant Secretary for Supportive Housing shall, under the supervision and direction of the Secretary—

"(A) administer the supportive housing programs of the Department, including supportive housing for the elderly under section 202 of the Housing Act of 1959, supportive housing for persons with disabilities under section 811 of the Cranston-Gonzalez National Affordable Housing Act, revised congregate housing services under section 802 of such Act, and HOPE for elderly independence under section 803 of such Act;

"(B) administer any programs of the Department assisting or providing for housing project management staff members who coordinate the provision of supportive services in projects, including service coordinators under sections 8(d)(2)(F) and 9(a)(1)(B) of the United States Housing Act of 1937, section 202(g)(2) of the Housing Act of 1959, section 802(d)(4) of the Cranston-Gonzalez National Affordable Housing Act, section 515(x) of the Housing Act of 1959, and section 403 of this Act; and

"(C) consult and coordinate with the Secretary of Health and Human Services regarding the provision of supportive services in housing assisted under programs of the Department."

(b) **AGGREGATE NUMBER OF ASSISTANT SECRETARIES.**—Section 4(a) of the Department of Housing and Urban Development Act (42 U.S.C. 3533(a)) is amended by striking "eight" and inserting "nine".

(c) **TIMING OF APPOINTMENT.**—The President shall appoint an individual to serve as Assistant Secretary for Supportive Housing of the Department of Housing and Urban Development, pursuant to section 4(b) of the Department of Housing and Urban Development Act (as amended by this section), not later than the expiration of the 60-day period beginning on the date of the enactment of this Act.

(d) **BASIC PAY AT LEVEL IV OF EXECUTIVE SCHEDULE.**—Section 5315 of title 5, United States Code, is amended in the item relating to Assistant Secretaries of Housing and Urban Development by striking "(8)" and inserting "(9)".

**SEC. 102. REVIEW OF PROGRAMS.**

(a) **REVIEW OF PROJECTS AND SERVICES.**—

(1) **SCOPE.**—The Secretary of Housing and Urban Development, through the Assistant Secretary for Supportive Housing, shall conduct a comprehensive review of—

(A) multifamily housing projects that are designed or designated to serve or are serving elderly persons or families and are assisted under programs of the Department, which shall include review of—

(i) the supportive service needs of such residents and any supportive services provided to such residents;

(ii) any modernization needs and activities for such projects;

(iii) personnel needs of the projects; and

(iv) the financial needs of such projects; and

(B) local housing markets throughout the United States, with respect to the need, availability, and cost of housing for elderly persons and families, which shall include review of any information and plans relating to housing for elderly persons and families included in comprehensive housing affordability strategies submitted by jurisdictions pursuant to section 105 of the Cranston-Gonzalez National Affordable Housing Act;

(2) **TIMING.**—In conducting the review under this subsection, the Secretary shall review approximately 25 percent of the projects and housing markets in the United States each year, so that each project and market is reviewed not less than once every 4 years.

(b) **ANNUAL REVIEW OF FUNDING AND TARGETING.**—The Secretary of Housing and Urban Development, through the Assistant Secretary for Supportive Housing, shall annually conduct a comprehensive review of—

(1) the adequacy of funding levels and priorities of the Department of Housing and Urban Development for programs assisting housing for elderly persons and families, based on information acquired pursuant to subsection (a)(1); and

(2) the adequacy of the geographic targeting of resources provided under such programs by the Department, based on information acquired pursuant to subsection (a)(1).

(c) **REPORT.**—The Secretary of Housing and Urban Development shall submit a report to the Congress annually describing the results of the reviews conducted under subsections (a) and (b), which shall contain a description of the methods used by project owners and by the Secretary to acquire the information described in subsection (a)(1) and any findings and recommendations of the Secretary pursuant to the review.

**SEC. 103. ONE-STOP HOUSING ASSISTANCE APPLICATION CENTERS.**

(a) **IN GENERAL.**—The Secretary of Housing and Urban Development shall consult with appropriate local agencies within each housing market area in which any assistance for housing for elderly persons provided under programs administered by the Secretary is available and, to the extent possible, enter into agreements with agencies in each such area under which the agencies will provide one-stop housing assistance application centers under this section for elderly persons and persons with disabilities.

(b) **RESPONSIBILITIES OF CENTERS.**—Each agreement entered into pursuant to subsection (a) shall require the local agency to provide establish and maintain, at a single location, a facility for individuals and families in the housing market area—

(1) to apply for any elderly housing assistance available under programs administered by the Secretary and for occupancy in units in any housing projects that are located within the area and assisted under such programs;

(2) to obtain information regarding the availability of such housing assistance, dwelling units in such assisted housing, and any other available housing opportunities as the Secretary and the agency may agree; and

(3) to obtain information regarding the availability of counseling services provided by public and private organizations receiving assistance under section 106 of the Housing and Urban Development Act of 1968 to provide homeownership, rental, or prepurchase and foreclosure-prevention counseling within the housing market area.

(c) **COORDINATION.**—In carrying out the responsibilities under subsection (b), each agency providing a one-stop housing assistance application center shall coordinate with—

(1) any public housing agencies providing public housing or administering assistance under section 8 of the United States Housing Act of 1937, within the housing market area;

(2) any public and private organizations receiving assistance under section 106 of the Housing and Urban Development Act of 1968 to provide homeownership, rental, or prepurchase and foreclosure-prevention counseling within the housing market area; and

(3) any appropriate State and local government agencies.

(d) **DEFINITIONS.**—For purposes of this section—

(1) the term "elderly person" has the meaning given the term in section 202(k) of the Housing Act of 1959;

(2) the term "person with disabilities" has the meaning given the term in section 811(k) of the Cranston-Gonzalez National Affordable Housing Act;

(3) the term "housing market area" means a market area designated by the Secretary pursuant to section 8(c) of the United States

Housing Act of 1937 for purposes of establishing a fair market rental under such section;

(4) the term "local agency" includes State and local government housing agencies, public housing agencies, Indian housing authorities, area agencies on the aging designated pursuant to section 305(a) of the Older Americans Act of 1965, and any other agencies or organizations that the Secretary considers appropriate and capable of carrying out the responsibilities under subsection (b); and

(5) the term "Secretary" means the Secretary of Housing and Urban Development.

#### TITLE II—SECTION 202 SUPPORTIVE HOUSING FOR THE ELDERLY

##### SEC. 201. MIXED-INCOME PROJECT DEMONSTRATION.

(a) ESTABLISHMENT.—The Secretary of Housing and Urban Development (in this section referred to as the "Secretary") shall carry out a program to demonstrate the effectiveness of using amounts provided for the development of supportive housing for the elderly for the development, within housing projects occupied by elderly persons of varying incomes, of units reserved for occupancy by very low-income elderly persons.

(b) FUNDING.—Notwithstanding section 202 of the Housing Act of 1959 and to the extent approved in appropriation Acts, to carry out the demonstration program under this section, the Secretary may use—

(1) not more than 10 percent of the amounts made available for fiscal year 1993 for capital advances under such section for capital advances under the demonstration; and

(2) not more than 10 percent of the amounts made available for fiscal year 1993 for project rental assistance under such section for rental assistance under the demonstration.

(c) OPERATION OF DEMONSTRATION.—Except as provided in this section, amounts made available under subsection (b) shall be used in the manner provided under section 202 of the Housing Act of 1959 (as amended by section 801(a) of the Cranston-Gonzalez National Affordable Housing Act) and subject to the requirements of such section.

(d) ASSISTANCE.—

(1) USE OF FUNDS.—Under the demonstration under this section, the Secretary shall provide assistance to private nonprofit organizations and consumer cooperatives for the development, construction, acquisition, reconstruction, or rehabilitation—

(A) of multifamily housing projects for the elderly containing dwelling units that are designed to meet the special physical needs of elderly persons and reserved for occupancy by very low-income elderly persons; and

(B) within multifamily housing projects for the elderly, of such dwelling units.

(2) FLEXIBILITY OF USE.—Amounts made available under this section may be used to finance the development of such projects, or the costs of such projects, in any manner authorized under section 202 of the Housing Act of 1959, except that amounts provided under this section shall be available for any authorized use with respect to the project, and shall not be limited to use for dwelling units described in paragraph (1).

(e) SUPPORTIVE SERVICES.—Dwelling units assisted under the demonstration under this section shall be designed to accommodate the provision of supportive services that are expected to be needed, either initially or over the useful life of the units, by the category or categories of elderly persons that such units are intended to serve.

(f) DEVELOPMENT COST LIMITATIONS.—For purposes of carrying out the demonstration

under this section, the Secretary may establish development cost limitations for development of units within projects, taking into consideration the development cost limitations established under section 202(h) of the Housing Act of 1959 for development of supportive housing projects and any differences in the costs of developing units within projects.

(g) MORTGAGE INSURANCE.—Any mortgage otherwise eligible for mortgage insurance under any multifamily mortgage insurance program under title II of the National Housing Act shall not be ineligible for such insurance because of the provision of assistance under this section for the housing project securing the mortgage or because the project contains dwelling units described in subsection (d)(1) pursuant to assistance provided under this section.

(h) APPLICATION AND SELECTION.—

(1) APPLICATIONS.—The Secretary shall provide for applications for assistance under this section in the form and manner provided under section 202(e) of the Housing Act of 1959, except that such applications shall also contain—

(A) a description of the incomes among the tenant population of the housing project in which the units to be assisted under the demonstration are located; and

(B) a description of the physical location, within the housing project, of the units to be assisted under the demonstration.

(2) SELECTION.—The Secretary shall select not less than 10 applications for assistance under this section based on the selection criteria established under section 202(f) of the Housing Act of 1959, except that—

(A) the Secretary shall also provide for national geographic diversity among projects assisted under this section;

(B) the Secretary may also consider the extent to which the proposed mix of incomes in the housing project in which the units to be assisted under the demonstration are located and the physical location of the units in the project will provide a suitable living environment for elderly tenants of the units, will ensure the economical provision of supportive services for the elderly tenants of the units, and will enable the efficient management and operation of the project; and

(C) the Secretary may also consider the appropriateness of various mixes of incomes in the housing projects containing units assisted under the demonstration.

(i) REPORT.—The Secretary shall annually submit a report regarding the demonstration under this section to the Congress. The first such report shall be submitted not later than the expiration of the 12-month period beginning on the date of the enactment of this Act. The report shall contain any findings and conclusion of the Secretary as a result of carrying out the demonstration.

(j) REGULATIONS.—The Secretary may issue any regulations necessary to carry out the demonstration under this section not later than the expiration of the 90-day period beginning on the date of the enactment of this Act.

#### TITLE III—REVISED CONGREGATE HOUSING SERVICES

##### SEC. 301. ELIGIBILITY OF RESIDENTS FOR SUPPORTIVE SERVICES.

(a) FRAIL ELDERLY.—The first sentence of section 802(k)(8) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8011(k)(8)) is amended to read as follows: "The term 'frail elderly' means an elderly person who has any functional disability (or disabilities) which may impair the ability of the person to live independently and put the

person at risk of being placed in a nursing home or other institution."

(b) SELECTION AMONG ELIGIBLE RESIDENTS FOR SERVICES.—Section 802(e)(2) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8011(e)(2)) is amended to read as follows:

"(2) NEED.—In providing services under a congregate services program, the program shall—

"(A) consider the economic need of eligible project residents, and shall give preference to serving eligible project residents having the greatest economic need; and

"(B) consider the level of functional disability of eligible project residents and any risks that such disabilities would, absent supportive services, result in such residents being placed in institutions, and shall give preference to serving eligible project residents with the highest such level of risk."

#### TITLE IV—SERVICE COORDINATORS IN FEDERALLY ASSISTED HOUSING

##### SEC. 401. REQUIRED TRAINING.

Section 802(d)(4) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8011(d)(4)) is amended by inserting after the period at the end of the first sentence beginning after subparagraph (E) the following new sentence: "Such qualifications and standards shall include requiring each service coordinator to be trained in the aging process, elder services, eligibility for and procedures of Federal and applicable State entitlement programs, legal liability issues relating to providing service coordination, drug and alcohol use and abuse by the elderly, and mental health issues relating to aging."

##### SEC. 402. PROJECT-BASED SECTION 8 HOUSING.

Section 8(d)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(2)) is amended by adding at the end the following new subparagraph:

"(F)(i) In determining the amount of assistance provided under a contract for assistance payments that is attached to a structure, with respect to any project that the Secretary determines has a sufficient number of frail elderly residents, the Secretary may consider and annually adjust for the cost of employing or otherwise retaining the services of one or more individuals to coordinate services provided for residents of the project (in this subparagraph referred to as a 'service coordinator'), who shall be responsible for—

"(I) assessing the supportive service needs of frail elderly residents of the project, based on objective criteria and interviews with such residents;

"(II) working with service providers to design the provision of services to meet the needs of frail elderly residents of the project, taking into consideration the needs and desires of such residents and their ability and willingness to pay for such services, as expressed by the residents;

"(III) mobilizing public and private resources to obtain funding for such services for such residents;

"(IV) monitoring and evaluating the impact and effectiveness of any supportive services provided for such residents;

"(V) consulting and coordinating with any appropriate public and private agencies regarding the provision of supportive services; and

"(VI) performing such other duties that the Secretary deems appropriate to enable frail elderly persons residing in federally assisted housing to live with dignity and independence.

"(f) Individuals employed as service coordinators pursuant to this subparagraph shall

meet the minimum qualifications and standards established under section 802(d)(4) of the Cranston-Gonzalez National Affordable Housing Act for service coordinators under a congregate housing services program.

"(iii) For purposes of this subparagraph, the term 'frail elderly' has the meaning given the term in section 802(k) of the Cranston-Gonzalez National Affordable Housing Act."

**SEC. 403. MULTIFAMILY HOUSING ASSISTED UNDER NATIONAL HOUSING ACT.**

(a) **AUTHORITY AND ELIGIBLE PROJECTS.**—The Secretary of Housing and Urban Development (in this section referred to as the "Secretary") may make grants under this section to owners of housing projects—

(1) that are—  
(A) financed by a loan or mortgage insured under section 221(d)(3) of the National Housing Act that bears interest at a rate determined under the proviso of section 221(d)(5) of such Act; or

(B) insured, assisted, or held by the Secretary or a State or State agency under section 236 of the National Housing Act; and

(2) that have a sufficient number of frail elderly residents, as determined by the Secretary.

(b) **USE.**—Any such grant amounts shall be used for the cost of employing or otherwise retaining the services of one or more individuals to coordinate services provided for frail elderly residents of the project (in this section referred to as a "service coordinator"), who shall be responsible for—

(A) assessing the supportive service needs of frail elderly residents of the project, based on objective criteria and interviews with such residents;

(B) working with service providers to design the provision of services to meet the needs of frail elderly residents of the project, taking into consideration the needs and desires of such residents and their ability and willingness to pay for such services, as expressed by the residents;

(C) mobilizing public and private resources to obtain funding for such services for such residents;

(D) monitoring and evaluating the impact and effectiveness of any supportive services provided for such residents;

(E) consulting and coordinating with any appropriate public and private agencies regarding the provision of supportive services; and

(F) performing such other duties that the Secretary deems appropriate to enable frail elderly persons residing in federally assisted housing to live with dignity and independence.

(c) **QUALIFICATIONS.**—Individuals employed as service coordinators pursuant to this section shall meet the minimum qualifications and standards established under section 802(d)(4) of the Cranston-Gonzalez National Affordable Housing Act for service coordinators under a congregate housing services program.

(d) **DEFINITION OF FRAIL ELDERLY.**—For purposes of this section, the term "frail elderly" has the meaning given the term in section 802(k) of the Cranston-Gonzalez National Affordable Housing Act.

(e) **APPLICATION AND SELECTION.**—The Secretary shall provide for the form and manner of applications for grants under this section and for selection of applicants to receive such grants.

(f) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated for grants under this section such sums as may be necessary for each of fiscal years 1993 and 1994.

**SEC. 404. RURAL RENTAL HOUSING.**

(a) **IN GENERAL.**—Section 515 of the Housing Act of 1949 (42 U.S.C. 1485) is amended by adding at the end the following new subsection:

"(x) **SERVICE COORDINATORS.**—

"(1) **GRANTS.**—The Secretary may make grants under this subsection, with respect to any project that the Secretary determines has a sufficient number of frail elderly residents, for the cost of employing or otherwise retaining the services of one or more individuals to coordinate services provided to frail elderly residents of the project (in this subsection referred to as a 'service coordinator'), who shall be responsible for—

"(A) assessing the supportive service needs of frail elderly residents of the project, based on objective criteria and interviews with such residents;

"(B) working with service providers to design the provision of services to meet the needs of frail elderly residents of the project, taking into consideration the needs and desires of such residents and their ability and willingness to pay for such services, as expressed by the residents;

"(C) mobilizing public and private resources to obtain funding for such services for such residents;

"(D) monitoring and evaluating the impact and effectiveness of any supportive services provided for such residents;

"(E) consulting and coordinating with any appropriate public and private agencies regarding the provision of supportive services; and

"(F) performing such other duties that the Secretary deems appropriate to enable frail elderly persons residing in federally assisted housing to live with dignity and independence.

"(2) **QUALIFICATIONS.**—Individuals employed as service coordinators pursuant to this subsection shall meet the minimum qualifications and standards established under section 802(d)(4) of the Cranston-Gonzalez National Affordable Housing Act for service coordinators under a congregate housing services program.

"(3) **APPLICATION AND SELECTION.**—The Secretary shall provide for the form and manner of applications for grants under this subsection and for the selection of applicants to receive the grants.

"(4) **DEFINITION OF FRAIL ELDERLY.**—For purposes of this subsection, the term 'frail elderly' has the meaning given the term in section 802(k) of the Cranston-Gonzalez National Affordable Housing Act."

(b) **FUNDING.**—Section 513(b) of the Housing Act of 1959 (42 U.S.C. 1483(b)) is amended by adding at the end the following new paragraph:

"(9) For grants under section 515(x), such sums as may be necessary for each of fiscal years 1993 and 1994."

**SEC. 405. REVISED CONGREGATE HOUSING SERVICES PROGRAM.**

Section 802(d)(4) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8011(d)(4)) is amended—

(1) in the matter preceding subparagraph (A), by striking "with respect to the employment of" and inserting "to employ or otherwise retain the services of";

(2) in subparagraph (A), by inserting "based on objective criteria and interviews with such residents" before the semicolon at the end;

(3) in subparagraph (B), by inserting "taking into consideration the needs and desires of such residents and their ability and willingness to pay for such services, as ex-

pressed by the residents" before the semicolon at the end;

(4) in subparagraph (D), by striking "and" at the end;

(5) by redesignating subparagraph (E) as subparagraph (F); and

(6) by inserting after subparagraph (D) the following new subparagraph:

"(E) consulting and coordinating with any appropriate public and private agencies regarding the provision of supportive services; and"

**SEC. 406. SECTION 202 HOUSING FOR THE ELDERLY.**

(a) **SUPPORTIVE HOUSING FOR THE ELDERLY.**—Section 202(g)(2) of the Housing Act of 1959 (12 U.S.C. 1701q(g)(2)) is amended—

(1) in the last sentence, by striking "the employment" and inserting "employing or otherwise retaining the services"; and

(2) by inserting after the period at the end the following: "Any service coordinator employed pursuant to this paragraph shall be responsible for assessing the supportive service needs of residents of the project, based on objective criteria and interviews with such residents, working with service providers to design the provision of services to meet the needs of such residents, taking into consideration the needs and desires of such residents and their ability and willingness to pay for such services, as expressed by the residents, and consulting and coordinating with any appropriate public and private agencies regarding the provision of supportive services. Individuals employed as service coordinators shall meet the minimum qualifications and standards established under section 802(d)(4) of the Cranston-Gonzalez National Affordable Housing Act for service coordinators under a congregate housing services program."

(b) **OLD SECTION 202 PROJECTS.**—For any project subject to the provisions of section 202 of the Housing Act of 1959, as in effect before the effectiveness of the amendment made by section 801(a) of the Cranston-Gonzalez National Affordable Housing Act, notwithstanding the provisions of such section 202(g)(2)(A), the Secretary may consider and adjust under such section 202(g)(2) for the expenses of employing or otherwise retaining the services of one or more individuals (in this subsection referred to as a "service coordinator") to coordinate services provided to residents of the project, especially residents who are frail elderly persons, who shall be responsible for—

(1) assessing the supportive service needs of the residents of the project, based on objective criteria and interviews with the residents;

(2) working with service providers to design the provision of services to meet the needs of residents of the project, taking into consideration the needs and desires of the residents and their ability and willingness to pay for such services, as expressed by the residents;

(3) mobilizing public and private resources to obtain funding for such services for the residents;

(4) monitoring and evaluating the impact and effectiveness of any supportive services provided for the residents;

(5) consulting and coordinating with any appropriate public and private agencies regarding the provision of supportive services; and

(6) performing such other duties that the Secretary deems appropriate to enable the residents of the project to live with dignity and independence.

Individuals employed as service coordinators pursuant to this subsection shall meet the

minimum qualifications and standards established under section 802(d)(4) of the Cranston-Gonzalez National Affordable Housing Act for service coordinators under a congregate housing services program.

#### SEC. 407. PUBLIC HOUSING.

Section 9(a)(1)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437g(a)(1)(B)) is amended—

(1) in the first sentence, by striking "a management staff member" and inserting "employing or otherwise retaining the services of one or more individuals (in this subparagraph referred to as a 'service coordinator')"; and

(2) by adding at the end the following: "Any service coordinator employed pursuant to this subparagraph shall be responsible for assessing the supportive service needs of residents of the project who are frail elderly or persons with disabilities, based on objective criteria and interviews with such residents, working with service providers to design the provision of services to meet the needs of such residents, taking into consideration the needs and desires of such residents and their ability and willingness to pay for such services, as expressed by the residents, and consulting and coordinating with any appropriate public and private agencies regarding the provision of supportive services. Individuals employed as service coordinators shall meet the minimum qualifications and standards established under section 802(d)(4) of the Cranston-Gonzalez National Affordable Housing Act for service coordinators under a congregate housing services program."

#### TITLE V—MORTGAGE INSURANCE FOR ASSISTED LIVING FACILITIES

##### SEC. 501. ELIGIBILITY OF ASSISTED LIVING FACILITIES FOR MORTGAGE INSURANCE UNDER SECTION 232.

(a) PURPOSE.—Section 232(a) of the National Housing Act (12 U.S.C. 1715w(a)) is amended—

(1) in the matter preceding paragraph (1), by striking "either" and inserting "any"; and

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

"(3) The development of assisted living facilities for the care of frail elderly persons."

(b) DEFINITIONS.—Section 232(b) of the National Housing Act (12 U.S.C. 1715w(b)) is amended—

(1) in paragraph (4), by striking "and" at the end;

(2) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(6) the term 'assisted living facility' means a public facility, proprietary facility, or facility of a private nonprofit corporation that—

"(A) is licensed and regulated by the State (or if there is no State law providing for such licensing and regulation by the State, by the municipality or other political subdivision in which the facility is located);

"(B) makes available to residents supportive services to assist the residents in carrying out activities of daily living, such as bathing, dressing, eating, getting in and out of bed or chairs, walking, going outdoors, using the toilet, laundry, home management, preparing meals, shopping for personal items, obtaining and taking medication, managing money, using the telephone, or performing light or heavy housework, and which may make available to residents home health care services, such as nursing and therapy; and

"(C) provides separate dwelling units for residents, each of which contains full kitchen, toileting and bathing facilities, and which includes common rooms and other facilities appropriate for the provision of supportive services to the residents of the facility; and

"(7) the term 'frail elderly person' has the meaning given the term in section 802(k) of the Cranston-Gonzalez National Affordable Housing Act."

(c) MORTGAGE REQUIREMENTS.—Section 232(d) of the National Housing Act (12 U.S.C. 1715w(d)) is amended—

(1) in the matter preceding paragraph (1)—

(A) by inserting ", assisted living facility,"

before "or intermediate care facility"; and

(B) by striking "combined nursing home and intermediate care facility" and inserting "any combination of nursing home, assisted living facility, and intermediate care facility";

(2) in paragraph (2), in the matter preceding subparagraph (A), by inserting ", or 100 percent of the estimated value of the property or project in the case of a mortgagor that is a private nonprofit corporation or association (under the meaning given such term for purposes of section 221(d)(3) of this Act)," before "including"; and

(3) in paragraph (4), by adding at the end the following new subparagraphs:

"(C) With respect to assisted living facilities or any such facility combined with any other home or facility, the Secretary shall not insure any mortgage under this section unless—

"(i) the Secretary determines that the level of financing acquired by the mortgagor and any other resources available for the facility will be sufficient to ensure that the facility contains dwelling units and facilities for the provision of supportive services in accordance with subsection (b)(6);

"(ii) the mortgagor provides assurances satisfactory to the Secretary that each dwelling unit in the facility will not be occupied by more than 1 person without the consent of all such occupants; and

"(iii) the appropriate State licensing agency for the State, municipality, or other political subdivision in which the facility is or is to be located provides such assurances as the Secretary considers necessary that the facility will comply with any applicable standards and requirements for such facilities."

(d) FIRE SAFETY EQUIPMENT.—Section 232(i)(1) of the National Housing Act (12 U.S.C. 1715w(i)(1)) is amended by inserting ", assisted living facilities," after "nursing homes".

(e) ADMINISTRATION.—Section 232 of the National Housing Act (12 U.S.C. 1715w) is amended by adding at the end the following new subsection:

"(j) The Secretary shall establish schedules and deadlines for the processing and approval (or provision of notice of disapproval) of applications for mortgage insurance under this section. The Secretary shall submit a report to the Congress annually describing such schedules and deadlines and the extent of compliance by the Department with the schedules and deadlines during the year."

(f) AUTHORITY TO INSURE REFINANCING.—Section 223(f) of the National Housing Act (12 U.S.C. 1715n(f)) is amended by inserting "existing assisted living facility," after "existing nursing home," each place it appears.

#### SUPPORTIVE SERVICES IN HOUSING ACT OF 1992—SECTION-BY-SECTION DESCRIPTION

General Purposes: To improve housing for elderly persons that is assisted by the Federal Government, and for other purposes.

#### TITLE I—GENERAL IMPROVEMENTS TO PROGRAMS PROVIDING HOUSING FOR THE ELDERLY

Title I includes three sections: Section 101 establishes in the Department of Housing and Urban Development (DHUD) an Assistant Secretary for Supportive Housing and describes the duties ascribed to this position. Section 102 calls for a periodic review of projects and services designed or designated to serve elderly persons. Section 103 calls for one-stop housing assistance application centers for elderly persons and persons with disabilities.

##### Section 101. Assistant Secretary for Supportive Housing (ASSH)

This section creates an office of Supportive Housing to be headed by an Assistant Secretary to administer programs for the elderly, disabled, and homeless and to coordinate programs with social services agencies.

This section also calls for the ASSH to consult and coordinate with the Secretary of Health and Human Services regarding the provision of supportive services in housing assisted under programs of that Department.

##### Section 102. Review of programs

This section contains the requirement that all federally assisted housing projects designated for the elderly be reviewed at least once every four years. Such a review would cover supportive services, modernization, personnel and financial needs of such projects. This section also requires that the Secretary prepare an annual report to Congress on the adequacy of funding levels to meet the needs identified and on the adequacy of the geographic targeting of resources.

##### Section 103. One-stop housing assistance application centers

This section provides for funding agencies in each housing market area to provide assistance, at a single location, for older and disabled applicants for federally assisted housing to obtain information and to apply for the range of housing for which they are eligible.

This section also defines the following terms:

Elderly person—has the meaning given the term in section 202(k) of the Housing Act of 1959.

Person with disabilities—has the meaning given the term in section 811(k) of the Cranston-Gonzalez National Affordable Housing Act.

Housing market area—means a market area designated by the Secretary pursuant to section 8(c) of the United States Housing Act of 1937 for purposes of establishing a fair market rental under such section;

Local agency—includes State and local government housing agencies, public housing agencies, Indian housing authorities, area agencies designated pursuant to section 305(a) of the Older Americans Act of 1965, and any other agencies or organizations that the Secretary considers appropriate and capable of carrying out the responsibilities under subsection (b).

Secretary—means the Secretary of Housing and Urban Development.

#### TITLE II—SECTION 202 SUPPORTIVE HOUSING FOR THE ELDERLY

##### Section 201. Mixed-income project demonstration

This section authorizes the use of 10 percent of Section 202 funds for partial funding

of mixed income demonstration projects for the elderly. Funds could be used in conjunction with multifamily mortgage insurance for the balance of the project.

The Secretary shall select not less than 10 applications for assistance under this section. The selection of applications must provide for a national geographic diversity among the projects.

This section also calls for the Secretary to submit an annual report containing any findings and conclusions of the Secretary as a result of carrying out the demonstration.

**TITLE III—REVISED CONGREGATE HOUSING SERVICES**

*Section 301. Eligibility of residents for supportive services*

This section changes the definition of the term "frail elderly" to: an elderly person who has any functional disability (or disabilities) which may impair the ability of the person to live independently and put the person at risk of being placed in a nursing home or other institution.

In providing services under a congregate services program, the program shall give preference to eligible residents having the greatest economic need and with the greatest risk of being placed in institutions.

**TITLE IV—SERVICE COORDINATORS IN FEDERALLY ASSISTED HOUSING**

Title IV contains seven sections which set forth training requirements for service coordinators, and either extend authority to provide service coordinators in public or assisted housing, or revise service coordinator provisions.

*Section 401. Required training*

This section establishes training qualifications for service coordinators.

*Section 402. Project-based section 8 housing*

This section extends authority to provide service coordinators to Section 8 projects serving older people.

*Section 403. Multifamily housing assisted under National Housing Act*

This section extends authority to provide service coordinators to Section 221(d)(3) and Section 236 projects serving older people.

*Section 404. Rural rental housing*

This section extends authority to provide service coordinators to Farmers Home Section 515 projects serving older people.

*Section 405. Revised Congregate Housing Services Program*

This section makes revisions to CHSP in Section 802(d)(4) of the Cranston-Gonzalez National Affordable Housing Act to conform with service coordinator provisions.

*Section 406. Section 202 housing for the elderly*

This section makes revisions to Section 202(g)(2) of the Housing Act of 1959 to conform with service coordinator provisions.

*Section 407. Public housing*

This section revises Section 9(a)(1)(B) of the United States Housing Act of 1937 to conform with other service coordinator provisions.

**TITLE V—MORTGAGE INSURANCE FOR ASSISTED LIVING FACILITIES**

*Section 501. Eligibility of assisted living facilities for mortgage insurance under section 232*

This section clarifies the eligibility of assisted living facilities to receive insured financing under the Section 232 program, and defines standards for assisted living financing.

This section defines the term "assisted living facility" as a public facility, proprietary

facility, or facility of a private nonprofit corporation that (A) is licensed and regulated by the State; (B) makes available to residents supportive services; and (C) provides separate dwelling units for residents.●

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

S. 3340. A bill to amend title XIX of the Social Security Act to improve the program related to home and community based care; to the Committee on Finance.

**HOME AND COMMUNITY BASED CARE PROGRAM**

● Mr. PRYOR. Mr. President, 2 years ago this month we passed legislation that provided some \$580 million over 5 years for home- and community-based long-term care services. Section 4711 of the Omnibus Budget Reconciliation Act of 1990 created a new limited option under the Medicaid Program under which States could provide a broad range of services to very poor, very frail persons over the age of 65.

Although many States are eager to offer long-term care services to their elderly citizens, only two States—and it was one State until very recently—have taken advantage of this option. There are a number of reasons for the States' reluctance, including what they consider to be overly restrictive income and disability requirements, and concerns about the way the available funds are allocated.

Mr. President, given the enormous need we have for long-term care, I am troubled by the fact that we have not taken advantage of the millions of dollars available for these services. For that reason, I am joined today by Senator GRAHAM in introducing legislation that would address some of the concerns that have been raised by States and aging advocacy organizations with respect to section 4711. It is our hope that it will make the option more attractive and viable to the States.

Some of the States' biggest concerns with this program are the result of it being a capped entitlement. In other words, a State is required to serve as many people as are eligible for these services, whether or not there are sufficient matching funds available from the Federal Government. This fiscal uncertainty is further compounded by the way the funds are currently allocated. The present system permits States to enter the program at any time during a fiscal year. Therefore, if a State entered the program late in the fiscal year, it would restrict the money that has already been allocated to other States.

This legislation addresses these issues in the following way: It permits States to limit the number of persons who could receive these services, and it limits the number of participating States to 25. It is my intention that these changes to the program be temporary, and that once the program becomes a regular option under the Medicaid Program, these limits would be

eliminated. The Senate Finance Committee also included a provision in S. 3274 that addresses the allocation of funds under this program, as does S. 3187, a bill I cosponsored with Senator GRAHAM.

This legislation would also liberalize the existing income and disability eligibility requirements, giving the States the flexibility they need to tailor the program to their citizens' needs. In addition, my bill would extend spousal impoverishment protection to persons eligible for this program.

Mr. President, it is vitally important that we work with the States and advocacy groups to see that this money is utilized. I urge my colleagues to join Senator GRAHAM and me in supporting this legislation.●

By Mr. BROWN:

S. 3341. A bill to amend the Federal Water Pollution Control Act to provide for the use of biomonitoring and whole effluent toxicity testing in connection with publicly owned treatment works, and for other purposes; to the Committee on Environment and Public Works.

**PUBLICLY OWNED TREATMENT WORKS BIOMONITORING USE ACT**

● Mr. BROWN. Mr. President, toxicity in the Nation's waters is a major concern for both human health and the environment. Its prevention is important to this generation and future generations. The 1987 amendments to the Clean Water Act imposed additional requirements relating to the control of toxics on local governments, the Environmental Protection Agency, and the States. In particular, the 1987 Act required biomonitoring or whole effluent toxicity testing for municipal sewage plant discharges.

Unfortunately, the implementation of this requirement is having the unintended effect of discouraging the use of this method for identifying and preventing toxicity. As a result, there is less, not more, testing, and municipalities that would like to use biomonitoring more frequently are instead only meeting the minimum requirements of the law.

Section 303(c)(2)(B) of the Clean Water Act requires the adoption of numeric criteria for toxic pollutants listed under section 307(a) of the act if the discharge or presence of these toxics in the affected waters could reasonably be expected to interfere with designated uses adopted by the State. The focus of these criteria is on toxicity in streams, not at the end of a sewage treatment plant pipe. Where numeric criteria is not available, States are to adopt criteria using biological monitoring or assessment methods based on information to be published by EPA under section 304(a)(8) of the act.

Neither section 304(a)(8) nor any other provision of the act requires that

EPA establish enforceable biomonitoring and testing limits, or that the failure of a single biomonitoring test be treated as a permit violation. However, in 1990 the Environmental Protection Agency issued regulations which state that biomonitoring test failures will be treated as a violation of the Clean Water Act. Civil penalties of up to \$25,000 per day are provided for discharge permit violations.

Since biomonitoring and testing is often required on a monthly or quarterly basis, a single test exceedance could result in a finding of 30 or 90 days of violation at \$25,000 per day. Total penalty liability for quarterly testing could therefore amount to \$2,250,000.

EPA believes that it is bound by this unfortunate approach. The Agency is now including enforceable biomonitoring requirements in individual NPDES permits and is insisting that States include these requirements as a part of delegated programs. EPA has also filed a civil action against at least one major municipality seeking penalties for test failures and for other violations of the Clean Water Act.

EPA's single test failure enforcement approach is not supported by Agency scientists who developed the technical protocols for conducting these tests. These scientists have recognized that biomonitoring tests were never designed, and are inappropriate for, compliance and enforcement use because of the variability of test results and because repeated tests are needed to identify and locate toxicity.

My State has worked very closely with EPA for many years in an effort to work out a mutually satisfactory solution that would encourage, and even require, the use of biomonitoring without risk of unwarranted penalty liability for local governments. However, EPA's June 25, 1992, letter to the Colorado Attorney General's office indicates no flexibility in the Agency's position. EPA's continued belief that it must retain the option to demand penalties for simple test failures makes legislative relief both appropriate and necessary.

The bill we introduce today would resolve disputes between EPA and some States such as Colorado which first included this bill's approach in State regulations and some individual NPDES permits. EPA has challenged these permits in Colorado, even though the Agency has never explained why the Colorado approach is inadequate to meet the toxics control goal of the Federal act.

If Colorado and the other States which have adopted similar approaches do not acquiesce in EPA's position on this issue, they face the loss of the act's delegated permit responsibilities. This would be an unfortunate result for the effective administration of this important environmental compliance program.

#### ENFORCEMENT OF PASS/FAIL TESTS IS INAPPROPRIATE FOR SEWAGE PLANTS

The use of biomonitoring test failures for enforcement purposes is particularly inappropriate for publicly owned treatment works or POTW's because sewage treatment plants have not been designed to control toxics. Further, repeated biomonitoring tests are needed to identify the causes of toxicity which can then be corrected by a variety of means including pretreatment program enforcement, best management practices, and treatment modifications to the POTW. However, under the EPA approach, each test failure is a violation of the act subject to enforcement action and the \$25,000 penalty amount.

Treatment plants have limited control over what is discharged to them. Illegal discharges such as midnight dumps cannot be anticipated nor controlled.

Household products such as cleaners, and copper plumbing can sometimes cause toxicity that cannot be controlled at the POTW. In addition, the impact of the interaction of complex influent streams to treatment plants cannot be anticipated, and can only be identified after toxicity has been detected.

While municipal pretreatment programs are important measures for controlling toxicity and protecting POTW's even an adequately implemented program does not guarantee against biomonitoring test failures. In any case, a substantial number of scientific studies have led to the conclusion that the biomonitoring test itself is subject to significance of individual test results.

#### IMPACT OF EPA REGULATIONS

Under the EPA approach, POTW's would face the prospect of major fine and penalty payments for these problems without the opportunity to stop them before they occur. This is a fundamentally unfair and technically unsound result. The EPA position on this issue is actually a disincentive to use biomonitoring and testing, which could be a useful tool for detecting, identifying, investigating, and locating toxicity.

While quarterly tests are now commonly required, more frequent testing is often needed to locate toxicity. The more frequently such tests are used, the more likely existing toxics will be found. POTW's should be encouraged to test as frequently as they can within permit requirements, not discouraged from testing by the threat of unreasonable penalties.

Scientific protocols often provide for accelerated testing once toxics are detected. Under EPA regulations, each test failure would subject POTW's to major penalties. It is clear however, that if test failures are the basis for fine and penalty liability, treatment plant operators and managers will be

understandably reluctant to conduct frequent tests.

EPA responds to these concerns by promising to consider the issues in the course of their exercise of prosecutorial discretion. However, promises of flexibility are often illusory, and undefined agency discretion can lead to abuse and uneven enforcement throughout the country in order to meet recognized agency compliance goals and enforcement objectives. Moreover, attempts by the agency to use this discretion can be closely circumscribed by the threat of citizen suits.

The Publicly Owned Treatment Works Biomonitoring Use Act is designed to eliminate these problems and encourage the wider use of biomonitoring and testing.

First, this bill would clarify congressional intent by expressly recognizing that no authority exists under the Clean Water Act to use biomonitoring test failures as the sole basis for fines and penalties under the Act. Individual States would nevertheless retain this option under State law.

Second, the bill provides that EPA or State NPDES permitting agencies could include enforceable programs and schedules of compliance or other restrictions in discharge permits if toxicity is detected in POTW discharges. Municipal failure to comply with such programs and schedules for detecting, identifying, locating, and controlling toxicity would continue to be subject to enforcement action and penalties as provided by law.

Mr. President, this bill would clarify this unfortunate situation by eliminating what EPA unfortunately construes to be a mandate, while simultaneously assuring a fair approach which encourages more frequent testing when needed. The rivers, lakes, and streams of our country and the health of its citizens would benefit from the adoption of this measure.●

By Mr. DECONCINI:

S. 3342. A bill relating to copyright compulsory licensing reform; to the Committee on the Judiciary.

#### COPYRIGHT COMPULSORY LICENSE REFORM ACT OF 1992

●Mr. DECONCINI. Mr. President, today, I rise to introduce the Copyright Compulsory License Reform Act of 1992. The cable compulsory license was enacted in 1976 to establish a statutory licensing system for the retransmission, by cable operators, of copyrighted programming appearing on broadcast television stations. At the time of its enactment, Congress believed that it would be unduly burdensome for every cable system to negotiate with every copyright owner. Therefore, the compulsory license was designed to facilitate the emergence of this industry by establishing a statutory mechanism to authorize cable operators access to di-

verse programming while also providing a system to compensate the authors of copyrighted works.

The cable industry has grown significantly since its inception when it served as a master antenna system for areas of the country that experienced poor television reception. Today, however, cable penetration exceeds 60 percent of American homes; there are in excess of 13,000 cable operators; 60 cable networks are available throughout the Nation and cable revenues have grown to \$20 billion annually. However, while the cable industry has grown immensely over the years, the cable compulsory license has essentially remained the same.

As the chairman of the Senate Judiciary Subcommittee on Patents, Copyrights and Trademarks, I have been confronted by many compulsory license issues during the 102d Congress. This year the Copyright Office determined that microwave operators, known as wireless cable systems, are not cable systems within the meaning of the compulsory license. Consequently, they are not entitled to statutory access to copyrighted programming in the same manner that cable systems are. Furthermore, a concern has been expressed by satellite distributors that the satellite compulsory license, which is scheduled to sunset in 1994, must be extended if satellite distributors are to be able to compete with cable distributors. Moreover, the inclusion of the retransmission consent provision in the cable bill, which enables the broadcasters to govern the terms and conditions under which cable operators may retransmit a broadcast signal, raises serious concerns with respect to its impact upon the cable compulsory license.

Consequently, in October 1991, I, along with my ranking member of the subcommittee on Patents, Copyrights and Trademarks, Senator HATCH, directed the Register of Copyrights to conduct a study of the cable and satellite compulsory licenses. It was our hope that this study would be concluded before the Senate Cable Bill, S. 12, reached the Senate floor. Unfortunately, the Cable Bill was debated before the study was completed. Hence, at that time, we indicated our intention to continue to study the copyright effects of retransmission consent and requested the opportunity to participate in the conference if we were to conclude that the copyright compulsory license required any reconciliation with the Senate Cable Bill.

In March of this year, the Copyright Office, issued its report and concluded, among other things, that the compulsory license warranted some reforms and that retransmission consent was incompatible with the cable compulsory license. I conducted 2 days of hearings on the compulsory licenses, entertaining testimony from a wide

range of distinguished witnesses including: the Register of Copyrights, the chairman of the Federal Communications Commission, representatives of cable operators, program producers, network and independent broadcasters, satellite carriers and distributors, wireless cable operators, major league baseball, a consumer group, a professor of antitrust law, and a provider of cable programming.

After a review of the Copyright Office's extensive study, in addition to 2 days of hearings, I concluded that the retransmission consent provision was incompatible with the cable compulsory license and that a reform of the cable and satellite compulsory licenses was in order. I have discussed my proposal for reform with most of the interested parties and was hopeful that a reform of the compulsory license could be included in the cable bill in the House and Senate conference. My proposal was specifically designed to reconcile any incompatibilities between the cable bill and the Copyright Act. Moreover, it was carefully crafted not to conflict with any provisions of the Senate bill. Unfortunately, I was denied an opportunity to participate in the conference. Consequently, I intend to pursue the matter of compulsory license reform in the next Congress.

The compulsory license reform bill that I introduce today is predicated on a number of goals, but first and foremost, is my desire to balance the needs of owners of copyrighted programming with the needs of consumers. While many cable operators are not in a position to negotiate on an equal footing with some motion picture producers, it is beyond dispute that cable companies like Telecommunication, Inc., have the market power to negotiate directly with program producers. Accordingly, this bill would repeal the cable compulsory license within 4 years but provide a permanent compulsory license for small cable operators that have 5,000 subscribers or less. This permanent license will ensure their ability to compete and remain independent of the larger companies.

I have always maintained that it is in the best interest of the cable consumer to have effective competition. One of the problems with the compulsory license today is the failure to apply the cable compulsory license on a technology neutral basis to satellite and microwave distributors. Consequently, this bill will correct this problem by clarifying that the compulsory license is neutral as to the technological nature of the video distribution. Moreover, in order to provide these emerging technologies with the same statutory license cushion that traditional cable has enjoyed since 1976, this bill will provide a compulsory license for 7 additional years to these emerging technologies. Therefore, satellite and microwave distributors will have a

compulsory license for a full 11 years. This will ensure that consumers will have more program viewing options at their disposal and, hopefully make prices more competitive.

One of the issues that has been the most difficult to resolve is the issue of sports programming. Since the advent of cable television, Americans have witnessed considerable migration of sports programming from free over-the-air to cable. I have been greatly concerned that a repeal of the compulsory license will promote greater migration from over-the-air sports broadcasts and basic cable to pay-per-view, thereby depriving some sports fans of reasonably priced programming and depriving other fans of sports programming entirely. In order to prevent this siphoning, I have included a special provision regarding sports programming that will create a private cause of action for broadcasters or multi-channel video programming distributors against a sports league or team for any unreasonable refusal to deal in negotiating for transmission rights for sports programming. In addition, the bill clarifies that no specialized antitrust immunity that sports leagues currently enjoy will apply to the licensing of sports programming in lieu of the compulsory license.

This bill provides compensation for the secondary transmission of distant signals only. It also expands the definition of local signal to ensure that more signals are local in nature, the retransmission of which will not require compensation.

The bill replaces a Byzantine rate structure with a flat, per subscriber rate for distant signals. The rate of 12 cents, in the opinion of the Copyright Office, is revenue neutral, that is, it will generate the same aggregate fees that are currently generated under the more complicated formula. This bill also creates a 12 cents per subscriber rate for the retransmission of up to six superstations. Presently the average number of superstations carried is three. Any number of superstations in excess of six will be charged a rate of 24 cents per subscriber. The Statutory rates and ceilings on the number of superstations will, of course, expire with the repeal of the licenses at the 4th and 11th years respectively.

As this bill was designed to complement S. 12, there is no provision to provide enhanced authority or revenue for broadcasters since the provision on retransmission consent/must carry was designed to meet their needs.

I look forward to working on this legislation next year and introduce it today to provide all of the many interested parties with an opportunity to review and comment on this legislation. I would like to take this opportunity to express my heartfelt appreciation to Bill Roberts of the Copyright Office for his diligent assistance in helping to craft this legislation.

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

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

S. 3342

*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 "Copyright Compulsory License Reform Act of 1992".

#### SEC. 2. APPLICABILITY OF COMPULSORY LICENSING TO NEW AND EXISTING TECHNOLOGIES.

(a) MULTICHANNEL VIDEO PROGRAMMING DISTRIBUTOR.—Section 111 of title 17, United States Code, is amended in subsections (a), (c), and (e) by striking "cable system" each place it appears and inserting "multichannel video programming distributor".

(b) SECONDARY TRANSMISSIONS BY MULTICHANNEL VIDEO PROGRAMMING DISTRIBUTORS.—The heading and paragraph (1) of subsection (c) of section 111 of title 17, United States Code, is amended to read as follows:

"(c) SECONDARY TRANSMISSIONS BY MULTICHANNEL VIDEO PROGRAMMING DISTRIBUTORS.—

"(1) Subject to the provisions of clauses (2) through (7) of this subsection, secondary transmissions to the public made in accordance with the requirements of section 325(b) of the Communications Act of 1934 (49 U.S.C. 325(b)) by a multichannel video programming distributor of a primary transmission made by a broadcast station licensed by the Federal Communications Commission or by an appropriate governmental authority of Canada or Mexico and embodying a performance or display of a work shall be subject to compulsory licensing upon compliance with the requirements of subsection (d) where the carriage of the signals comprising the secondary transmission is not prohibited under the rules, regulations, or authorizations of the Federal Communications Commission."

(c) UNSERVED HOUSEHOLDS.—Section 111(c) of title 17, United States Code, is amended by adding at the end thereof the following:

"(5) Notwithstanding the provisions of clause (1) of this subsection, the compulsory license provided for in this subsection shall not be applicable to a network station transmitted beyond the local service area of such station unless the multichannel video programming distributor—

"(A) limits the secondary transmission of such signal to persons who reside in unserved households; or

"(B) at the request of a network station so authorized by contract, does not retransmit duplicate network programming in the local service area of such network station.

"(6) A multichannel video programming distributor that retransmits a network station beyond the local service area of such station pursuant to subsection (5)(A) shall be subject to the following provisions:

"(A) Within 90 days after the effective date of the Copyright Compulsory License Reform Act of 1992, or 90 days after commencing such secondary transmissions, whichever is later, the multichannel video programming distributor shall submit to the network station a list identifying (by street address, including county and zip code) all subscribers to which the multichannel video programming distributor currently makes secondary transmissions of the primary transmission. Thereafter, on the 15th of each month, the multichannel video programming distributor

shall submit to the network a list identifying (by street address, including county and zip code) any persons who have been added or deleted as such subscribers since the last submission under this subparagraph. Such subscriber information submitted by a multichannel video programming distributor may be used only for the purpose of monitoring the compliance of the multichannel video programming distributor with this subparagraph. The submission requirements of this subparagraph shall apply to a multichannel video programming distributor only if the network to whom the submissions are to be made places on file with the Register of Copyrights, on or after the effective date of the Copyright Compulsory License Reform Act of 1992, a document identifying the name and address of the person to whom such submissions are to be made. The Register shall maintain for public inspection a file of all such documents.

"(B) Notwithstanding the provisions of subsections (a), (b), and (c), the willful or repeated secondary transmission to the public by a multichannel video programming distributor of a primary transmission made by a network station and embodying a performance or display of a work is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506 and 509, where the multichannel video programming distributor has failed to make the submissions to networks required by subparagraph (A).

"(7) Multichannel video programming distributors which violate the territorial restrictions on the compulsory license for network stations shall be subject to the following—

"(A) The willful or repeated secondary transmission by a multichannel video programming distributor of a primary transmission made by a network station and embodying a performance or display of a work to a subscriber who does not reside in an unserved household is actionable as an act of infringement under section 501 and is fully subject to the remedies provided by sections 502 through 506 and 509 except that—

"(i) no damages shall be awarded for such act of infringement if the multichannel video programming distributor took corrective action by promptly withdrawing the service from the ineligible subscriber, and

"(ii) any statutory damages shall not exceed \$5 for such subscriber for each month during which the violation occurred.

"(B) If a multichannel video programming distributor engages in a willful or repeated pattern or practice of delivering a primary transmission made by a network station and embodying a performance or display of a work to subscribers who do not reside in unserved households, then in addition to the remedies set forth in subparagraph (A)—

"(i) if the pattern or practice has been carried out on a substantially nationwide basis, the court shall order a permanent injunction barring the secondary transmission by the multichannel video programming distributor of any network station affiliated with the same network, and the court may order statutory damages not to exceed \$250,000 for each 6-month period during which the pattern or practice was carried out; and

"(ii) if the pattern or practice has been carried out on a local or regional basis, the court shall order a permanent injunction barring the secondary transmission by the multichannel video programming distributor in that locality or region of any network station affiliated with that same network, and the court may order statutory damages not

to exceed \$250,000 for each 6-month period during which the pattern or practice was carried out."

#### SEC. 3. REVISION OF COMPULSORY LICENSING.

Section 111(d) of title 17, United States Code, is amended to read as follows:

"(d) COMPULSORY LICENSE FOR SECONDARY TRANSMISSIONS BY MULTICHANNEL VIDEO PROGRAMMING DISTRIBUTORS.—

"(1) A multichannel video programming distributor whose secondary transmissions have been subject to compulsory licensing under subsection (c) shall, on a semiannual basis, deposit with the Register of Copyrights, in accordance with requirements that the Register shall, after consultation with the Copyright Royalty Tribunal, prescribe by regulation—

"(A) a statement of account, covering the preceding 6 month period, specifying the names and locations of all primary transmitters whose transmissions were further transmitted by the multichannel video programming distributor, the average number of subscribers receiving the secondary transmissions of each primary transmitter during each month covered by the statement of account, and such other information as the Register of Copyrights may, after consultation with the Copyright Royalty Tribunal, from time to time prescribe by regulation; and

"(B) a royalty fee for the 6 month period covered by the statement, computed by multiplying the average number of subscribers receiving each secondary transmission of a primary broadcaster transmitter during each calendar month as follows:

"(i) in the case of a commercial television station, to the extent that its signal is retransmitted beyond the local service area of such station, by 12 cents;

"(ii) in the case of a network station, to the extent that its signal is retransmitted beyond the local service area of such station, some of whose network programming must be deleted or replaced pursuant to law or regulation, by 6 cents;

"(iii) in the case of a noncommercial educational station or low power station, to the extent that its signal is retransmitted beyond the local service area of such station, by 3 cents;

"(iv) in the case of a radio broadcast station, to the extent that its signal is retransmitted beyond the local service area of such station, by 1 cent; and

"(v) in the case of a superstation, to the extent that its signal is retransmitted beyond the local service area of such station, by 12 cents for the first six stations so carried and by 24 cents for every other such station carried beyond six.

"(2) The Register of Copyrights shall receive all fees deposited under this section and, after deducting reasonable costs incurred by the Copyright Office under this section, shall deposit the balance in the Treasury of the United States, in such manner as the Secretary of Treasury so directs. All funds held by the Secretary of the Treasury shall be invested in interest bearing securities of the United States for later distribution with interest by the Copyright Royalty Tribunal as provided in this title.

"(3) The royalty fees deposited in the Treasury under paragraph (2) shall, in accordance with procedures provided in paragraph (4), be distributed to copyright owners of programming who claim that their works were the subject of secondary transmissions by multichannel video programming distributors during the applicable 6 month period described in paragraph (1).

"(4) The royalty fees deposited in the Treasury under paragraph (2) shall be distributed in accordance with the following procedures:

"(A) During the month of July each year, every person claiming to be entitled to compulsory licensing fees for secondary transmissions shall file a claim with the Copyright Royalty Tribunal, in accordance with requirements that the Tribunal shall prescribe by regulation. Notwithstanding any provisions of the antitrust laws, for purposes of this paragraph any claimants, after negotiating in good faith, may agree among themselves with respect to the proportionate division of compulsory license fees among them, may lump their claims together and file them jointly or as a single claim, or may designate a common agent to receive payments on their behalf.

"(B) After the first day of August of each year, the Copyright Royalty Tribunal shall determine whether there exists a controversy concerning the distribution of royalty fees under this subsection. If the Tribunal determines that no such controversy exists, it shall, after deducting its reasonable administrative costs under this section, distribute such fees to the copyright owners who are entitled to receive such fees, or to their designated agents. If the Tribunal finds the existence of a controversy, the Tribunal shall, pursuant to chapter 8 of this title, conduct a proceeding to determine the distribution of royalty fees.

"(C) During the pendency of any proceeding under this subsection, the Copyright Royalty Tribunal shall withhold from distribution an amount sufficient to satisfy all reasonable claims with respect to which a controversy exists, but shall have discretion to proceed to distribute any amounts that are not in controversy."

#### SEC. 4. DEFINITIONS.

(a) **MULTICHANNEL VIDEO PROGRAMMING DISTRIBUTOR.**—The third paragraph of section 111(f) of title 17, United States Code, is amended to read as follows:

"A 'multichannel video programming distributor' means a person or entity such as, but not limited to, a cable operator, a multichannel multipoint distribution service, a direct broadcast satellite service, or a television receive-only satellite program distributor, who makes available for purchase, by subscribers or customers, multiple channels of video programming which include the retransmission of television broadcast signals licensed by the Federal Communications Commission or an appropriate governmental authority in Canada and Mexico. For purposes of this section, two or more multichannel video programming distributors in contiguous communities under common ownership or control, or operating from one headend, shall be considered as one system."

(b) **LOCAL SERVICE AREA.**—The fourth paragraph of section 111(f) of title 17, United States Code, is amended to read as follows:

"The 'local service area' of a television broadcast station is determined according to the following:

"(i) in the case of a commercial television station, an area of 75 miles from the reference point of such station, as described in section 73.53 of title 47, Code of Federal Regulations, as in effect on March 29, 1990, or such station's television market as specified in section 73.3555(d) of title 47, Code of Federal Regulations, as in effect on May 1, 1991, which ever area is larger;

"(ii) in the case of a noncommercial educational station, an area within 50 miles of the principal headend of a multichannel

video program provider measured from the reference point described in section 76.53 of title 47, Code of Federal Regulations, as in effect on March 29, 1990; or an area where the Grade B service contour, as defined in section 73.683(a) of such title as in effect on March 29, 1990, or any successor regulation thereto, encompasses the principal headend of the multichannel video program distributor; and

"(iii) in the case of a low power station, an area no more than 35 miles from the multichannel video program distributor's headend, or no more than 20 miles if the low power station is located within one of the 50 largest Standard Metropolitan Statistical Areas, and delivers to the input terminals of the signal processing equipment at the multichannel video programming distributor's headend a signal level of -45 dBm for UHF stations and -49 dBm for VHF stations."

(e) **SUPERSTATION AND SATELLITE CARRIER.**—Section 111(f) of title 17, United States Code, is amended by adding at the end thereof the following:

"The term 'superstation' means a television broadcast station, other than a network or noncommercial educational station, licensed by the Federal Communications Commission, whose signal is secondarily transmitted by a satellite carrier beyond the local service area of such station.

"The term 'satellite carrier' means an entity that uses the facilities of a satellite service to operate a channel of communications for point-to-multipoint distribution of television station signals.

"An 'unserved household' with respect to a particular television network, means a household that cannot receive through the use of a conventional outdoor roof-top receiving antenna, an over-the-air signal of grade B intensity of a primary network station affiliated with that network."

(d) **CABLE SYSTEM.**—Section 111(f) of title 17, United States Code, is amended by inserting the following immediately after the definition of "secondary transmission":

"The term 'cable system' means a facility which is defined in section 602(6) of the Communications Act of 1934 (47 U.S.C. 522(6)), and is regulated as a cable system under the rules, regulations and authorizations of the Federal Communications Commission on January 1, 1992."

(e) **DISTANT SIGNAL EQUIVALENT.**—The fifth paragraph of section 111(f) of title 17, United States Code, is repealed.

(f) **NETWORK STATION AND INDEPENDENT STATION.**—The seventh paragraph of section 111(f) of title 17, United States Code, is amended to read as follows:

"A 'network station' is a television broadcast station, including any translator station or terrestrial satellite station that rebroadcasts all or substantially all of the programming broadcast by a network station, that is owned or operated by, or affiliated with, one or more of the television networks in the United States providing nationwide transmissions of a substantial part of the programming supplied by such networks for a substantial part of that station's typical broadcast day."

#### SEC. 5. TERMINATION OF COMPULSORY LICENSING.

Section 111 of title 17, United States Code, is amended by adding at the end thereof the following:

"(g) **TERMINATION OF COMPULSORY LICENSING.**—The compulsory license created by subsection (d) shall terminate for multichannel video programming distributors in accordance with the following—

"(1) The compulsory license for cable systems providing secondary transmissions of broadcast stations shall terminate in accordance with the following procedures:

"(A) Not later than two years from the effective date of the Copyright Compulsory License Reform Act of 1992, the Copyright Royalty Tribunal shall cause notice to be published in the Federal Register of the initiation of voluntary negotiation proceedings for the purpose of licensing rights to all copyright programming contained on the signals of broadcast stations retransmitted by cable systems.

"(B) Cable systems, providing secondary transmissions of broadcast signals and copyright owners entitled to royalty fees under this section shall negotiate in good faith in an effort to reach a voluntary agreement or agreements for the licensing of copyrights to programming contained on the signals of broadcast stations retransmitted by cable systems. If the parties fail to identify common agents for that purpose, the Copyright Royalty Tribunal shall do so, after requesting recommendations from the parties to the negotiation proceeding. The parties to each negotiation proceeding shall bear the entire cost thereof. Any cable system, or copyright owner may at any time negotiate a licensing agreement, and may designate common agents for that purpose.

"(C) Copies of agreements negotiated in accordance with this subsection shall be filed with the Copyright Office within 30 days after execution of such agreements, in accordance with regulations that the Register of Copyrights shall prescribe.

"(D) Not later than two years and six months from the effective date of the Copyright Compulsory License Reform Act of 1992, the Copyright Royalty Tribunal shall cause notice to be published in the Federal Register of the initiation of arbitration proceedings for the purpose of determining a reasonable licensing fee for cable systems, and copyright owners who are not parties to a voluntary agreement filed with the Copyright Office in accordance with subparagraph (C). Such notice shall include the names and qualifications of potential arbitrators chosen by the Tribunal from a list of available arbitrators obtained from the American Arbitration Association or such similar organization at the Tribunal shall select.

"(E) Not later than 10 days after publication of the notice initiating an arbitration proceeding, and in accordance with procedures established by the Copyright Royalty Tribunal—

"(i) one arbitrator shall be selected from the published list by copyright owners who claim to be entitled to royalty fees under this section, and

"(ii) one arbitrator shall be selected from the list by cable systems who are not parties to voluntary agreements filed with the Copyright Office in accordance with paragraph (3) that provide for all licensing of copyrights to programming contained on the signals of broadcast stations retransmitted by such cable systems.

The two arbitrators so selected shall, within ten days after their selection, select a third arbitrator from the same list who shall serve as chairperson of the arbitrators. If either group fails to agree upon selection of an arbitrator, or if the arbitrators selected by such groups fail to agree upon the selection of a chairperson, the Copyright Royalty Tribunal shall promptly select the arbitrator or chairperson, respectively. The arbitrators selected under this paragraph shall constitute an Arbitration Panel.

“(F) The Arbitration Panel shall conduct an arbitration proceeding in accordance with such procedures as it may adopt. The panel shall act on the basis of a fully documented record. Any copyright owner who claims to be entitled to royalty fees under this section and any cable system who is not party to a voluntary agreement filed with the Copyright Office in accordance with subparagraph (C), may submit relevant information and proposals to the Panel. The parties to the proceeding shall bear the entire cost thereof in such manner and proportion as the Panel shall direct.

“(G) In determining what shall be fair and equitable fees for the licensing of rights for secondary transmissions of broadcast stations under this subsection, the Arbitration Panel shall consider the following:

“(i) The terms and conditions described in the voluntary licensing agreements filed with the Copyright Office in accordance with subparagraph (C).

“(ii) The relative cost to cable systems for making secondary transmissions of broadcast stations to subscribing members of the public who pay for such service.

“(iii) The relative cost to broadcast stations for securing programming to be broadcast by them as primary transmissions.

“(iv) The relative cost to copyright owners to create and distribute their works.

“(v) The communities served by cable systems providing secondary transmissions of broadcast signals and the respective local service areas of the broadcast stations whose signals are the subject of the secondary transmissions by the cable systems.

The fee shall also be construed to achieve the following objectives:

“(vi) To maximize the availability of creative works to the public.

“(vii) To afford the copyright owner a fair return for his or her creative works and the copyright user a fair income under existing economic conditions.

“(viii) To reflect the relative roles of the copyright owner and the copyright user in the product made available to the public with respect to relative creative contribution, technological contribution, capital investment, cost, risk, and contribution to the opening of new markets for creative expression and media for their communications.

“(ix) To minimize any disruptive impact on the structure of the industries involved and on generally prevailing industry practices.

“(H) Not later than 120 days after publication of the notice initiating an arbitration proceeding, the Arbitration Panel shall report to the Copyright Royalty Tribunal its determination concerning licensing between copyright owners and cable systems not party to a voluntary agreement filed with the Copyright Office in accordance with subparagraph (C). Such report shall be accompanied by a written record, and shall set forth the facts that the Panel found relevant to its determination of licensing agreements and the reasons why its determination is consistent with the criteria set forth in subparagraph (G).

“(I) Within 60 days after receiving the report of the Arbitration Panel under subparagraph (H), the Copyright Royalty Tribunal shall adopt or reject the determination of the Panel. The Tribunal shall adopt the determination of the Panel unless the Tribunal finds that the determination is clearly inconsistent with the criteria set forth in subparagraph (G). If the Tribunal rejects the determination of the Panel, the Tribunal shall, before the end of that 60-day period, and

after full examination of the record created in the arbitration proceeding, issue an order, consistent with the criteria set forth in subparagraph (G), establishing licensing fees under this subsection. The Tribunal shall cause to be published in the Federal Register the determination of the Panel, and the decision of the Tribunal with respect to the determination (including any order issued under the preceding sentence). The Tribunal shall also publicize such determination and decision in such a manner as the Tribunal considers appropriate. The Tribunal shall also make the report of the Arbitration Panel and the accompanying record available for public inspection and copying.

“(J) Any decision of the Copyright Royalty Tribunal under subparagraphs (D) through (I) with respect to a determination of the Arbitration Panel may be appealed, by any aggrieved party who would be bound by the determination, to the United States Court of Appeals for the District of Columbia Circuit, within 30 days after publication of the decision in the Federal Register. The pendency of an appeal under this paragraph shall not relieve cable systems from their obligations as determined by the Arbitration Panel and confirmed and ordered by the Copyright Royalty Tribunal. The court shall have jurisdiction to vacate and remand a decision of the Tribunal only if it finds, on the basis of the record before the Tribunal and the statutory criteria established in subparagraph (G), that the Arbitration Panel or the Tribunal acted in an arbitrary manner.

“(K) The Copyright Royalty Tribunal shall, not later than 60 days after the voluntary agreements described in subparagraphs (A) through (C) have been executed or, if compulsory arbitration provided in this subsection is conducted, not later than 60 days after completion of the compulsory arbitration under subparagraphs (D) through (I), declare the compulsory license royalty rates in this section to be suspended for cable systems providing secondary transmissions of broadcast stations. The Copyright Royalty Tribunal shall cause to be published in the Federal Register notification of the suspension of the compulsory license royalty rates and the date of the suspension. The arbitrated rates established in this section shall expire 1 year after publication of the notice of suspension by the Copyright Royalty Tribunal under this paragraph.

“(2) The compulsory license for multichannel video programming distributors other than cable systems shall expire in accordance with the same procedures described in paragraph (1), subparagraphs (A) through (K), except that—

“(A) in the case of notice of voluntary negotiation proceedings described in paragraph (1)(A), the Copyright Royalty Tribunal shall cause notice of the initiation of voluntary negotiation proceedings to be published in the Federal Register no later than nine years from the effective date of the Copyright Compulsory License Reform Act of 1992; and

“(B) in the case of notice of arbitration proceedings described in paragraph (1)(D), the Copyright Royalty Tribunal shall cause notice of the initiation of arbitration proceedings to be published in the Federal Register no later than nine years and six months from the effective date of the Copyright Compulsory License Reform Act of 1992.

“(3)(A) The compulsory license for the secondary transmission of broadcast signals shall remain in effect, and not be subject to the termination proceedings described in this subsection, for any multichannel video programming distributor which—

“(i) has less than 5,000 subscribers, and  
“(ii) is not owned or controlled by a multichannel video program distributor with more than 20,000 subscribers.

“(B) The Register of Copyrights shall conduct a study one year after the termination of the compulsory license for cable systems described in subsection (g)(1) of this section, and one year after the termination of the compulsory license for multichannel video programming distributors other than cable systems, for the purpose of determining whether the exemption provided for in this subsection is adequately serving the needs of copyright owners and affected multichannel video programming distributors and is promoting the goal of reduced transaction costs for the clearance of copyrights to broadcast programming. The Register shall, not later than 6 months after the beginning of the studies, report to the Congress the findings of the studies and any recommendations.”

#### SEC. 6. PROTECTION OF SPORTS BROADCASTS.

(a) PURPOSE.—The purpose of this section is to promote the availability of copyrighted sports programming to the public, at a reasonable price, upon the expiration of any compulsory license for the retransmission of broadcasts authorized by title 17 of the United States Code, by prescribing standards that will govern marketplace conduct.

(b) PROHIBITION.—It shall be unlawful for any organized professional sports club or league of clubs, subject to the first section of the Act of September 30, 1961 (15 U.S.C. 1291), to unreasonably refuse to deal in the licensing of copyrights to sports programming necessary for the retransmission of a television broadcast of any games of such club or league by any multichannel video programming distributor.

(c) CLUBS.—For purposes of this section, if a club or league of clubs attempts to reduce the number of games available to viewers from the number televised during the 1992-1993 season, or attempts to increase the fees and rights payments associated with the retransmission of any such games, or both, then the burden is on the club or league of clubs to demonstrate that it has not unreasonably refused to deal in the licensing of sports programming, and no sports antitrust immunity will be applicable to the determination of an unreasonable refusal to deal nor to any other conduct governing the licensing of sports programming in lieu of the compulsory license.

(d) FEDERAL COMMUNICATIONS COMMISSION.—(1) Upon enactment of this provision the Federal Communications Commission shall conduct a survey of sports programming, as defined by the first section of the Act of September 30, 1961 (15 U.S.C. 1291), viewership of the 1992-1993 season to determine the following:

(A) the overall availability of sports programming to the public;

(B) the average national cost to sports viewers; and

(C) any other data that, in the judgment of the Federal Communications Commission, is relevant to the determination of whether or not meaningful competition is available in the licensing of sports programming.

(2) The Federal Communications Commission shall submit the viewership survey to Congress within 180 days of the effective date of this Act and will continue to provide a viewership survey, every three years thereafter, to the Congress by July 31st of the year in which the survey is prepared.

(e) CIVIL ACTION.—(1) Any broadcast television station or multichannel video programming distributor injured in its business

or property by an unreasonable refusal to deal by any organized professional sports club or any league of clubs subject to the first section of the Act of September 30, 1961 (15 U.S.C. 1291), may commence a civil action against the club or league of clubs in the United States District Court in the district in which the television station is licensed.

(2) If the district court determines that any defendant has unreasonably refused to deal with any broadcast television station or multichannel video programming distributor in the licensing of copyrights to sports programming necessary for the retransmission of a television broadcast of such games, it may award treble damages.

#### SEC. 7. COPYRIGHT ROYALTY TRIBUNAL.

(a) ESTABLISHMENT OF RATES.—Paragraph (2) of section 801(b) of title 17, United States Code, is amended to read as follows:

"(2) to adjust annually the rates established by section 111(d)(1)(B) to reflect national fluctuations in the Consumer Price Index, as determined by the Secretary of Labor."

(b) INSTITUTION AND CONCLUSION OF PROCEEDINGS.—Section 804 of title 17, United States Code, is amended—

(1) by amending subsection (a)(2)(A) to read as follows:

"(A) In proceedings under section 801(b)(2) concerning the adjustment of royalty rates provided in section 111, such petition may be filed in February of each year."; and

(2) by striking subsection (b) and redesignating subsections (c),(d) and (e) as subsections (b), (c), and (d), respectively.

#### SEC. 8. SATELLITE PROVISIONS.

Section 119 of title 17, United States Code, and the item relating to such section in the table of sections for chapter 1 of such title, are repealed.

#### SEC. 9. INTERIM STUDY.

Beginning 36 months after the date of enactment of this Act, the Register of Copyrights shall conduct a study to determine whether market place mechanisms exist or are likely to develop which will ensure that consumers receive diverse, quality television and radio programming at reasonable prices without the need for compulsory licensing. The Register shall, not later than 6 months after beginning the study, report to the Congress the findings of the study and any recommendations.

#### SEC. 10. CONFORMING AMENDMENTS.

Title 17, United States Code, is amended as follows:

(1) Section 106 is amended by striking "sections 107 through 119".

(2) Section 111(a) is amended—

(A) in paragraph (3) by adding "or" after the semicolon at the end thereof;

(B) by striking paragraph (4); and

(C) by redesignating paragraph (5) as paragraph (4).

(3) Section 120 is amended by redesignating such section as section 119.

(4) Section 501 is amended—

(A) in subsections (c) and (d) by striking "cable system" each place it appears and inserting "multichannel video program distributor"; and

(B) by striking subsection (e).

(5) Section 510 is amended by striking "cable system" each place it appears and inserting "multichannel video programming distributor"; and

(b) Section 511(a) is amended by striking "sections 106 through 119" and inserting "sections 106 and 106A".

(7) Section 810(b)(3) is amended by striking ", 116, and 119(b)," and inserting "and 116,".

(8) Section 804(c) is amended by striking ", 116, or 119," and inserting "or 116,".

#### SECTION-BY-SECTION SUMMARY OF THE COPYRIGHT COMPULSORY LICENSE REFORM ACT OF 1992

##### SECTION 1.—SHORT TITLE

SECTION 2.—APPLICABILITY OF COMPULSORY LICENSING TO NEW AND EXISTING TECHNOLOGIES.

Section 2 of the bill amends current subsections (a), (c), and (e) of section 111 by replacing the term "cable system" with "multichannel video programming distributor" to make it clear that the compulsory license applies to such video distributors and not just to cable systems. Current §111(c)(1) is amended to state that the compulsory license applies to carriage of broadcast stations by multichannel video programming distributors provided that the new retransmission consent provisions of the Communications Act are satisfied and carriage of the stations is not prohibited by the FCC.

Section 2 of the bill also amends subsection 111(d) by adopting the unserved household provisions of current section 119. Those provisions, which currently only apply to satellite carriers, are aimed at multichannel video programming distributors which, unlike cable, are not subject to broadcaster nonduplication protection. The bill provides that such multichannel video programming distributors can only qualify for compulsory licensing of distant network signals delivered to unserved households. Unserved households are defined as those households not capable of receiving an over-the-air signal strength of grade B intensity. However, unlike current section 119, the bill allows multichannel video programming distributors not subject to nonduplication protection to receive the compulsory license for distant network stations to unserved households provided that they install equipment to blackout and/or substitute for protected network programming.

##### SECTION 3.—REVISION OF COMPULSORY LICENSING.

Section 3 amends §111(d) of the current Act to establish the statutory requirements for compulsory licensing. As with the present license, operators must submit statement of account forms on a biannual basis, along with a royalty fee. Royalties are only due for carriage of distant broadcast stations, and multichannel video programming distributors are allowed to carry local broadcast signals without charge.

The bill eliminates the complicated royalty fee calculation of the present system and adopts a flat per subscriber rate for each of the six months of an accounting period. Each distant commercial station, defined as commercial independent and network signals, is 12 cents per subscriber per month. Distant network stations, some of whose programming must be blacked out or substituted pursuant to law or regulation, are 6 cents per subscriber per month. Distant non-commercial educational and low power stations are 3 cents, and distant radio stations carried are 1 cent per subscriber.

The bill also distinguishes between ordinary distant signals and superstations. Superstations are those broadcast stations which are like distant signals except that they are available off a satellite. The cost for superstations is 12 cents per subscriber for the first six stations so carried, and 24 cents per subscriber for those thereafter.

Section 3 also amends the royalty fee collection and distribution procedures currently

found in section 111 by adopting the same procedures described in current section 119. Copyright owners of any programming retransmitted by multichannel video programming distributors are entitled to royalties.

##### SECTION 4.—DEFINITIONS.

Section 4 of the bill amends section 111(f) of the current Act which contains the key definitions to compulsory licensing. A "multichannel video programming distributor" is defined virtually the same as it appears in S. 12, to make it clear that the compulsory license applies to a wide range of video providers including, but not limited to, cable systems, MMDS, DBS, and satellite carrier service. The definition also continues the contiguous communities language of the current Act to prevent large video distributors from carving up their facilities into smaller systems for filing purposes.

The definition of the "local service area" of a broadcast station is amended by modeling the definitions of local must carry signals in S. 12. The only exception is that in the case of commercial stations, whose local service area in S. 12 is defined as its Arbitron ADI, the bill provides that the local service area shall either be ADI or 75 miles, whichever is larger. This ameliorates the problem where ADI's are smaller than the current local service area for copyright purposes (a problem especially evident in the highly populated areas of both coasts). The result should be that most signals which are currently carried as local should remain so, rather than being transformed to a distant signal under a straight ADI regime.

The bill also provides new definitions of a "superstation," "satellite carrier," and "cable system." The superstation definition is relevant for the special royalty provisions for such signals (12 cents for the first six, 24 cents thereafter), and the "satellite carrier" definition is relevant to the "superstation" definition. The definition of a "cable system" is changed from its current formulation to provide that all systems regulated by the FCC as cable systems under the 1984 Cable Act as of January 1, 1992 are considered cable systems. This definition is relevant to the phase out provisions.

Finally, Section 4 deletes the current definitions of "distant signal equivalent," and "independent station" and amends the definition of a "network signal." The section also defines an "unserved household."

##### SECTION 5.—TERMINATION OF COMPULSORY LICENSING.

Section 5 provides the terms and conditions under which the compulsory license is phased out for various video distributors. In terms of the process of voluntary and arbitrated royalty rates for the final year of licensing, the bill mirrors the procedures enacted in current section 119 for satellite carriers.

Section 5 establishes a two phase termination process. Phase out first occurs for cable systems, on the belief that they will be soon ready to negotiate retransmission rights in a free marketplace. These systems will enjoy three years of compulsory licensing, at which time the voluntary and arbitrated royalty rate structure will kick in. After the CRT has approved the arbitrated rate structure, these systems will have one more year of licensing, but at the new royalty rates. After that year, the license expires and cable systems must negotiate in the marketplace.

A longer phase out period occurs for what might be known as "emerging technologies." Emerging technologies are those systems

other than cable—i.e. MMDS, DBS, satellite carrier, etc. It is felt that these systems should have the benefit of compulsory licensing for a period roughly commensurate with that enjoyed by the cable industry since 1978. Therefore, these emerging technologies have statutory licensing for a period of ten years, after which time the same voluntary and arbitrated rate structure is implemented. After a year's licensing at the new rate, the license expires for these systems as well. Thus, cable systems get a total of 4 years of licensing, and all other systems get 11 years.

Finally, Section 5 creates an exemption from termination for small video distributors of all kinds (cable, MMDS, etc.). Those systems with less than 5,000 subscribers will enjoy compulsory licensing indefinitely, provided that they are not owned or controlled by any video provider with subscribers in excess of 20,000 (i.e. an MSO). The Copyright Office is instructed to conduct a study after the expiration of the license for cable, and then again after the expiration for all other systems, to determine if the small system exemption is serving its purpose.

#### SECTION.—PROTECTION OF SPORTS BROADCASTS

Section 6 is intended to preserve the amount and availability at a reasonable price of sports programming currently shown on broadcast television. The section prohibits professional sports clubs and leagues from unreasonably refusing to deal in the licensing of its programming after the expiration of the compulsory license. Any club or league which attempts to reduce the number of games televised during the 1992-1993 season and/or attempts to increase the fees associated with the retransmission of those games has the burden of demonstrating that it has not unreasonably refused to deal in the licensing of its programming. No sports antitrust immunity shall be applicable to any clubs or leagues for purpose of the refusal to deal prohibition.

Section 6 also directs the Federal Communications Commission to survey the amount and cost of sports programming viewership during the 1992-1993 season and report its findings to Congress within 180 days of the effective date of the bill. The FCC is instructed to continue to provide a viewership survey every three years thereafter.

Finally, section 6 grants a federal civil cause of action to any broadcast station or multichannel video programming distributor who is injured by a professional sports club or league's refusal to reasonably deal for licensing to its programming. Those clubs or leagues found to have unreasonably refused to deal in the licensing of their programs are subject to treble damages within the discretion of the court.

#### SECTION 7.—COPYRIGHT ROYALTY TRIBUNAL

Section 7 makes minor adjustments to section 801 et seq. of the current Act which governs the operation of the Copyright Royalty Tribunal. The section makes clear that the royalty rates established in the bill (12 cents, 3 cents, etc.) may be adjusted by the Tribunal on an annual basis to reflect fluctuations in the Consumer Price Index.

#### SECTION 8.—SATELLITE PROVISIONS

The Satellite Home Viewer Act, section 1119, is repealed.

#### SECTION 9.—INTERIM STUDY

Section 9 directs the Copyright Office to conduct a study 3 years after passage of the bill to examine what market place mechanisms exist, or will likely exist, to provide retransmission right licensing once the compulsory license expires for cable systems.

The Office has 6 months in which to complete its task.

#### SECTION 10.—CONFORMING AMENDMENTS\*

By Mr. KOHL:

S. 3343. A bill to amend the Social Security Act to require States to reinvest in State and local child support collection efforts any reimbursements and incentive payments received under part D of title IV, and for other purposes; to the Committee on Finance.

#### CHILD SUPPORT REINVESTMENT ACT

• Mr. KOHL. Mr. President, this country's child support system has myriad problems that Congress has been addressing throughout this session. One of the biggest problems is on the State and local level, where there is a lack of funding for child support enforcement agencies. Insufficient funding means the agencies cannot update or improve their collection efforts. That means there are children who aren't receiving the support they need.

In an effort to ensure that States, and their local entities, receive the funding they need to collect child support, I am introducing a measure called the Child Support Reinvestment Act. This bill requires States receiving child support-related reimbursements and incentives from the Federal Government to reinvest this money directly into child support enforcement efforts, where they belong.

Right now, States annually receive incentives of about 6 to 10 percent of the State's total AFDC and non-AFDC collections for the year. The Federal Government reimburses states up to 66 percent of the cost or running their child collection programs. Also, States are reimbursed 90 percent of their costs of starting up or improving computer information systems.

My bill will call for both the reimbursements and incentives to go back into child support enforcement expenses. States are encouraged through these incentives to collect child support. But the incentives currently can finance any project or budget within the State, because the Federal Government has no law that specifies how States may spend the incentives—except to require States to split the funds with the local governments that shared in child support enforcement spending.

This lack of Federal mandate means States have and can spend the incentive money on everything but child support enforcement. A 1991 study of all 50 States, the District of Columbia and U.S. Territories, conducted by the Office of the Inspector General, highlighted this. According to the study, only 22 States have laws or regulations regarding incentive payments, but the laws stipulate only where the money goes, not how it is spent.

The OIG study says States put this money into the general fund—instead of using it to improve child support collections and help children get the

support they desperately need. Two States and the District of Columbia require that incentives be used exclusively for child support enforcement. The remaining States use the incentives for a variety of social programs, including AFDC and child support enforcement.

All this means that State and local child support enforcement agencies are spending millions of dollars to collect support, but they aren't always getting back millions in return to keep up these efforts. The OIG study also says the Federal reimbursements are often used to offset AFDC payments. Some States even use these reimbursements and incentives to limit their own contribution to the child support programs. This is unfairly skimping on the welfare of our country's children. When it comes to ensuring that children receive the financial support they need, there should be no short-cuts, no skimping. No child should go without a support payment because the child support agency doesn't have enough funds to find the deadbeat parent.

I hope the child support reinvestment act will change this and make child support—and child welfare—a priority. It won't fix all the problems. But it will send a message that we care about kids and they need to be No. 1 in this country.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

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

S. 3343

*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 "Child Support Reinvestment Act."

#### SEC. 2. CHILD SUPPORT REINVESTMENT

(a) IN GENERAL.—Part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) is amended by inserting after section 458 the following new section:

#### "CHILD SUPPORT REINVESTMENT

"SEC. 458A.(a)(1) Except as provided in paragraph (2), any reimbursement amounts retained by a State under paragraphs (2) and (4) of section 457(b) and any incentive payments made to such State under section 458 shall be used by such State for the child support collection program of such State.

"(2) If the State is sufficiently funding the child support collection program of the State (as determined by the Secretary without regard to this subsection), and such program is collecting over 50 percent of the child support owed, the Secretary, upon the request of the State, may allow not more than 30 percent of reimbursement amounts and incentive payments described in paragraph (1) to be used by the State to offset the costs under part A of this title or other social programs.

"(b) The Office of Child Support Enforcement shall annually monitor the performance of the child support collection program of each State as part of the Office's general performance audits. Such audit shall include an accounting of the expenditure of reim-

bursement amounts and incentive payments described in subsection (a).

"(c) For purposes of subsection (a), if a State uses the reimbursement amounts and incentive payments described in such subsection to reduce the funding of child support enforcement agencies in such State, the amount of such reduction shall be used to fund other established or pilot social service programs, such as the State's program under part A of this title or a child support assurance program.

"(d) For purposes of this section, the term 'child support collection program' includes noncustodial parent locator services for interstate and intrastate cases, income and tax refund withholding methods, demonstration programs, studies on child support collections and payments, computer system formation and records automation, honoring and efficiently handling interstate collection requests, contracting collection efforts to credit agencies or private agencies, paternity establishment, and establishment of child support orders."

(b) EFFECTIVE DATE; DATE OF REGULATIONS.—

(1) IN GENERAL.—The amendment made by this section shall apply to reimbursement amounts retained and incentive payments made on or after October 1, 1993.

(2) REGULATIONS.—The Secretary of Health and Human Services shall issue final regulations with regard to performance audits within 1 year of the date of the enactment of this Act.●

By Mr. ADAMS:

S. 3344. A bill to amend the Job Training Partnership Act to establish a job training program for mature or older workers, and for other purposes; to the Committee on Labor and Human Resources.

MATURE AND OLDER WORKERS ACT OF 1992

Mr. ADAMS. Mr. President, today I rise to introduce the Mature and Older Workers Act of 1992, a bill to restructure the Job Training Partnership Act [JTPA] to better serve the needs of a maturing American work force.

As chairman of the Labor Subcommittee on Aging, I am convinced that mature and older individuals will be an increasingly important segment of our Nation's work force. As my colleagues are well aware, job training programs for older workers are critical to the revitalization of our economy. As the average age of America's work force continues to advance, our ability to recognize and address this dynamic will become a key component in the success of our Nation's employment strategy.

Over the last decade we have taken great strides in designing a job training program which addresses the training needs of our country in a fairly cohesive manner. Now, we must move forward by targeting our efforts at the demographic areas of our populace which are experiencing the most dramatic change; disadvantaged youth and displaced mature and older workers who need job retraining. Once a worker reaches age 40 and finds himself or herself out of work, he or she too often has great trouble finding new work, particularly of an equivalent nature.

We need desperately to respond to the needs of a maturing work force on at least a demographic par with disadvantaged youth. That level of response is not legitimately satisfied by minimal older worker set-asides. Assigning 3 percent or more of JTPA resources to older workers does little to equip millions of workers above the age of 40 who have inadequate educational and skill attainments for the current and emerging technological labor market.

When we consider the difficulties of finding meaningful and adequately paid employment for the mature worker, we must keep in mind that these are relatively young workers—those age 40 and over. The fact is, these are individuals who may be only mid-way through their careers. In light of contemporary trends which often delay both marriage and child birth until later in life, many of these workers are in the early stages of their family life. The tragedy of being viewed as obsolete or unemployable at such an early age is far too real in the lives of talented and hard-working Americans and their families.

This is not only tragic for the affected individuals, it is a great tragedy for American productivity. We need these workers to be productive now and certainly in the future. We need them to be well-trained, high-skilled workers who continue to pay income taxes and provide adequate support for their families and communities.

Mr. President, I am introducing this bill now because I believe this matter is of great importance and I will not be here in the 103d Congress to pursue this initiative. I firmly believe that job training and related concerns will be a major focus of the next Congress, regardless of who our President is. It is my hope that the introduction of this legislation at this time will provide ample opportunity for the ideas it contains to be examined closely by interested parties before the 103d Congress begins. Its scrutiny over the next several months should provide solid input for a similar bill and serious debate early in the next Congress. The bottom line remains: to address the needs of American workers over the age of 40 is to address the needs of the American economy and its work force.

The Mature and Older Workers Act of 1992 will help to meet these challenges head on and commit our Nation to a course of action that provides the flexibility necessary for our job training programs to adequately address the needs of a changing labor marketplace. My bill provides increased funding for training programs for individuals age 40 and above. It mandates that State job training and coordinating councils and private industry councils include in their membership agencies and other groups who, by their organizational missions, represent the interests of ma-

ture and older workers. But most importantly, this bill focuses our existing job training apparatus on the special training needs of mature and older workers through demonstration projects, biannual state plans, job search support services, and enhanced data collection and analysis on employment trends affecting mature and older workers.

Mature and older workers across America deserve every opportunity to make the difficult career transitions which increasingly characterize the dynamics of our changing economy. The ability to effectively facilitate this transition will determine our country's ability to maintain high-skills, high-wage jobs for the 21st century. America's economic greatness has been built on the cornerstone that our ingenuity and adaptability to differing circumstances allows us to exploit economic opportunities with speed and efficiency. Let us continue in this tradition towards an ever more dynamic economy that will meet our Nation's future challenges and improve the quality of life for generations of Americans to come.

I hope that this legislation will help to further that cause. Mr. President, I ask unanimous consent to include in the RECORD after my remarks a copy of a letter of support from the National Association of State Units on Aging [NASUA], which represents units of State government that serve the elderly. NASUA has a long history of developing expertise on the needs of the older worker and annually hosts a national conference on older workers. I also ask unanimous consent to include a copy of the text of the Mature and Older Workers Act of 1992.

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

S. 3344

*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 "Mature and Older Workers 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 Job Training Partnership Act (29 U.S.C. 1501 et seq.).

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 3 (29 U.S.C. 1502) is amended—

(1) by striking subsections (a) and (b) and inserting the following:

"(a)(1)(A) There are authorized to be appropriated to carry out parts A, B, and D of title II such sums as may be necessary for fiscal year 1993 and for each succeeding fiscal year.

"(B) Of the sums appropriated to carry out parts A, B, and D of title II for each fiscal year, not less than 40 percent shall be made available to carry out part D of such title.

"(2) There are authorized to be appropriated to carry out part C of title II such sums as may be necessary for fiscal year 1993 and for each succeeding fiscal year."

(2) by redesignating subsection (c) as subsection (b); and

(3) by inserting after such subsection (b) the following:

"(c)(1) There is authorized to be appropriated to carry out parts A, C, D, E, F, and G of title IV for fiscal year 1993 and each succeeding fiscal year an amount equal to not more than 7 percent of the sum of the amounts appropriated for parts A, B, and D of title II for such fiscal year.

"(2) The Secretary shall reserve from the amount appropriated under paragraph (1) for any fiscal year—

"(A) an amount equal to 7 percent of the amount appropriated under paragraph (1) to carry out part C of title IV; and

"(B) \$2,000,000 to carry out part F of title IV."

(b) CONFORMING AMENDMENTS.—Subsections (a) and (e) of section 302, and section 326(h) (29 U.S.C. 1652(a) and (e) and 1662e(h)) are amended by striking "3(c)" and inserting "3(b)".

#### SEC. 4. DEFINITIONS.

(a) IN GENERAL.—Section 4 (29 U.S.C. 1503) is amended—

(1) in paragraph (8)(B)(i), by striking "poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget" and inserting "the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902(2)))";

(2) in paragraph (10), by striking "handicapped individual" and inserting "individual with a disability"; and

(3) by adding at the end the following new paragraphs:

"(31) The term 'basic skills deficient' means, with respect to an individual, that the individual has English reading or computing skills at or below the 8th grade level on a generally accepted standardized test or a comparable score on a criterion-referenced test.

"(32) The term 'case management' means the provision, in the delivery of a service, of a client-centered approach designed to—

"(A) prepare and coordinate a comprehensive employment plan, such as a service strategy, for a participant to ensure access to a necessary training and support service; and

"(B) provide job and career counseling during program participation and after job placement.

"(33) The term 'citizenship skills' means skills and qualities, such as teamwork, problem-solving ability, self-esteem, initiative, leadership, commitment to life-long learning, and an ethic of civic responsibility, that are characteristic of productive workers and good citizens.

"(34) The term 'educational agency' means—

"(A) a public local school authority having administrative control of elementary, middle, or secondary schools or providing adult education;

"(B) a public or private institution that provides alternative middle or high school education;

"(C) a public education institution or agency having administrative control of secondary or postsecondary vocational education programs;

"(D) a postsecondary institution; or

"(E) a postsecondary educational institution operated by or on behalf of any Indian tribe that is eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination Act (25 U.S.C. 450f et seq.) or under the Act of April 16, 1934 (48 Stat. 596; chapter 147; 25 U.S.C. 452 et seq.).

"(35) The term 'family' means two or more persons related by blood, marriage, or decree of court, who are living in a single residence, and are included in one or more of the following categories:

"(A) A husband, wife, and dependent children.

"(B) A parent or guardian and dependent children.

"(C) A husband and wife.

"(36) The term 'hard-to-serve individual' means an individual who is included in one or more of the categories described in section 203(a)(2) or subsection (b) or (d) of section 263.

"(37) The term 'JOBS' means the Job Opportunities and Basic Skills Training Program authorized under part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.).

"(38) The term 'mature or older worker' means an individual who is 40 years of age or older.

"(39)(A) The term 'participant' means an individual who has been determined to be eligible to participate in and who is receiving services (except post-termination services authorized under sections 204(c)(4) and 264(d)(5) and followup services authorized under section 253(d)) under a program authorized by this Act.

"(B) For purposes of determining whether an individual is a participant, participation shall be deemed to commence on the first day, following determination of eligibility, on which the participant begins receiving subsidized employment, training, or services funded under this Act.

"(40) The term 'school dropout' means an individual who is no longer attending any school and who has not received a secondary school diploma or a certificate from a program of equivalency for such a diploma.

"(41) The term 'termination' means the separation of a participant who is no longer receiving services (except post-termination services authorized under sections 204(c)(4) and 264(d)(5) and followup services authorized under section 253(d)) under a program authorized and funded by this Act.

"(42) The term 'younger worker' means an individual who is age 22 through 39.

"(43) The term 'youth corps program' means a program, such as a conservation corps or youth service program, that offers productive work with visible community benefits in a natural resource or human service setting and that gives participants a mix of work experience, basic and life skills, education, training, and support services."

(b) CONFORMING AMENDMENTS.—The Act (29 U.S.C. 1501 et seq.) is amended—

(1) in section 4—

(A) in paragraph (5), by striking "the handicapped" and inserting "individuals with a disability";

(B) in paragraph (8)(F), by striking "adult handicapped individual" and inserting "individual with a disability"; and

(C) in paragraph (24), by striking "the handicapped" and inserting "individuals with a disability";

(2) in section 108(c)(2)(B)(ii), by striking "handicapped individuals" and inserting "individuals with a disability";

(3) in the second section 172(b) (as added by Public Law 100-628) (29 U.S.C. 1583(b)), by

striking "handicapped individuals" and inserting "individuals with a disability";

(4) in section 423(1) (29 U.S.C. 1693(1)), by striking "handicapped individual" and inserting "individual with a disability";

(5) in section 451(5), by striking "handicapped individuals" and inserting "individuals with a disability";

(6) in section 453(a)(1), by striking "the handicapped" and inserting "individuals with a disability"; and

(7) in section 456, by striking "the handicapped" and inserting "individuals with a disability."

#### SEC. 5. COUNCILS.

(a) PRIVATE INDUSTRY COUNCIL.—Section 102(c) (29 U.S.C. 1512(c)) is amended by inserting after paragraph (3) the following new paragraph:

"(4) In selecting the remaining members of the council, the appointing authority described in subsection (d) shall ensure that the council includes at least one representative of an agency or organization that by its organizational mission represents the interests of mature or older workers."

(b) STATE COUNCIL.—Section 122(a)(3)(C) (29 U.S.C. 1532(a)(3)(C)) is amended by adding at the end the following: "In selecting the representatives of community-based organizations, the Governor shall ensure that the State Council includes at least one representative of an agency or organization that by its organizational mission represents the interests of mature or older workers."

#### SEC. 6. PERFORMANCE STANDARDS.

Section 106(b) (29 U.S.C. 1516b) is amended by adding at the end the following new paragraph:

"(6) From funds available under section 202(c)(2)(C), and under section 262(c) for providing incentive grants under this paragraph, each Governor shall award incentive grants to service delivery areas conducting programs under parts A and D of title II that—

"(A) exceed the performance standards established by the Secretary under this subsection (except for the standards established pursuant to paragraph (4)) with respect to services to all participants;

"(B) exceed the performance standards established by the Secretary under this subsection (except for the standards established under paragraph (4)) with respect to services to hard-to-serve populations;

"(C) serve more than the minimum percentage of out-of-school youth required by section 263(f); and

"(D) place participants in employment that provides post-program earnings that exceed the appropriate performance criteria."

#### SEC. 7. REPORTS.

Section 165 (29 U.S.C. 1575) is amended by adding at the end the following new subsections:

"(d) The reports required in subsection (c)(1) shall include information necessary to prepare reports to comply with subsection (e).

"(e)(1) The Secretary shall annually prepare a report that—

"(A) shall be based on the data and information submitted under subsections (c) and (d); and

"(B) shall include an analysis, for each State and on a nationwide basis, of the number of participants served under this Act, and the type of services under this Act received by participants, who are—

"(i) age 22 through 39;

"(ii) age 40 through 54;

"(iii) age 55 through 61;

"(iv) age 62 through 64;

"(v) age 65 through 69; and

"(vi) age 70 or older.

"(2) The report required by this subsection shall be submitted to the Congress as part of the annual report of the Secretary under section 169(d)."

**SEC. 8. ESTABLISHMENT OF YOUNGER WORKERS PROGRAM.**

(a) IN GENERAL.—Part A of title II (29 U.S.C. 1601 et seq.) is amended to read as follows:

**"PART A—YOUNGER WORKERS PROGRAM**

**"SEC. 201. STATEMENT OF PURPOSE.**

"It is the purpose of this part to establish programs to prepare younger workers for participation in the labor force by increasing occupational and educational skills resulting in improved long-term employability, increased employment and earnings, and reduced welfare dependency.

**"SEC. 202. ALLOTMENT AND ALLOCATION.**

"(A) ALLOTMENT.—

"(1) TERRITORIES.—Of the amount appropriated under section 3(a)(1) for each fiscal year and available to carry out this part, not more than one-quarter of 1 percent shall be allotted among Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, the Freely Associated States, and the Republic of Palau.

"(2) ALLOTMENT TO STATES.—

"(A) IN GENERAL.—After determining the amounts to be allotted under paragraph (1), the Secretary shall allot the remainder to the remaining States in accordance with subparagraph (B) for allocation to service delivery areas within each State in accordance with subsections (b) and (c).

"(B) BASIS.—Subject to paragraph (3), of the remainder described in subparagraph (A) for each fiscal year—

"(i) 33½ percent shall be allotted on the basis of the relative number of unemployed younger workers residing in areas of substantial unemployment in each State as compared to the total number of such unemployed younger workers in all such areas of substantial unemployment in all the States;

"(ii) 33½ percent shall be allotted on the basis of the relative excess number of unemployed younger workers who reside in each State as compared to the total excess number of unemployed younger workers in all the States; and

"(iii)(I) except as provided in subclause (II), 33½ percent shall be allotted on the basis of the relative number of economically disadvantaged younger workers within each State as compared to the total number of economically disadvantaged younger workers in all States; or

"(II) for any State in which there is any service delivery area described in section 101(a)(4)(A)(iii), 33½ percent shall be allotted on the basis of the higher of the number of younger workers in families with an income below the low-income level in such area or the number of economically disadvantaged younger workers in such area.

"(3) LIMITATIONS ON ALLOTMENTS.—

"(A) STATE MINIMUM.—No State shall receive less than one-quarter of 1 percent of the amount available for allotment to the States under this subsection from the remainder described in paragraph (2)(A) for each fiscal year.

"(B) MINIMUM PERCENTAGE.—No State shall be allotted less than 90 percent of the allotment percentage of the State for the fiscal year preceding the fiscal year for which the determination is made.

"(C) MAXIMUM PERCENTAGE.—No State shall be allotted more than 130 percent of the

allotment percentage of the State for the fiscal year preceding the fiscal year for which the determination is made.

"(D) ALLOTMENT PERCENTAGE.—

"(i) IN GENERAL.—For the purposes of this paragraph, the allotment percentage of a State shall be the percentage that the State received of all allotments under this subsection.

"(ii) FISCAL YEAR 1993.—For the purposes of this paragraph, for fiscal year 1993, the allotment percentage of a State shall be the percentage that the State received of all allotments under section 201 as in effect on the day before the date of the enactment of this section.

"(b) ALLOCATION TO SERVICE DELIVERY AREAS.—Of the amounts allotted to each State under subsection (a)(2)(B) for each fiscal year, the Governor shall allocate not less than 82 percent in accordance with this subsection and 18 percent in accordance with subsection (c). Of such 82 percent—

"(1) 33½ percent shall be allocated among service delivery areas within the State on the basis of the relative number of unemployed younger workers residing in areas of substantial unemployment in each service delivery area as compared to the total excess number of such unemployed younger workers in all such areas of substantial unemployment in the State;

"(2) 33½ percent shall be allocated among service delivery areas within the State on the basis of the relative excess number of unemployed younger workers who reside in each service delivery area as compared to the total excess number of unemployed younger workers in all service delivery areas in the State; and

"(3)(A) except as provided in subparagraph (B), 33½ percent shall be allocated among service delivery areas within the State on the basis of the relative number of economically disadvantaged younger workers within each service delivery area as compared to the total number of economically disadvantaged younger workers in the State; or

"(B) for any service delivery area described in section 101(a)(4)(A)(iii), 33½ percent shall be allotted on the basis of the higher of the number of younger workers in families with an income below the low-income level in such area or the number of economically disadvantaged younger workers in such area.

"(c) STATE ACTIVITIES.—

"(1) IN GENERAL.—The Governor shall allocate 18 percent of the amounts allotted to each State under subsection (a)(2)(B) for the activities described in paragraph (2).

"(2) USES.—Of the amounts allotted to each State under subsection (a)(2)(B) for each fiscal year—

"(A)(i) except as provided in clause (ii), 5 percent shall be available for overall administration, management, and auditing activities relating to programs under this title and for activities described in sections 121 and 122; and

"(ii) the Secretary shall ensure that the amount available to carry out the activities described in clause (i) is not less than \$500,000 by—

"(I) ratably reducing, by an amount necessary to meet the requirement of subclause (II), the amounts available under clause (i) for the States that have amounts available in excess of \$500,000; and

"(II) allotting the funds available under subclause (I) to the States that would otherwise have amounts available under clause (i) that are less than \$500,000 in amounts necessary to ensure that such States have an amount equal to \$500,000 to carry out the activities described in clause (i);

"(B) 2 percent shall be available for technical assistance and capacity building in developing the overall capability of the job training system within the State, including the development and training of State and local service delivery area staff, service provider staff, the development of information and exemplary program activities, and the conduct of research and other activities designed to improve the level, degree, and goals of programs conducted under this Act;

"(C) 3 percent shall be available to provide incentive grants authorized under section 106(b)(6); and

"(D) 8 percent shall be available to carry out section 123.

"(d) DEFINITIONS AND RULE.—

"(1) DEFINITIONS.—As used in this section:

"(A) ECONOMICALLY DISADVANTAGED YOUNGER WORKER.—The term 'economically disadvantaged younger worker' means a younger worker who has, or is a member of a family that has, received a total family income that, in relation to family size, was not in excess of the higher of—

"(i) the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902(2)); or

"(ii) 70 percent of the lower living standard income level.

"(B) EXCESS NUMBER.—The term 'excess number' means—

"(i) with respect to the excess number of unemployed younger workers within a State—

"(I) the number of unemployed younger workers in excess of 4.5 percent of the civilian labor force of younger workers in the State; or

"(II) the number of such unemployed younger workers in excess of 4.5 percent of the civilian labor force of younger workers in areas of substantial unemployment in such State; and

"(ii) with respect to the excess number of unemployed younger workers within a service delivery area—

"(I) the number of unemployed younger workers in excess of 4.5 percent of the civilian labor force of younger workers in the service delivery area; or

"(II) the number of such unemployed younger workers in excess of 4.5 percent of the civilian labor force of younger workers in areas of substantial unemployment in such area.

"(2) SPECIAL RULE.—For the purposes of this section, the Secretary shall, as appropriate and to the extent practical, exclude college students and members of the Armed Forces from the determination of the number of economically disadvantaged younger workers.

**"SEC. 203. ELIGIBILITY FOR SERVICES.**

"(a) ELIGIBILITY.—

"(1) IN GENERAL.—An individual shall be eligible to participate in the program assisted under this part if such individual is—

"(A) a younger worker; and

"(B) economically disadvantaged.

"(2) MINIMUM REQUIREMENT.—Not less than 65 percent of the participants in a program assisted under this part in each service delivery area shall be individuals who, in addition to meeting the requirements of paragraph (1), are included in one or more of the following categories:

"(A) Individuals who are basic skills deficient.

"(B) Individuals who are school dropouts.

"(C) Individuals who are recipients of aid to families with dependent children who ei-

ther meet the requirements of section 403(1)(2)(B) of the Social Security Act (42 U.S.C. 603(1)(2)(B)) or have been provided an employability plan in accordance with section 482(b) of the Social Security Act (42 U.S.C. 682(b)).

"(D) Individuals with a disability.

"(E) Individuals who are homeless, as defined by subsections (a) and (c) of section 103 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302).

"(F) Individuals who are unemployed for the previous 6 months or longer.

"(G) Offenders.

"(H) Individuals who are limited-English proficient.

"(I) Individuals who are in a category established under subsection (b).

"(3) SPECIAL RULE.—Not more than 10 percent of all participants in a program assisted under this part in each service delivery area shall be younger workers who are not economically disadvantaged if such younger workers are within 1 or more categories of individuals who face serious barriers to employment. Such categories may include the categories described in paragraph (2), or categories such as displaced homemakers, veterans, alcoholics, or addicts.

"(b) ADDITIONAL CATEGORY.—A service delivery area conducting a program assisted under this part may add one category of younger workers who face serious barriers to employment to the categories of eligible individuals described in subsection (a)(2) if—

"(1) the service delivery area submits a request to the Governor identifying the additional category of younger workers and justifying the inclusion of such category;

"(2) the Governor approves the request submitted under paragraph (1) and transmits the request to the Secretary, as part of the Governor's coordination and special services plan under section 121; and

"(3) the Secretary approves the request submitted under paragraph (2).

#### "SEC. 204. PROGRAM DESIGN.

"(a) IN GENERAL.—

"(1) PROGRAM REQUIREMENTS.—Each program assisted under this part shall include—

"(A) an objective assessment of the skill levels and service needs of each participant, including such factors as basic skills, occupational skills, prior work experience, employability, interests, aptitudes (including interests and aptitudes for nontraditional employment) and supportive service needs, except that a new assessment of a participant is not required if the program determines that a recent assessment of the participant conducted under another education or training program, such as the JOBS program, is an appropriate assessment;

"(B) development of service strategies that shall identify the employment goal (including, in appropriate circumstances, nontraditional employment), the appropriate achievement objectives, and the appropriate sequence of services for participants, taking into account the assessments conducted under subparagraph (A), except that a new service strategy is not required if the program determines a recent service strategy developed for the participant under another education or training program (such as the JOBS program) is an appropriate service strategy;

"(C) a review of the progress of each participant in meeting the objectives of the service strategy; and

"(D) basic skills training and occupational skills training if the assessment and the service strategy indicate such training is appropriate.

"(2) ADDITIONAL REQUIREMENTS.—

"(A) MINIMUM INCOME PARTICIPANTS AND APPLICANTS.—Each service delivery area participating in a program assisted under this part shall ensure that each participant or applicant who meets the minimum income eligibility criteria shall be provided—

"(i) information on the full array of applicable or appropriate services that are available through the service delivery area or other service providers, including providers receiving funds under this Act; and

"(ii) referral to other appropriate training and educational programs that have the capacity to serve the participant or applicant either on a sequential or concurrent basis.

"(B) APPLICANTS NOT MEETING ENROLLMENT REQUIREMENTS.—

"(i) SERVICE PROVIDERS.—Each service provider shall ensure that an eligible applicant who does not meet the enrollment requirements of the particular program of the provider shall be referred to the service delivery area for further assessment, as necessary, and referrals to appropriate programs to meet the basic skills and training needs of the applicant.

"(ii) SERVICE DELIVERY AREA.—The service delivery area shall ensure that appropriate referrals are made under clause (i) and shall maintain records on the referrals and the reasons for which applicants are referred.

"(b) AUTHORIZED SERVICES.—Subject to the limitations contained in subsection (c), services that may be made available to each participant under this part may include—

"(1) direct training services, including—

"(A) basic skills training, including remedial education, literacy training, and English-as-a-second-language instruction;

"(B) institutional skills training;

"(C) on-the-job training;

"(D) assessment of the skill levels and service needs of participants;

"(E) counseling, such as job counseling and career counseling;

"(F) case management services;

"(G) education-to-work transition activities;

"(H) programs that combine workplace training with related instruction;

"(I) work experience;

"(J) programs of advanced career training that provide a formal combination of on-the-job and institutional training and internship assignments that prepare younger workers for career employment;

"(K) training programs operated by the private sector, including programs operated by labor organizations or by consortia of private sector employers utilizing private sector facilities, equipment, and personnel to train workers in occupations for which demand exceeds supply;

"(L) skill upgrading and retraining;

"(M) bilingual training;

"(N) entrepreneurial training, such as training activities for microenterprises;

"(O) vocational exploration;

"(P) training programs to develop work habits to help younger workers obtain and retain employment;

"(Q) attainment of certificates of high school equivalency;

"(R) preapprenticeship programs;

"(S) on-site, industry-specific training programs supportive of industrial and economic development;

"(T) customized training conducted with a commitment by an employer or group of employers to employ a younger worker upon successful completion of the training; and

"(U) use of advanced learning technology for education, job preparation, and skills training; and

"(2) training-related and supportive services, including—

"(A) job search assistance;

"(B) outreach to make younger workers aware of, and encourage the use of, employment and training services, including efforts to expand awareness of training and placement opportunities for younger workers who are limited-English proficient individuals or individuals with disabilities;

"(C) outreach, to develop awareness of, and encourage participation in, education, training services, and work experience programs to assist women in obtaining nontraditional employment, and to facilitate the retention of women in nontraditional employment, including services at the site of training or employment;

"(D) specialized surveys not available through other labor market information sources;

"(E) dissemination of information on program activities to employers;

"(F) development of job openings;

"(G) programs coordinated with other Federal employment-related activities;

"(H) supportive services, necessary to enable younger workers to participate in the program, and to assist the younger workers, for a period not to exceed 12 months following completion of training, to retain employment;

"(I) needs-based payments necessary to participate in accordance with a locally developed formula or procedure;

"(J) followup services with participants placed in unsubsidized employment; and

"(K) services to obtain job placements for participants.

"(c) SPECIAL RULES.—

"(1) WORKPLACE CONTEXT AND INTEGRATION.—Basic skills training provided under this part shall, in appropriate circumstances, have a workplace context and be integrated with occupational skills training.

"(2) BASIC EDUCATION OR OCCUPATIONAL SKILLS.—

"(A) ADDITIONAL SERVICES.—Except as provided in subparagraph (B), job search, job search skills training, job clubs, and work experience provided under this part shall be accompanied by other services designed to increase the basic education or occupational skills of a participant.

"(B) LACK OF APPROPRIATENESS AND AVAILABILITY.—Each program assisted under this part may provide job search, job search skills training, and job clubs activities to a participant without the additional services described in subparagraph (A) if—

"(i) the assessment and service strategy of a participant indicate that the additional services are not appropriate; and

"(ii) the activities are not available to the participant through the employment service or other public agencies.

"(3) NEEDS-BASED PAYMENTS.—Needs-based payments provided under this part shall be limited to payments necessary for participation in the program assisted under this part in accordance with a locally developed formula or procedure.

"(4) COUNSELING AND SUPPORTIVE SERVICES.—Counseling and supportive services provided under this part may be provided to a participant for a period up to 1 year after the date on which the participant completes the program.

"(5) SERVICE STRATEGY.—The service strategy developed under subsection (a)(1) shall not be considered a contract.

"(6) VOLUNTEERS.—The service delivery area shall make opportunities available for successful younger workers who have pre-

viously participated in programs under this part to volunteer assistance to participants in the form of mentoring, tutoring, and other activities.

**"SEC. 205. LINKAGES.**

"(a) IN GENERAL.—In conducting the program assisted under this part, the service delivery area shall establish appropriate linkages with other Federal programs. Such programs shall include, where feasible, programs assisted under—

"(1) the Adult Education Act (20 U.S.C. 1201 et seq.);

"(2) the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.);

"(3) the Wagner-Peyser Act (29 U.S.C. 49 et seq.);

"(4) part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.);

"(5) the employment program established under section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4));

"(6) the National Apprenticeship Act (29 U.S.C. 50 et seq.);

"(7) the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.);

"(8) title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.);

"(9) chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.); and

"(10) the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77; 101 Stat. 482).

"(b) OTHER APPROPRIATE LINKAGES.—In addition to the linkages required under subsection (a), each service delivery area receiving financial assistance under this part shall establish other appropriate linkages to enhance the provision of services under this part. Such linkages may be established with local educational agencies, local service agencies, public housing agencies, community-based organizations, literacy organizations, business and labor organizations, volunteer groups working with disadvantaged adults, and other training, education, employment, economic development, and social service programs.

**"SEC. 206. TRANSFER OF FUNDS.**

"A service delivery area may transfer up to 10 percent of the funds provided under this part to the programs under parts C and D and up to 30 percent of the funds provided under this part to the programs under part B if such transfer is—

"(1) described in the job training plan; and

"(2) approved by the Governor.

**"SEC. 207. STUDIES RELATING TO PLACEMENT AND TARGET POPULATIONS.**

"The Comptroller General of the United States shall conduct a study to determine the number and percentage of younger workers assisted under this part that remain employed for at least 9 months after receiving assistance under this part. The Comptroller General shall submit a report containing the findings resulting from the study to the appropriate committees of Congress not later than 3 years after the date of enactment of this section."

(b) TECHNICAL AMENDMENT.—The table of contents relating to part A of title II is amended to read as follows:

**"PART A—YOUNGER WORKERS PROGRAM**

"Sec. 201. Statement of purpose.

"Sec. 202. Allotment and allocation.

"Sec. 203. Eligibility for services.

"Sec. 204. Program design.

"Sec. 205. Linkages.

"Sec. 206. Transfer of funds.

"Sec. 207. Studies relating to placement and target populations."

**SEC. 9. ESTABLISHMENT OF MATURE OR OLDER WORKERS PROGRAM.**

(a) IN GENERAL.—Part B of title II (29 U.S.C. 1630 et seq.) is amended to read as follows:

**"PART B—MATURE OR OLDER WORKERS PROGRAM**

**"SEC. 221. STATEMENT OF PURPOSE.**

"It is the purpose of this part to establish programs to prepare mature or older workers for participation in the labor force by increasing occupational and educational skills resulting in improved long-term employability, increased employment and earnings, and reduced welfare dependency.

**"SEC. 222. ALLOTMENT AND ALLOCATION.**

"(a) ALLOTMENT.—

"(1) TERRITORIES.—Of the amount appropriated under section 3(a)(1) for each fiscal year and available to carry out this part, not more than one-quarter of 1 percent shall be allotted among Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, the Freely Associated States, and the Republic of Palau.

"(2) ALLOTMENT TO STATES.—

"(A) IN GENERAL.—After determining the amounts to be allotted under paragraph (1), the Secretary shall allot the remainder to the remaining States in accordance with subparagraph (B) for allocation to service delivery areas within each State in accordance with subsections (b) and (c).

"(B) BASIS.—Subject to paragraph (3), of the remainder described in subparagraph (A) for each fiscal year—

"(i) 33 1/2 percent shall be allotted on the basis of the relative number of unemployed mature or older workers residing in areas of substantial unemployment in each State as compared to the total number of such unemployed mature or older workers in all such areas of substantial unemployment in all States;

"(ii) 33 1/2 percent shall be allotted on the basis of the relative excess number of unemployed mature or older workers who reside in each State as compared to the total excess number of unemployed mature or older workers in all States; and

"(iii)(I) except as provided in subclause (II), 33 1/2 percent shall be allotted on the basis of the relative number of economically disadvantaged mature or older workers within each State as compared to the total number of economically disadvantaged mature or older workers in all States; or

"(II) for any State in which there is any service delivery area described in section 101(a)(4)(A)(iii), 33 1/2 percent shall be allotted on the basis of the higher of the number of mature or older workers in families with an income below the low-income level in such area or the number of economically disadvantaged mature or older workers in such area.

"(3) LIMITATIONS ON ALLOTMENTS.—

"(A) STATE MINIMUM.—No State shall receive less than one-quarter of 1 percent of the amount available for allotment to the States under this subsection from the remainder described in paragraph (2)(A) for each fiscal year.

"(B) MINIMUM PERCENTAGE.—No State shall be allotted less than 90 percent of the allotment percentage of the State for the fiscal year preceding the fiscal year for which the determination is made.

"(C) MAXIMUM PERCENTAGE.—No State shall be allotted more than 130 percent of the allotment percentage of the State for the fiscal year preceding the fiscal year for which the determination is made.

"(D) ALLOTMENT PERCENTAGE.—

"(i) IN GENERAL.—For the purposes of this paragraph, the allotment percentage of a State shall be the percentage that the State received of all allotments under this subsection.

"(ii) FISCAL YEAR 1993.—For the purposes of this paragraph, for fiscal year 1993, the allotment percentage of a State shall be the percentage that the State received of all assistance provided under section 124 as in effect on the day before the date of the enactment of this section.

"(b) ALLOCATION TO SERVICE DELIVERY AREAS.—Of the amounts allotted to each State under subsection (a)(2)(B) for each fiscal year, the Governor shall allocate not less than 70 percent and not more than 85 percent in accordance with this subsection and the remaining 15 to 30 percent in accordance with subsection (c). Of such 70 to 85 percent—

"(1) 33 1/2 percent shall be allocated among service delivery areas within the State on the basis of the relative number of unemployed mature or older workers residing in areas of substantial unemployment in each service delivery area as compared to the total excess number of such unemployed mature or older workers in all such areas of substantial unemployment in the State;

"(2) 33 1/2 percent shall be allocated among service delivery areas within the State on the basis of the relative excess number of unemployed mature or older workers who reside in each service delivery area as compared to the total excess number of unemployed mature or older workers in all service delivery areas in the State; and

"(3)(A) except as provided in subparagraph (B), 33 1/2 percent shall be allocated among service delivery areas within the State on the basis of the relative number of economically disadvantaged mature or older workers within each service delivery area as compared to the total number of economically disadvantaged mature or older workers in the State; or

"(B) for any service delivery area described in section 101(a)(4)(A)(iii), 33 1/2 percent shall be allotted on the basis of the higher of the number of mature or older workers in families with an income below the low-income level in such area or the number of economically disadvantaged mature or older workers in such area.

"(c) STATE ACTIVITIES.—

"(1) IN GENERAL.—The Governor shall allocate not less than 15 percent and not more than 30 percent of the amounts allotted to each State under subsection (a)(2)(B) for the activities described in paragraph (2).

"(2) USES.—The amounts allotted to each State under subsection (a)(2)(B) for each fiscal year shall be utilized by each State—

"(A) for demonstration projects to address the needs of mature or older workers, especially projects receiving assistance under section 124 as in effect on the day before the date of enactment of the Mature or Older Workers Act of 1992;

"(B) for other regional or statewide research and demonstration activities in the areas of recruitment, counseling, assessment, training, job development, and placement assistance for mature or older workers;

"(C) for technical assistance to service delivery areas, private industry councils, local training providers, and others to meet the vocational needs of mature or older workers;

"(D) for State and local information and advocacy programs regarding age discrimination in employment;

"(E) for support of on-the-job training and related services directed to at-risk mature or older workers who face termination or dis-

location due to changes in skill demands, market conditions, technological change, or other factors;

"(F) for programs directed—

"(i) to the employment needs of displaced homemakers who are mature or older workers with little or no recent labor market experience; and

"(ii) to the employment training needs of rural mature or older workers as defined in section 225(c)(2)(D); or

"(G) to provide for enhanced data collection and analysis on employment trends affecting mature or older workers.

"(d) DEFINITIONS AND RULE.—

"(A) ECONOMICALLY DISADVANTAGED MATURE OR OLDER WORKER.—The term "economically disadvantaged mature or older worker" means an individual who is 40 years of age or older and who has, or is a member of a family that has, received a total family income that, in relation to family size, was not in excess of the higher of—

"(i) the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902(2)); or

"(ii) 70 percent of the lower living standard income level.

"(B) EXCESS NUMBER.—Term "excess number" means—

"(i) with respect to the excess number of unemployed mature or older workers within a State—

"(I) the number of unemployed mature or older workers in excess of 4.5 percent of the civilian labor force of mature or older workers in the State; or

"(II) the number of such unemployed mature or older workers in excess of 4.5 percent of the civilian labor force of mature or older workers in areas of substantial unemployment in such State; and

"(ii) with respect to the excess number of unemployed mature or older workers within a service delivery area—

"(I) the number of unemployed mature or older workers in excess of 4.5 percent of the civilian labor force of mature or older workers in the service delivery area; or

"(II) the number of such unemployed mature or older workers in excess of 4.5 percent of the civilian labor force of mature or older workers in areas of substantial unemployment in such area.

"(2) SPECIAL RULE.—For the purposes of this section, the Secretary shall, as appropriate and to the extent practical, exclude members of the armed forces from the determination of the number of economically disadvantaged mature or older workers.

#### "SEC. 223. RECAPTURE AND REALLOTMENT OF UNEXPENDED FUNDS.

"(a) GENERAL REALLOTMENT AUTHORITY.—The Secretary shall, in accordance with the requirements of this section, reallocate to eligible States the funds allotted to States from funds appropriated for such program year that are available for reallocation.

"(b) AMOUNT AVAILABLE FOR REALLOTMENT.—The amount of funds available for reallocation is equal to—

"(1) the amount by which the unexpended balance of the State allotment at the end of the program year prior to the program year for which the determination under this section is made exceeds 20 percent of such allotment for that prior program year; plus

"(2) the unexpended balance of the State allotment from any program year prior to the program year in which there is such excess.

"(c) METHOD OF REALLOTMENT.—The Secretary shall determine the amount that

would be allotted to each eligible State by using the factors described in section 222(a)(2)(B) to allocate among eligible States the amount available pursuant to subsection (b) of this section

"(d) STATE PROCEDURES WITH RESPECT TO REALLOTMENT.—The Governor of each State shall prescribe uniform procedures for the expenditure of funds by substate grantees in order to avoid the requirement that funds be made available for reallocation under subsection (b). The Governor shall further prescribe equitable procedures for making funds available from the State and substate grantees in the event that a State is required to make funds available for reallocation under such subsection.

"(e) RULE.—For purposes of this section, funds awarded from discretionary funds of the Secretary shall not be included in calculating any of the reallocations described in this section.

"(f) DEFINITIONS.—For the purposes of this section:

"(1) ELIGIBLE STATE.—The term "eligible State" means a State that has expended at least 80 percent of its allotment for the program year prior to the program year for which the determination under this section is made.

"(2) STATE.—The term "State" means any of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

#### "SEC. 224. ELIGIBILITY FOR SERVICES

"An individual shall be eligible to participate in the program assisted under this part if such individual is 40 years of age or older and is included in one or more of the following categories:

"(1) Individuals whose income is not in excess of the poverty line as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902(2)).

"(2) Individuals who are eligible for food stamps pursuant to the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).

"(3) Individuals who are eligible for housing assistance pursuant to section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), section 202 of the Housing Act of 1959 (12 U.S.C. 1701q), section 236 of the National Housing Act (12 U.S.C. 1715z-1) and section 515 of the Housing Act of 1949 (42 U.S.C. 1485).

"(4) Individuals who are included in 2 or more of the following categories:

"(A) Individuals who are unemployed 15 of the past 26 weeks.

"(B) Individuals who are unemployed 30 of the past 52 weeks.

"(C) Individuals who are working 20 or fewer hours a week.

"(D) Individuals who are displaced homemakers.

"(E) Individuals who are homeless.

"(F) Individuals who have finished less than 10 years of school.

"(G) Individuals who are deficient in basic skills.

"(H) Individuals who have been notified that the jobs of such individuals will be terminated within the next 60 days.

"(5) Individuals whose income meets the poverty line requirements as described in paragraph (1), and the eligibility requirements for food stamps, and federally assisted housing, as described in paragraphs (2) and (3), respectively, for an individual who lives alone. Such individuals shall not be precluded from receiving services if such individuals are members of a household whose income does not meet such requirements.

"(6) Individuals who are eligible for services under title V of the Older Americans Act (42 U.S.C. 3056 et seq.).

#### "SEC. 225. PROGRAM DESIGN.

"(a) IN GENERAL.—

"(1) PROGRAM REQUIREMENTS.—Each program assisted under this part shall include—

"(A) an objective assessment of the skill levels and service needs of each participant, including such factors as basic skills, occupational skills, prior work experience, employability, interests, aptitudes (including interests and aptitudes for nontraditional employment) and supportive service needs, except that a new assessment of a participant is not required if the program determines that a recent assessment of the participant conducted under another education or training program, such as the JOBS program, is an appropriate assessment;

"(B) development of service strategies that shall identify the employment goal (including, in appropriate circumstances, nontraditional employment), the appropriate achievement objectives, and the appropriate sequence of services for participants, taking into account the assessments conducted under subparagraph (A), except that a new service strategy is not required if the program determines a recent service strategy developed for the participant under another education or training program (such as the JOBS program) is an appropriate service strategy;

"(C) a review of the progress of each participant in meeting the objectives of the service strategy; and

"(D) basic skills training and occupational skills training if the assessment and the service strategy indicate such training is appropriate.

"(2) ADDITIONAL REQUIREMENTS.—

"(A) MINIMUM INCOME PARTICIPANTS AND APPLICANTS.—Each service delivery area participating in a program assisted under this part shall ensure that each participant or applicant described in paragraph (1), (2), (3), or (5) of section 224 shall be provided—

"(i) information on the full array of applicable or appropriate services that are available through the service delivery area or other service providers, including providers receiving funds under this Act; and

"(ii) referral to other appropriate training and educational programs that have the capacity to serve the participant or applicant either on a sequential or concurrent basis.

"(B) APPLICANTS NOT MEETING ENROLLMENT REQUIREMENTS.—

"(i) SERVICE PROVIDERS.—Each service provider shall ensure that an eligible applicant who does not meet the enrollment requirements of the particular program of the provider shall be referred to the service delivery area for further assessment, as necessary, and referrals to appropriate programs to meet the basic skills and training needs of the applicant.

"(ii) SERVICE DELIVERY AREA.—The service delivery area shall ensure that appropriate referrals are made under clause (i) and shall maintain records on the referrals and the reasons for which applicants are referred.

"(b) AUTHORIZED SERVICES.—One or more of the following training or supportive services shall be made available to each participant under this part:

"(1) Outreach and recruitment.

"(2) Intake and assessment.

"(3) Job search assistance.

"(4) Classroom and occupational skill training.

"(5) On-the-job training.

"(6) Work experience.

"(7) Basic and remedial education and literacy training.

"(8) Supplemental services, including day care for dependent children and adults.

"(9) Occupational placement assistance.

"(c) SPECIAL RULES.—

"(1) SELECTION OF SERVICE PROVIDERS.—In the selection of service providers, the administration entity shall give preference to agencies and organizations with demonstrated competence in conducting older and mature worker programs.

"(2) JOB TRAINING PLAN.—

"(A) DEVELOPMENT OF PLAN.—The private industry council, pursuant to section 103(b)(1)(A)(iii) of this Act, shall enter into agreement to develop the job training plan under this program with the following agencies:

"(i) Agencies responsible for the administration of programs under titles II, III, and IV of this Act.

"(ii) Agencies responsible for the administration of programs under title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.).

"(iii) Agencies responsible for the administration of programs under the Adult Education Act (20 U.S.C. 1201 et seq.), and the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.).

"(iv) Agencies responsible for the administration of programs under the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.).

"(v) Agencies responsible for trade adjustment assistance under title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.).

"(vi) Agencies responsible for literacy training.

"(B) REQUIREMENTS.—In addition to the job training plan requirements under section 104, each job training plan for this program shall include assurances that rural mature or older workers will be fairly served under all program allocations.

"(C) HEARINGS.—Any job training plan developed under section 105 and this section shall be reasonably available to the general public through a public hearing.

"(D) DEFINITION.—For the purposes of this paragraph, the term 'rural mature or older worker' means a mature or older worker who resides in an area that is not an urbanized area, as defined by the Bureau of the Census.

**"SEC. 226. LINKAGES.**

"(a) IN GENERAL.—In conducting the program assisted under this part, the service delivery area shall establish appropriate linkages with older Federal programs. Such programs shall include, where feasible, programs assisted under—

"(1) the Adult Education Act (20 U.S.C. 1201 et seq.);

"(2) the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.);

"(3) the Wagner-Peyser Act (29 U.S.C. 49 et seq.);

"(4) part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.);

"(5) the employment program established under section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4));

"(6) the National Apprenticeship Act (29 U.S.C. 50 et seq.);

"(7) the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.);

"(8) title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.);

"(9) chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.); and

"(10) the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77; 101 Stat. 482).

"(b) OTHER APPROPRIATE LINKAGES.—In addition to the linkages required under subsection (a), each service delivery area receiving

financial assistance under this part shall establish other appropriate linkages to enhance the provision of services under this part. Such linkages may be established with local educational agencies, local service agencies, public housing agencies, community-based organizations, literacy organizations, business and labor organizations, volunteer groups working with disadvantaged adults, and other training, education, employment, economic development, and social service programs.

**"SEC. 227. TRANSFER OF FUNDS.**

"A service delivery area may transfer up to 10 percent of the funds provided under this part to the programs under parts C and D and up to 30 percent of the funds provided under this part to the program under part A if such transfer is—

- "(1) described in the job training plan; and
- "(2) approved by the Governor.

**"SEC. 228. STUDIES RELATING TO PLACEMENT AND TARGET POPULATIONS.**

"The Comptroller General of the United States shall conduct a study to determine the number and percentage of adults assisted under this part that remain employed for at least 9 months after receiving assistance under this part. The Comptroller General shall submit a report containing the findings resulting from the study to the appropriate committees of Congress not later than 3 years after the date of enactment of this section."

(b) TECHNICAL AMENDMENT.—The table of contents relating to part B of title II is amended to read as follows:

**"PART B—MATURE OR OLDER WORKERS PROGRAM**

- "Sec. 221. Statement of purpose.
- "Sec. 222. Allotment and allocation.
- "Sec. 223. Recapture and reallocation of unexpended funds.
- "Sec. 224. Eligibility for services.
- "Sec. 225. Program design.
- "Sec. 226. Linkages.
- "Sec. 227. Transfer of funds.
- "Sec. 228. Studies relating to placement and target populations."

**SEC. 10. ESTABLISHMENT OF SUMMER YOUTH OPPORTUNITY PROGRAM.**

(a) IN GENERAL.—Title II (29 U.S.C. 1601 et seq.) is amended by adding at the end the following:

**"PART C—SUMMER YOUTH EMPLOYMENT AND TRAINING PROGRAMS**

**"SEC. 251. PURPOSE.**

- "It is the purpose of programs assisted under this part—
- "(1) to enhance the basic educational skills of youth;
  - "(2) to encourage school completion, or enrollment in supplementary or alternative school programs;
  - "(3) to provide eligible youth with exposure to the world of work; and
  - "(4) to enhance the citizenship skills of youth.

**"SEC. 252. AUTHORIZATION OF APPROPRIATIONS; ALLOTMENT AND ALLOCATION.**

"(a) TERRITORIAL AND NATIVE AMERICAN ALLOCATION.—From the funds appropriated under section 3(a)(2), the Secretary shall first allocate to Guam, the Virgin Islands, American Samoa, the Freely Associated States, the Republic of Palau, the Commonwealth of the Northern Mariana Islands, and entities eligible under section 401 the same percentage of funds as were available to such areas and entities for the summer youth program in the fiscal year preceding the fiscal year for which the determination is made.

"(b) FORMULA FOR ALLOTMENT AND ALLOCATION.—The remainder of funds appropriated

under section 3(a)(2) shall, for each fiscal year, be allotted among the remaining States on the basis of the formula specified in section 202(a)(2)(B) and allocated among service delivery areas on the basis of the formula specified in section 202(b). For purposes of the application of the formulas under this subsection, the term 'economically disadvantaged individual' means an economically disadvantaged youth, as defined in section 262(d)(1)(A).

**"SEC. 253. USE OF FUNDS.**

"(a) IN GENERAL.—Funds available under this part may be used for—

"(1) basic and remedial education, institutional and on-the-job training, work experience programs, youth corps programs, employment counseling, occupational training, preparation for work, outreach and enrollment activities, employability assessment, job referral and placement, job search and job club activities, activities under programs described in section 265(b), and any other employment or job training activity designed to give employment to eligible individuals or prepare the individuals for, and place the individuals in, employment;

"(2) supportive services necessary to enable such individuals to participate in the program; and

"(3) administrative costs, not to exceed 15 percent of the funds available under this part.

**"(b) BASIC AND REMEDIAL EDUCATION.—**

"(1) IN GENERAL.—A service delivery area shall expend funds (available under this Act or otherwise available to the service delivery area) for basic and remedial education as described in the job training plan under section 104.

"(2) EDUCATION OR TRAINING.—The education authorized by paragraph (1) may be provided by—

- "(A) the year-round program under this part;
- "(B) the Job Corps;
- "(C) the JOBS program;
- "(D) youth corps programs;
- "(E) alternative or secondary schools; or
- "(F) other education and training programs.

**"(c) ASSESSMENT.—**

"(1) IN GENERAL.—Except as provided in paragraph (2), each participant under this part shall be provided with an objective assessment of the skill levels and service needs of the participant, which assessment may include a review of basic skills, occupational skills, prior work experience, employability, interests, aptitudes, and supportive service needs.

"(2) RECENT ASSESSMENTS.—The assessment described in paragraph (1), or a factor of such assessment is not required under a program under this part if the program uses recent assessments conducted under another education or training program (such as the JOBS program).

"(3) SERVICE STRATEGY.—The service delivery area shall develop a service strategy for participants that may identify achievement objectives, appropriate employment goals, and appropriate services for participants, taking into account the assessments conducted under this subsection or under such other education or training program.

"(d) FOLLOWUP SERVICES.—Service delivery areas shall make followup services available for participants if the service strategy indicates such services are appropriate.

**"SEC. 254. LIMITATIONS.**

"(a) USE DURING SUMMER MONTHS OR EQUIVALENT VACATION PERIOD.—

"(1) SUMMER MONTHS.—Except as provided in paragraph (2), programs under this part

shall be conducted during the summer months.

"(2) VACATION PERIOD.—A service delivery area may, within the jurisdiction of any local educational agency that operates schools on a year-round, full-time basis, offer the programs under this part to participants during a vacation period treated as the equivalent of a summer vacation.

"(b) ELIGIBILITY.—An individual shall be eligible to participate in the program assisted under this part if such individual is economically disadvantaged and age 14 through 21.

"(c) CONCURRENT ENROLLMENT.—

"(1) IN GENERAL.—An eligible individual participating in a program assisted under this part may concurrently be enrolled in programs under part D. Appropriate adjustment to the youth performance standards (regarding attainment of competencies) under sections 106(b)(4)(A) (i) and (ii) and 106(b)(5) shall be made to reflect the limited period of participation.

"(2) CONCURRENT ENROLLMENT AND TRANSFERS.—Youth being served under this part or part D youth programs are not required to be terminated from participation in one program in order to enroll in the other. The Secretary shall provide guidance to service delivery areas on simplified procedures for concurrent enrollment and transfers for youth from one program to the other.

"SEC. 255. APPLICABLE PROVISIONS.

"(a) COMPARABLE FUNCTIONS OF AGENCIES AND OFFICIALS.—Private industry councils established under title I, chief elected officials, State job training coordinating councils, and Governors shall have the same authority, duties, and responsibilities with respect to planning and administration of funds available under this part as the private industry councils, chief elected officials, State job training coordinating councils, and Governors have with respect to funds available under parts A and D of title II.

"(b) PROGRAM GOALS AND OBJECTIVES.—In accordance with subsection (a), each service delivery area shall establish written program goals and objectives that shall be used for evaluating the effectiveness of programs conducted under this part. Such goals and objectives may include—

"(1) improvement in school retention and completion;

"(2) improvement in academic performance, including mathematics and reading comprehension;

"(3) improvement in employability skills; and

"(4) demonstrated coordination with other community service organizations such as local educational agencies, law enforcement agencies, and drug and alcohol abuse prevention and treatment programs."

(b) TECHNICAL ADJUSTMENT.—The table of contents relating to title II is amended by adding at the end the following:

"PART C—SUMMER YOUTH EMPLOYMENT AND TRAINING PROGRAMS

"Sec. 251. Purpose.

"Sec. 252. Authorization of appropriations; allotment and allocation.

"Sec. 253. Use of funds.

"Sec. 254. Limitations.

"Sec. 255. Applicable provisions."

SEC. 11. ESTABLISHMENT OF YOUTH OPPORTUNITY PROGRAM.

(a) IN GENERAL.—Title II (29 U.S.C. 1601 et seq.), as amended by section 10(a), is further amended by adding at the end the following:

"PART D—YOUTH OPPORTUNITY PROGRAM

"SEC. 261. STATEMENT OF PURPOSE.

"It is the purpose of the programs assisted under this part to—

"(1) improve the long-term employability of youth;

"(2) enhance the educational, occupational, and citizenship skills of youth;

"(3) encourage school completion or enrollment in alternative school programs;

"(4) increase the employment and earnings of youth;

"(5) reduce welfare dependency; and

"(6) assist youth in addressing problems that impair the ability of youth to make successful transitions from school to work, apprenticeship, the military, or postsecondary education and training.

"SEC. 262. ALLOTMENT AND ALLOCATION.

"(a) ALLOTMENT.—

"(1) TERRITORIES.—Of the amount appropriated under section 3(a)(1) for each fiscal year and available to carry out this part, not more than one-quarter of 1 percent shall be allotted among Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, the Freely Associated States, and the Republic of Palau.

"(2) ALLOTMENT TO STATES.—After determining the amounts to be allotted under paragraph (1), the Secretary shall allot the remainder to the remaining States in accordance with paragraphs (2) and (3) of section 202(a), except for purposes of the application of the formula under this subparagraph, the term 'economically disadvantaged individual' means an economically disadvantaged youth.

"(b) ALLOCATION TO SERVICE DELIVERY AREAS.—Of the amounts allotted to each State under subsection (a)(2) for each fiscal year, the Governor shall allocate 82 percent on the basis of the formula specified in section 202(b) and 18 percent in accordance with subsection (c). For purposes of the application of the formula under this subsection, the term 'economically disadvantaged individual' means an economically disadvantaged youth.

"(c) STATE ACTIVITIES.—The Governor shall allocate 18 percent of the amounts allotted to each State under subsection (a)(2) in the same proportions and for the activities, described in subparagraphs (A), (B), (C), and (D) of section 202(c)(2).

"(d) DEFINITIONS AND RULE.—

"(1) DEFINITIONS.—As used in this section:

"(A) ECONOMICALLY DISADVANTAGED YOUTH.—The term 'economically disadvantaged youth' means an individual who is age 16 through 21 and who has, or is a member of a family that has, received a total family income that, in relation to family size, was not in excess of the higher of—

"(i) the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902(2)); or

"(ii) 70 percent of the lower living standard income level.

"(B) EXCESS NUMBER.—The term 'excess number' shall have the meaning given the term in section 202(d)(1)(B).

"(2) SPECIAL RULE.—For the purposes of this section, the Secretary shall, as appropriate and to the extent practicable, exclude college students and members of the Armed Forces from the determination of the number of economically disadvantaged youth and the size of the youth population in a service delivery area.

"SEC. 263. ELIGIBILITY FOR SERVICES.

"(a) IN-SCHOOL YOUTH.—An individual who is in school shall be eligible to participate in the program under this part if such individual is—

"(1)(A) age 16 through 21; or

"(B) if provided in the job training plan, age 14 through 21; and

"(2) economically disadvantaged, or participates in a compensatory education program under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2711 et seq.).

"(b) TARGETED GROUPS OF IN-SCHOOL YOUTH.—Not less than 70 percent of the in-school individuals who participate in a program under this part shall be individuals who, in addition to meeting the requirements of subsection (a), are included in one or more of the following categories:

"(1) Individuals who are basic skills deficient.

"(2) Individuals with educational attainment that is one or more grade levels below the grade level appropriate to the age of the individuals.

"(3) Individuals who are pregnant or parenting.

"(4) Individuals with disabilities, including a learning disability.

"(5) Individuals exhibiting a pattern of disruptive behavior or disciplinary problems.

"(6) Individuals who are limited-English proficient.

"(7) Individuals who are homeless or run-away youth.

"(8) Offenders.

"(9) Individuals within a category established under subsection (h).

"(c) OUT-OF-SCHOOL YOUTH.—An individual who is out of school shall be eligible to participate in the program under this part if such individual is—

"(1) age 16 through 21; and

"(2) economically disadvantaged.

"(d) TARGETED GROUPS OF OUT-OF-SCHOOL YOUTH.—Not less than 70 percent of the out-of-school individuals who participate in a program under this part shall be individuals who, in addition to meeting the requirements of subsection (c), are included in one or more of the following categories:

"(1) Individuals who are basic skills deficient.

"(2) Individuals who are school dropouts (subject to the conditions described in section 264(d)(2)).

"(3) Individuals who are pregnant or parenting.

"(4) Individuals with disabilities, including a learning disability.

"(5) Homeless or run-away youth.

"(6) Offenders.

"(7) Individuals who are limited-English proficient.

"(8) Individuals in a category established under subsection (h).

"(e) EXCEPTIONS.—Not more than 10 percent of participants in the program assisted under this part in each service delivery area shall be individuals who do not meet the requirements of subsection (a)(2) or (c)(2), if such individuals are within one or more categories of individuals who face serious barriers to employment. Such categories may include the categories described in subsections (b) and (d), or categories such as individuals with limited-English language proficiency, alcoholics, or drug addicts.

"(f) RATIO OF OUT-OF-SCHOOL TO IN-SCHOOL YOUTH.—Not less than 50 percent of the participants in the program under this part in each service delivery area shall be out-of-school individuals who meet the requirements of subsection (c), (d), or (e).

"(g) SCHOOLWIDE PROJECTS FOR LOW-INCOME SCHOOLS.—

"(1) IN GENERAL.—In addition to the individuals described in subsection (e), an individual who does not meet the requirements

of subsection (a)(2) may participate in the programs assisted under this part if such individual is enrolled in a public school—

“(A) that is located in a poverty area;

“(B) that is served by a local educational agency that is eligible for assistance under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2711 et seq.);

“(C) in which not less than 75 percent of the students enrolled are included in the categories described in subsection (b); and

“(D) that conducts a program under a cooperative arrangement that meets the requirements of section 265(d).

“(2) DEFINITION.—For the purposes of paragraph (1), the term ‘poverty area’ means an urban census tract or a nonmetropolitan county with a poverty rate of 30 percent or more, as determined by the Bureau of the Census.

“(h) ADDITIONAL CATEGORY.—A service delivery area conducting a program assisted under this part may add one category of youth who face serious barriers to employment to the categories of eligible individuals specified in subsection (b) and one category to the categories of eligible individuals described in subsection (d) if—

“(1) the service delivery area submits a request to the Governor identifying the additional category of individuals and justifying the inclusion of such category;

“(2) the Governor approves the request submitted under paragraph (1) and transmits the request to the Secretary, as part of the Governor’s coordination and special services plan; and

“(3) the Secretary approves the request submitted under paragraph (2).

**SEC. 264. PROGRAM DESIGN.**

“(a) YEAR-ROUND OPERATION.—The programs under this part shall be conducted on a year-round basis.

“(b) ESSENTIAL ELEMENTS.—

“(1) IN GENERAL.—The programs under this part shall include—

“(A) an objective assessment of the skill levels and service needs of each participant, which assessment shall include a review of basic skills, occupational skills, prior work experience, employability, interest, aptitudes (including interests and aptitudes for nontraditional jobs), and supportive service needs, except that a new assessment of a participant is not required if the program determines it is appropriate to use a recent assessment of the participant conducted under another education or training program (such as the JOBS program);

“(B) development of service strategies that shall identify achievement objectives, appropriate employment goals (including, in appropriate circumstances, nontraditional employment) and appropriate services for participants, taking into account the assessments conducted under subparagraph (A), except that a new service strategy is not required if the program determines it is appropriate to use a recent service strategy developed for the participant under another education or training program (such as the JOBS program);

“(C) a review of the progress of each participant in meeting the objectives of the service strategy; and

“(D) the following services, which shall be provided either directly or through arrangement with other programs to a participant if the assessment and service strategy indicate such services are appropriate:

“(i) Basic skills training.

“(ii) Occupational skills training.

“(iii) Preemployment and work maturity skills training.

“(iv) Work experience combined with skills training.

“(v) Supportive services.

“(2) ADDITIONAL REQUIREMENTS.—

“(A) MINIMUM INCOME PARTICIPANTS AND APPLICANTS. Each service delivery area participating in a program assisted under this part shall ensure that each participant or applicant who meets the minimum income eligibility criteria shall be provided—

“(i) information on the full array of applicable or appropriate services that are available through the service delivery area or other service providers, including providers receiving funds under this Act; and

“(ii) referral to other appropriate training and educational programs that have the capacity to serve the participant or applicant either on a sequential or concurrent basis.

“(B) APPLICANT NOT MEETING ENROLLMENT REQUIREMENTS.—

“(i) SERVICE PROVIDERS. Each service provider shall ensure that an eligible applicant who does not meet the enrollment requirements of the particular program of the provider shall be referred to the service delivery area for further assessment, as necessary, and referred to appropriate programs to meet the basic skills and training needs of the applicant.

“(ii) SERVICE DELIVERY AREA. The service delivery area shall ensure that appropriate referrals are made under clause (i) and shall maintain records on the referrals and the reasons for which applicants are referred.

“(c) AUTHORIZED SERVICES. Services which may be made available to youth with funds provided under this part may include—

“(1) direct training services, including—

“(A) the services described in section 204(b)(1);

“(B) tutoring and study skills training;

“(C) alternative high school services with-in programs that meet the requirements of section 141(o)(1);

“(D) instruction leading to high school completion or the equivalent;

“(E) mentoring;

“(F) limited internships in the private sector;

“(G) training or education that is combined with community and youth service opportunities in public agencies, nonprofit agencies, and other appropriate agencies, institutions, and organizations, including youth corps programs;

“(H) entry employment experience programs;

“(I) school-to-work transition services;

“(J) school-to-postsecondary education transition services; and

“(K) school-to-apprenticeship transition services; and

“(2) training-related and supportive services, including—

“(A) the services described in section 204(b)(2);

“(B) drug and alcohol abuse counseling and referral;

“(C) services encouraging parental, spousal, and other significant adult involvement in the program of the participant; and

“(D) cash incentives and bonuses based on attendance and performance in a program.

“(d) ADDITIONAL REQUIREMENTS.—

“(1) STRATEGIES AND SERVICES. In developing service strategies and designing services for the program under this part, the service delivery area and private industry council shall take into consideration exemplary program strategies and practices.

“(2) SCHOOL DROPOUTS. In order to participate in a program assisted under this part, an individual who is under the age of 18 and a school dropout shall—

“(A) reenroll in and attend school;

“(B) enroll in and attend an alternate high school;

“(C) enroll in and attend an alternative course of study approved by the local educational agency; or

“(D) enroll in and attend a high school equivalency program.

“(3) SKILLS TRAINING.—

“(A) PREEMPLOYMENT AND WORK MATURITY SKILLS TRAINING.—Preemployment and work maturity skills training authorized by this part shall be accompanied by either work experience or other additional services designed to increase the basic educational or occupational skills of a participant. The additional services may be provided, sequentially or concurrently, under other education and training programs, including the Job Corps and the JOBS program.

“(B) ADDITIONAL SERVICES.—Work experience, job search assistance, job search skills training, and job club activities authorized by this part shall be accompanied by additional services designed to increase the basic education or occupational skills of a participant. The additional services may be provided, sequentially or concurrently, under other education and training programs, including the Job Corps and the JOBS program.

“(4) NEEDS-BASED PAYMENTS.—Needs-based payments authorized under this part shall be limited to payments necessary to permit participation in the program in accordance with a locally developed formula or procedure.

“(5) COUNSELING AND SUPPORTIVE SERVICES.—Counseling and supportive services authorized under this part may be provided to a participant for a period of up to 1 year after termination from the program.

“(6) NONCONTRACT TREATMENT.—The service strategy developed under subsection (b)(1)(B) shall not be considered a contract.

“(7) VOLUNTEERS.—The service delivery area shall make opportunities available for successful individuals who have previously participated in programs under this part to volunteer assistance to participants in the form of mentoring, tutoring, and other activities.

**SEC. 265. LINKAGES.**

“(a) EDUCATIONAL LINKAGES.—In conducting a program under this part, service delivery areas shall establish linkages with the appropriate educational agencies responsible for service to participants. Such linkages shall include—

“(1) formal agreements with local educational agencies that will identify—

“(A) the procedures for referring and serving in-school youth;

“(B) the methods of assessment of in-school youth; and

“(C) procedures for notifying the program when a youth drops out of the school system;

“(2) arrangements to ensure that the program under this part supplements existing programs provided by local educational agencies to in-school youth;

“(3) arrangements to ensure that the program under this part utilizes, to the extent possible, existing services provided by local educational agencies to out-of-school youth; and

“(4) arrangements to ensure that for in-school participants there is a regular exchange of information between the program and the educational agency relating to participant progress, problems, and needs, including, in appropriate circumstances, interim assessment results.

“(b) EDUCATION AND TRAINING PROGRAM LINKAGES.—In conducting the program under

this part, the service delivery area shall establish appropriate linkages with other education and training programs authorized under Federal law. Such programs shall include, where feasible, programs authorized by—

"(1) part B of title IV (the Job Corps);  
"(2) parts A through D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2711 et seq.);

"(3) the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.);

"(4) the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.);

"(5) the Wagner-Peyser Act (29 U.S.C. 49 et seq.);

"(6) part F of title IV of the Social Security Act (JOBS) (42 U.S.C. 681 et seq.);

"(7) the Food Stamp Act (7 U.S.C. 2011 et seq.);

"(8) the National Apprenticeship Act (29 U.S.C. 50 et seq.);

"(9) the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77; 101 Stat. 482);

"(10) the National and Community Service Act of 1990 (42 U.S.C. 12401 et seq.); and

"(11) this Act.

"(c) OTHER PROGRAMS.—In addition to the linkages required under subsections (a) and (b), service delivery areas receiving financial assistance under this part shall establish other appropriate linkages to enhance the provision of services under this part. Such linkages may be established with State and local service agencies, public housing agencies, community-based organizations, business and labor organizations, volunteer groups working with at-risk youth, parents and family members, juvenile justice systems, and other training, education, employment and social service programs, including programs conducted under parts A and B of title II.

"(d) SCHOOLWIDE PROJECTS FOR LOW-INCOME SCHOOLS.—In conducting a program serving individuals specified in section 263(g), the service delivery area shall establish a cooperative arrangement with the appropriate local educational agency that shall, in addition to the other requirements of this section, include—

"(1) a description of the ways in which the program will supplement the educational program of the school;

"(2) identification of measurable goals to be achieved by the program and provision for assessing the extent to which such goals are met;

"(3) a description of the ways in which the program will use resources provided under this part and resources provided under other education programs to achieve the goals identified in paragraph (2);

"(4) a description of the number of individuals to be served; and

"(5) assurances that the resources provided under this part shall be used to supplement and not supplant existing sources of funds.

#### "SEC. 266. TRANSFER OF FUNDS.

"A service delivery area may transfer up to 10 percent of the funds provided under this part to the program under part A or B if such transfer is—

"(1) described in the job training plan; and  
"(2) approved by the Governor."

(b) TECHNICAL AMENDMENT.—The table of contents relating to title II, as amended by section 10(b), is further amended by adding at the end the following:

#### "PART D—YOUTH OPPORTUNITY PROGRAMS

"Sec. 261. Statement of purpose.

"Sec. 262. Allotment and allocation.

"Sec. 263. Eligibility for services.

"Sec. 264. Program design.

"Sec. 265. Linkages.

"Sec. 266. Transfer of funds."

#### SEC. 12. CONFORMING AMENDMENTS.

(1) Section 3(e)(2) (29 U.S.C. 1502(e)(2)) is amended—

(A) by inserting "(A)" after "(2)"; and  
(B) by adding at the end the following:

"(B) For any year after the first fiscal year for which funds are appropriated to carry out parts B and D of title II, no funds appropriated pursuant to this Act may be used to carry out title V unless funds appropriated to carry out each of parts A, B, and D of title II exceed any change in the consumer price index from the amounts appropriated for the previous fiscal year to carry out such parts."

(2) Section 4(3) (29 U.S.C. 1503(3)) is amended by striking "means any area of sufficient size and scope to sustain a program under part A" and inserting ", as used with respect to part A, B, or D of title II, means any area of sufficient size and scope to sustain a program under part A, B, or D, respectively,".

(3) Subsections (a) and (b)(1) of section 108 and sections 141(p), 323(a)(7), and 511(a)(4) (29 U.S.C. 1518, 1551(p), 1662b(a)(7), and 1791(a)(4)) are amended by striking "part A" and inserting "part A, B, or D".

(4) Section 108 (29 U.S.C. 1518) is amended—

(A) in subsection (a), by striking "section 204(28)" and inserting "section 204(b)(1)(T)"; and

(B) in subsection (b)(2)—  
(i) by striking subparagraph (B);  
(ii) in subparagraph (A)—  
(I) by striking "(A)"; and  
(II) by redesignating clauses (i) through (iv) as subparagraphs (A) through (D), respectively; and

(iii) in subparagraph (D), as so redesignated by clause (ii)(II) of this subparagraph, by striking "section 204(27)" and inserting "section 204(b)(2)(I)".

(5) Section 122 (29 U.S.C. 1532) is amended—

(A) in subsection (a)(1), by striking "section 202(b)(4)" and inserting "sections 202(c)(2)(A) and 262(c)"; and  
(B) in subsection (b)(2), by striking "section 202(a)" and inserting "section 202(b) or section 222(b)".

(6) Section 123 (29 U.S.C. 1533) is amended—

(A) in subsection (a)—  
(i) by striking "section 202(b)(1)" and inserting "sections 202(c)(2)(D) and 262(c)"; and  
(ii) in paragraph (3)—  
(I) by striking subparagraphs (C) and (D);  
(II) by adding "or" at the end of subparagraph (B); and  
(III) by adding at the end the following new subparagraph:

"(C) a combination of the activities described in subparagraphs (A) and (B); and"; and

(B) in subsection (e)(1), by striking "section 202(b)(1)" and inserting "sections 202(c)(2)(D) and 262(c)".

(7) Section 124 (29 U.S.C. 1534) is repealed.

(8) Section 125(a) (29 U.S.C. 1535(a)) is amended by striking "section 202(b)(4) and".

(9) Section 141(k) is amended by striking "unless" and all that follows and inserting a period.

(10) Sections 401(j) and 402(f) (29 U.S.C. 1671(j) and 1672(f)) are amended by striking "part A" and inserting "parts A, B, and D".

(11) Section 456 (29 U.S.C. 1736) is amended by striking "listed in section 203(a)(2)" and inserting "described in section 203(a)(2) or 224 or subsection (b) or (d) of section 263".

(12) Section 481(a) (29 U.S.C. 1781(a)) is amended by striking "sections 203(a)(1)" and inserting "sections 203(a)(1), 224, 263(a)".

(13) Section 508(b)(2)(A) (29 U.S.C. 1791g(b)(2)(A)) is amended by striking "section 204" and inserting "section 204(b), 225(b), or 264(c)".

(14) Section 5(l) of the Food Stamp Act of 1977 (7 U.S.C. 2014(l)) is amended by striking "section 204(5)" and inserting "section 204(b)(1)(C) or 225(b)(5)".

NASUA,

Washington, DC, October 5, 1992.

Hon. BROCK ADAMS,

U.S. Senate,

Washington, DC.

DEAR SENATOR ADAMS: The National Association of State Units on Aging urges your introduction of the Mature and Older Workers Act of 1992.

As you know, the current Job Training Partnership Act (JTPA) has a very mixed record in serving the needs of mature and older workers. The state setaside for older workers has provided some limited but important funds to focus on the unique needs of older workers. However, the Title II adult program has consistently ignored the training and placement needs of the older worker.

Your bill, the Mature and Older Workers Program, would provide for the first time in Federal law the recognition and assistance that older workers need and deserve. Mature workers will become an increasingly critical component of the American workforce. The training needs of these mature workers must be addressed if we are to have a more productive and competitive economy. Your bill would provide critical Federal leadership and foresight in this arena and we encourage you to file this bill during the final days of this Congress.

Thank you for your continued advocacy on behalf of older Americans.

Sincerely,

DANIEL A. QUIRK,  
Executive Director.

By Mr. INOUE:

S. 3347. A bill to establish within the Office of the Secretary of the Department of the Interior a permanent Working Group on Indian Water Rights Settlements; to the Select Committee on Indian Affairs.

INDIAN WATER RIGHTS SETTLEMENT WORKING GROUP WITHIN THE DEPARTMENT OF THE INTERIOR ACT

• Mr. INOUE. Mr. President, I rise today to introduce a bill that I hope will engender thoughtful discussion regarding the merits of establishing a working group on Indian water rights settlements within the Office of the Secretary of the Department of the Interior.

I take this action in recognition of the commendable initiative of the current Secretary of the Interior, Manuel Lujan, who has shown remarkable leadership in the field of Indian Affairs and sensitivity to the need for resolving the outstanding claims of Indian tribal governments to water.

Mr. President, never before has a Secretary for the Department of the Interior committed the time and energy and resources and personnel of the Department in such a comprehensive and forward-thinking manner to negotiating settlements of Indian water rights claims.

He has created a process that works—a process that enables State governments, non-Indian water users, the Federal Government and Indian tribal governments to work together to develop an effective means for the allocation of water resources and the settlement of water rights claims.

Mr. President, the traditional forum for the resolution of water rights claims has been in the courtroom. Litigation has been costly and lengthy. It is not uncommon for water rights cases to take 20 years to resolve and millions of dollars in costs incurred. Once litigation is completed, the parties are left with the vestiges of the adversarial process in which they have engaged—one side emerges a winner, and the other sides loses—and often, there are bitter feelings that linger long beyond the courtroom process.

In contrast, the process established by Secretary Lujan allows the parties to work together to shape their mutual future—the parties are not forced into an adversarial posture, but instead, they forge a partnership that enables them to work together to resolve outstanding problems in other areas.

Mr. President, I introduce this bill with the hope that in coming days, we will give serious thought to institutionalizing the process that Secretary Lujan has established. I commend the Secretary for his outstanding leadership, and I hope that in the coming session of the Congress, we will act to memorialize and make permanent that which he has so courageously initiated.●

By Mr. HATCH (for himself, Mr. STEVENS, Mr. MURKOWSKI, Mr. SMITH, and Mr. WALLOP):

S. 3348. A bill to improve the availability of quality, affordable health care for all Americans, and for other purposes; to the Committee on Finance.

HEALTH CARE ACCESS AND AFFORDABILITY ACT  
OF 1992

Mr. HATCH. Mr. President, one of the most critical challenges we face in our Nation today is to improve the current state of our national health care system.

Presently, about 34 million, or about 13 percent of all Americans, are without some form of health insurance. Indeed, access to affordable health insurance greatly increases access to health care. But, clearly, one of the major barriers to obtaining health insurance is cost.

Although more than 12 percent of our annual GNP is spent on health care, there are millions of Americans who do not have access to the most basic of health care services. What is worse, without a major change in the health care system, by the year 2020, one-third of our Nation's GNP will be spent on health care services in the United States.

In an effort to address the American health care dilemma, several proposals have been offered. Among these have been a Canadian-style, single payor system and a pay or play system that places a costly new mandate on business. While the objective of these systems is honorable, the systems themselves are not compatible with the market values that have allowed America to develop the most advanced and envied health care industry in the world.

A highly regulated Canadian-style health care monopoly would cost billions that would have to come from the taxpayers somehow. It would also result in cumbersome price controls and government interference in health care decision making. I believe a system based on a single government payor would inherently undermine the world-renowned quality of American health care.

The pay or play plan is also counterproductive. Such a system places the responsibility of financing national health care on the backs of employers. This is not fair on its face and will jeopardize hundreds of thousands, if not millions, of jobs.

The Labor Department estimates that this measure could result in at least \$30 billion of new expenditures. The impact on employment both in terms of current jobs and future job creation would be significant: 350,000 to 700,000 jobs would be lost. Advocates of pay or play plans are telling American workers to gamble the rent and the groceries for health care.

There are certain values built into the American health care system that ought not be ignored. We have traditionally had the finest physicians and the most advanced technologies for diagnosis and treatment. We have been able to choose our own doctors and to obtain treatment when we need it.

What has enabled us as a nation to have such unprecedented excellence in medical care? What is it that brings people from all over the world to America for health care?

I submit to you the answer to these questions lies in our fundamental reliance on individuals and the free market—not on the government to provide services or to micromanage our decision making. We have consistently rejected the premise that government knows what is best for us.

While there is no denying that our health care system is in real peril, I suggest that there is insufficient cause to abandon our health care system completely for radically new and untested proposals that may run counter to our basic American principles and values.

Therefore, I am today introducing comprehensive health care reform legislation designed to improve the affordability and availability health care for all Americans. It will do so by reform-

ing the current system, building upon its very best features. My bill does not simply treat the symptoms of the ailing health care system, but address the root causes of it.

HATCH PLAN

The purpose of the Health Care Access and Affordability Act is to improve the availability of quality, affordable health care for all Americans. To achieve this purpose, the titles of this act address specific issues which have direct impact upon the Nation's health care system.

TITLE I

Title I of my legislation recognizes that employer provided health insurance is a major portion of any benefit package offered to an employee. Large employers, such as the Federal Government, enjoy an economy of scale when providing health insurance plans that make it less costly on a per employee basis. Although small employers—1-50 employees—collectively employ millions of Americans, they do not always receive the same benefit of volume rates, and often must offer less attractive and more costly plans. This leaves many employees with either reduced levels of insurance or without any health insurance at all. This factor directly affects both access and cost of health care for the employees.

Under title I, the issue of health insurance plans offered to small employers is addressed. The small employer health insurance provisions seek to assist small employers in offering quality and cost-effective health insurance plans to their employees. This is achieved by calling on States and the Secretary of Health and Human Services to develop standards and measures of enforcement regarding such insurance plans.

Insurers are required to meet standards of guaranteed availability. In addition, the bill addresses base premium rates in an effort to ensure affordability and contains a provision prohibiting discrimination.

Subtitle B of title I establishes measures regarding Medicare and Medicaid designed to increase access to primary health care for qualified recipients through various demonstration projects. These demonstration projects will be directed toward traditionally underserved target populations and certain uninsured individuals.

Programs that offer a choice of benefit options to Medicare recipients, as well as other measures designed to increase efficiency in the payment of Medicare benefits are also established.

TITLE II

Two of the major impediments to improving the status of health care in America are: one, the inadequate number of physicians serving urban and rural low income families; and two, insufficient education programs which teach disease prevention.

In addressing the first concern, title I of the Health Care Access and Affordability Act recognizes that many Americans live in communities without sufficient health care providers and facilities. Therefore, a primary goal of this title is the increase of access to primary health care. This is achieved by establishing 250 community health centers located in underserved areas or in areas with high concentrations of underserved target populations. In addition, the National Health Service Corps will be required to revise their priorities and redirect personnel in a manner to increase the access of target populations to primary medical care.

In regard to the second concern, it must be understood that education is one of the keys to reducing health related problems in our country. To this end, title II provides for the Surgeon General to establish and implement a disease prevention education program focusing on change in personal behavior such as smoking cessation—and the use of preventive care and screening programs.

#### TITLE III

Title III takes a market oriented approach to making our health care system more affordable and responsive to the needs of individuals. This is achieved by providing the health care consumer a choice regarding insurers and health insurance plans. Tax credits and deductions are provided as the primary means for reducing the cost of health care for the individual.

Tax credits under this title replace existing health care tax breaks. Such credits, contingent on the purchase of a federally qualified health insurance plan, provide individuals and families with an 80-percent tax credit against health insurance premiums paid.

Another measure allows an employee deduction for employer-provided health insurance premiums paid on the employee's behalf.

An innovative provision of title III provides for a new kind of savings account that would receive special tax treatment. Such accounts, appropriately called medical savings accounts, permit an individual to save for future out-of-pocket medical expenses.

Other provisions of this title establish guidelines that employers and insurers must implement in order to ensure portable benefits, greater choice, and reasonable rates regarding health insurance plans.

In addition, States will be required to establish a health insurance program for uninsured residents. The States will be allowed to charge premiums based upon cost average and ability to pay.

Through measures such as these, every American will be ensured access to health insurance, and subsequently, health care.

#### TITLE IV

The idea of pooling resources in an effort to provide better and more cost

efficient health care services is the purpose behind title IV of my bill. By providing an exemption to antitrust laws, this title allows hospitals to negotiate proposed agreements to share expensive medical services or expensive high technology equipment. Such cooperation among hospitals will help to contain costs and to achieve a more efficient health care delivery system.

A monitoring provision requires hospitals granted such an exemption to submit an annual report to the Secretary, therefore, protecting the public from blatant cost-fixing actions by such facilities.

#### TITLE V

The steady increase in medical liability actions has had a significant adverse effect on the availability and cost of health care in our Nation. Such malpractice actions have done nothing more than to encourage physicians to practice defensive medicine; many more tests and procedures than are necessary are ordered to help inoculate health care providers against malpractice claims.

Many health care providers have turned away from providing certain services owing to a high rate of medical liability risk regarding those services. Reining in such malpractice actions, while providing mechanisms designed to reduce health care related injuries, will not only reduce the overall cost of health care, but will also increase access to essential higher risk services such as obstetrics.

Title V will authorize grants provided by the Secretary of Health and Human Services to States for the implementation of one of four alternative dispute resolution systems described in the title or for State development of another Secretary approved system. Each system provides different mechanisms for the resolution of health malpractice action other than the courts. Among these systems are an administrative process providing expedited review of claims. This will speed up the assessment and dismissal of meritorious claims and the award of claims in legitimate cases. Another such system would require arbitration and establishes ceilings for noneconomic losses.

Other grant programs are established for conducting research in prevention and compensation for injuries resulting from malpractice.

Title V also provides an overall Federal malpractice dispute reform, establishing maximum payments and reductions in payments regarding awards in malpractice actions. In addition, a \$250,000 limit is placed upon any malpractice claim for noneconomic losses. Furthermore, limits are established regarding attorney compensation.

This title also dictates that States require health care providers to adopt risk management programs. Insurers must require practitioners they insure to have risk management programs in

place. States must also enter into agreements with medical professional societies allowing such societies to review malpractice allegations concerning a practitioner in their respective medical specialties.

This title also requires the formation of a national risk retention group that will provide professional liability insurance and other types of profitable insurance to community and migrant health centers.

#### TITLE VI

Preventative measures are a crucial element to any program attempting to both lower health care costs and improve the overall health of all citizens. Title VI addresses these issues by including two provisions that seek to educate the population regarding good health practices.

The order population of our Nation is growing at an unprecedented rate. The first of the measures of this title acknowledges that education and activities programs must be implemented to enhance the physical fitness of older Americans. For this purpose, the President's Council on Senior Fitness is established to devise and promote such activities.

Another preventive effort in this title is the Programs to Encourage Healthy Lifestyles. This provision seeks to increase the awareness of Americans regarding the impact lifestyle choices has on one's health. Such programs will emphasize the avoidance of illegal drugs, excessive alcohol consumption, and tobacco products. In addition, emphasis would be placed on choosing proper foods for a balanced diet, managing stress, and engaging in regular exercise. Through such programs, the overall health of the Nation would improve dramatically.

#### CONCLUSION

Mr. President, this is a comprehensive approach—it does not merely attack the access issue and ignore the fact that health care cost growth has contributed to our access problem. And, it does this while recognizing that the quality of care in America is as important as the quantity. Passage of this bill is an investment in the general health and well being of our Nation.

Mr. President, some may wonder why I am introducing this bill so near the end of the 102d Congress. The answer is that I believe I have something constructive to contribute to the debate on health care reform, and I would like all Senators to have the opportunity to review my proposals before this debate rekindles next year.

I invite the comments and suggestions of my colleagues and of the public at large. I have already heard from many individuals and organizations regarding the concepts and specific provisions of the bill, and I sincerely appreciate their input.

It is clear that Congress needs to act. On this point, all my colleagues—Dem-

ocrat and Republican—and President Bush—are in full agreement.

But, let us not act precipitously. Let us not act unwisely. Let us not act in a way that will jeopardize the positive aspects of our current system by implementing a system contrary to the values that made the system great. We have a health care system that is state-of-the-art, that is compassionate, that does not discriminate, and that allows individuals and families to make their own choices. We can, and should, build on it. I urge all my colleagues to support the Health Care Access and Affordability Act.

By Mr. ADAMS:

S. 3350. A bill to amend the Public Health Service Act and the Social Security Act to improve the organ procurement and transplantation process, and for other purposes; to the Committee on Labor and Human Resources.

NATIONAL ORGAN DONOR AND AWARENESS  
CAMPAIGN ACT OF 1992

Mr. ADAMS. Mr. President, I rise today to introduce legislation to improve the organ procurement and transplantation process. Today, over 40 million Americans are afflicted with end-stage diseases, from chronic renal failure and ischemic heart disease to biliary atresia of the liver and other diseases. These are diseases for which there is no cure. Even the best treatments for these diseases will only prolong the life of the sufferer—often not even enabling the patient to regain the dignity and quality of life once lost. Some of these life-threatening diseases, however, can be effectively dealt with through organ transplantation.

As of February 1992, the national waiting list for organ transplants contained over 25,000 patients, over 4 percent of whom were young children. Approximately 2,000 new names are added to this list every month. But many of these patients will die before a needed organ becomes available because the supply of donor organs falls far short of the demand. Between 1987 and 1990, for example, the demand for renal, heart, liver, and heart-lung organs increased by 60 percent, while actual donations of these organs increased by only 11 percent. Fully 40 percent of patients awaiting a donor organ will not receive one this year.

The legislation I am introducing is a companion measure to a bill introduced in the House by Representative ED ROYBAL, the distinguished chairman of the House Select Committee on Aging, who, like me, is retiring at the end of this year. It has been an honor to work with him on this and other matters during our many years in the Congress.

This legislation calls for a national campaign to increase public awareness of organ transplantation. It would include the development and dissemination of information on the need for

organ donations and how the organ procurement and transplant system works. It also calls for educational, outreach, and research programs to encourage the donation of organs by all segments of the population, with special emphasis on educating minorities and underserved populations.

Mr. President, I am deeply concerned about inherent inequities that exist in the organ donation and transplantation system. For example, African Americans must wait, on the average, nearly twice as long for a kidney transplant as whites. They differ from whites immunologically not only in frequency of ABO blood types but also in frequency with which they possess certain antigens. A black individual's chance of finding a near-perfect match is slight because the number of black donors is small relative to the number of black registrants on the waiting list.

African Americans are in a particularly precarious position because they suffer more frequently than whites from medical conditions which can lead to some end-stage diseases. They also are less likely to receive needed transplants. Physiologic differences between races cannot be eliminated, but it may be possible to increase the pool of donor organs suitable for African Americans through education programs which increase awareness and understanding about organ donation.

Mr. President, this bill calls for the creation of an advisory committee with respect to the Organ Procurement and Transplant Network. This committee would include representatives of all aspects of the organ donation and transplantation field, including members of transplant teams and the medical community, as well as transplant recipients, clergy and attorneys, and representatives of advocacy groups on behalf of women, minorities and underserved populations.

This committee would research, among other things, the processes by which individuals who need organs are listed in the network and are selected to receive transplants, to determine whether the criteria are applied consistently and equitably without regard to race or financial insured status; the dissemination of educational materials; the adequacy of quality controls in the organ procurement and transplant process; the need for a uniform, comprehensive data collection and tracking system to follow organ transplants from donor through the lifetime of the recipient; and the appropriateness of alternative approaches, such as presumed consent, to increase the supply of organs.

Another vital provision of this legislation would benefit those who already have become organ recipients. This provision would eliminate the one-year limit on Medicare coverage for outpatient immunosuppressive drugs needed to suppress antibody reaction and

enhance the acceptance of the donated organ. It would also authorize the appropriation of funds to pay for them. These drugs are critical to the survival of the organ graft as well as to that of the patient. The high cost of these drugs, however, threatens equal access to patient care. Current estimates place the first year cost for immunosuppressive drugs between \$3,000 and \$18,000.

But the need for these drugs does not stop after one year. Organ recipients must take these drugs for the rest of their lives. Something has to be done to ensure that recipients without insurance coverage can continue the drug therapy so essential to remaining healthy. Experience has shown that when individuals can no longer afford the needed drugs, they stop the treatment, often having nothing to look forward to but death.

Imagine, Mr. President, having to stop taking the drug that sustains your life, knowing that the probable outcome is death! This is exactly what happens to many recipients once they have exhausted insurance coverage and all of their personal resources. Some of these individuals have been fortunate to live long enough to receive another donor organ and, thus, another year of immunosuppressive drug therapy coverage. Many others are not so fortunate.

Why does a society as advanced as ours choose to hold life sustaining drugs beyond the reach of those in need, only to turn around and pay for a subsequent organ transplant, usually at a much higher cost. This failure to provide the means to sustain the viability of organ grafts is beyond comprehension. Not only does it put the recipient through extraordinary suffering, both physical and emotional, but it also deprives another individual whose life is at stake, from a much needed donor organ.

Although some might argue that the cost of organ transplantation and subsequent drug therapy is too high, the alternative treatment is also costly. A comprehensive evaluation of the End-Stage Renal Disease program under Medicare, for example, found that while kidney transplantation is expensive, kidney transplants are more cost-effective than kidney dialysis, and they increase the quality of life for recipients. Moreover, Mr. President, many organ recipients go on to lead normal, productive lives and make vital contributions to our society—much the same as those who have never been afflicted with a life-threatening disease.

Mr. President, I know the time is drawing near for this Congress to adjourn and that no action is likely on this legislation before that occurs. I will not be here when the 103d Congress convenes next year; but before I leave, I am compelled to introduce this legislation to underscore the importance of

addressing this life-or-death issue. I urge my colleagues to take up this legislation in the 103d Congress and make the changes needed in the organ donation and transplantation system.

I ask unanimous consent that a copy of the text of the bill and a summary of its provisions be printed in the RECORD.

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

S. 3350

*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 Organ Donor and Awareness Campaign Act of 1992".

#### SEC. 2. NATIONAL ORGAN TRANSPLANT CAMPAIGN.

(a) IN GENERAL.—The Secretary of Health and Human Services shall conduct a national campaign to increase public awareness of organ transplantation. Such campaign shall include—

(1) the development and dissemination of information—

(A) on the need for organ donations from the public, including information specifically designed for language and minority populations,

(B) on how the organ procurement and transplantation system operates, and

(C) for use in educational programs, including the education of health care professionals;

(2) the development of a national clearinghouse to disseminate information related to organ procurement and donation; and

(3) educational, outreach, and research programs (including educational and outreach efforts through medical and health professionals, schools, attorneys, and State departments of motor vehicles) to encourage the donation of organs by all segments of the population.

(b) REPRESENTATION.—In conducting the campaign, the Secretary shall include representatives from all areas of the transplant community, including medical and health professionals, minorities, women, family members of transplant recipients and organ donors, transplant recipients, emergency room and hospital support staff, educational institutions, and State departments of motor vehicles.

(c) RESEARCH.—The Secretary shall conduct research in the following areas:

(1) The process by which individuals listed in the Organ Procurement and Transplantation Network are selected and the effect of the race and economic status of an individual on the selection of the individual.

(2) The role religious and other institutions play in encouraging or discouraging organ donation and the potential role they could play in educating their members and increasing organ donation, especially among youth and minorities.

(3) Incentives to encourage hospitals to identify potential donors and take a more active role in the campaign to improve organ donation rates.

(4) Developing and identifying model educational programs for the general public to increase donor awareness, specifically among groups with low rates of organ donation.

(5) Improving and promoting the use of organ donor cards.

#### SEC. 3. ADVISORY COMMITTEE ON ORGAN TRANSPLANTS.

(a) IN GENERAL.—Section 372 of the Public Health Service Act (42 U.S.C. 274) is amended

by adding at the end the following new subsection:

"(d)(1) The Secretary shall provide for appointment of an advisory committee with respect to the Organ Procurement and Transplantation Network. The committee shall include individuals who participate in organ procurement and transplantation, including representatives of transplant teams (including neurologists and neurosurgeons), emergency room personnel, transplant hospitals and centers, the Network, transplant recipients, clergy, and attorneys, as well as representatives of advocacy organizations on behalf of women, on behalf of minorities, and on behalf of underserved populations. The committee shall meet not less often than twice each year.

"(2) The advisory committee shall research the following:

"(A) The process by which individuals who need organs are listed with the Network.

"(B) The process by which individuals so listed are selected to be given a transplant.

"(C) Whether the processes referred to in subparagraphs (A) and (B) are applied consistently and equitably without regard to race or financial or insured status.

"(D) The appropriateness of restoring the authority and funding of the Organ Procurement and Transplantation Network to oversee and coordinate the work of organ procurement organizations.

"(E) The dissemination of educational materials (in appropriate languages and publications) concerning organ donation and procurement to—

(i) the public, including minority populations and including dissemination through the departments of motor vehicles in each State,

(ii) medical and legal professionals, and

(iii) administrators, faculty, and students at educational institutions.

"(F) The adequacy of quality controls in the organ procurement and transplant process, including the (i) training required of transplantation teams, (ii) consistent application of standards for the selection of organs suitable for transplant, and (iii) implementation of required request or routine inquiry laws, and the relation of such controls to standards for qualification of organ transplant programs under the medicare program.

"(G) The safety of organ transplantation through appropriate donor screening and tissue testing.

"(H) The need for a uniform, comprehensive data collection and tracking system to follow organ transplants from the donor through the lifetime of the recipient.

"(I) The appropriateness of alternative approaches, such as presumed consent, to increase the supply of organs.

"(J) Such other aspects of the organ procurement and transplant processes as the Secretary may specify.

"(3) By not later than 2 years after the date of appointment of members to the committee, the advisory committee shall submit to the Secretary and to the Network a report on its research under paragraph (2) and recommendations relating to the organ procurement and transplantation process. In making such recommendations the committee shall consider feasibility of incorporating the authorization of organ donation as part of advanced directives and as part of an individual's medical record.

"(4) The Secretary shall transmit to the Committees on Ways and Means and Energy and Commerce of the House of Representatives, the Committees on Finance and on Labor and Human Resources of the Senate,

the Select Committee on Aging of the House of Representatives, and the Special Committee on Aging of the Senate the recommendations of the advisory committee and shall include in such transmittal such recommendations for changes in legislation as the Secretary deems to be necessary to assure the consistent and equitable allocation of organs procured through the Network.

"(5) The advisory committee shall terminate 90 days after the date of submission of the report under paragraph (3), except that the Secretary may continue the operation of the advisory committee for such period as the Secretary deems appropriate in order to monitor the implementation of any of the committee's recommendations."

(b) INCREASE IN AUTHORIZATION OF APPROPRIATIONS FOR ORGAN PROCUREMENT AND TRANSPLANTATION NETWORK.—Subsection (a) of such section is amended by striking "\$2,000,000" and inserting "\$2,500,000".

(c) NETWORK REQUIREMENTS.—Subsection (b) of such section is amended—

(1) in paragraph (1)(B)(i), by inserting "women, minorities," after "associations,"; and

(2) in paragraph (2)—

(A) by striking "and" at the end of subparagraph (J),

(B) by striking the period at the end of subparagraph (K) and inserting a comma,

(C) by redesignating subparagraph (L) as subparagraph (M), and

(D) by inserting after subparagraph (K) the following new subparagraph:

"(L) assure in its bylaws that the process of procuring and transplanting organs is consistent and equitable and does not discriminate on the grounds of race or financial or insured status, and"

(d) EXPANSION OF RECIPIENTS OF BIENNIAL REPORT.—Section 376 of the Public Health Service Act (42 U.S.C. 274d) is amended by striking "to the Committee" and all that follows through "Human Resources" and inserting "to the Committees on Ways and Means and on Energy and Commerce of the House of Representatives, the Committees on Finance and on Labor and Human Resources of the Senate, the Select Committee on Aging of the House of Representatives, and the Special Committee on Aging of the Senate".

#### SEC. 4. EXPANDING ACCESS TO IMMUNOSUPPRESSIVE DRUGS.

(a) ESTABLISHMENT OF IMMUNOSUPPRESSIVE DRUG GRANT PROGRAM.—Title XIX of the Public Health Service Act is amended by adding at the end the following new part:

"PART C—GRANTS FOR IMMUNOSUPPRESSIVE DRUGS

"GRANTS FOR IMMUNOSUPPRESSIVE DRUGS

"SEC. 1931. (a) IN GENERAL.—The Secretary shall make payments to health care facilities for the dispensing of immunosuppressive drugs to eligible patients.

"(b) DEFINITIONS.—In this section:

"(1) The term 'health care facility' means a hospital, pharmacy, or other facility authorized or licensed under State or Federal law to dispense and distribute prescription drugs.

"(2) The term 'immunosuppressive drug' means any drugs or biologicals that are to be used for the purpose of preventing the rejection of transplanted organs and tissues.

"(3) The term 'eligible patient' means an organ transplant recipient—

"(A) who is not eligible to receive reimbursement for the cost of immunosuppressive drugs under title XVIII of the Social Security Act, under a State plan under title XIX of such Act, or under private insurance, and

"(B) whose transplant was performed at a facility which meets standards established under title XVIII of such Act for such transplantation.

"(c) APPLICATION.—No payment may be made under this section unless an application for such payment has been submitted to, and approved by, the Secretary. Such an application shall be in such form, and submitted in such manner, as the Secretary shall by regulation prescribe.

"(d) AMOUNT OF PAYMENT.—The payment under this section shall be in such amount and on such terms as the Secretary finds appropriate; except that—

"(1) in the case of a drug described in section 1861(s)(2)(J) of the Social Security Act, the payment amount with respect to the drug shall be based on the amount of payment permitted for such drug under title XVIII of such Act to the extent of available appropriations, and

"(2) no payment shall be made to satisfy any deductible, copayment, or coinsurance amount required of an individual who is otherwise not an eligible patient.

"(e) AUTHORIZATION OF APPROPRIATIONS.—For purposes of carrying out this section, there are authorized to be appropriated \$7,000,000 for each of fiscal years 1993 and 1994."

(b) ELIMINATION OF 1-YEAR LIMITATION ON MEDICARE COVERAGE OF OUTPATIENT IMMUNOSUPPRESSIVE DRUGS.—

(1) IN GENERAL.—Section 1861(s)(2)(J) of the Social Security Act (42 U.S.C. 1395x(s)(2)(J)) is amended by striking ", within 1 year after the date of the transplant procedure".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to drugs furnished on or after the date of enactment of this Act.

#### SEC. 5. INFORMATION ON ORGAN DONATION IN CONNECTION WITH ADVANCED DIRECTIVES.

(a) IN GENERAL.—Section 1866(f)(1) of the Social Security Act (42 U.S.C. 1395cc(f)(1)) is amended by adding at the end the following: "To the extent practicable, the provision of information under this subsection shall be coordinated with the provision of organ donation information pursuant to section 1138(a)(1)(A)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of enactment of this Act.

#### SEC. 6. SPECIAL PROJECT GRANTS FOR MINORITY ORGAN PROCUREMENT.

(a) IN GENERAL.—Section 371(a)(3) of the Public Health Service Act (42 U.S.C. 273(a)(3)) is amended by adding at the end the following: "In making grants and entering into contracts for projects under this paragraph, the Secretary shall include projects which encourage procurement of organs from minority communities (including cultural, racial, and language minorities) and from other population groups with below average donation rates through outreach and educational services, including the employment of translators at hospitals."

(b) AUTHORIZATION OF APPROPRIATIONS.—In addition to the amount otherwise authorized to be appropriated to carrying out section 371(a)(3) of the Public Health Service Act, there are authorized to be appropriated for special projects described in the second sentence of section 371 of the Public Health Service Act (as added by subsection (a)) such sums as may be necessary.

#### SENATOR BROCK ADAMS' NATIONAL ORGAN DONOR AWARENESS CAMPAIGN ACT OF 1992 SECTION BY SECTION SUMMARY

*General Purposes:* To amend the Public Health Service Act and the Social Security

Act to improve the organ procurement and transplantation process.

#### SECTION 1—SHORT TITLE

This Act may be cited as the "National Organ Donor Awareness Campaign Act of 1992."

#### SECTION 2—NATIONAL ORGAN TRANSPLANT CAMPAIGN

(a) *In General*—This section calls for a national campaign to increase public awareness of organ transplantation, to include the following:

(1) development and dissemination of information on the need for organ donations, including information designed for language and minority populations; on how the organ procurement and transplant system operates; for use in educational programs.

(2) development of a national clearinghouse to disseminate information related to organ procurement and donation; and

(3) educational, outreach, and research programs to encourage donation of organs by all segments of the population.

(b) *Representation*—The Secretary shall include representatives from medical and health professionals, minorities, women, family members of transplant recipients and organ donors, transplant recipients, emergency room and hospital support staff, educational institutions, and State departments of motor vehicles.

(c) *Research*—The Secretary shall conduct research in these areas:

(1) The selection process and the effect of race and economic status thereupon.

(2) The role religious/other institutions play in encouraging/discouraging organ donation and their potential role in educating members and increasing donation, especially among youth and minorities.

(3) Incentives to encourage hospitals to take a more active role in improving organ donation rates.

(5) Improving and promoting the use of organ donor cards.

#### SECTION 3—ADVISORY COMMITTEE ON ORGAN TRANSPLANTS

(a) *In General*—This section amends Section 372 of the Public Health Service Act to provide for the appointment of an advisory committee with respect to the Organ Procurement and Transplant Network (OPTN). The committee shall:

Include individuals who participate in organ procurement and transplantation as well as representatives of advocacy groups. The committee shall meet not less than twice each year.

Research the selection process and the effect of race and economic status thereupon; the appropriateness of restoring authority and funding of the OPTN to oversee and coordinate the work of organ procurement organizations; the dissemination of educational materials; the adequacy of quality controls in the procurement and transplant process; the safety of organ transplantation through appropriate donor screening and testing; the need for a uniform, comprehensive data collection and tracking system to follow transplanted organs through the lifetime of the recipient; the appropriateness of alternative approaches to increase supply of organs.

Submit to the Secretary and to OPTN, within 2 years, a report on its research and recommendations relating to the procurement and transplant process.

Submit to the Committees on Ways and Means, Energy and Commerce, and Select Committee on Aging of the House of Representatives, and to the Committees on Fi-

nance, Labor and Human Resources, and Special Committee on Aging of the Senate the recommendations of the advisory committee.

Terminate 90 days after the submission of its report, except that the Secretary may continue the operation of the committee in order to monitor the implementation of the committee's recommendations.

(b) *Increase in Authorization of Appropriation for Organ Procurement and Transplantation Network*—This section increases the authorization amount from \$2.0 million to \$2.5 million.

(c) *Network Requirements*—This section amends OPTN requirements to assure in its bylaws that the process of procuring and transplanting organs is consistent and equitable and does not discriminate on the grounds of race or financial or insured status.

(d) *Expansion of Recipients of Biannual Report*—This section expands the name recipients to include the Congressional committees cited in Section 3(a) above.

#### SECTION 4—EXPANDING ACCESS TO IMMUNOSUPPRESSIVE DRUGS

(a) *Establishment of Immunosuppressive Drug Grant Program*—This section amends title XIX of the Public Health Service Act to add the following new part:

##### "PART C—GRANTS FOR IMMUNOSUPPRESSIVE DRUGS."

(a) *In General*—The Secretary shall make payments to health care facilities for the dispensing of immunosuppressive drugs to eligible patients.

##### (b) Definitions

*Health care facility*—a hospital, pharmacy, or other facility authorized or licensed under State or Federal law to dispense and distribute prescription drugs.

*Immunosuppressive drugs*—any drugs or biologicals that are to be used for the purpose of preventing the rejection of transplanted organs and tissues.

*Eligible patient*—an organ recipient who is not eligible to receive reimbursement for the cost of immunosuppressive drugs under title XVIII of the Social Security Act, under a State plan under title XIX of such Act, or under private insurance, and whose transplant was performed at a facility which meets standards established under title XVIII of such Act for such transplantation.

(c) *Application*—No payment may be made under this section unless an application has been submitted to, and approved by, the Secretary.

(d) *Amount of Payment*—Payment shall be determined by the Secretary; except that (1) in the case of immunosuppressive drugs, the payment amount shall be based on the amount of payment permitted under title XVIII, and (2) no payment shall be made to satisfy any deductible, copayment, or coinsurance amount required of an individual who is otherwise not an eligible patient.

(e) *Authorization of Appropriations*—\$7 million is authorized to be appropriated under this section for each of FYs 1993 and 1994.

(b) *Elimination of 1-Year Limitation on Medicare Coverage of Outpatient Immunosuppressive Drugs*—The 1-year limit is eliminated.

#### SECTION 5—INFORMATION ON ORGAN DONATION IN CONNECTION WITH ADVANCED DIRECTIVES

This section amends Section 1866(f)(1) of the Social Security Act and calls for the coordination of the provision of information with the provision of organ donation information under section 1138(a)(1)(A).

#### SECTION 6—SPECIAL PROJECT GRANTS FOR MINORITY ORGAN PROCUREMENT

(a) *In General*—This section amends section 371(a)(3) of the Public Health Service Act and

calls for the inclusion of projects which encourage procurement of organs from minority communities and from other underserved populations with below average donation rates through outreach and educational services.

(b) *Authorization of Appropriations*—This section authorizes such sums as may be necessary for special projects described in (a) above.

By Mr. BREAUX:

S. 3351. A bill to amend the Internal Revenue Code of 1986 to defer estate taxes on family farms and businesses; to the Committee on Finance.

SMALL FAMILY BUSINESS AND FARM SURVIVAL ACT

• Mr. BREAUX. Mr. President, competing policy goals conflict when estate tax laws are applied to small, family businesses. Estate taxes are designed to prevent the pooling of too much wealth in too few families. Unfortunately, our estate tax system has another impact. It prevents entrepreneurs from starting a business, building it up over a lifetime, and then passing it on to their children. No family businesses will survive long if it is subject to estate taxes every time a new generation takes over.

In order to protect small family farms and businesses from the devastating impact of estate taxes, I am introducing today the Small Family Business and Farm Survival Act. This bill essentially allows the heirs of small business owners to defer the estate tax owed on the farm or business until it is sold outside of the family. Allowing family farms and businesses to defer their estate taxes prevents farmers and small business owners from having to sell off their life's work to pay estate taxes. At the same time, their estate tax rates are not lowered or forgiven, and they still must pay their full share if the business is sold outside the family. As a result, the tax bill need only be paid when the business is sold and the owners have the cash available to pay.

According to the National Federation of Independent Business [NFIB], cash flow is the third most important problem facing small business owners. You can imagine what happens to a business's cash flow when the owner dies and an estate tax bill for tens of thousands of dollars arrives. The heirs must either pare down the size of the business by selling off assets and firing employees or just sell the business altogether.

The high rates and complex issues involved in estate taxes make it very difficult for small, family businesses to survive. The Small Family Business and Farm Survival Act offers a great amount of protection for family farms and businesses at a minimal cost to the Federal Government.

This legislation is designed to protect those enterprises that are truly family run. To that extent, I have included several provisions to guard

against abuse. In order to take advantage of the deferral, the following tests must be met:

First, the business must be worth less than \$50 million. This ensures that only small businesses are protected.

Second, the business must comprise at least 40 percent of the decedent's estate. This prevents the owner of a very large business from breaking it up into several smaller businesses.

Third, the person inheriting the business must have actively participated in the running of the business before the owner died. This ensures that only family run businesses are protected.

Any heir taking advantage of the deferral will have to pay the estate tax if the business is sold outside of the family or if the business is managed by a nonfamily member for an extended period of time.

Family farms and family businesses are an important part of our Nation's heritage. Changes in tax law and the very high estate tax rate have combined to virtually eliminate the possibility that any business could survive for more than two generations. My bill, the Small Family Business and Farm Survival Act, protects both family enterprises and those they employ from an unintended consequence of our nation's estate tax law.

By Mr. LIEBERMAN:

S. 3352. A bill to create an environmental innovation research program, and for other purposes; to the Committee on Environment and Public Works.

ENVIRONMENTAL INNOVATION RESEARCH ACT OF 1992

Mr. LIEBERMAN. Mr. President, today I am introducing the Environmental Innovation Research Act of 1992, which complements the provisions of S. 2632 introduced earlier this year by Senator MIKULSKI. Senator MIKULSKI's important bill would create a new Environmental Technology Development Program with the mission of fostering the birth of a wide range of new environmental technologies. The bill I introduce today harnesses existing environmental research, development, and cleanup efforts in existing agencies to assist environmental technology development and product creation. I appreciate the advice and cooperation that Senator MIKULSKI and her staff have extended to me and my staff in the preparation of this legislation and I look forward to continuing to work with her on this issue. I also have drawn from the work of the World Resources Institute in its report, "Backs to the Future: U.S. Government Policy Toward Environmentally Critical Technology" and I commend WRI's excellent work.

The program established by this legislation is specifically modeled on the highly successful Small Business Innovation and Research [SBIR] Program which focuses on moving new general

technologies into commercial development and production. This legislation applies the SBIR set-aside concept to the field of innovative environmental technology.

My legislation requires each Federal agency with a budget for research and development or environmental clean-up in excess of \$50 million to expend no less than 1.25 percent of those funds on a program related to critical environmental technology. The term "critical environmental technology" is defined broadly to include innovations that can be used to reduce risks to human health, welfare, or the environment.

The legislation establishes a new office within the Environmental Protection Agency [EPA] to coordinate the activities of the environmental research programs established by Federal agencies. This new office will carry out EPA's Environmental Research Program, monitor other Federal agency programs, provide technical assistance to private business concerns, and help ensure the availability of an initial market for the technology, among other responsibilities. The director of this office, working with a task force comprised of members of industry and Federal agencies, shall compile a list of critical environmental technologies and cooperate on program implementation.

Mr. President, the Earth summit in Rio last summer made clear that if American industries are to compete in the global economy they must integrate the goals of environmental protection and economic growth. The administration's short-sighted policies took us back 20 years to an artificial conflict between environmental protection and economic growth. As one computer industry executive explained to me, in his highly competitive industry, production of waste and pollutant by-products is actually a cost, a sign of production inefficiency. If America is going to succeed in international competition it is going to have to accelerate its productivity rate, and environmentally sound production is crucial to that process. The fact is that we cannot have a healthy economy without a healthy environment. Most businesses are beginning to believe that. They also know that the market for environmentally sensitive products is expanding at the speed of sound.

The Organization for Economic Cooperation and Development has reported that environmental goods and services is now a \$200-billion industry that will experience a 5.5-percent growth on an annual basis.

The Congressional Office of Technology Assessment estimates that global environmental goods and services will grow to a \$300-billion industry by the year 2000.

A recent study conducted for EPA estimates that if the Clean Air Act of 1990 is fully implemented, revenues in

the air pollution control industry will increase by \$4-\$6 billion annually. Cumulatively, that will represent a \$50-\$70 billion increase in revenues by the year 2000. EPA officials estimate that 15,000-25,000 jobs will be created every year during 1992-1995 and between 20,000-40,000 jobs every year during 1996-2000. These positions include construction workers, engineers, and manufacturing jobs.

The development of clean technologies can also save businesses money by reducing costs associated with waste treatment and disposal, chemical accidents, and other potential long-term liabilities. Polaroid Corp., for example, streamlined production of its photographic chemical plants, cutting waste generation by 51 percent and disposal costs by \$250,000 per year. Among Polaroid's initiatives was the first high-quality diagnostic medical imaging system to use a dry developing process and new dyes which use 30 percent less solvents per unit of production. These new processes do good two ways at once: They are good for the environment and help make American industry more competitive.

While other nations, notably Japan and Germany, have fostered the development of new environmental technologies through active involvement with all stages of research, development, and commercialization, the United States does not have a coherent national policy to encourage the development of environmental technology.

The absence of such a policy threatens to leave America behind in the emerging worldwide industry. According to Harvard Business School Professor Michael Porter, almost 70 percent of the air pollution control technology sold in the United States is now foreign-made. Some of this technology, including some now imported from Japan, was invented in the United States. But lack of an early domestic market led some patent-holders to sell their patents abroad. We cannot let environmental technology go the way of the VCR.

I have seen directly what the lack of U.S. Government commitment to clean environmental technologies can mean. Connecticut is home to two of the nation's fuel cell manufacturers. Fuel cells are essentially large scale batteries that use a range of fuels, hydrocarbon fuel, without combustion, to produce electricity. They are superlative energy producers, reaching efficiencies of over 80 percent if heat is recovered, compared to about 30 percent for traditional power plants. They are virtually pollution-free and because of their great efficiency, emit far less carbon dioxide per unit of energy produced than traditional power-generating devices.

OTA, the National Critical Technologies Panel and World Resources issued a recent report, "Backs to the Fu-

ture: U.S. Government Policy Toward Environmentally Critical Technology" which lists fuel cells as one of the critical environmental technologies. But fuel cell manufacturers in this country are struggling because they lack the Federal support that prudent energy and economic policy would dictate. Fuel cells are on the brink of commercialization, but our Government is not acting to foster that commercialization here in cooperation with the private sector. Even as they struggle in this country, however, fuel cells and other alternative energy industries are forming the basis of an aggressive energy and economic policy in Japan—including support of the commercialization process. That should come as no surprise to us, but it should serve as a warning.

Mr. President, this legislation seeks to address some of the obstacles faced by private business concerns seeking to develop and commercialize critical environmental technologies. I have noted that this bill is modeled after provisions in the Small Business Innovation Development Act. That program, which is funded by a required set-aside for research and development money at federal agencies, is designed to promote technological innovation and the ability of small businesses to transform research and development results into new products.

The three-phase structure for an environmental innovation program in this legislation is based on the phases set forth in SBIR. The first phase is designed to determine the scientific and technical merit and feasibility of a proposed idea. The second phase is designed to further develop the idea. The third phase includes not only federal but private sector funds, and is designed to promote the commercial application of this research.

According to a March 1992 General Accounting Office report, the SBIR program is successful even though many projects have not yet had sufficient time to achieve their full commercial potential. As of July 1991, the program had generated approximately \$1.1 billion in sales and additional funding for technical development—two key indicators of the program's commercial success, with an additional \$3 billion expected by the end of 1993. The majority of this activity occurred in the private sector.

Mr. President, I look forward to working with Senator Mikulski in the next Congress as we work to make certain that the United States is a key player in the environmental technologies of the next decade and century. The Federal Government needs to be a partner with the private sector in stimulating research and development of these new technologies and products. It is worth pointing out that, given the enormous size of the Government's own clean-up requirements, the Govern-

ment itself will be a primary beneficiary.

Mr. President, this is not old-fashioned industrial policy. It is not centralized Government planning; it is not command and control from Washington; and finally, it is not a bailout for failing industries. It is Government working as a catalyst with the private sector, to make sure that the strong new environmentally clean technologies of tomorrow are being created right here in America today, with American workers reaping what we have sown.

I ask unanimous consent that the full text of this legislation be included in the RECORD.

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

S. 3352

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Environmental Innovation Research Act of 1992".

**SEC. 2. FINDINGS AND PURPOSES.**

(a) FINDINGS.—Congress finds that—

(1) the creation of an environmentally sound economy is among the urgent public policy challenges of the United States, on both a domestic and international level;

(2) rather than constraining technology and technological progress, the resolution of environmental problems presents new strategic business opportunities;

(3) new critical environmental technology offers both effective solutions to environmental problems and a viable long-term basis for continued economic growth and competitiveness;

(4) while substantial relevant basic environmental research and development is being conducted in research institutes, universities, and industries, more work is needed to commercialize advances in basic research and explicit support for research is needed; and

(5) to better compete in the world economy, environmental issues must become a more explicit focus within Federal agencies that conduct programs related to environmental cleanup and the development or application of technologies, and more environmental applications of technologies must be encouraged through Federal funding.

(b) PURPOSES.—The purposes of this Act are to—

(1) establish an environmental innovation research program and to stimulate the development of critical environmental technology;

(2) emphasize the goal of the program of increasing private sector commercialization of technology developed through Federal research and development;

(3) increase the role of businesses engaging in environmental innovation research in Federal research and development priorities; and

(4) establish the United States as the lead producer and exporter of innovative environmental technology.

**SEC. 3. DEFINITIONS.**

As used in this Act:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) COVERED FEDERAL AGENCY.—The term "covered Federal agency" means a Federal

agency, for which, for a fiscal year, an amount greater than \$50,000,000 is made available for environmental research and development or environmental cleanup.

(3) **CRITICAL ENVIRONMENTAL TECHNOLOGY.**—The term "critical environmental technology" means a significant technological innovation that can be used to reduce risks to human health, welfare, or the environment, that enables a wide range of related technical and economic advances, and that—

(A) confers societal benefits in addition to private returns;

(B) either—

(i) confers an economic advantage on United States industries developing or using the technology; or

(ii) has the potential of becoming a dominant technology with respect to the future application of the technology; and

(C) as appropriate, is generically applicable at the precompetitive stage.

(4) **DIRECTOR.**—The term "Director" means the Director of the Office for the Development of Critical Environmental Technology established under section 4.

(5) **ENVIRONMENTAL INNOVATION RESEARCH.**—The term "environmental innovation research" means research related to the development, application, or commercialization of critical environmental technology.

(6) **FUNDING AGREEMENT.**—The term "funding agreement" means a contract, cooperative agreement, grant agreement, patent agreement, royalty agreement, license agreement, equity agreement, or other appropriate legal agreement between the head of a covered Federal agency and a private business concern to provide funding and support to carry out environmental innovation research.

(7) **OFFICE.**—The term "Office" means the Office for the Development of Critical Environmental Technology established by section 4.

(8) **TASK FORCE.**—The term "Task Force" means the Critical Environmental Technology Task Force established under section 7.

#### SEC. 4. ESTABLISHMENT OF OFFICE.

(a) **IN GENERAL.**—There is established within the Environmental Protection Agency an Office for the Development of Critical Environmental Technology. The Office shall be headed by a Director, who shall be appointed by the Administrator.

(b) **CRITICAL ENVIRONMENTAL TECHNOLOGY RESEARCH PROGRAM OF THE ENVIRONMENTAL PROTECTION AGENCY.**—The Administrator, acting through the Director, shall carry out a critical environmental technology research program. In carrying out the program, the Administrator, acting through the Director, shall—

(1) coordinate communication between the heads of covered Federal agencies and private industry regarding the development of critical environmental technology;

(2) conduct an environmental research program pursuant to section 5;

(3) provide information in cooperation with the head of each other covered Federal agency, to private business concerns that carry out environmental innovation research projects under section 5 regarding contracts with Federal agencies for research and development concerning critical environmental technology;

(4) provide technical assistance to private business concerns, including providing information concerning the research and development of critical environmental technology under other Federally-sponsored research programs;

(5) to the extent allowable by law, in cooperation with the head of any other Federal agency that the Administrator determines to be appropriate, ensure the availability of an initial market for the critical environmental technology;

(6) develop and maintain a clearinghouse to provide information to private business concerns that develop or apply critical environmental technology;

(7) coordinate the activities of, and independently survey and monitor the operation of environmental innovation research programs established by covered Federal agencies pursuant to section 5(b); and

(8) conduct sufficient outreach activities to ensure that, to the extent that funds are available, private business concerns qualified to carry out an environmental innovation research project have an opportunity to participate in the program established under this subsection.

#### SEC. 5. ENVIRONMENTAL INNOVATION TECHNOLOGY RESEARCH PROJECTS.

(a) **CRITICAL ENVIRONMENTAL TECHNOLOGY RESEARCH PROGRAM OF THE ENVIRONMENTAL PROTECTION AGENCY.**—

(1) **IN GENERAL.**—As part of the critical environmental technology program referred to in section 4(b), the Administrator, acting through the Director, shall conduct an environmental innovation research program pursuant to subsection (b). The Administrator, acting through the Director and in cooperation with the heads of covered Federal agencies, shall ensure effective coordination of the activities of environmental innovation research programs conducted by covered Federal agencies under subsection (b) with the environmental innovation research program conducted by the Administrator, acting through the Director, under this subsection.

(b) **ENVIRONMENTAL INNOVATION RESEARCH PROGRAMS OF COVERED FEDERAL AGENCIES.**—

(1) **IN GENERAL.**—In addition to the establishment of an environmental innovation research program by the Administrator under subsection (a), the head of each covered Federal agency shall establish an environmental innovation research program for the development and commercialization of critical environmental technology to—

(A) further the progress of cleanup and pollution prevention activities of the agency; and

(B) avoid future pollution and cleanup problems.

(2) **FUNDING.**—The head of each covered Federal agency shall—

(A) on an annual basis, set aside not less than 1.25 percent of the funds appropriated to the agency for environmental research and development or environmental cleanup to fund an environmental innovation research program that meets the requirements of this Act; and

(B) on an ongoing basis, consult with the Task Force concerning the expenditure of the funds set aside pursuant to subparagraph (A).

(3) **DUTIES OF HEADS OF COVERED FEDERAL AGENCIES.**—

(A) **IN GENERAL.**—In carrying out a research program established under this subsection, the head of each covered Federal agency shall, in accordance with the requirements of this subsection—

(i) determine categories of projects to be in its environmental innovation research program;

(ii) issue environmental innovation research solicitations;

(iii) receive and evaluate proposals resulting from environmental innovation research proposals;

(iv) select awardees for the environmental innovation research funding agreements of the covered Federal agency;

(v) administer the environmental innovation research funding agreements of the covered agency (or delegate the administration to another agency);

(vi) make payments to recipients of environmental innovation research funding agreements on the basis of progress toward or completion of the funding agreement requirements.

(B) **COOPERATIVE AGREEMENTS WITH OTHER FEDERAL AGENCIES.**—The head of each covered Federal agency may enter into a cooperative agreement with the head of another Federal agency for the provision of technical assistance and other appropriate assistance to the business concern conducting an approved project.

(4) **PHASES OF ENVIRONMENTAL INNOVATION RESEARCH PROGRAM.**—

(A) **IN GENERAL.**—The head of each covered agency shall carry out an environmental innovation research program consisting of the following three phases:

(i) A first phase (with respect to which the head of the covered Federal agency may enter into funding agreements with private business concerns, each of which shall be in an amount not to exceed \$100,000) for determining, insofar as possible, the scientific and technical merit and feasibility of ideas that appear to have commercial potential, submitted pursuant to environmental innovation research program solicitations.

(ii) A second phase (with respect to which the head of the covered Federal agency may enter into funding agreements with private business concerns, each of which shall be in an amount not to exceed \$750,000) to further develop proposals that meet particular program needs, and with respect to which awards shall be made on the basis of the scientific and technical merit and feasibility of each proposal, as evidenced by the first phase (as described in clause (i)), taking into consideration, among other considerations, the commercial potential of each proposal, as evidenced by—

(I) the record of the private business concern of successfully commercializing environmental innovation research or other research;

(II) the existence of funding commitments for the second phase carried out under this clause from private sector or nonenvironmental innovation research funding sources to fund the phase;

(III) the existence of follow-on commitments for the third phase carried out under clause (iii) for research conducted pursuant to this clause; and

(IV) the presence of other indicators of the commercial potential of the proposal.

(iii) If appropriate, a third phase, in which the head of the covered Federal agency may provide assistance or enter into funding agreements with private business concerns—

(I) that have performed commercial applications research funded under an environmental innovative research program or research and development program and are partially funded by non-Federal sources of capital;

(II) for products or services intended for use by the Federal Government, by Federally-funded follow-on research and development that is not funded under an environmental innovation research program under this Act; or

(III) for which awards from Federal sources other than funding for environmental innovation research under this Act are used for the continuation of research or research and development that has been competitively selected using peer review or scientific review criteria.

(B) OTHER ASSISTANCE.—With respect to the assistance provided pursuant to paragraph (A)(iii), the covered Federal agency may also assist the private business concern in pursuing funding or procurement from other Federal research and development or cleanup programs.

#### SEC. 6. ANNOTATED LIST OF CRITICAL ENVIRONMENTAL TECHNOLOGIES.

The Director, in consultation with the members of the Task Force established under section 7, shall compile an annotated list of critical environmental technologies and provide for the periodic updating of the list. The annotations to the list shall include, with respect to each listed technology—

(1) a statement by the Director and each member of the Task Force who represents the interests of a Federal agency concerning those listed technologies that would be useful to the Federal agency that the member represents for carrying out environmental cleanup or research and development programs of the agency; and

(2) descriptions from appropriate representatives of private business concerns concerning existing research activities related to the listed technologies, and other research that could be conducted to develop the technology for both domestic and international markets.

#### SEC. 7. CRITICAL ENVIRONMENTAL TECHNOLOGY TASK FORCE.

(a) IN GENERAL.—There is established a task force to be known as the "Critical Environmental Technology Task Force". The Task Force shall consist of the following members to be appointed by the Administrator:

(1) The Deputy Assistant Secretary of Defense for Environment of the Department of Defense, and an Assistant Secretary responsible for environmental quality, science, or technology research and development (as determined by the Secretary of Defense) from each of the Departments of the Army, Navy, and Air Force.

(2) The Assistant Secretary for Conservation and Renewable Energy of the Department of Energy, or the designee of the Assistant Secretary.

(3) The Director of National Institute of Standards and Technology, or the designee of the Director.

(4) The Administrator, or the designee of the Administrator.

(5) The Director.

(6) 5 individuals representing private industry, appointed by the Administrator.

(7) The head of each environmental innovation research program carried out by covered Federal agencies not described in paragraphs (1) through (6).

(b) CHAIRPERSON.—The Director shall serve as the chairperson of the Task Force.

(c) ACTIVITIES.—The Task Force shall—

(1) assist the Director in ensuring the effective implementation of the proposed environmental innovation research of covered Federal agencies;

(2) oversee the coordination and development of the collection and distribution of critical environmental technology and data associated with the technology;

(3) review research proposals submitted to the Administrator and the heads of covered

Federal agencies for environmental innovation research projects;

(4) on the basis of the reviews referred to in paragraph (3), make recommendations to the Administrator and the Director and the head of each covered Federal agency regarding the merits of the distribution of funds under proposed funding agreements to fund proposed projects under the programs established under this Act;

(5) ensure complementary research efforts and avoid duplicative research efforts under this Act; and

(6) promote the effective dissemination of research information and results among Federal agencies and the private sector, as appropriate.

#### SEC. 8. REPORT TO THE DIRECTOR.

(a) IN GENERAL.—On an annual basis, the head of each covered Federal agency shall submit to the Director a report that includes:

(1) A listing of funding agreements under the environmental innovation technology program of the agency that provide for funding in an amount greater than or equal to \$10,000.

(2) The aggregate amount of assistance under the funding agreements described in paragraph (1).

(3) A comparison of the number of funding agreements and aggregate amount of funding under agreements described in paragraph (1) made with business concerns that are environmental technology concerns (as defined by the Administrator) with the number of funding agreements and aggregate amount of funding agreements made with other private business concerns.

(4) The percentage of successful commercialization efforts in critical environmental technology resulting from the environmental innovation technology program.

(b) COORDINATION OF REPORTS.—In the reports required under section 10, the Director shall include a summary of results delineated in the reports submitted under subsection (a).

#### SEC. 9. GUIDELINES AND REGULATIONS.

The Administrator shall, not later than 120 days after the date of enactment of this Act, promulgate guidelines for environmental innovation research programs conducted by the Administrator and other covered Federal agencies under this Act. The head of each covered Federal agency shall, on the basis of the guidelines, promulgate such regulations as are necessary to ensure that the environmental innovation research program of the covered agency meets the requirements of the guidelines. The guidelines promulgated by the Administrator under this section shall provide for—

(1) simplified, standardized, and timely solicitations of project proposals;

(2) a simplified, standardized funding process that provides for—

(A) the timely receipt and review of proposals;

(B) at a minimum, outside peer review for project proposals under the phase described in section 5(b)(4)(A)(ii), in any case in which the review is appropriate;

(C) the protection of proprietary information provided in project proposals;

(D) the selection of environmental innovation research projects;

(E) the retention of rights in data generated in the performance of a contract by the private business concern under the environmental innovation research project;

(F) to the extent allowable by law, the transfer of title to property provided by a Federal agency to the private business con-

cern conducting an environmental innovation research project, if the transfer would be more cost effective than recovery of the property by the Federal agency;

(G) cost sharing; and

(H) cost principles and payment schedules;

(3) exemptions from the requirements of paragraph (2) in any case where national security or intelligence functions would be jeopardized; and

(4) minimizing the regulatory burden of each private business concern that participates in an environmental innovation research project to improve the cost-effectiveness of the critical environmental technology research and development conducted under the program.

#### SEC. 10. MONITORING AND REPORT.

To the extent allowable by law:

(1) The Administrator shall independently survey and monitor all phases of the implementation and operation of the environmental innovation research program of each covered agency (including compliance with requirements relating to the expenditures of funds).

(2) The Administrator shall, not less frequently than annually, and at such other times as the Administrator, in consultation with the Director, considers to be appropriate, submit a report to the Committee on Environment and Public Works of the Senate and the Committee on Science, Space, and Technology of the House of Representatives on each phase of the implementation and operation of the environmental innovation technology research programs administered by the Administrator and the heads of covered Federal agencies under this Act, and other related activities of the Administrator. Each report submitted under this paragraph shall include such recommendations for program improvements as the Administrator, in consultation with the Director, considers to be appropriate.

#### SEC. 11. REPORT BY THE COMPTROLLER GENERAL.

The Comptroller General of the United States shall, not later than 5 years after the date of enactment of this Act, transmit a report concerning the implementation of the programs established under this Act, including a description of the research conducted under the programs, to the Committee on Environment and Public Works of the Senate and the Committee on Science, Space, and Technology of the House of Representatives.

#### SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated sums as are necessary to carry out this Act.

By Mr. SPECTER:

S. 3353. A bill to amend section 848 of the Internal Revenue Code of 1986 to provide that certain noncancellable accident and health insurance policies of small insurance companies be treated in the same manner as group life insurance contracts; to the Committee on Finance.

DEFERRED ACQUISITION COST ACT

• Mr. SPECTER. Mr. President, today I am introducing legislation to redress a tax inequity affecting small health insurance companies which is adversely affecting the availability of individual health insurance. The legislation would modify the so-called deferred acquisition cost or "DAC" tax in order to allow small companies to treat noncancellable health insurance poli-

cies the same as group life insurance under the tax code.

I recognize that at this late date this legislation will not be enacted, much less considered, during the 102d Congress. But, I am introducing it now so that it will be available in the CONGRESSIONAL RECORD to be studied in advance of the 103d Congress when it should be considered for enactment.

By way of background Mr. President, life and health insurance companies incur substantial expense selling their policies. Much of the expense is comprised of compensation to insurance agents selling the product, but they also include the cost of medical examinations, underwriting costs, and other expenses. In many cases, these expenses may equal or even exceed the premiums received in first year of the policy.

Before the 1990 Budget Act was enacted, life insurance companies deducted these expenses for Federal income tax purposes in the year they were paid—just as other companies deduct their compensation costs. Upon enactment of the 1990 Budget Act, however, Congress decided to require life insurance companies to amortize these expenses, generally over a 10-year term. Congress did so by requiring a company to amortize 7.7 percent of all of its individual life and noncancellable health insurance premiums, 2.05 percent of its group life premiums, and 1.75 percent of its annuity premiums. It should be noted that cancellable health insurance—being the vast majority of group health insurance policies—is subject to a separate limitation enacted in 1986 as part of the changes in property and casualty insurance taxation and is not affected by this legislation.

The DAC rules create a significant hardship because they adversely affect a company's surplus and solvency. Despite the change in tax law, commissions and other expenses related to the acquisition of new business still must be paid up front. The Federal Government, however, is taxing as income funds that have been paid out as ordinary and necessary business expenses. Because the rules assume renewal of this insurance, it is also taxing profits that may never materialize. In addition, a company may lose money under the statutory accounting rules used by state insurance regulators and still be required to pay Federal income taxes because of the DAC tax. As a result, the company must draw down surplus or borrow to pay the tax. Mr. President, this is not a tax on profits; it is a tax on capital.

The DAC rules are especially disadvantageous to small, fast growing companies—of which there are many in my State—since a large portion of their gross income is comprised of first-year premiums which are offset by commissions and related acquisition expenses. While Congress made a modest conces-

sion to small companies by allowing a certain portion of the amortizable amount to be amortized over 5 years, rather than the generally applicable 10-year period, the Federal income tax liability for many small companies has risen several-fold.

The DAC tax is curtailing the growth of many successful, well-run, small companies and will, if unchanged, have the effect of discouraging them from offering health insurance to individuals who would like to have the opportunity to purchase these benefits. In addition, the increased tax will reduce surplus and invite questioning by state insurance regulators, the effect of which is potentially to restrict the ability of these companies to issue new policies.

The legislation I am introducing today would simply move noncancellable and guaranteed renewable accident and health contracts issued by small insurance companies, as defined in the Internal Revenue Code, from the individual life DAC category to the group life DAC category. The effect of this is to subject such contracts to a 2.05 percent DAC tax instead of the current 7.7 percent DAC tax. This is consistent with the Senate-passed version of the 1990 Budget Reconciliation Act which treated group life and noncancellable or guaranteed renewable accident and health contracts equally. It was only in conference that noncancellable and guaranteed renewable accident and health contracts were moved to the higher 7.7 percent DAC tax category applicable to individual life contracts.

It seems ironic, Mr. President, that these health policies were placed in a higher tax category and required to be amortized over a minimum of 5 years since as a practical matter many of these contracts are in existence for merely 3 or 4 years. Moreover, it seems ironic that at a time when we are so concerned about the cost and availability of health insurance, the ability of small health insurers to issue such insurance could be restricted because of the higher DAC tax.

As for the cost of this legislation, I have requested a revenue estimate from the Joint Committee on Taxation, but have not yet received one. Experts from the industry, however, have estimated the revenue impact to be less than \$37 million in the first year, declining to \$30 million by the fifth year, and declining further thereafter. I believe we will be able to find an appropriate offset for this legislation. In this regard, I suggest that we ought not blindly or rigidly require that offset come from the life insurance industry.

Mr. President, this legislation is targeted to small health insurance companies because they are the most severely affected by the DAC tax and are most in need of relief. The simple fact, how-

ever, is that were we not constrained by the Budget Agreement I would propose to change the DAC category for these health contracts for all affected companies. This categorization of noncancellable health contracts in the 1990 Budget Act was wrong, the Senate was correct in its original categorization, and we should not be reluctant to say so.

I ask unanimous consent that the text of the bill I am introducing be printed in the RECORD.

For reasons set forth herein, it appears that this extra tax burden was added at the last minute in a search for additional revenues without realizing its impact.

While my staff and I have carefully reviewed this matter beyond the materials submitted by constituents, I make it available for my colleagues in the Congress and others so that it may be examined at leisure in the months before the 103d Congress convenes. In offering legislation on this complex subject, I do so with the invitation to all comers to suggest any reason why this \* \* \* is effective or what changes or modifications should be made before reintroduction in the 103d Congress.

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

S. 3353

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

**SECTION 1. TREATMENT OF POLICY ACQUISITION EXPENSES OF CERTAIN NONCANCELLABLE ACCIDENT AND HEALTH CONTRACTS.**

(a) IN GENERAL.—Subparagraph (B) of section 848(c)(1) of the Internal Revenue Code of 1986 is amended by inserting "or qualified accident and health insurance contracts" after "group life insurance contracts".

(b) QUALIFIED ACCIDENT AND HEALTH INSURANCE CONTRACT.—Section 848(e) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

"(6) QUALIFIED ACCIDENT AND HEALTH INSURANCE CONTRACTS.—The term 'qualified accident and health insurance contract' means, with respect to any taxable year, a noncancellable or guaranteed renewable accident and health insurance contract issued by a life insurance company with respect to which the small life insurance company deduction determined under section 806(a) is allowed for such taxable year."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

By Mr. WALLOP:

S. 3354. A bill entitled the "Private Sector Whistleblowers' Protection Act of 1992"; to the Committee on Investigations Affairs.

S. 3355. A bill to amend chapter 6 of title 5, United States Code, relating to regulatory flexibility analysis; to the Committee on Governmental Affairs.

REGULATORY REFORM LEGISLATION

• Mr. WALLOP. Mr. President. Although claiming best of intentions, the U.S. Government is inflicting harm on

the very people it claims to serve. If any foreign country were to do what our own Government is doing we would be here debating a war resolution against such a pernicious oppressor.

The oppression is the often foolish and always burdensome world of regulation. The cumulative effect of excessive, overreaching and many times inconsistent regulations is an economic tyranny that cuts across every aspect of our economy. It results in lower wages and increased unemployment. Business suffers from increased uncertainty resulting in reduced investment and impaired innovation. Excessive government regulation is doing more to hurt this country's international competitiveness than the actions of all our foreign competitors combined.

Red tape serves to hogtie large American corporations but it absolutely strangles those who are least able to afford it—small business. Small businesses, which have created the majority of jobs in our economy and are the most sensitive to cost changes, are often hit the hardest by governmental regulation. The U.S. Small Business Administration tells me that the proportional cost of regulation per employee is three times higher for small than for large businesses. When small businesses hire extra workers to fill out forms they must then stop producing worthwhile, marketable products or services. If small business managers must continually divert their skills and valuable time to regulatory problems rather than working on gainful activities, then America is denied the benefits of their genius.

Regulations and paperwork requirements adversely affect the ability of our nation's banks to provide credit. Certain Federal rules not related to the safety or soundness of banks require valuable resources to be squandered. According to a recent survey compiled by the American Bankers Association, banks must spend an estimated \$10.7 billion each year on regulatory compliance. This represents 12 percent of total operating costs and 59 percent of net income in 1991. These costs far exceed any perceived benefits. The ability of banks to serve communities in Wyoming and other states is seriously undermined.

But it's not just the business world which suffers from regulatory excess. Cities and states are being driven to their knees as they struggle to shoulder the burden of unfunded federal mandates and bureaucratic regulation. Congress no longer provides federal services—only obligations. When we pass a law or a federal bureaucrat writes a regulation, businesses and State and local governments pay enormous costs to comply.

How much do we Americans pay for excessive regulations? Thomas D. Hopkins of the Rochester Institute of Technology estimates gross regulatory

costs to be over \$400 billion annually or around \$4,000 for a family of four. These costs add a hidden tax to the roughly \$10,000 per household Federal tax burden.

A recent study by the Thomas A. Roe Institute for Economic Policy Studies estimates that the regulation burden is costing Americans between \$881 billion and \$1.66 trillion annually or between \$8,500 to \$17,000 per household.

OMB estimated the federal paperwork alone burden to be 5 billion work hours in 1988.

Whatever the regulatory burden is—\$400 billion or \$1.6 trillion—one thing is clear: the ultimate costs are borne by the consumer. Americans watch their hard earned wages go, not only to higher State and local taxes as a result of Federal mandates, but to the increased prices they must pay for necessities such as food and housing and for cars, toys and other consumer goods. And worst of all, their wages go to pay for vast new legions of regulatory employees.

President Bush recognized that America needs to be freed from smothering regulation. On January 28th of this year the President announced a 90-day moratorium on burdensome regulations, ordering major Cabinet Departments and Federal agencies to review all regulations, old and new, and to kill those which hinder growth and move those which serve to help. When its effectiveness became clear, the moratorium was extended and is still in place today. One advocate of Federal regulation was quoted as complaining this action was "chilling" the regulatory process and forcing regulators to consider each and every step they take.

In addition to the moratorium, the President's Council on Competitiveness, chaired by Vice President DAN QUAYLE, has targeted its reform efforts at eliminating regulations that have become unnecessary or obsolete. This effort has resulted in over \$20 billion in annual savings and created or saved hundreds of thousands jobs across this Nation. The Council on Competitiveness and the Office of Information and Regulatory Affairs are among the few real options for small business participation in the regulatory process and are the only rational voices in a wilderness of regulators writing rules that do little but add unnecessary costs to businesses and American consumers.

To those who criticize the Bush administration for contributing to the problem, I say two things. First of all, it may well be that administrative agencies are beyond the control of the executive branch. Protected civil service, which was implemented to do away with nepotism and patronage, means the bureaucracy need not respond to changes in the executive branch so it has become a permanent government that no head of government can remove. The bureaucracy has been al-

lowed to function unfettered and resists all efforts to contain it. This leads to my second point. Although many decry the situation in which we now find ourselves, only President Bush, with his moratorium and his Council of Competitiveness, has actually done something about it.

Congress has certainly not helped, we continue to pass the most burdensome and costly regulatory laws that this country has ever seen: the Clean Air Act, the Civil Rights Act, the Fair Labor Standards Act amendments, the Nutrition Labeling and Education Act, the Americans with Disabilities Act, and the Pollution Prevention Act, to name just a few. And whether or not Congress is vague or particular in the details, extensive regulation is necessary to implement each. Vast new numbers of Federal employees are hired to enforce, interpret, and construct these regulations.

But Congress acts with even more disregard than just piling on more mandates. Certain Members have tried to emasculate the only program which has actually served to help relieve Americans of excessive, ridiculous and harmful regulations. Just 2 weeks ago an amendment was offered to withhold funding for the Council on Competitiveness. The same provision passed the House of Representatives on July 1 by a vote of 236 to 183.

The President has the right, indeed, the duty to review and reduce the regulatory burden on the Americans today. The amendment, if enacted, would have committed a real disservice to the American people, Mr. President, but the real hypocrisy is that most of the Senators who joined in the amendment to zero fund the Council on Competitiveness opposed the effort to have Congress covered by the very laws which those outside the beltway have found so burdensome.

When Congress was debating the Civil Rights Act of 1991 to modify existing civil rights laws for employment my colleague from Oklahoma, Senator NICKLES, offered an amendment to make that Act apply to Congress, along with several other Acts from which Congress has exempted itself. Specifically, the Nickles amendment would have made Congress subject to the National Labor Relations Act of 1938, the Fair Labor Standards Act of 1938, the Equal Pay Act of 1963, the Civil Rights Act of 1964, the Age Discrimination Act of 1967 (and its 1975 amendments), the Occupational Safety and Health Act of 1970, the Equal Employment Opportunity Act of 1972, the Privacy Act of 1974; Americans with Disabilities Act of 1990 and the Ethic in Government Act of 1978.

Americans take note! The Nickles amendment failed. Those Members of Congress who advocate the most intrusive Federal mandates are also the same Members who insist that their

own business—the U.S. Congress—remains exempt from coverage. And they are the same ones who oppose all efforts by President Bush to streamline effective regulations.

So we are safe here inside the beltway and we can continue to pass our laws and never look back. Well, there is one former legislator who has had the opportunity to look at what we are doing, and he shared that experience in an eloquent and powerful article.

I would like to include for the record an article written by former Senator and Presidential contender, George McGovern entitled "A Politicians Dream is a Businessman's Nightmare" dated June 1, 1992. George McGovern's Connecticut hotel went bankrupt not just because of a slow economy, but because the Government has "set the bar so that it is too high to clear".

McGovern describes how he and other businessmen had to live with rules that were "all passed with the objective of helping employees, protecting the environment, raising tax dollars for schools, protecting our customers from fire hazards, etc." McGovern never doubted the worthiness of any of these goals, but he said that "the concept that most often eludes legislators is: 'Can we make consumers pay the higher prices for the increased operating costs that accompany public regulation and government reporting requirements with reams of red tape.' It is a simple concern that is nonetheless often ignored by legislators."

In retrospect, McGovern now wishes he had known about the difficulties that businessmen face everyday when he was in public office. "That knowledge would have made me a better U.S. senator and a more understanding presidential contender." I wished he had too; perhaps he would have voted differently.

George McGovern is right, the problem is not the worthiness of these goals. All this is the result of a government trying to do good—to be all things to all people—the protector of all, to remove all risk. Well I am a firm believer that government is not the solution to the problem, but the problem itself, to quote Ronald Reagan.

I reject the thought that the Federal Government is better suited than society to resolve all social ills, or that it is the best arbiter of individual problems. Outside the beltway they know that government is less able to reasonably and knowledgeably resolve problems.

I wholeheartedly agree with a constituent of mine from Worland, Wyoming who recently suggested that we in Congress "really ought to take a session and instead of creating new legislation, clean up and do away with a lot of legislation that you presently have." (Forrest Clay, President of ABC Admiral Beverage Corporation).

Recognizing the futility in trying to implement such a common sense ap-

proach, however, I join several of my colleagues in a comprehensive effort to reverse the perverse situation in which we now find ourselves. Today I am introducing three measures to help get the Government off the backs of the people.

First of all, I am introducing a Sense of the Congress resolution which provides that each committee reporting legislation that requires employers to provide new employee benefits shall secure an objective analysis of the impact of the legislation on employment and international competitiveness and include that analysis in the committee report on the bill. This will help ensure that Congress takes the opportunity to consider the consequences of what we are doing before a bill becomes law.

Secondly, I am introducing amendments to the Regulatory Flexibility Act to provide regulatory relief to small businesses. The 1980 Regulatory Flexibility Act was based on the premise that Federal agencies frequently do not recognize the impact their rules will have or that small businesses are disproportionately and adversely affected by Federal regulation compared to their larger counterparts. My amendments will improve the Regulatory Flexibility Act in three ways; by providing for coverage of interpretative rules, judicial review and a modification of the definitions to ensure that indirect effects of regulations are considered when an analysis of rules is undertaken.

Under current law no regulatory impact analysis is required for rules classified as interpretative (following Congressional intent). Unfortunately, some agencies improperly classify rules as interpretative and thus avoid having to perform any analysis of its impact. My amendment would close this loophole by including interpretative rules within the ambit of the Act.

Also, there is no meaningful judicial review of an agency's decision to certify that a rule does not have a substantial impact on a significant number of entities, even though it may impose tremendous burdens. My amendment would correct this anomaly.

In addition, the original Regulatory Flexibility Act does not take into account the fact that regulations which are imposed on small entities have an indirect impact on the customers and/or clients of those entities. My amendment would ensure that these are properly considered.

Finally, I am introducing a measure designed to help resolve a problem which I hear all too frequently echoed across Wyoming and the rest of the nation—fear of big brother. Small and large business owners alike are terrified by their government. They are afraid to complain or fight back. They are afraid that if they do they will become targets of unsympathetic Federal bureaucrats. Regulators are given such

broad powers over so many different aspects that anyone subject to their authority is justifiably reluctant to come forward.

Fear of reprisal cannot be dismissed with the answer that those who are in compliance have nothing to fear. Businesses are so dependent upon permits and the discretion to issue them is so immense that simple bureaucratic inaction can often suffice to put someone out of business. In addition, regulations and guidelines are so pervasive, vague and often contradictory that no one can ensure compliance no matter how diligently they try and regulators regularly threaten to find new problems if a protest is too loud.

And to top it all, penalties are draconian as businesses in my own State know only too well. For example, the EPA regional office which oversees Wyoming has publicly determined that the best way the agency can swing its bureaucratic power is to hit hard and without warning even for violations that are mere paper errors that endanger neither health nor the environment. Rather than offering technical or educational assistance, or even giving notice that there is a problem, these bureaucrats time and again slap Wyoming businesses and even municipalities with the highest fines possible and inevitably announce them first in the local newspaper before the alleged violator has been notified. This is no way for government to treat its citizens but our people are afraid to come forward because they fear retribution.

That is just one of the reasons why I feel so strongly about my bill as an important first step toward protecting private sector whistleblowers from reprisals by regulatory agencies.

Mr. President, I look forward to working with my colleagues on each of these bills in the next Congress to help relieve American businesses from the regulatory nightmare in which they find themselves.

But I am proud to announce what I hope will be an effective method of drawing attention to, and reversing the trend of excessive regulation, the "Red Tape Award".

The Red Tape Award will be presented on a regular basis for zealous enforcement of regulations that strangle the spirit of the American business community. The worst of the worst will be recognized and presented a certificate depicting the Statue of Liberty bound and tussled in red tape. She is a particularly fitting symbol because the inspiration for the statue came from a French legal scholar who envisioned it as a monument to U.S. independence. The statue's official name is "Liberty Enlightening the World" and it shows liberty as a proud woman welcoming immigrants to our shores, holding out the promise of freedom and opportunity. And that is precisely what the Federal Government is strangling—the

freedom of all Americans to pursue opportunity and to govern locally. It is their independence and innovation and entrepreneurial spirit that is being smothered in red tape.

A chain that represents the tyranny of unjust rule lies broken at the feet of the Statue of Liberty. I aim to do all I can to ensure that our own Government, through the tyranny of excess regulation, does not forge new links in that broken chain.

Before I discuss this month's winner of the Red Tape Award I would like to discuss just a few of the nominees in the running from my home State of Wyoming alone. Unfortunately, they were many and diverse. I would note that although I offer this award in the hopes that humor will help bring attention to the problem, I am acutely aware that the threat to the livelihoods of my constituents and other Americans is no laughing matter.

Wyoming people are known for their rugged individualism but that is not what shines through when you talk of Federal intrusion. They are scared of their Government and its infinite rules. Regulations are so pervasive and complex that no matter how hard businesses try, an agency can always find a violation and businesses dare not anger a bureaucrat because they could easily be fined out of existence. Appeals are almost useless because the Government has limitless resources to oppose any challenge.

Business just wants the chance to compete. Let me read a portion of a letter from Casper businessman, Rich Bonander: "The known risks, such as competition, insurance, inventories, employees, etc. are manageable, but the growing mountains of government regulations are not." He further wrote: "I always believed that our government was there to help us, to do those things for its citizens that would be impossible to do individually, like provide defense and interstate highways. It was never intended to be business' main enemy."

Rich Bonander's letter is unique for only one reason, but it is important. He was willing to allow me to use his name, which I have found very few businesses were willing to do. That is why my whistleblower legislation is so important to me.

Another example comes from a small businessman who ran a body shop. It seems that OSHA, which told the shop owner they had increased their fines seven-fold, looks for chains that are marked "certified". The owner of this shop sent his help to get a quarter-inch, six foot chain in order to satisfy the OSHA requirements. The good news is the owner did not receive a fine. The bad news is that the "certified" chain cost him \$130, compared to an identical chain without the "certified" marker which only cost \$40. These unnecessary costs are what caused this owner to

comment that he would never open a business today in this regulatory environment. It seems the only secure job is to work for the Government.

There is another example which people in Wyoming have come to know only too well: the problems of trying to address a specific concern with blanket regulations to cover every facility. I could nominate many regulations which are ludicrous because they don't take into account differences in the economy, ecology or the population of a region. For instance, Casper Airport has 73 signs on the runway surface but the FAA says they need 100 more. That maybe appropriate for Denver's Stapleton airport but will only be confusing in Casper, Wyoming. Also applying all security measures to all airports, so Casper and New York's LaGuardia Airport are operated in the same manner, is overkill and costly to taxpayers. But that doesn't seem to bother the regulators who are blind to common sense and bind themselves to the Federal Register.

Another nominee: FCC. The FCC inspected Stauffer's radio antenna on August 21, 1991. They gave notice to KSTF that the antenna needed painting three weeks later (9/12/91) and the station responded within the required 7 days, made immediate arrangements for the painting and notified the FCC of that fact. The tower was repainted on October 8, 1991 (the delay was due to weather and the fact that high tower painters are hard to find—could it be OSHA makes that profession improbable).

Several months later, in July of 1992, the FCC fined Stauffer \$8,000 for violating the Commission's rules relating to the painting of radio antenna towers even though the company had responded to the original notice as soon as it practically could. Moreover, the Commission held each licensee on the tower individually responsible and fined each of them \$8,000, also, for a total of \$48,000 for one violation. The kicker is that the FBI was a licensee on the tower also but they were not fined along with others because the government shouldn't fine itself. But how can the Government hold private enterprise responsible and fine them for something for which the Federal Government itself should have been responsible.

I could continue on but I know my colleagues have horror stories from their own states. In closing, I would like to announce the winner of the Red Tape Award which was presented last week.

The first recipient of The Red Tape Award was OSHA for its overzealous and ridiculous enforcement of the Hazardous Communication Standard, in particular, OSHA's citing small businesses for failure to have Material Safety Data Sheets for such "hazardous" materials as sawdust, sand, gravel, fire extinguishers, dishwashing liquid, liquid paper, water, and oxygen.

The Hazard Communication Standard, issued in 1983, requires employers to identify workplace chemical hazards and communicate those hazards to employees. Thus, businesses are forced to keep Material Safety Data Sheets (MSDS) on all hazardous materials in the workplace and provide training to employees on how to handle hazardous materials.

OSHA has never yet published a comprehensive list of chemicals and products that are considered hazardous, yet these regulations account for 60 percent of all OSHA violations. Seventy percent of these violations qualify for harsh penalties of at least \$900 or more. A GAO study concluded that over a third of small businesses are not even aware of the standards and those who are find it difficult to comply given the complexity of the regulation.

Sen. Mack has described to me a situation in Florida involving a 3-person silk-screening company. The owner was cited for not having a Hazardous Communication program for his two part-time employees. He was fined by OSHA for not having an MSDS on Joy dishwashing liquid. For Heaven's sake! This small business was hounded by OSHA for 18 months.

The owner, who asked to remain anonymous in order to avoid further problems with the Federal Government, says he works closely with his employees. They know and understand how to use the chemicals necessary for their business. He wonders why OSHA would require him to provide an MSDS on something like a dishwashing liquid sold in virtually every grocery store in America. He said that he doesn't really under the Government, but he only sees it hurting him and businesses in this country.

A similar situation occurred in Oregon, where Eugene Gibson is the owner and manager of Gibson Holding Co., a company which manufactures, markets, and sells, display stands originally designed by Mr. Gibson's father.

Mr. Gibson tells a story of a disgruntled contractor who reported Mr. Gibson to the Department of Labor. An inspector from the Oregon Occupational Health and Safety Division, tasked with administering OSHA's programs in the State, paid a visit to Gibson's company and found no violations other than the company's failure to have a Hazard Communication Program. But the only hazardous material the investigator could find was a bottle of Dawn dishwashing liquid. Gibson asked the investigator: "since millions of housewives use it, what's the hazard?" To which the investigator replied, "You use lots of it." Gibson was then fined \$75 for not having an MSDS for Dawn Dishwashing Liquid. This regulatory enforcement was pursuant to the Oregon State plan it's true, but in the eyes of a harassed businessman all inspectors look alike.

OSHA tells us that consumer products, like dishwashing liquid, caulking, and liquid paper, may be determined hazardous depending on the way or the amount in which they are used. This determination is left to the judgement of the OSHA inspector/industrial hygienist. Who would dare confront that open-ended authority?

Gibson runs a clean operation and has never been in trouble with other regulatory agencies. He has a good relationship with his employees. Employees have 2 weeks paid vacation, a part of the company's profit-sharing plan, and just recently have had their health insurance expanded to include dental coverage.

Gibson argues that, with all the competition from companies operating in the U.S. using foreign labor to produce their goods (and not, therefore, under U.S. regulatory jurisdiction), such petty enforcement of regulations only hurts Americans' businesses and their workers.

OSHA has even given citations to companies that do not have MSDS's on products that are the personal property of employees, such as a bottle of Windex an employee of an Indiana business had in her car.

The adverse effect from overzealous enforcement is not just the annoyance of an unjustified fine, it is all the wasted man-hours complying with ludicrous regulations. For instance, officials from one Wyoming municipality feel they must take the time to inform workers of risks from chemicals such as printer toner and tiny bottles of white-out correction fluid. They say that under the regulatory-type environment they can't afford *not* to do so. That is a sad commentary on Government today. Our people are afraid of their Government and their Government is using that fact. What kind of America is that?

While no one argues that there is value to providing employees information on hazardous materials in the workplace, the mandate of the Hazardous Communication Standard has led to OSHA's establishing ridiculous requirements for MSDS's. We hope that giving this award to OSHA will encourage them to develop a more practical information standard that does not bind our small businesses with petty bureaucratic red tape.

America did not become the greatest country on earth because the government mandated what its citizens could do. America became great because of the spirit of its people—the spirit of innovation, risk-taking, rugged individualism, competition. It is time for Government to quit binding that spirit in needless red tape.

Mr. President, I ask unanimous consent that the article mentioned earlier be printed in the RECORD.

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

[From Manager's Journal, June 1, 1992]

A POLITICIAN'S DREAM IS A BUSINESSMAN'S NIGHTMARE

(By George McGovern)

*Wisdom too often never comes, and so one ought not to reject it merely because it comes late.—Justice Felix Frankfurter*

It's been 11 years since I left the U.S. Senate, after serving 24 years in high public office. After leaving a career in politics, I devoted much of my time to public lectures that took me into every state in the union and much of Europe, Asia, the Middle East and Latin America.

In 1988, I invested most of the earnings from this lecture circuit acquiring the leasehold on Connecticut's Stratford Inn. Hotels, inns and restaurants have always held a special fascination for me. The Stratford Inn promised the realization of a longtime dream to own a combination hotel, restaurant and public conference facility—complete with an experienced manager and staff.

In retrospect, I wish I had known more about the hazards and difficulties of such a business, especially during a recession of the kind that hit New England just as I was acquiring the Inn's 43-year leasehold. I also wish that during the years I was in public office, I had had this firsthand experience about the difficulties business people face every day. That knowledge would have made me a better U.S. senator and a more understanding presidential contender.

Today we are much closer to a general acknowledgement that government must encourage business to expand and grow. Bill Clinton, Paul Tsongas, Bob Kerrey and others have, I believe, changed the debate of our party. We intuitively know that to create job opportunities we need entrepreneurs who will risk their capital against an expected payoff. Too often, however, public policy does not consider whether we are choking off those opportunities.

My own business perspective has been limited to that small hotel and restaurant in Stratford, Conn., with an especially difficult lease and a severe recession. But my business associates and I also lived with federal, state and local rules that were all passed with the objective of helping employees, protecting the environment, raising tax dollars for schools, protecting our customers from fire hazards, etc. While I never have doubted the worthiness of any of these goals, the concept that most often eludes legislators is: "Can we make consumers pay the higher prices for the increased operating costs that accompany public regulation and government reporting requirements with reams of red tape." It is a simple concern that is nonetheless often ignored by legislators.

For example, the papers today are filled with stories about businesses dropping health coverage for employees. We provided a substantial package for our staff at the Stratford Inn. However, were we operating today, those costs would exceed \$150,000 a year for health care on top of salaries and other benefits. There would have been no reasonable way for us to absorb or pass on these costs.

Some of the escalation in the cost of health care is attributed to patients suing doctors. While one cannot assess the merit of all these claims, I've also witnessed firsthand the explosion in blame-shifting and scapegoating for every negative experience in life.

Today despite bankruptcy, we are still dealing with litigation from individuals who fell in or near our restaurant. Despite these injuries, not every misstep is the fault of

someone else. Not every such incident should be viewed as a lawsuit instead of an unfortunate accident. And while the business owner may prevail in the end, the endless exposure to frivolous claims and high legal fees is frightening.

Our Connecticut hotel, along with many others, went bankrupt for a variety of reasons, the general economy in the Northeast being a significant cause. But that reason masks the variety of other challenges we faced that drive operating costs and financing charges beyond what a small business can handle.

It is clear that some businesses have products that can be priced at almost any level. The price of raw materials (e.g., steel and glass) and life-saving drugs and medical care are not easily substituted by consumers. It is only competition or anti-trust that tempers price increases. Consumers may delay purchases, but they have little choice when faced with higher prices.

In services, however, consumers do have a choice when faced with higher prices. You may have to stay in a hotel while on vacation, but you can stay fewer days. You can eat in restaurants fewer times per month, or forgo a number of services from car washes to shoeshines. Every such decision eventually results in job losses for someone. And often these are the people without the skills to help themselves—the people I've spent a lifetime trying to help.

In short, "one-size-fits-all" rules for business ignore the reality of the marketplace. And setting thresholds for regulatory guidelines at artificial levels—e.g., 50 employees or more, \$500,00 in sales—takes no account of other realities, such as profit margins, labor intensive vs. capital intensive businesses, and local market economics.

The problem we face as legislators is: Where do we set the bar so that it is not too high to clear? I don't have the answer. I do know that we need to start raising these questions more often. ●

By Mr. DANFORTH:

S. 3356. A bill to amend the Civil Rights Act of 1964 to encourage mediation of charges filed under title VII of such Act and the Americans with Disabilities Act of 1990, to amend the Revised Statutes to encourage mediation of complaints filed under section 1977 of the Revised Statutes, and to decrease resort to the courts; to the Committee on Labor and Human Resources.

EMPLOYMENT DISPUTE RESOLUTION ACT OF 1992  
● Mr. DANFORTH. Mr. President, I rise today to introduce the Employment Dispute Resolution Act of 1992. I am also pleased to report that Representative STEVE GUNDERSON is concurrently introducing this bill in the House of Representatives.

This legislation is designed to provide alternatives to litigating employment discrimination claims. It is a timely measure and needed to assist the already overburdened courts and the EEOC to cope with the impending increase in such claims.

According to EEOC Chairman Evan Kemp, more than 67,000 individuals filed charges with the EEOC in FY 1991. Final figures for FY 1992 are not yet available. However, as a result of the estimated doubling of sexual harass-

ment charges filed this year, and the effects of the passage of the Civil Rights Act of 1991, incoming charges are expected by Chairman Kemp to reach a staggering 77,776. This represents a 39 percent increase since FY 1989. On top of this increase, Title I of the Americans with Disabilities Act (ADA) is expected to add an additional 15-20,000 charges to EEOC's workload.

The effects of this overload are already being felt. On September 21, 1992, the EEOC held an extraordinary "emergency commission meeting." In his introductory remarks, Chairman Kemp reported that "EEOC investigators are already stretched to the limit. They will break under these conditions."

And the backlog is already impacting directly and negatively on those claimants the civil rights laws were intended to protect. For example, the EEOC's average charge processing period has increased 50 percent. As stated by the Chairman:

Those who turn to the EEOC for relief will be forced to wait nearly three years before the agency can resolve their charges. A woman who files a charge of pregnancy discrimination, for example, will not see her case resolved until her child is in pre-school.

The practical implications of such a delay are horrendous. They are horrendous not only for the charging party who feels his or her rights have been violated, but for the business charged with the alleged violation. An employer would be faced with the administrative nightmare of producing information to justify actions of three or four years earlier.

The courts face a similarly difficult scenario. The Civil Rights Act of 1991 added jury trials for compensatory and punitive damages to both Title VII and the ADA. These added and necessary disincentives to discrimination are, naturally, strong incentives to litigate. Moreover, even before the 1991 amendments were enacted, the number of private employment discrimination suits skyrocketed over 2,000 percent between 1970 and 1990.

We need the civil rights protections afforded by these laws. I support them and I will champion their protection. Without a viable, responsible enforcement mechanism, however, nothing is accomplished. Having set forth a theory of protections, Congress should now follow through with innovations in applying those protections.

The idea of this bill is simple. Before parties to a Title VII discrimination dispute resort to litigation, before they commence a process that can drag on for months or years, before they commit themselves to a hostile, adversarial system where they may be exploited even by their own advocate, and, before they subject themselves to a court battle that may leave deep scars, they are offered the option of mediation.

Mediation as an alternative to litigation has much to offer the parties. First, by attempting to resolve a dis-

pute in a spirit of cooperation rather than trying to punish each other, it is possible that ailing employment relationships can be healed. I recognize that in most situations, this will not happen. But in some, it will. Second, in almost all situations, mediation will be a cheaper process. Third, by using truly neutral mediators who act as go-betweens rather than arbiters, mediation is less threatening to employers. Thus, early settlement is more likely. Under my bill, information developed in the mediation will remain privileged and confidential and cannot be disclosed or used as evidence against any party.

One of the most important features of this bill is the neutrality of the mediators. The bill calls for the Federal Mediation and Conciliation Service, which has a long and distinguished record settling labor and other disputes, to draft procedural regulations and provide mediators through its good offices. However, the parties can always agree to choose their own mediator, as long as the mediator abides by the FMCS model procedures. Thus parties are encouraged to feel trust and confidence in the go-between they have chosen and are assured of an established and proven set of rules.

Many local jurisdictions have already enjoyed success with similar programs.

In the District of Columbia, for example, the Department of Human Rights and Minority Business Development currently utilizes a program similar to the one in this legislation. Under that program, the disputing parties meet with an experienced mediator. They discuss the charges, try to convey their diverse perspectives and attempt to resolve the problem. As in the legislation I propose, any resolution is kept confidential and is not an admission of guilt.

Most importantly, a key feature of both that program and this legislation is to guarantee that the parties still retain access to traditional litigation if an agreement is not reached in mediation. Thus, the mediation alternative can be a "no-lose" option.

In the first year of the D.C. Mediation program, more than half of the disputes submitted were successfully settled. More than half. Loretta Caldwell, the Director of the Department, stated that the typical mediation cost about \$100 as opposed to \$3,000 if the case had to proceed to investigation. Other mediation programs have yielded equally impressive results.

When the civil rights laws were first established, Congress provided that voluntary settlement through conference, conciliation and persuasion were to be the "preferred means" of achieving their objectives. Two decades later, this mandate remains a goal rather than an achievement. This bill

is the first serious step towards creating a structure for aggrieved individuals, Government agencies, and employers to settle employment discrimination suits without resort to protracted, counterproductive litigation.

We cannot content ourselves with grand empty gestures. The EEOC and the courts are operating under unbearable workloads and cannot accommodate further increases. Congress has created protections, now let us provide for their implementation. Civil rights cannot be protected without a practical, regulated, creative alternative for dispute resolution. Mediation has proven to be just such an alternative.

Mr. President, I will reintroduce this legislation early in the 103d Congress. Before then, I hope that other members will take the opportunity to analyze this bill and consider its benefits. I welcome their insights and suggestions. Should employment discrimination legislation be introduced in the next session, I will make every effort to include this piece of legislation in that bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 3356

*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 "Employment Dispute Resolution Act of 1992".

#### SEC. 2. DEFINITION.

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

"(o) The term 'Service' means the Federal Mediation and Conciliation Service."

#### SEC. 3. MEDIATION OF ACTIONS UNDER THE CIVIL RIGHTS ACT OF 1964 AND THE AMERICANS WITH DISABILITIES ACT OF 1990.

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

"(1)(i) Congress finds that cooperative mediation of charges is a more time-saving and cost-effective method of resolving disputes than litigation of civil actions.

"(2)(A) If the Commission, or a State or local authority described in subsection (c), determines that there is reasonable cause to believe that the respondent has violated this Act and that the Commission or authority will file a civil action against the respondent, the Commission or authority shall inform the respondent that the respondent may, within 14 days, request that the charge be referred to the Service for mediation. The Commission or authority shall not file such an action earlier than 14 days after the date on which the respondent is so informed.

"(B)(i) In lieu of receiving mediation services from the Service, the Commission, or the State or local authority, and the respondent may agree in writing to refer the charge to a mediator (other than the Service) that has been mutually agreed to by the parties, for mediation in accordance with regulations promulgated by the Service pur-

suant to this subsection. A copy of the agreement to mediate shall be served upon the Service.

"(ii) Before the commencement of mediation services under this subparagraph, the mediator shall certify in writing to the parties and the Service the per diem costs and any other fees and expenses the mediator may reasonably be expected to incur in providing such services. The cost of mediation services shall be shared as mutually agreed by the parties.

"(C) The Service, within 14 days of receipt of the mediation request, shall inform the Commission or the State or local authority, as appropriate, that mediation has been requested. If the respondent requests mediation by the Service under subparagraph (A) or agrees to mediation by a mediator under subparagraph (B), neither the Commission, or the State or local authority, may file a civil action against the respondent until the completion of the mediation.

"(3)(A) If the Commission, or a State or local authority described in subsection (c), issues a right-to-sue letter to a charging party, the Commission or authority shall inform the charging party and the respondent that either the charging party or the respondent, may, within 14 days, request that the charge be referred to the Service for mediation. The charging party shall not file a civil action earlier than 14 days after the date on which the respondent is so informed.

"(B)(i) In lieu of receiving mediation services from the Service, the charging party and the respondent may agree in writing to refer the charge to a mediator (other than the Service) that has been mutually agreed to by the parties, for mediation in accordance with regulations promulgated by the Service pursuant to this subsection. A copy of the agreement to mediate shall be served upon the Service and the Commission or authority that issued the right-to-sue letter.

"(ii) Before the commencement of mediation services under this subparagraph, the mediator shall certify in writing to the parties and the Service the per diem costs and any other fees and expenses the mediator may reasonably be expected to incur in providing such services. The cost of mediation services shall be shared as mutually agreed by the parties.

"(C) The Service, within 14 days of receipt of the mediation request, shall inform the Commission or the State or local authority issuing the right-to-sue letter that mediation has been requested. If the charging party or the respondent requests mediation by the Service under subparagraph (A), or agrees to mediation by a mediator under subparagraph (B), neither the charging party, the Commission, or the State or local authority may file a civil action against the respondent until the completion of the mediation.

"(4)(A) After providing an opportunity for public comment, the Service shall issue, and may amend or rescind, regulations to carry out the provisions of this subsection relating to mediation of charges. The Service shall issue the regulations no later than 6 months after the date of enactment of this subsection.

"(B) Mediation provided by the Service under subparagraph (A), or by another mediator under subparagraph (B), of paragraph (2) or (3), shall be provided in accordance with the regulations.

"(C) The regulations shall specify the form and manner of, and the procedures for providing, the mediation services provided under this subsection.

"(5) It shall be the duty of the mediator to communicate promptly with the parties and use best efforts, by mediation, to reach an agreement resolving the charge.

"(6) During mediation, the charging party and the respondent may be represented by legal counsel or another representative of their choice.

"(7)(A) If the charge is resolved through mediation, the charge shall be resolved in a manner that is mutually agreeable to the parties, including a settlement agreement, dismissal (by the Commission or the State or local authority), or voluntary withdrawal (by the charging party). The resolution of the charge shall be recorded in writing. In no case shall the mediator have the power to dismiss a charge.

"(B) A written settlement agreement between the charging party and the respondent shall at a minimum include an agreement by the charging party to waive all claims against the respondent based on the same facts giving rise to the charge.

"(C) Once the charging party and respondent have agreed on a resolution of the charge, the mediator shall so advise the Commission or the State or local authority, which shall dismiss the charge with prejudice as to the charging party or charging parties participating in the agreement. The Commission, or the State or local authority, shall take no further action on the charge as the charge affects the charging party or charging parties.

"(8)(A) The mediation shall be deemed to be completed on the date that the resolution of the charge is recorded, as provided for in paragraph (7)(A).

"(B) If a charge that has been referred to mediation has not been resolved by settlement, withdrawal of charges, or otherwise within 90 days of receipt of the charge by the Service or other mediator, and the parties do not agree in writing, with the consent of the mediator, to further extend the mediation process, the mediation shall be deemed to be completed.

"(9)(A) If mediation has been completed without resolution, as described in paragraph (8)(B), the Commission, the State or local authority, or the charging party, as appropriate, may file a civil action under this Act.

"(B) If the time for the charging party to file a civil action would lapse after the commencement of mediation, the time for the charging party to file a civil action shall be tolled until 14 days after the completion of mediation (including any referral under subparagraph (C)).

"(C) The court in which the action is filed shall have the discretion to refer the charge to the Service or the other mediator used by the charging party and respondent for an additional 90 days of mediation pursuant to this subsection.

"(D) Nothing in this subsection shall be construed to limit the authority of the court to attempt to resolve the case under the authority of the court or dispute resolution procedures established by the court.

"(10)(A) The charging party shall be provided a copy of any settlement agreement, or other agreement resolving the charge, between the Commission, or the State or local authority, and the respondent. Any such agreement shall be kept confidential by the mediator, the charging party, and other parties to the agreement unless all parties agree otherwise in writing.

"(B) Any settlement agreement, or other agreement resolving the charge, between the charging party and the respondent shall be

considered confidential and shall not be provided to the Service, the Commission, the State or local authority, or any other person, unless all parties to the mediation so agree in writing.

"(11)(A) Whether or not a charge that has been referred to mediation is resolved, all communications, oral or written, (including memoranda, work product, transcripts, notes, or other materials) made by the Commission, the State or local authority, the charging party, the respondent, or the mediator in or in connection with the mediation that relate to the controversy being mediated shall be kept confidential by the participants in the mediation.

"(B) Such communications shall not be made available by the mediator, or parties to the mediation, to any person not participating in the mediation, including the Commission or the State or local authority in any case in which the Commission or the State or local authority is not a participant.

"(C) Such communications may not be used as evidence in any other proceeding, as provided for in paragraph (12).

"(D) Any person, including any official of the Commission or the State or local authority, who discloses information in violation of this subsection shall be fined not more than \$1,000.

"(12)(A) Communications referred to in paragraph (11), shall not be disclosed voluntarily, and, pursuant to this subsection, shall not be subject to disclosure through discovery or compulsory process in any investigatory, arbitral, judicial, administrative or other proceedings, unless—

"(i) all parties to the mediation agree, in writing, to waive the confidentiality of such communications; or

"(ii) the communications involve statements, materials, and other tangible evidence, that—

"(I) are otherwise not privileged and subject to discovery; and

"(II) were not prepared specifically for use in mediation.

"(B) If any demand for disclosure, including a request pursuant to discovery or other legal process, is made upon the mediator, the Service, the Commission, or the State or local authority, regarding the mediation of a charge, the mediator, Service, the Commission, or the State or local authority, as appropriate, shall immediately make reasonable efforts to notify all other parties to the mediation of the demand.

"(13)(A) Any agreement between the Commission and any such State or local authority relating to carrying out their respective functions under this subchapter, including worksharing agreements for the processing of charges, shall include a provision requiring the State or local authority to implement the provisions of this subsection for the mediation of charges by the Service or other provider of mediation services.

"(B) Any such State or local authority that does not agree to implement the provisions of this subsection shall not be eligible to enter into an agreement with the Commission for the processing of charges under the subsection and also shall be ineligible to receive any payment or reimbursement pursuant to section 709(b) (29 U.S.C. 2000e-8(b)).

"(C) Unless the Commission and the State and local authorities amend any such agreement to comply with this subsection within 6 months after the date of enactment of this subsection, the agreement shall be considered rescinded.

"(14) A party to an agreement made pursuant to mediation under this subsection may

bring any action to enforce the agreement in a Federal district court of competent jurisdiction as described in subsection (f)(3).

"(15) As used in this subsection, the term 'charging party' means an individual filing a charge under subsection (b).

"(16) There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this subsection for fiscal year 1993 and each subsequent fiscal year."

#### SEC. 4. MEDIATION OF ACTIONS UNDER SECTION 1977 OF THE REVISED STATUTES.

The Revised Statutes are amended by inserting after section 1977A (42 U.S.C. 1981a) the following new section:

##### "SEC. 1977B. ALTERNATIVE MEDIATION PRIOR TO FILING A CIVIL ACTION.

"(a) NOTICE.—No plaintiff shall bring a civil action to make or enforce a contract relating to employment under section 1977 (42 U.S.C. 1981) unless the plaintiff has given the defendant at least 60 days written notice that the plaintiff intends to file such action and informed the defendant in the action that either party may refer the matter to mediation pursuant to the procedures set forth in section 706(l) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(l)).

"(b) CONDUCT OF MEDIATION.—If either party to the action requests such mediation, the mediation, and any subsequent civil action filed relating to the matter, shall be conducted in accordance with section 706(l) of the Civil Rights Act of 1964."

#### SEC. 5. EFFECTIVE DATE.

The amendments made by this Act shall apply only to charges and complaints filed more than 6 months after the date of enactment of this Act.●

By Mr. DANFORTH:

S. 3357. A bill to abolish punitive damages in certain cases and provide in their procedures and substantive standards for assessment of punitive fines; to the Committee on Judiciary.

##### PUNITIVE DAMAGES REFORM ACT OF 1992

● Mr. DANFORTH. Mr. President, I rise today to introduce the Punitive Damages Reform Act of 1992. This legislation is intended to reform the awarding of punitive damages in cases under federal law and in many cases that are tried in federal court. I drafted this legislation originally to be used as an amendment to the so-called "Equal Remedies Act." Yet, because the Equal Remedies Act was not called off the calendar and onto the Senate floor, I am introducing this legislation today to emphasize my seriousness about reforming the procedure used in federal courts for the awarding of punitive damages.

Last year, in the Civil Rights Act of 1991, I supported and pushed for the expansion of punitive damages to cases involving intentional discrimination against women, the disabled and religious minorities. It is important that victims of these wrongs have a more meaningful remedy than backpay and reinstatement. Yet, I also supported the caps that were placed on these damages because remedies do not need to be unlimited in order to be meaningful.

The Punitive Damages Reform Act is a modest piece of legislation designed

to bring some modicum of fairness to the awarding of punitive damages. The bill does not contain caps or any of the reforms which have traditionally created controversy in the debate over tort reform.

In analyzing how to reform punitive damages, one must first be crystal clear about one's purpose. Punitive damages are not intended to compensate a victim for harm endured. Both economic and noneconomic harm are taken care of through "compensatory damage" awards. Punitive damages are designed to deter the wrongdoer from repeating the wrongful act and to deter others from taking similar actions. Thus, there can be no credible argument that reforming punitive damages harms victims because punitive damages are not intended to compensate victims at all.

The concept of punitive damages was first articulated in England in 1763. At that time, these damages were referred to as "exemplary damages." According to former Attorney General Griffin Bell, these awards were designed to compensate the victim for non-physical injuries and to punish the wrongdoer. The typical punitive damages claim arose from an isolated incident involving two parties in which one party's honor was called into question. Since one's honor was highly valued and its injury was not usually included in compensatory damages, the concept of "exemplary damages" was established.

Between 1763 and the 1960s, the awarding of noneconomic damages became more commonplace as a way to compensate a victim for non-physical injuries. In many areas of tort law, people talk about a crisis in the awarding of noneconomic damages. But, that is not the focus of this legislation. I only point out this fact to demonstrate that there is no need to use punitive damages to compensate victims for their injuries. Thus, during the twentieth century, punitive damages became divorced from the concept of compensation and became a weapon to punish and deter wrongdoers. Prior to 1970, punitive or exemplary damages were not commonly awarded, and in those cases where they were, they were not widely considered to be out of control.

In the mid-1970s, however, there was a veritable explosion of lawsuits in which plaintiffs sought punitive damages. With the increase in applications came a destructive increase in the amounts of the awards. The Institute for Civil Justice, in a study of 24,000 punitive damage cases, found that between 1965-69 the average sum awarded was \$43,000. But between 1980-84, the inflation-adjusted amounts averaged \$729,000—a jump of 1,500 percent.

During this period when punitive damage awards were exploding, many of the academics following the issue criticized their expansion. Professor

John Jeffries of the University of Virginia stated that "punitive damages are out of control." Dean Dorsey D. Ellis at Washington University in St. Louis stated that the punitive damage "process currently in place in most jurisdictions contributes substantially to the misallocation of resources and is so lacking in fundamental fairness that it denies defendants, especially institutional defendants, the due process required by the Constitution and embedded in our legal system."

Criticism of punitive damages has not been limited to individual academics. The American College of Trial Lawyers and the American Law Institute each have noted the need for punitive damage reform. The American College of Trial Lawyers, half defense counsel and half plaintiffs' attorneys, has made the following observation: " \* \* \* awards often bear no relation to deterrence and merely reflect a jury's dissatisfaction with a defendant and a desire to punish, often without regard to the true harm threatened by a defendant's conduct." The American Law Institute has stated that "[u]nlike other aspects of tort damages, there is serious debate, both scholarly and political, about whether any punitive component of a tort award is legitimate, as well as sharp controversy about how much to award in this category."

Ultimately, this skepticism about punitive damages has reached the highest court in the land. Last term, the Supreme Court in *Pacific Mutual Life Insurance Co. v. Haslip*, expressed concern about punitive damages that "run wild." The court held that a punitive damage award of \$840,000, more than 4 times the amount of compensatory damages and more than 200 times the out-of-pocket expenses of the victim, was "close to the line" of constitutional impropriety, but that Alabama's procedure for awarding punitive damages did not violate the Due Process Clause of the Fourteenth Amendment.

Mr. President, this piece of legislation is a moderate effort to enact at the federal level, many of the reforms that states have used, and academics have recommended, to control the award of punitive damages. Most importantly, the reforms are an effort to return punitive damages to their overriding purpose: deterrence. If Congress insists on increasing the number of suits under federal law in which unlimited punitive damages may be awarded, then Congress should enact legislation to insure that an award of punitive damages is fair and consistent with due process.

In short, this legislation will replace the award of punitive damages with a punitive fine under federal law and in cases involving commerce in federal court. The award of this fine will have to meet certain procedural requirements. For instance, a punitive fine

may only be awarded if a plaintiff proves by clear and convincing evidence that the defendant or the defendant's agent, acted with malice. The American Law Institute has endorsed this "clear and convincing" standard, stating that it is "the emerging consensus among legal scholars, practitioners and state legislators."

The legislation adopts a reasonable vicarious liability standard that is in the mainstream of emerging state law on the issue. Since the principal purpose of punitive damages is to deter similar, unlawful behavior by the defendant or others in the future, there can be no justification for imposing punitive damages on a principal for behavior over which he or she has no control. Put differently, there can be no effective deterrence unless there is some conduct which can be deterred.

Many states have adopted a standard similar to that in this legislation, the so-called "corporate complicity" doctrine. Under Illinois law, for example, as corporation will be vicariously liable in punitive damages for the acts of its employees "only if a superior officer of the corporation ordered, participated in, or ratified the 'outrageous conduct' of the employee." The District of Columbia and the state of New Mexico also use this vicarious liability standard. This standard of liability for punitive damages is also endorsed by the American Law Institute's Report on punitive damages.

The bill includes two other recommendations of the American Law Institute. In its report, the Institute calls for a bifurcated trial upon request in cases involving punitive damages and calls for serious consideration of the concept of a judge determining the actual amount of the punitive award. This legislation incorporates both a bifurcated trial upon request and the judge determining the amount of a punitive fine.

I recommend this piece of legislation to all of my colleagues. I intend to reintroduce this bill early in the next Congress and push hard for its enactment. There is a need for fairness in the procedures governing the award of punitive damages under federal law, and I hope to see this bill enacted next year.

Mr. President, I unanimously consent that that the text of the bill be printed in the RECORD.

S. 3357

*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 "Punitive Damages Reform Act of 1992".

#### SEC. 2. FINDINGS, DECLARATIONS, AND PURPOSES.

(a) FINDINGS AND DECLARATIONS.—The Congress finds and declares that—

(1) the allowance of punitive damages is not a constitutional right but is based instead on considerations of public policy;

(2) unlike compensatory damages, punitive damages serve to penalize a defendant and to deter other possible defendants from engaging in the same conduct, not to compensate the injured plaintiff;

(3) the arbitrariness and unpredictability of recent punitive damage awards have undermined the courts' ability to effectively penalize and deter wrongful conduct;

(4) although State legislatures and the United States Supreme Court have acknowledged many of the problems associated with punitive damages, meaningful reform has been elusive;

(5) arbitrary or inflated punitive damage awards have increased litigation, particularly at the appellate level, and have increased forum shopping;

(6) dramatic increases in punitive damage awards have increased the costs of consumer goods and reduced incentives for corporate research and development;

(7) State and Federal courts have contained to uphold awards in cases in which defendants' conduct falls short of the intentionally injurious behavior that should characterize a case for punitive damages, and this has eroded public confidence in the fairness of the judicial system;

(8) for many of the same reasons that judges in criminal cases determine sentencing when juries have determined guilt, civil judges should determine punitive damage awards when juries have determined liability for such damages; and

(9) the threat of punitive damage awards under various State laws imposes a substantial burden on interstate and foreign commerce.

(b) PURPOSES.—The purposes of this Act are—

(1) to restore the original purposes of an award of punitive damages by making deterrence and punishment the award's primary functions;

(2) to discourage unnecessary litigation of claims in hopes of obtaining excessive and unwarranted punitive damage awards;

(3) to promote the efficient settlement and adjudication of claims without the wasteful transaction costs of unnecessary litigation; and

(4) to establish fair procedures and substantive standards for the award of punitive fines.

#### SEC. 3. DEFINITIONS.

In this Act:

"Claim arising under Federal law" means a claim in a civil action brought in Federal or State court that is based on a provision of the United States Constitution, a statute of the United States, or a regulation issued thereunder.

"Claim governed by this Act" means a claim that—

(1) arises under Federal law; or

(2) involves commerce within Federal jurisdiction,

with respect to which a punitive fine is sought.

"Claim involving commerce within Federal jurisdiction" means a claim in a civil action brought in Federal court—

(1) that is in, or affects, commerce within Federal jurisdiction; or

(2) the disposition of which has affected or will affect commerce within Federal jurisdiction.

"Clear and convincing evidence" means evidence that leaves no serious or substantial doubt about the correctness of the conclusions drawn from the evidence. It is more than a preponderance of the evidence but

less than evidence beyond a reasonable doubt.

"Commerce within Federal jurisdiction" means trade, traffic, transportation, transmission, or communication—

(1) between a point in a State and a point outside the State;

(2) between points in a State through a point outside the State; or

(3) within the District of Columbia or a possession of the United States.

"Economic damages" means damages that are intended to compensate for pecuniary expenses, including those arising from—

(1) medical expenses and medical care;

(2) rehabilitation services;

(3) custodial care;

(4) loss of earnings and earning capacity;

(5) loss of income;

(6) burial costs;

(7) loss of use of property;

(8) costs of repair or replacement of property;

(9) costs of obtaining substitute services;

(10) loss of employment; and

(11) loss of business or employment opportunities.

"Malice" means—

(1) intent to cause serious tangible or intangible injury to a person or property; or

(2) conscious indifference to the safety, health, or other interests of another person, with actual awareness that certain conduct will likely result in serious tangible or intangible injury to another person or property.

"Nominal damages" means damages of any kind to the extent that the total amount of all economic damages and noneconomic damages awarded to a plaintiff with respect to a claim based on a single act or omission of a defendant is less than \$500.

"Noneconomic damages" means damages for—

(1) pain;

(2) suffering;

(3) inconvenience;

(4) physical impairment;

(5) disfigurement;

(6) mental anguish;

(7) emotional distress;

(8) loss of society and companionship;

(9) loss of consortium;

(10) injury to reputation;

(11) humiliation; and

(12) any other noneconomic injury under any theory of damages such as fear of loss, illness, or injury.

"Person" means a natural person, corporation, company, association, firm, partnership, society, joint stock company, or any other entity, including a governmental entity or unincorporated association of persons.

"Punitive damages" means damages that are awarded against a defendant because of aggravating circumstances in order to penalize the defendant for the defendant's past conduct and to deter similar conduct by the defendant and others in the future, and does not include—

(1) economic damages;

(2) noneconomic damages;

(3) nominal damages;

(4) multiple damages under a statute that provides for an award in an amount that is a multiple of damages to which a plaintiff would otherwise be entitled; or

(5) liquidated damages.

"Punitive fine" means a punitive fine assessed under section 5.

"State" includes a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa,

Guam, Wake Island, and the outer Continental Shelf (as defined in section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331)).

#### SEC. 4. ABOLISHMENT OF PUNITIVE DAMAGES.

Punitive damages shall not be awarded with respect to a claim governed by this Act.

#### SEC. 5. PUNITIVE FINES.

(a) IN GENERAL.—If the requirements of subsection (b) are met, a court may assess a punitive fine with respect to a claim governed by this Act that is a claim with respect to which punitive damages were available prior to the date of enactment of this Act.

(b) PROCEDURAL REQUIREMENTS AND STANDARDS.—The requirements of this subsection are as follows:

##### (1) PLEADING.—

(A) AMOUNT.—The plaintiff shall plead that a punitive fine is sought.

(B) PRIMA FACIE CASE.—A prayer for a punitive fine shall be stricken prior to trial unless the plaintiff presents to the court, at least 30 days prior to trial, prima facie evidence sufficient to sustain the assessment of a punitive fine under this section.

##### (2) ELEMENTS OF PROOF FOR ASSESSMENT OF PUNITIVE FINE.—

(A) IN GENERAL.—A punitive fine shall not be assessed against a defendant with respect to a claim governed by this Act unless—

(i) the court finds that punishment and deterrence are warranted by the facts and circumstances of the case;

(ii) the plaintiff establishes by clear and convincing evidence that, relative to the act or omission on which the claim is based, the defendant or, subject to subparagraph (B), the defendant's agent, acted with malice; and

(iii) the plaintiff establishes by clear and convincing evidence all other facts necessary to support the assessment of a punitive fine.

(B) LIABILITY OF PRINCIPAL.—A punitive fine shall not be assessed against a principal for an act or omission of its agent or employee unless a plaintiff shall establish by clear and convincing evidence that—

(i) the agent or employee acted with malice relative to the act or omission on which the claim is based; and

(ii) a superior officer of the principal, in the exercise of policymaking authority, authorized, participated in, or ratified the act or omission.

(C) NEGLIGENCE.—The burden of proof established by subparagraphs (A) and (B)(i) is not satisfied by proof of any degree of negligence or gross negligence.

(3) NECESSITY OF AWARD OF ECONOMIC OR NONECONOMIC DAMAGES IN EXCESS OF NOMINAL DAMAGES.—A punitive fine shall not be awarded with respect to a claim unless economic or noneconomic damages (or a combination thereof) in excess of nominal damages are awarded with respect to that claim.

##### (4) DETERMINATION OF LIABILITY.—

(A) IN GENERAL.—The court shall determine the liability of a defendant for a punitive fine unless the question of liability for punitive damages on a claim with respect to which the punitive fine is sought is a question that was required to be referred to a jury prior to the date of enactment of this Act, in which case the question shall be decided by a jury.

(B) SPECIAL INTERROGATORY.—A jury that determines the liability of a defendant for a punitive fine under subparagraph (A) shall be required to answer the following special interrogatory: "Has the plaintiff shown by clear and convincing evidence that the act or omission of the defendant on which the claim is based was performed with malice,

rather than being performed through mere negligence or gross negligence?"

##### (5) AMOUNT OF PUNITIVE FINE.—

(A) IN GENERAL.—If the requirements of paragraphs (1), (2), (3), and (4) are satisfied, the court may assess a punitive fine. The amount of such fine shall be sufficient to punish the defendant for the defendant's past conduct on which the claim is based and to deter the defendant and others from engaging in similar conduct in the future.

(B) FACTORS TO BE CONSIDERED.—In determining the amount of a punitive fine, the court shall take into account—

(i) the extent of the harm that has resulted and may result from the defendant's wrongful conduct;

(ii) the degree of reprehensibility of the defendant's conduct, the duration of the conduct, the defendant's awareness of the conduct, any concealment of the conduct, and the existence and frequency of similar past conduct;

(iii) the profitability to the defendant of the wrongful conduct and desirability of removing that profit;

(iv) the effect of the punitive fine on the economic viability of the defendant; and

(v) the losses in employment that might occur as a result of the assessment.

##### (6) BIFURCATION.—

(A) IN GENERAL.—At the request of any party, a claim governed by this Act that is tried before a jury shall be conducted in a bifurcated trial, before the same jury in both phases, unless a party demonstrates that the interest of avoiding the additional time and expense of conducting a bifurcated trial significantly outweighs the benefits of fairness to the requesting party in conducting a bifurcated trial.

(B) FIRST PHASE.—(i) In the first phase of a bifurcated trial, the jury shall determine—

(I) the liability of the defendant for economic and noneconomic damages; and

(II) the amount, if any, of economic damages, noneconomic damages, or nominal damages to be awarded to the plaintiff.

(ii) Evidence relevant only to the question whether a punitive fine should be assessed or the amount of such a fine shall not be admissible in the first phase of a bifurcated trial.

(C) SECOND PHASE.—In the second phase of a bifurcated trial—

(i) the jury, after hearing any evidence that is relevant only to the question whether a punitive fine should be assessed, shall determine that question; and

(ii) the court, after hearing any evidence that is relevant only to the amount of a punitive fine, shall determine the amount of the fine in accordance with paragraph (5).

##### (7) SEVERAL LIABILITY.—

(A) IN GENERAL.—When a claim governed by this Act is brought against more than 1 defendant, a punitive fine shall be assessed against each defendant specifically, and each defendant shall be liable only for the amount of the assessment made against that defendant.

(B) RELATIVE DEGREE OF CULPABILITY.—The amounts of punitive fines assessed against each defendant under subparagraph (A), including defendants who are a principal and the principal's agent or employee, shall be based on the relative degrees of culpability of each defendant.

#### SEC. 6. AVAILABILITY OF PUNITIVE DAMAGES.

Nothing contained in this Act shall be construed to create any claim for punitive damages or a punitive fine for which punitive damages were not available prior to the date of enactment of this Act.

#### SEC. 7. EFFECTIVE DATE.

This Act shall be effective with respect to any claim in a civil action that is made on or after the date that is 120 days after the date of enactment of this Act without regard to whether the claim arose prior to the date of enactment of this Act.●

By Mr. D'AMATO:

S. 3358. A bill to limit the amount of funds that may be used for administrative expenses under chapter 1 of title I of the Elementary and Secondary Education Act of 1965, to conduct a study regarding the share of Federal funds used for administrative expenses by State and local recipients under certain Federal education programs, and for other purposes; to the Committee on Labor and Human Resources.

#### SECONDARY EDUCATION ACT AMENDMENTS

● Mr. D'AMATO. Mr. President, I rise today to introduce legislation to improve our children's education by ensuring that a greater share of federal education dollars are used to teach our children in the classroom, instead of supporting a growing education bureaucracy.

The growth of school bureaucracies over the last 30 years has been staggering. Between 1960 and 1984, the number of educational personnel who were not teachers, principals, or supervisors, grew by over 500 percent.

This massive growth in the educational bureaucracy has done virtually nothing to improve the quality of education in our country. In fact, between 1963 and 1980, average SAT scores fell by 9 percent—from 978 to 890.

If anything, expanding school bureaucracies have fueled a decline in academic achievement—by stifling innovation and change, and siphoning dollars away from real, in-classroom educational programs.

To curb growing State education bureaucracies, Congress has already taken a first step by limiting to one percent the amount of funds that States can use for administrative expenses under the Chapter 1 program, the largest Federal elementary and secondary education program.

Congress included this limit in the 1988 Hawkins-Stafford Elementary and Secondary Improvement Amendments. However, no such limit was enacted with respect to the amount of funds that local educational agencies can use for administration expenses. Consequently, according to an interim report on the implementation of the Chapter 1 program prepared for the U.S. Department of Education, as much as 20 percent of all Chapter 1 funds to local educational agencies is used to pay for salaries of noninstructional personnel and miscellaneous administrative expenses. This means that last year alone, nearly \$1.2 billion in Federal Chapter 1 funds that could have been used for direct, in-classroom educational programs were used instead for non-instructional activities.

My bill would ensure that more Federal Chapter 1 funds go to teaching children by limiting the share of such funds used by local educational agencies for administrative expenses to 10 percent. This would free an additional \$600 million to be used providing needed educational services to children under the Chapter 1 program.

Mr. President, next year we will reauthorize our major elementary and secondary education programs. I hope this bill will serve to focus our attention on the need to reexamine these programs to ensure that no scarce Federal dollars are wasted on unnecessary bureaucracy. To assist in preparing for these reauthorizations, this bill calls on the Secretary of Education to conduct a study to determine the actual share of Federal funds used for administrative expenses by both State and local recipients of funds under several of the major elementary and secondary education programs. In addition to Chapter 1, this study will review State and local uses of funds under the following programs: Chapter 2, the Dwight D. Eisenhower Mathematics and Science Education Act, the Drug-Free Schools and Communities Act of 1986, the Individuals with Disabilities Education Act, the Carl D. Perkins Vocational and Applied Technology Education Act, and the Bilingual Education Act.

I believe it is time to free our schools, and our schoolchildren, from the tyranny of a growing educational bureaucracy. I think it is time to put our resources back into teaching our children, and I hope that is what this bill will help us to do as we prepare for the reauthorization of our elementary and secondary programs in the next Congress. •

By Mr. LIEBERMAN

S. 3359. A bill to direct the Secretary of Defense, the Secretary of Commerce, and others to select a private consortium to establish and administer a national network of advanced technology manufacturing application and education centers, and for other purposes; to the Committee on Armed Services.

MANUFACTURING APPLICATION AND EDUCATION NETWORK ACT OF 1992

• Mr. LIEBERMAN. Mr. President, Senator PRYOR and I are introducing a bill today that would encourage diversification of defense laboratories and greater cooperation in research and production activities with the private sector. This bill, very similar to an amendment we introduced to the Defense Authorization bill, encourages greater cooperation between Department of Defense research and production facilities and U.S. industry in order to enhance their mutual technological and productive achievements. Under this bill, the Secretary of Defense would establish a Federal Defense Laboratory Diversification Program to

facilitate the diversification of Federal defense labs. In conjunction with this process, the Director of Defense Research and Engineering in cooperation with each Defense lab and in consultation with private industry, is required to develop benchmarks for a number of categories of diversification activities. The benchmarks will include such things as the budget resources, manpower, and facilities to be used by each lab and the dollar value of patent, royalty, and license agreements labs should pursue.

Defense labs will also be required to establish an industry and academic advisory panel to promote cooperation between the labs and the private sector. These panels will oversee the development of the lab's research plans and the implementation of the overall DOD Program. Annual reports will be submitted to Congress by the Director of Research and Engineering at DOD on a survey of the nature of research being done by the labs under the Program, along with recommendation on how the labs can become better oriented toward achieving the goals of the Program.

The Director of the Office of Technology Assessment will work with industry to provide an assessment of the Program from the point of view of the business community. The Director of Research and Engineering will then use the results of the OTA-Industry report in improving the implementation of the Program.

I am pleased to be able to report that the process of cooperation between Defense Labs and industry has already begun. Federal labs have expertise that can be of great use to American companies trying to keep up in an increasingly competitive global marketplace. There are any number of examples of cooperative efforts already underway. For example, Lawrence Livermore National Laboratory (LLNL), is working with the State of California department of transportation to help develop an "intelligent highway system" that would help alleviate traffic congestion. Work is also taking place on image enhancing and processing techniques that would help to locate cancerous tumors. Los Alamos Federal Laboratory is working with General Motors to develop a fuel cell power system that could be used for transportation purposes. Caterpillar has been working with LLNL since 1988 to develop sophisticated earth moving equipment in order to keep up with foreign manufacturers like Japan's Komatsu Ltd.

All the major weapons labs—including LLNL, Los Alamos, and Sandia—are poised to make a contribution to civilian R&D. This bill would assist with that process by developing a plan to share research and the development of products that have a commercial purpose.

The end of the cold war has made defense cuts possible. But it is important

that in the process of making these cuts that we do not allow the expertise found in our defense labs to be cast aside. We must, literally, develop a comprehensive approach for turning our swords into plowshares. This bill would help to achieve that goal by having DOD establish a permanent program for cooperation between industry and Federal labs.

This legislation is an important step toward making certain that as we downsize the military-industrial complex, we do so in a way that it is both cost effective and will help make American industry more competitive.

While legislation similar to this was accepted as part of the Defense Authorization bill, I am hopeful that this bill will serve as a marker for future work to be done in the complex process of diversifying DOD labs.

I ask unanimous consent that a copy of the bill be placed in the RECORD.

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

S. 3359

*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 "Manufacturing Application and Education Network Act of 1992".

**SEC. 2. FINDINGS AND PURPOSES.**

- (a) FINDINGS.—The Congress finds that—
- (1) numerous Federal agencies, in their various research missions, develop technologies and capabilities that are of value to United States industry;
  - (2) international competitive pressures, as well as budget realities, make it imperative that these assets are fully utilized by the United States civilian and defense industrial base;
  - (3) the United States has approximately 350,000 "foundation" manufacturing firms, 98 percent of which are small manufacturers;
  - (4) the transfer, commercialization, and deployment of advanced manufacturing technologies to foundation firms are greater in other leading industrial nations due to the existence of a highly supported modernization infrastructure;
  - (5) a United States national manufacturing application and education network consisting of not less than 150 teaching factory centers should be established as the core component of an industrial modernization support infrastructure to bolster United States manufacturing competitiveness;
  - (6) due to the high cost of such centers, applicable existing resources of industry, academia, foundations, and State and local governments must be leveraged with Federal resources;
  - (7) Federal resources and involvement in such a network should be coordinated through the Federal Coordinating Council for Science, Engineering and Technology and managed by an industry-led manufacturing technology consortium formed under the National Cooperative Research Act of 1984; and
  - (8) due to its industrial job creation and retention impact, such network shall provide a major work force conversion mechanism for the defense industrial base.
- (b) PURPOSES.—The purposes of this Act are—

(1) to support the establishment of a Manufacturing Application and Education Network (hereafter referred to as the "Network") for the deployment of advanced manufacturing technologies and practices to the United States manufacturing base by—

(A) establishing a multiagency initiative under the purview of the Federal Coordinating Council for Science, Engineering and Technology that would—

(i) cofund the establishment of a Network of 150 Manufacturing Application and Education Centers (hereafter referred to as the "Centers"); and

(ii) accelerate the transfer and utilization of Federal work force and physical resources to the Network; and

(B) authorizing the competitive selection of an industry-led consortium formed under the National Cooperative Research Act of 1984 that would—

(i) manage the Network as a national government-industry-academia partnership;

(ii) build relationships with and enter into agreements with the Federal Government as necessary to implement the initiative referred to in subparagraph (A); and

(iii) assure that private sector matching resources are maximized; and

(2) to support the ongoing operations of the Network with strategic information, targeted procurements, and regulatory incentives by—

(A) directing the Office of Export Administration of the Department of Commerce to collect, analyze, and disseminate information of importance to the Network;

(B) authorizing a corps of Federal procurement center representatives to support and extract agency benefits from network production;

(C) authorizing small United States businesses to use Network manufacturing facilities to qualify for and obtain Federal procurement contracts; and

(D) directing Federal agencies to identify potential regulatory exemptions and modifications that would encourage industrial participation in the Network.

**SEC. 3. NETWORK MANAGEMENT AND OVERSIGHT.**

(a) **CONSORTIUM SELECTION PROCESS AND CRITERIA.**—

(1) **SELECTION.**—The Director of DARPA, head of NIST, and the Assistant Secretary of Energy for Conservation and Renewable Energy, and the Director of the Office of Science and Technology Policy shall comprise a selection committee which shall use competitive procedures to select a managing consortium to establish and administer the operations of the Network Centers established in accordance with this Act from among existing consortia established under the National Cooperative Research Act of 1984. Selection procedures other than competitive procedures may be used if an exception set out in section 2304(c) of title 10, United States Code, is applicable.

(2) **CRITERIA.**—In selecting a managing consortium, the selection committee shall consider whether the consortium under consideration—

(A) has a primary mission of developing and deploying advanced manufacturing technologies;

(B) has the capability—

(i) to transfer technology from the Federal laboratories and other Federal research programs;

(ii) to manage large scale extramural programs; and

(iii) to effectively participate in competitive awards of Federal research contracts and grants; and

(C) is comprised of and controlled by members representing—

(i) a broad array of industrial sectors, including the automotive, aerospace, electronics, machine tool, computer, and communication industries; and

(ii) small, medium, and large business concerns from multiple industrial supply tiers.

(3) **SELECTION DURATION.**—A consortium selected under this subsection shall be responsible for the management and administration of the Network Centers for a period of 3 years after the date of selection, except that the first such selection under this subsection shall be for a period of 5 years after the date of the selection.

(b) **CONSORTIUM DUTIES.**—The consortium selected under subsection (a) shall, with the support of the task force established under section 5, establish and oversee the administration of not less than 150 Network Centers not later than 10 years after the date of enactment of this Act. The responsibilities of the consortium shall be—

(1) to approve the establishment of Network Centers in accordance with section 4;

(2) to execute legal agreements addressing intellectual property rights and partnership roles in accordance with section 4(c);

(3) to link the various elements of industrial support programs across the United States into a cohesive, integrated national Network;

(4) to serve as the clearinghouse Network for centrally distributing information to Network Centers;

(5) to function as an interactive repository of intellectual property for the Network in research and development, standardization of methodology to assess manufacturing quality, competitiveness, and other such areas;

(6) to coordinate the Network funding development process to generate the financial resources required to establish Network Centers, including the acquisition of capital assets and initial operating budgets;

(7) to develop and update (on an annual basis) the Network propagation plan required under subsection (c);

(8) to allocate funds appropriated in accordance with the authorization in section 9 for the establishment of the Network Centers;

(9) to submit reports required under subsection (d); and

(10) coordinate with other government-supported extension programs to assure mutual support and assistance.

(c) **NETWORK PROPAGATION PLAN.**—The consortium shall develop a Network propagation plan that shall—

(1) include a plan for the establishment of the Network Centers nationwide, upon the approval of the consortium, in accordance with subsection (b); and

(2) be based upon economic development and manufacturing profiles submitted to the consortium for approval by each of the 50 States that—

(A) are developed through an interactive process with each State's academic, industrial, government, and philanthropic leadership; and

(B) incorporate—

(i) assessments of university engineering programs, vocational technical institutes, community colleges, and existing business assistance programs;

(ii) available State financial resources;

(iii) the State leadership's 10-year vision of its manufacturing industries; and

(iv) the current and potential impact of industry, not-for-profit, and university research and development centers.

(d) **REPORTS.**—

(1) **IN GENERAL.**—The consortium shall submit to the Director of the Office of Science and Technology Policy for distribution to all Government organizations involved in the establishment and ongoing operations of Network Centers—

(A) a copy of the State-level network plan approved under subsection (c) prior to the establishment of the first Center in that State;

(B) the initial approved business plan for each Center receiving Federal funds under this Act; and

(C) quarterly reports on the accomplishment of milestones in the propagation of the Network.

(2) **DIRECTOR'S REPORT.**—The Director of the Office of Science and Technology Policy shall submit an annual report to the Committees on Armed Services and the Committees on Small Business of the Senate and the House of Representatives—

(A) evaluating the progress made in carrying out the duties set forth in section 5(b); and

(B) summarizing the plans and progress reports provided by the managing consortium under paragraph (1).

**SEC. 4. NETWORK AND CENTER REQUIREMENTS AND LIMITATIONS.**

(a) **PRIMARY FUNCTIONS.**—A Center may only be established and supported under this Act with the approval of the consortium selected under section 3, in consultation with a representative selected by the Secretary of Defense. The consortium may approve the establishment and support of a Center only if the Center promotes the deployment of innovative and robust technology into United States manufacturing companies by conducting activities in the following categories:

(1) **TECHNOLOGY AWARENESS.**—Technology awareness, including—

(A) working demonstrations and showcasing of equipment, tools, and practices in a manufacturing environment;

(B) technology specific workshops and seminars; and

(C) effective marketing of the Center's capabilities in training, education, research and development, demonstration, production, and technical assistance.

(2) **TECHNOLOGY EDUCATION.**—Technology education, including—

(A) providing a shop floor environment for on-the-job training;

(B) serving as a clearinghouse for current information on manufacturing related academic programs;

(C) coordinating development and delivery of and reducing duplication of specially designed manufacturing training programs; and

(D) strengthening the academic-industry-Government partnership which supports job training efforts.

(3) **TECHNOLOGY DEMONSTRATION.**—Technology demonstration, including the exhibition of performance specifications associated with advanced manufacturing practices, processes, and technologies in—

(A) a full-scale production environment; and

(B) point-in-time user tests environments.

(4) **TECHNOLOGY APPLICATION SUPPORT.**—Technology application support, including—

(A) training participating businesses to perform self-assessments in management, planning, continuous improvement, flexibility, quality, cost, delivery, customer satisfaction, technology, people and culture, health and safety, stakeholders, operations and systems, supplier development, and cer-

tification by comparing such businesses to the best business firms in the world in those respects; and

(B) providing individualized assistance to participating small and disadvantaged small business concerns by entering into partnership-like arrangements with State and Federal industrial extension and technology transfer programs.

(5) TECHNOLOGY ADVANCEMENT SUPPORT.—Technology advancement support, including—

(A) providing a factory environment to perform testing of preproduction components and products; and

(B) conducting manufacturing test bed studies to develop experience-based knowledge of manufacturing technology through analysis of actual production system performance.

(b) MATCHING REQUIREMENTS AND LIMITATIONS.—The amount of Federal funds allocated by the consortium selected under section 3—

(1) may not exceed one-third of the total resources used by any Network Center in any 1 fiscal year;

(2) shall be used only for the purchase of manufacturing equipment and related process technologies provided by United States suppliers;

(3) may not exceed \$10,000,000 for any one Center during any 5-year period; and

(4) shall be used exclusively to support Centers included in the Network propagation plan under subsection (b).

(c) TECHNOLOGY SHARING AGREEMENT.—As a condition for approval under this section, each Center shall agree, in writing, to share with the United States Government all information and technology developed by the Center using any Federal funds. The Government may not sell or otherwise transfer such information or technology to any other entity.

#### SEC. 5. THE MANUFACTURING APPLICATION AND EDUCATION NETWORK INITIATIVE.

(a) INTERAGENCY COORDINATION.—The Director of the Office of Science and Technology Policy shall establish a task force under the auspices of the Federal Coordinating Council for Science, Engineering and Technology.

(b) TASK FORCE DUTIES.—The duties of the task force established under subsection (a) shall be—

(1) to develop a governmentwide plan to utilize the skilled work force of the Federal laboratories to support the establishment and ongoing operations of Network Centers;

(2) to develop a streamlined process for Federal agencies to identify and transfer existing Government-owned technologies and equipment, or to codevelop new technologies with private industry that would be of value to the activities of the Network, including those related to—

(A) environmentally conscious manufacturing;

(B) intelligent manufacturing processes;

(C) flexible computer integrated manufacturing;

(D) intelligent machine control; and

(E) materials processing; and

(3) in order to promote synergy and avoid redundancies, to develop and implement a plan for the Office of Science and Technology Policy to periodically communicate to all relevant Federal agencies and to the Congress concerning the progress being made in Federal programs involved in technology transfer, including—

(A) the Regional Centers for the Transfer of Manufacturing Technology of the Department of Commerce;

(B) the Manufacturing Extension and Partnership Programs of the Department of Defense and the Department of Energy; and

(C) the Network.

(c) COMMERCIAL SERVICE ASSISTANCE.—The Assistant Secretary of Commerce and Director General of the United States and Foreign Commercial Service shall, through the regional offices of the United States and Foreign Commercial Service, work to assist the Centers in maximizing export opportunities for small and disadvantaged small business concerns participating in Network Centers.

#### SEC. 6. STRATEGIC INFORMATION COLLECTION AND ANALYSIS.

The Secretary of Commerce, acting through the Under Secretary for Export Administration, shall—

(1) under the authority provided in section 705 of the Defense Production Act, collect sourcing data on existing Federal procurements, including the identification of components and spare parts produced at the prime or subprime of the supply chain by suppliers located outside of the United States;

(2) in cooperation with the Critical Technologies Institute, analyze the data obtained in paragraph (1) according to—

(A) the relationship between components sourced from non-United States suppliers and the critical and enabling technologies lists as identified by the Federal agencies, including, but not limited to, the lists developed by the Department of Defense, the Department of Commerce, and the Office of Science and Technology Policy;

(B) the current capacity of the United States industrial base to supply components referred to in subparagraph (A) to current and future world markets; and

(C) the current reasons for sourcing from other than United States suppliers;

(3) in cooperation with the Assistant Secretaries of each military department responsible for acquisition matters for that department identify, prior to the first production prototype of each new weapons system, the technologies, including components and subsystems, that are deemed critical according to the current ability of the United States industrial base, to reach full-scale production within a 2-year period; and

(4) provide detailed reports to the consortium selected under section 3, identifying—

(A) the sourcing information collected and analyzed in accordance with paragraphs (1) and (2);

(B) a projected 5-year total procurement of the components currently sourced from non-United States suppliers under—

(i) normal peacetime conditions;

(ii) readiness conditions; and

(iii) mobilization conditions; and

(C) the full scale production and logistics requirements of the critical readily available weapon-system technologies identified in accordance with paragraph (3) under mobilization conditions.

#### SEC. 7. FEDERAL PROCUREMENT CONTRACTS FOR SMALL BUSINESS CONCERNS PARTICIPATING IN NETWORK CENTERS.

The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) in section 15(i), by inserting "components and subsystems produced in Network Centers established under the Manufacturing Application and Education Network Act of 1992," after "engineering services."; and

(2) in section 15(f)—

(A) by adding at the end the following new paragraph:

"(8) The breakout procurement center representative is directed to, for components

and subsystems identified by the Secretary of Commerce, provide written notification to the contractor or subcontractor that if 2 or more bids are received from small or disadvantaged small business concerns participating in Network Centers established under the Manufacturing Application and Education Network Act of 1992, the procurement contract for such component or subsystem must be set aside for competition among small and disadvantaged small business concerns in the United States."; and

(B) by adding at the end the following new subsection:

"(p) NETWORK CENTER PROGRAMS.—

"(1) IN GENERAL.—The Administrator shall establish a program in accordance with this subsection to promote the award of Federal procurement contracts to small and disadvantaged small business concerns that participate in Network Centers established under the Manufacturing Application and Education Network Act of 1992, including contracts and subcontracts for the procurement of components and subsystems referred to in subsection (f)(8). For the purposes of such program, requirements contained in paragraph (3) shall apply with respect to contracts awarded to small and disadvantaged small business concerns under the program in lieu of requirements relating to subcontracting contained in subsection (o).

"(2) CREDITS.—Federal contracting officers and their Government contractors, in supporting the achievement of Government targets for small business contracting, shall receive credits toward achieving these targets equal to 3 times the actual dollar value of contracts and subcontracts awarded under this program.

"(3) ELIGIBILITY.—A small or disadvantaged small business concern shall be eligible to receive a contract award under the program established pursuant to this subsection in a fiscal year, only if—

"(A) the sum of the value of the contract award and the aggregate value of all other contract awards received under the program in such fiscal year does not exceed the lesser of—

"(i) \$5,000,000; and

"(ii) the aggregate revenues of the concern in the preceding fiscal year;

"(B) the concern agrees to subcontract to a Network Center referred to in paragraph (1) for not less than 50 percent of the amount spent on manufacturing the supplies (not including the cost of materials) and to assign such full-time employees of the concern to such Network Center as the Director of the Center determines would be ordinarily needed to carry out manufacturing under the contract;

"(C) the concern agrees not to subcontract more than 20 percent of the amount spent on manufacturing the supplies (not including the cost of materials) to sources other than such Network Centers; and

"(D) the Administrator determines that the concern, through its participation with the Network Center, will be able to meet all the requirements of the contract.

"(4) AWARD PRIORITY.—Except as otherwise provided in paragraph (5), procurement contracts under the program established pursuant to this subsection shall be awarded to United States small and disadvantaged small business concerns in the following order of priority:

"(A) A small or disadvantaged small business concern which has not before received a contract award under the program.

"(B) A small or disadvantaged small business concern which agrees to perform in-

house not less than 30 percent of the amount spent on manufacturing the supplies under the contract.

"(C) A small or disadvantaged small business concern which submits the lowest bid for performance of the contract.

"(5) AWARD LIMITS.—A contract award made under this program shall not exceed the lowest qualified bid received by a participating small or disadvantaged small business concern by more than 10 percent."

#### SEC. 8. DEFINITIONS.

For purposes of this Act—

(1) the term "Center" means each of the 150 Manufacturing Application and Education Centers established under this Act;

(2) the term "disadvantaged small business concern" has the same meaning as the term "small business concern owned and controlled by socially and economically disadvantaged individuals", as defined in section 8(d)(3)(C) of the Small Business Act;

(3) the term "Federal laboratories" means any United States Government-owned laboratory or production facility;

(4) the term "Network" means the Manufacturing Application and Education Network;

(5) the term "Network Center" means a Center established under this Act as part of the Manufacturing Application and Education Network;

(6) the term "technology transfer" means the conveyance of knowledge and technical methods from a technology source to a recipient for practical application;

(7) the term "United States small business" means a manufacturing concern that—  
(A) has more than 50 percent ownership and control in the United States; and

(B) is made up of not more than 500 employees; and

(8) the term "United States supplier" means a business having more than 50 percent ownership and control in the United States.

#### SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of funding the establishment of Network Centers in accordance with this Act, to be allocated by the consortium selected under section 3, there are authorized to be appropriated for each of fiscal years 1993 through 1998—

(1) for the Department of Defense, not more than \$75,000,000; and

(2) for the Department of Energy, not more than \$25,000,000.

(b) ALLOCATION CONTINGENCIES.—In any fiscal year that specific appropriations for the establishment of Network Centers in total fall below the levels authorized in subsection (a), the Department of Defense and the Department of Energy shall each allocate a sufficient amount of such department's respective research and development budgets to the consortium selected under section 3 to reach an amount equal to the total amounts authorized in subsection (a).

By Mr. LIEBERMAN:

S. 3360. A bill to provide for a program for the diversification of the activities of certain Federal laboratories; to the Committee on Armed Services.

#### FEDERAL LABORATORIES DIVERSIFICATION ACT

• Mr. LIEBERMAN. Mr. President, I am introducing today legislation that would create a national network of teaching factories to help nurture our nation's community of small manufacturers. This bill, "The Manufacturing

Application and Education Network Act," would authorize the creation of 150 teaching factories across the United States over a 10-year period.

The National Center for Manufacturing Sciences (NCMS) has already operated a smaller group of teaching factories with some success. A teaching factory is very similar to a teaching hospital, in that it both serves as a school for modern manufacturing techniques, as well as an actual production site. The primary function of these factories is to provide instruction and demonstration of advanced manufacturing techniques. Another role for these factories is, in the words of NCMS, "to refine and apply new technologies to enhance their robustness and utilization, thereby creating an environment which ties together the process of advanced R&D to widespread adoption in American industry."

The factories would be regionally located, serving an area's manufacturing firms. Production facilities are tailored to the type of manufacturing processes and technologies now in use by local industries, as well as new and advanced technologies. These factories stretch the capability of small manufacturers by introducing them to new technology and improving their manufacturing techniques. The bill provides Federal financial support through cooperative agreements with the Federal labs and DOD, in effect, coordinating the mission of these labs with the needs of the private sector.

An industry-led consortium would organize and manage the network. Designs for the network plan would include input from State governments, academic institutions, trade groups, and professional associations. Access to these teaching factories would be limited to smaller U.S. manufacturing firms, particularly suppliers of manufacturing technologies. The network would allow small businesses to make use of teaching factory capabilities in qualifying for small business production set-asides.

The bill also authorizes Federal agencies to gather and analyze strategic information on foreign sourcing, future U.S. critical technology needs, and regulatory barriers to U.S. manufacturing modernization to guide the direction of the network.

Mr. President, manufacturing does matter. We cannot forgo our heritage as a Nation that makes things and become a Nation that only consumes and provides services. And we are in danger of heading down that road, if we do not begin to put more of an effort into improving our manufacturing capability.

We are falling behind the Japanese and other advanced industrial nations in new investment in productive capacity. We must refocus ourselves and redouble our efforts to make our nation's factories and industry more competitive.

This legislation can play an important role in that process by offering small companies an opportunity for some "on-the-job" training through the teaching factory network. With the promotion of the development of our small manufacturers through this network we can help to make them more competitive in the global marketplace.

While I realize there is not time to act on this legislation during this Congress, I am introducing this bill in the hope that my colleagues will have a chance to look at it during the next few months, and after having done so, will join me next session in my efforts to create a national teaching factory network.

I ask unanimous consent that a copy of the bill be placed in the RECORD immediately following my statement.

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

S. 3360

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

#### SECTION 1. PURPOSE AND FINDINGS.

(a) PURPOSE.—The purpose of this Act is to encourage greater cooperation between Department of Defense research and production facilities and United States industry in order to enhance their mutual technological and productive achievements.

(b) FINDINGS.—The Congress finds the following:

(1) Department of Defense research and production facilities possess valuable technological resources that could greatly enhance the innovation and productivity of United States industries.

(2) As leadership in the development of advanced technology increasingly shifts away from the defense sector of the United States economy to the commercial sector, the Department of Defense will have to draw on private sector technical expertise to satisfy defense needs.

(3) Private industry and the Department of Defense have independently identified many of the same technologies as critical for their respective purposes, thereby creating opportunities for the cooperative development and production of dual-use technologies.

(4) Department of Defense production and research facilities currently lack adequate incentives to carry out cooperative development activities with private industry and adequate means of measuring progress toward the goal of developing and producing more dual-use technologies.

(5) Private industry must have more opportunities to provide input into Department of Defense research and production facilities in order for such facilities to undertake more research, development, and production relating to dual-use technologies.

#### SEC. 2. FEDERAL DEFENSE LABORATORY DIVERSIFICATION PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—(1) The Secretary of Defense shall, as soon as practicable after the date of the enactment of this Act, establish a program to be known as the Federal Defense Laboratory Diversification Program (in this Act referred to as the "Program") for the diversification of Federal defense laboratories.

(2) The laboratories covered by the Program shall include all Department of Defense (including its services and agencies)

owned or operated laboratories and Department of Defense federally funded research and development centers that undertake more than \$5,000,000 in research (in this Act referred to as the Defense laboratories').

(3) The Program shall be managed by the Director of Defense Research and Engineering.

(b) NATURE OF DIVERSIFICATION PROGRAM GOALS.—The Program shall undertake cooperation between Defense laboratories and private industry in order to—

(1) promote the development and application of dual-use manufacturing technologies to improve quality and efficiency in manufacture of both civilian and defense-oriented products;

(2) promote the development and commercialization of dual-use product technologies;

(3) promote the transfer of defense or dual-use technologies from laboratories to the private sector for the purpose of commercialization, through patent, royalty, and license agreements, cooperative research and development agreements, and other cooperative agreements and through symposia, meetings, and other mechanisms; and

(4) promote the efficient adoption and adaptation of civilian manufacturing product and process technologies to defense needs in sectors critical to maintaining defense preparedness.

(c) DEVELOPMENT OF BENCHMARKS FOR PROGRAM.—(1) The Director of Research and Engineering, in cooperation with each Defense laboratory and in consultation with private industry, shall develop benchmarks for each category of diversification activity described in subsection (b) for each Defense laboratory covered by this Act. The benchmarks established shall cover fiscal years 1993 through 1995 and include for each such fiscal year—

(A) the budget resources, manpower, and facilities to be utilized by each laboratory; and

(B) the dollar value of patents, royalties, and licenses brokered down by product or SIC code to be sought and pursued by each laboratory, in implementing the Program.

(2) In establishing the benchmark under paragraph (1)(A) for all Defense laboratories covered by the Program, the Director shall establish benchmarks concerning the number and value of cooperative research and development agreements and other cooperative agreements to be established and undertaken, allocating, as appropriate, a minimum of two to five percent of budget to such cooperative work within two years of the establishment of the Program.

(3) Program benchmarks shall be established not later than 180 days after the date of the enactment of this Act. Upon establishment of the benchmarks, each Defense laboratory shall promptly proceed to implement same within its overall budget and utilizing other funds that may be available for implementation of this Act.

(4) Benchmarks shall be updated each fiscal year on an ongoing basis.

(d) INDUSTRY COOPERATION MECHANISMS.—Each Defense laboratory participating in the Program shall establish an industry and academic advisory panel to promote cooperation between the laboratory and the private sector in carrying out the Program. Each laboratory shall utilize its panel to oversee the development of each year's research plan and the implementation of the Program and its benchmarks and to provide advice on how to enhance the dual-use properties of the laboratory's research work on a project-by-project basis.

(e) REPORTS BY DIRECTOR.—(1) Not later than September 30, 1993, the Director of Re-

search and Engineering shall submit to Congress a report on—

(A) the results of a survey undertaken by the Director delineating the nature of the research being undertaken at each laboratory included in the Program, evaluating the potential of each laboratory included in the Program to achieve the elements specified in subsection (b); and

(B) recommendations on how each such laboratory might become better oriented to achieving such Program elements.

(2) Not later than each of September 30 of 1994, 1995, and 1996, the Director shall submit to Congress a report on—

(1) the extent to which each laboratory participating in the Program has effectively implemented the benchmarks established by the Program;

(2) the accomplishments under the Program in achieving the elements described in subsection (b); and

(3) the steps the Director believes necessary to improve the effectiveness of the Program.

### SEC. 3. INDUSTRY EVALUATION.

(a) IN GENERAL.—The Director of the Office of Technology Assessment shall, subject to the approval of the Technology Assessment Board, undertake, in close consultation with industrial firms that have cooperated and worked with Federal laboratories, and evaluation of practices and procedures that have proven effective in promoting the elements of the program set forth in section 1(b), both in laboratories covered by the Program and elsewhere.

(b) ADDITIONAL EVALUATION.—In addition to the evaluation under subsection (a), the Director shall—

(1) evaluate the effectiveness of the Program in achieving optimal cooperation with private industry in meeting the elements set forth in section 1(b); and

(2) make recommendations for any improvements in practices and procedures for cooperating with industry that should be implemented.

(c) SUBMITTAL DATE.—The evaluations required under this section shall be submitted not later than 24 months after the date of the enactment of this Act.

(d) UTILIZATION OF REPORT INFORMATION.—The Director of Research and Engineering shall utilize the recommendations and results of such study in ongoing implementation of the Program.

By Mr. MOYNIHAN:

S. 3361. A bill to amend title IV of the Social Security Act to improve access to health insurance coverage through child support enforcement procedures, and for other purposes; to the Committee on Finance.

CHILD SUPPORT ENFORCEMENT AMENDMENTS OF 1992

● Mr. MOYNIHAN. Mr. President, I rise today to introduce the Child Support Enforcement Amendments of 1992.

There has been considerable progress in the area of child support enforcement over the last few years. Collections are increasing, and the States are working hard to implement the changes called for by the Family Support Act of 1988. Among these are the use of guidelines for the determination of child support awards, automatic wage withholding for all new cases, and the review and adjustment of all AFDC awards on a 3 year cycle.

Unfortunately, however, we still have a long way to go. Child support is collected in less than one quarter of all cases, and many of those who do receive payments receive less than they should. On the health care side, the performance is equally dismal. Health insurance is not included in 68 percent of child support orders. A 1983 Urban Institute study found that 4.6 million children with absent parents were without health insurance.

The most important features of my bill concern health care coverage. Some large employers argue that they do not have to obey State child support court orders because the 1974 Federal ERISA law exempts self-insured companies from State regulation. According to a recent GAO report, more and more States are running into cases of employers who refuse to cover the non-custodial children of their employees because of ERISA. My bill makes it clear that these companies must honor their child support obligations notwithstanding the 1974 law.

Furthermore, my bill attacks a number of other devices that uncooperative employers and noncustodial parents have come up with in an effort to avoid their obligation to provide health coverage for their families. Under my bill, for instance, the employer would have to enroll the custodial parent and her children in his health plan if the absent parent has failed to do so, and would have to provide the necessary forms and information so that the custodial parent could submit claims. Further, the employer would be required to accept claims submitted by the custodial parent.

My bill also addresses some of the administrative difficulties faced by States. For instance, the Family Support Act requires States to review and update all child support orders involving AFDC families on a three year cycle starting in 1993. Non-AFDC cases must be reviewed at the request of either parent. There is now a general consensus among people knowledgeable about child support that many States, particularly the larger ones, will have a difficult time meeting this requirement until they have computerized child support tracking systems in place. Accordingly, my bill postpones the new requirement's effective date until the automated systems are in operation or 1995, whichever comes first.

In addition, my bill attempts to move us away from the current federal audit system's preoccupation with process—are child support collections distributed within a specified number of days, are notification procedures, etc.—and toward one that looks at outcomes, such as collections and paternities established. State child support officials are convinced that efficiency could be increased, and performance improved, if they were not subject to all the many procedural strictures that

currently exist and instead had some flexibility in achieving program objectives. My bill establishes an advisory committee within the Department of Health and Human Services with the responsibility to come up with a system that strikes a more appropriate balance between outcomes and process.

My proposal was drafted in close collaboration with the state child support directors, although I hasten to add that it does not include all the changes that they would have liked. It also includes several of the recommendations contained in the recent GAO report, "Ensuring That Noncustodial Parents Provide Health Insurance Can Save Costs".

Mr. President, I believe the coming year will see a concerted effort to strengthen this nation's system of child support enforcement. Recently, the Commission on Interstate Child Support, under the leadership of Senator BRADLEY and others, released its final report containing a number of important recommendations. In the last few weeks President Bush has also put forward proposals in this area. My hope is that from all these ideas, we can fashion a comprehensive reform plan that can be considered, and adopted, by the Congress early in the next year.

Mr. President, I ask unanimous consent that the text of the Child Support Enforcement Amendments of 1992 along with a short section-by-section analysis be printed in the CONGRESSIONAL RECORD at this point.

**SECTION-BY-SECTION ANALYSIS OF CHILD SUPPORT REFORM PROPOSAL**

**Section 1**

A number of states are having trouble collecting child support from federal agencies which argue that they are exempt from state laws (this is particularly a problem with regard to medical support). This section makes it clear that for child support purposes, the federal government is to be treated like other employers.

**Section 2**

Under current law, working non-custodial parents must apply for health insurance coverage for their children and former spouses if such coverage is provided by their employers. However, this objective has been repeatedly thwarted by uncooperative non-custodial parents and employers. The new legislation provides that:

a. if the absent parent fails to sign up the children and the custodial parent, the employer must enroll them at the state's request;

b. the employer must tell the custodial parent how to access the coverage—provide the necessary information, insurance forms, etc.; and

c. the employer must accept claims submitted by the custodial parent.

**Section 3**

The new legislation prohibits the following restrictions in health insurance policies:

—limiting coverage to children living with the employee;

—limiting coverage to legitimate children.

**Section 4**

Under the Family Support Act, states must update all existing child support orders

involving AFDC recipients every three years, starting in October, 1993 (non-AFDC cases must be reviewed at the request of either party). This is a lot of work, and many states will not be able to meet the new requirement until they have computerized their child support tracking systems. The new legislation puts off the review and modification requirement until such time as the state automated systems are up and running, but no later than 1995.

**Section 5**

Currently, if a state fails a federal child support audit, it is subject to a fine unless it can correct the deficiencies within 12 months. In some cases, states have found that this is not enough time to implement a corrective action plan (this may involve major systems changes, hiring additional staff, etc.). So the new bill gives the states up to 18 months to achieve compliance.

**Section 6**

The Family Support Act of 1988 provided 90% federal funding for automated child support enforcement systems in place by 1995. A federal regulation also requires that the costs of automated systems be depreciated over five years. The problem is that the Office of Management and Budget has ruled that the enhanced federal match for child support systems is not available after 1995. In effect, this amounts to saying that states must have developed their systems by 1990 in order to have all the costs funded at the 90% rate. Since this is contrary to Congress' intent, this bill makes it clear that the enhanced federal matching is available until the year 2000 for automated systems in place by 1995.

**Section 7**

Increasingly, state child support laws are proving unenforceable because most people work for self-insured companies exempted from state laws under the federal ERISA Act of 1974. This section says that state child support laws are not subject to the ERISA pre-emption, and thus are enforceable in state courts.

**Section 8**

The current federal audit of state child support programs is largely concerned with process—are welfare recipients notified of child support collections, are collections distributed within a specified number of days, are services adequately publicized, etc. The states want a system that is more outcome oriented—collections, paternities, etc. The bill establishes an advisory committee within the Department of Health and Human Services that is to report to Congress within 12 months on a revised audit process that places greater weight on program outcomes.

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

S. 3361

*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 "Child Support Enforcement Amendments of 1992".

**SEC. 2. HEALTH INSURANCE COVERAGE FOR DEPENDENT CHILDREN OF EMPLOYEES OF THE UNITED STATES AND THE DISTRICT OF COLUMBIA.**

(a) IN GENERAL.—Section 459 of the Social Security Act (42 U.S.C. 659) is amended—

(1) by redesignating subsections (b), (c), (d), (e), and (f), as subsections (c), (d), (e), (f), and (g), respectively; and

(2) by inserting after subsection (a), the following new subsection:

"(b)(1) Notwithstanding any other provision of law, any agency, subdivision, or instrumentality of the United States and the District of Columbia, shall be subject, in like manner and to the same extent as if the United States or the District of Columbia were a private person, to legal process requiring the enrollment of a dependent child of an employee of the United States or the District of Columbia or the custodial parent of such dependent child in a health benefits plan if a child support order obligates the employee to provide health insurance coverage to such dependent child or custodial parent.

"(2) Upon the service of legal process requiring the enrollment of an employee's dependent child or the custodial parent of such dependent child in a health benefits plan, the employing agency, subdivision, or instrumentality of the United States or the District of Columbia shall—

"(A) if the dependent child or the custodial parent is eligible for coverage under applicable enrollment provisions—

"(i) enroll the dependent child or the custodial parent in the health benefits plan in which the absent parent is enrolled or, if the absent parent is not enrolled in a health benefits plan, in the least costly health benefits plan available;

"(ii) release to the custodial parent and the applicable State child support enforcement agency, upon request, information on such health benefits plan, including the name of the insurer, the policy number, and information on copayments, deductibles, and claims procedures;

"(iii) ensure that the signature of the custodial parent is acceptable for purposes of processing any health insurance claim under the health benefits plan;

"(iv) notify the custodial parent and the applicable State child support enforcement agency within 10 days after the date on which the absent parent's employment is terminated and provide information regarding conversion privileges; and

"(v) subject any moneys (the entitlement to which is based upon remuneration for employment) to the employee's obligation to make payments for such enrollment; and

"(B) inform the custodial parent and the applicable State child support enforcement agency if the dependent child and the custodial parent are not eligible for enrollment in any health benefits plan."

**(b) CONFORMING AMENDMENTS.—**

(1) Section 461 of such Act (42 U.S.C. 661) is amended—

(A) in the matter preceding subsection (a)(1), by inserting ", or to a health benefits plan provided through employment with" after "(or payable by)"; and

(B) in subsection (b)—

(i) in paragraph (1)—

(I) by striking "and (B)" and inserting

"(B)"; and

(II) by striking "brought," and inserting

"brought, and (C) an indication of the data reasonably required in order for the agency promptly to identify the individual with respect to whose dependent child legal process is brought for enrollment of such child in a health benefits plan and an indication of the data reasonably required to enroll such child in such plan.";

(ii) in paragraph (2)—

(I) by striking "and (B)" and inserting

"(B)"; and

(II) by striking "brought, and" and inserting

"brought, and (C) an indication of the

data reasonably required in order for the agency promptly to identify the individual with respect to whose dependent child legal process is brought for enrollment of such child in a health benefits plan and an indication of the data reasonably required to enroll such child in such plan.”;

(iii) in paragraph (3), by striking “alimony payments.” and inserting “alimony payments, and”;

(iv) by adding at the end the following new paragraph:

“(4) provide that an employing agency, subdivision, or instrumentality of the United States or the District of Columbia shall be liable for any expenses incurred for health care provided to a dependent child or a custodial parent due to the failure of such employing agency, subdivision, or instrumentality to obtain or maintain health insurance coverage as provided in section 459(b).”

(2) Section 462 of such Act (42 U.S.C. 662) is amended—

(A) in the matter preceding subsection (a) by striking “section 459” and inserting “sections 459 and 461”;

(B) in subsection (b) by striking “health care,” and inserting “health insurance coverage (including coverage of medical, dental, and psychiatric care), health care which is not reimbursed by insurance.”;

(C) in subsection (e)—

(i) in paragraph (1), by striking “, and” and inserting a comma;

(ii) in paragraph (2), by striking “payments,” and inserting “payments, and”;

(iii) by adding at the end the following new paragraph:

“(3) is directed to, and the purpose of which is to compel, a government entity to enroll a dependent child of an employee of such government entity and the custodial parent of such dependent child in a health benefits plan.”;

(D) in paragraph (4) of subsection (g), by inserting “, except for premiums required to meet the individual’s obligation to provide health insurance coverage for a dependent child and a custodial parent of such dependent child,” after “premiums,”; and

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

“(h) The term ‘health benefits plan’ means a health benefits plan described in sections 8903 and 8903a of title 5, United States Code.

“(i) The term ‘dependent child’ means a child who—

“(1)(A) has not attained age 22, or

“(B) is incapable of self-support because of a mental or physical disability which existed before such child attained age 22;

“(2)(A) is a natural or adopted child of an employee of the United States or the District of Columbia (including any agency, subdivision, or instrumentality thereof); or

“(B) is a stepchild of such employee, if the law of the State in which the child support order was issued holds such employee liable for the support of such stepchild; and

“(3) is not married.”.

### SEC. 3. HEALTH INSURANCE COVERAGE OF DEPENDENT CHILDREN OF EMPLOYEES OF PRIVATE EMPLOYERS.

Section 466(a) of the Social Security Act (42 U.S.C. 666(a)) is amended by adding at the end the following new paragraph:

“(11)(A) Procedures requiring that in the case of any child support order subject to enforcement under this part which is issued or modified on or after the date of the enactment of this paragraph and which contains a provision requiring an absent parent to obtain health insurance coverage for a dependent child (as defined in section 462(1)) or a

custodial parent, such absent parent shall, within 30 days after receiving notice of such order, provide to the State child support enforcement agency documentary evidence of health insurance coverage for the dependent child or the custodial parent or documentary evidence that application for such coverage has been made.

“(B) Procedures requiring that if an absent parent fails to comply with the provisions of subparagraph (A), the State agency shall deliver a copy of the child support order to such absent parent’s employer within 15 days after such failure and upon receipt of such order, the employer shall—

“(i) if the dependent child or the custodial parent is eligible for coverage under applicable enrollment provisions—

“(I) enroll the dependent child or the custodial parent in the plan in which the absent parent is enrolled or, if the absent parent is not enrolled in a plan, in the least costly plan available;

“(II) release to the custodial parent and the State child support enforcement agency, upon request, information on such plan, including the name of the insurer, the policy number, and information on copayments, deductibles, and claims procedures;

“(III) ensure that the signature of the custodial parent will be acceptable for purposes of processing any health insurance claim under the plan;

“(IV) notify the custodial parent and the State child support enforcement agency within 10 days after the date on which the absent parent’s employment is terminated and provide information regarding conversion privileges; and

“(V) deduct and pay the cost of any premiums required for such health insurance coverage from the absent parent’s earnings; and

“(ii) inform the custodial parent and the State child support enforcement agency if the dependent child or the custodial parent is not eligible for enrollment in any health insurance plan provided by the employer.

“(C) Procedures requiring that—

“(i) an employer who fails to obtain or maintain health insurance coverage as provided in subparagraph (B) shall be liable for any expenses incurred for health care provided to a dependent child or a custodial parent after the date of the receipt by such employer of a notice requiring such coverage under subparagraph (B); and

“(ii) a fine shall be imposed against any employer who discharges from employment, refuses to employ, or takes disciplinary action against any absent parent subject to a child support order providing for health insurance coverage of a dependent child or a custodial parent because of the existence of such an order and the obligations or additional obligations which such order may impose.

“(D) Procedures requiring that—

“(i) a child support order delivered to an employer under subparagraph (B) shall specify either support withholdings or insurance premium deductions as having priority for the duration of such order in the event the maximum total deduction permitted at any time by the Consumer Credit Protection Act is insufficient to fully cover both; and

“(ii) the employer shall consider and direct insurance premium deductions and support withholdings the same for purposes of the Consumer Credit Protection Act.”.

### SEC. 4. RESTRICTIONS ON ELIGIBILITY CRITERIA IMPOSED ON DEPENDENT CHILDREN BY INSURERS.

Section 466 of the Social Security Act (42 U.S.C. 666) is amended by adding at the end the following new subsection:

“(f)(1) In order to satisfy section 454(20)(A), each State must have in effect laws requiring each private insurer to allow a dependent child to be eligible for coverage under any health insurance policy issued by such insurer regardless of whether such child—

“(A) receives support from a parent insured by the insurer.

“(B) is claimed for tax purposes by a parent insured by the insurer.

“(C) resides with a parent insured by the insurer, or

“(D) was born out-of-wedlock.”.

“(2) For purposes of this subsection, the term ‘private insurer’ includes a health benefit plan, fund, third-party administrator, or similar entity or program providing payment for medical assistance.”.

### SEC. 5. REVIEW AND MODIFICATION OF CHILD SUPPORT ORDERS.

Section 466(a)(10) of the Social Security Act (42 U.S.C. 666(a)(10)) is amended:

(1) in subparagraph (A), by striking “Procedures to ensure that, beginning 2 years after the date of the enactment of this paragraph” and inserting “Procedures to ensure that during the period beginning 2 years after the date of the enactment of this paragraph and ending on September 30, 1993”;

(2) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively;

(3) by inserting after subparagraph (A), the following new subparagraph:

“(B) Procedures to ensure that beginning on October 1, 1993, the State must, at the request of either parent subject to a child support order, or of a State child support enforcement agency, initiate a review of such order, and adjust such order, as appropriate, in accordance with the guidelines established pursuant to section 467(a).”;

(4) in subparagraph (C), as redesignated—

(A) by striking “Procedures to ensure that, beginning 5 years after the date of the enactment of this paragraph or such earlier date as the State may select” and inserting “Procedures to ensure that beginning upon the establishment of a statewide automated data processing and information retrieval system meeting the requirements of section 454(16), or on October 1, 1995, whichever occurs earlier”; and

(5) in subparagraph (D), as redesignated—

(A) by striking “and” at the end of clauses (i) and (ii);

(B) by striking the period at the end of clause (iii) and inserting “and”;

(C) by adding at the end the following new clause:

“(iv) of the right to obtain information which is necessary for such parent to obtain a review of such order and recommend an adjustment to such order or recommend that no adjustment to such order should be made.”.

### SEC. 6. TIME PERIOD FOR ACHIEVING SUBSTANTIAL COMPLIANCE WITH CHILD SUPPORT ENFORCEMENT PROGRAM REQUIREMENTS.

Section 403(h)(2)(A)(i) of the Social Security Act (42 U.S.C. 603(h)(2)(A)(i)) is amended by striking “achieve substantial compliance within” and all that follows and inserting “achieve substantial compliance within a period not to exceed 18 months from the date on which the corrective action plan is approved under clause (ii);”.

**SEC. 7. REIMBURSEMENT RATE FOR AUTOMATED DATA SYSTEMS.**

Section 123(c) of the Family Support Act of 1988 is amended by striking "September 30, 1995" and inserting "September 30, 2000".

**SEC. 8. WAIVER OF PREEMPTION REQUIREMENTS UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.**

Section 514(b)(7) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)(7)) is amended by striking "of this title" and inserting "of this title) and child support orders enforced under a State child support enforcement program authorized under part D of title IV of the Social Security Act which require an employer to enroll an employee's child or the custodial parent of such child in any health insurance plan provided by such employer."

**SEC. 9. ESTABLISHMENT OF CHILD SUPPORT ADVISORY COMMITTEE.**

(a) **ESTABLISHMENT.**—The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall establish a Child Support Advisory Committee (hereafter in this section referred to as the "Committee").

(b) **MEMBERSHIP.**—

(1) **NUMBER OF MEMBERS.**—The Secretary shall determine the number of members on the Committee.

(2) **APPOINTMENT.**—The members of the Committee shall be appointed by the Secretary and shall include—

(A) a representative of a State operating a child support enforcement program authorized under part D of title IV of the Social Security Act, and

(B) a representative of recipients of child support enforcement services.

(c) **DUTIES OF THE COMMITTEE.**—The Committee shall assist the Secretary in preparing and submitting to the Congress, not later than 12 months after the date of the enactment of this section, recommendations—

(1) on revised audit criteria to be used pursuant to section 452(a)(4) of the Social Security Act based on—

(A) common data elements which are defined, collected, and reported in a uniform manner from each State;

(B) numeric measures of the outcomes of the child support enforcement program; and

(C) numeric measures for assessing compliance with the regulations issued by the Secretary pursuant to subsections (h) and (i) of section 452 of the Social Security Act;

(2) for the purpose of section 403(h) of the Social Security Act—

(A) on a definition of substantial compliance with the audit criteria issued pursuant to section 452(a)(4) of the Social Security Act; and

(B) on a standard for determining how soon after interim or final Federal regulations are issued a State can be audited for determining compliance with those regulations; and

(3) on any necessary changes in the incentive system authorized by section 458 of the Social Security Act, based on the outcome measures referred to in paragraph (1)(B).

(d) **COMPENSATION.**—

(1) **IN GENERAL.**—Members of the Committee shall serve without compensation.

(2) **EXPENSES, ETC., REIMBURSED.**—The members of the Committee may be allowed travel expenses while on the business of the Committee, 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) **APPLICATION OF ACT.**—The provisions of the Federal Advisory Committee Act shall not apply with respect to the Committee.

(4) **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.

(e) **TIMING OF ESTABLISHMENT.**—The Secretary shall establish the Committee not later than 60 days after the date of the enactment of this section.

**SEC. 10. EFFECTIVE DATE.**

(a) **IN GENERAL.**—Except as provided in subsection (b), the amendments made by this Act shall be effective on the date of the enactment of this Act.

(b) **SPECIAL RULE.**—In the case of a State that the Secretary determines requires State legislation (other than legislation appropriating funds) in order to meet the additional requirements imposed by the amendments made by this Act, the State shall not be regarded as failing to comply with the requirements of this Act 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 this subsection, in the case of a State that has a 2-year legislative session, each year of the session shall be treated as a separate regular session of the State legislature.●

By Mr. NICKLES:

S.J. Res. 346. Joint resolution to provide for the payment of fair and equitable consideration in satisfaction of the claims of certain Kaw Indians; to the Select Committee on Indian Affairs.

**KAW SETTLEMENT LEGISLATION**

● Mr. NICKLES. Mr. President: I am introducing legislation today which would settle certain land claims of the Kaw Indian Tribe dating back to 1860 when the tribe was located in Kansas.

Around the beginning of non-Indian settlement in what was then the territory of Kansas, the Kaw Half-Breed Indians lost several thousand acres of land that had been set aside for them as a reserve by the Federal Government. The land was settled by illegal squatters who took timber and other minerals from the property without making rightful compensation to the Kaw Tribe.

At the same time, efforts were made by these illegal squatters to deceive and defraud the Indian owners into giving them legal title to the lands. Despite the requests of the Federal Indian agent that was in charge of Indians in the area, the U.S. Government failed to protect the rights of the Kaw Indians from the action and depredations on the non-Indian settlers. Aside from taking their land, the squatters shot and killed Indian owned livestock and burned their housing.

Because Congress recognized that the Government had failed to protect the Kaw lands from encroachment, on May 26, 1860 it enacted a law declaring that all prior contracts for lands within the Kaw reserve were null and void and returned the legal ownership via a fee title of the lands to the original reservees or their heirs.

However, on July 17, 1862, before the Secretary of Interior had finished de-

termining the appropriate heirs as required by the 1860 act, Congress repealed provisions contained in the law which authorized the Secretary to sell lands of deceased original reservees who had died without heirs. The law had allowed the proceeds from the sale of these lands to go for the benefit of those surviving original allottees.

As a result of the congressional action, the Kaw Tribe eventually lost all of its reserve lands through fraud, deception and denial of titles and the failure of the U.S. Government to provide protection and assistance. Many Kaws also lost their lands through transactions that did not meet the fair and honorable dealing standards required of the United States as set forth in the Indian Claims Commission Act of 1946. Today it remains a common practice in Kansas to institute a quiet title action on lands within the original Kaw reserve to prevent problems from arising in the conveyance of ownership of these lands.

On August 8, 1968, Congress passed Private Law 90-318, which recognized the failure of the U.S. Government to protect the Kaw lands and provided for the compensation of the heirs of the Kaw Half-Breed Indians. Unfortunately, the legislation failed to provide full compensation, including interest, for the lands taken.

My legislation that I am introducing today would provide the heirs of the Kaw Half-Breed reservees or their assigns, with a payment formulated from the 1968 value of the lands, the date of passage of Private Law 90-318. That value, approximated at slightly over \$6 million would be distributed to the appropriate heirs.

Any funds in excess after the payments will be put into a charitable trust which will be administered by a board of directors consisting of lineal descendants of the original reservees. These lineal descendants will include enrolled members of the Kaw Tribe, the Osage Tribe, the Otoe-Missouria Tribe, the Pottawatomie Tribe and the Ponca Tribe. Also, one lineal descendant who is not a member of any tribe and one employee of the Bureau of Indian Affairs as appointed by the Secretary of the Interior, are also to be selected to serve on the board.

Upon the establishment of the account and payment of funds by the Secretary of the Treasury, the Secretary is required to publish notice in the Federal Register that any and all claims arising out of the Treaty of June 3, 1825 shall be extinguished. Thus allowing the State of Kansas to clear title on the 14,720 acres of former Kaw lands and resolving this centuries old injustice.

Mr. President, while this legislation will not be acted upon before the 102d Congress adjourns, I introduce it now for discussion purposes with the hope that Congress can fully address this

matter during the new Congress next year.●

#### ADDITIONAL COSPONSORS

S. 2038

At the request of Mr. BENTSEN, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 2038, a bill to amend the Social Security Act to improve benefits and coverage under title II, to establish the Social Security Administration as an independent agency, and for other purposes.

S. 2841

At the request of Mr. D'AMATO, the names of the Senator from Texas [Mr. GRAMM], the Senator from California [Mr. SEYMOUR], the Senator from North Carolina [Mr. HELMS], the Senator from Missouri [Mr. BOND], the Senator from Arizona [Mr. MCCAIN], and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of S. 2841, a bill to provide for the minting of coins to commemorate the World University Games.

S. 3119

At the request of Mr. CONRAD, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 3119, a bill to establish a National Appeals Division of the Department of Agriculture to hear appeals of adverse decisions made by certain agencies of the Department, and for other purposes.

S. 3227

At the request of Mr. DECONCINI, his name was added as a cosponsor of S. 3227, a bill to provide for the resolution of the conflicting water rights claims for lands within the Roosevelt Water Conservation District in Maricopa County, Arizona, and the Gila River Indian Reservation.

S. 3291

At the request of Mr. BRADLEY, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 3291, a bill to improve the interstate enforcement of child support and parentage court orders, and for other purposes.

#### SENATE JOINT RESOLUTION 293

At the request of Mr. SASSER, the names of the Senator from Florida [Mr. MACK], the Senator from New Jersey [Mr. BRADLEY], the Senator from Washington [Mr. ADAMS], the Senator from Hawaii [Mr. AKAKA], the Senator from Montana [Mr. BAUCUS], the Senator from Arkansas [Mr. BUMPERS], the Senator from California [Mr. CRANSTON], the Senator from Alabama [Mr. HEFLIN], the Senator from Maryland [Ms. MIKULSKI], the Senator from Mississippi [Mr. COCHRAN], the Senator from Kentucky [Mr. FORD], the Senator from Vermont [Mr. JEFFORDS], and the Senator from Missouri [Mr. DANFORTH] were added as cosponsors of Senate Joint Resolution 293, A joint resolution

designating the week beginning November 1, 1992, as "National Medical Staff Services Awareness Week".

#### SENATE JOINT RESOLUTION 342

At the request of Mr. SPECTER, the names of the Senator from Nebraska [Mr. EXON], the Senator from California [Mr. CRANSTON], the Senator from New Jersey [Mr. BRADLEY], the Senator from Indiana [Mr. LUGAR], the Senator from Wisconsin [Mr. KASTEN], the Senator from Florida [Mr. GRAHAM], the Senator from Ohio [Mr. GLENN], the Senator from Washington [Mr. ADAMS], the Senator from Georgia [Mr. NUNN], the Senator from Nevada [Mr. REID], the Senator from New York [Mr. MOYNIHAN], the Senator from Hawaii [Mr. AKAKA], the Senator from Georgia [Mr. FOWLER], the Senator from Nevada [Mr. BRYAN], the Senator from Massachusetts [Mr. KERRY], the Senator from Maine [Mr. COHEN], the Senator from Wyoming [Mr. SIMPSON], the Senator from South Dakota [Mr. PRESSLER], the Senator from North Carolina [Mr. HELMS], the Senator from Rhode Island [Mr. CHAFFEE], the Senator from Mississippi [Mr. LOTT], the Senator from New Mexico [Mr. DOMENICI], the Senator from California [Mr. SEYMOUR], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Indiana [Mr. COATS], the Senator from Montana [Mr. BURNS], the Senator from Texas [Mr. GRAMM], the Senator from Vermont [Mr. JEFFORDS], the Senator from Idaho [Mr. CRAIG], the Senator from Idaho [Mr. SYMMS], the Senator from New York [Mr. D'AMATO], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Washington [Mr. GORTON], the Senator from Florida [Mr. MACK], the Senator from Iowa [Mr. GRASSLEY], the Senator from Illinois [Mr. SIMON], the Senator from Illinois [Mr. DIXON], the Senator from Connecticut [Mr. DODD], the Senator from Ohio [Mr. METZENBAUM], the Senator from Louisiana [Mr. BREAUX], the Senator from Utah [Mr. GARN], the Senator from Oregon [Mr. PACKWOOD], and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of Senate Joint Resolution 342, A joint resolution designating May 2, 1993, through May 8, 1993, as "National Walking Week".

#### SENATE CONCURRENT RESOLUTION 137

At the request of Mr. WELLSTONE, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of Senate Concurrent Resolution 137, A concurrent resolution to express the sense of Congress that the Comptroller General of the United States should conduct a study of the economic impacts of Order No. 636 of the Federal Energy Regulatory Commission on residential, commercial, and other end-users of natural gas, and that the Federal Energy Regulatory Commission should refrain from processing restructuring proceedings pursuant to the order during the 60-day period after the

submission to Congress of the results of the study.

#### AMENDMENT NO. 3398

At the request of Mr. BUMPERS the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of Amendment No. 3398 proposed to 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.

#### SENATE CONCURRENT RESOLUTION 141—RELATIVE TO IMPACT STATEMENTS ON CERTAIN LEGISLATION

Mr. Wallop submitted the following concurrent resolution; which was referred to the Committee on Rules and Administration:

S. Con. Res. 141

*Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that each committee of the Congress that reports legislation that requires employers to provide new employee benefits shall secure an objective analysis of the impact of the legislation on employment and international competitiveness and include an analysis of the impact in the report of the committee on the legislation.*

#### SENATE RESOLUTION 355—RELATING TO THE ELECTIONS IN ANGOLA

Mrs. KASSEBAUM (for herself, Mr. DECONCINI and Mr. SIMON) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. Res. 355

Whereas after seventeen years of civil war, the two major parties to the Angolan conflict, the Movement for the Popular Liberation of Angola (MPLA) and National Union for the Total Independence of Angola (UNITA), signed the Peace Accords for Angola on May 1, 1991;

Whereas on September 29 and 30, 1992, as agreed in the peace agreement, peaceful, democratic elections were held in Angola;

Whereas more than ninety percent of all registered voters participated in the elections;

Whereas, based on the accounts of international observers, including the United Nations and the International Foundation for Electoral Systems, the elections appear to have been conducted in a free and fair manner: Now, therefore, be it

Resolved, that the Senate hereby—

(1) congratulates the people of Angola on their successful elections of September 29 and 30, 1992;

(2) commends the United Nations, particularly Special Representative Margaret Anstee, and the governments of Portugal, Russia and the United States, for their committed efforts to implement the Peace Accords for Angola; and

(3) strongly urges all parties to accept the results of these elections and work together to bring about a peaceful, democratic and prosperous Angola.

• Mrs. KASSEBAUM. Mr. President, I rise tonight to introduce a resolution on the elections recently held in Angola. On September 29 and 30, Angola conducted its first democratic elections. Most international observers found the election to be generally free and fair. After 17 years of tragic civil conflict, peace was at hand.

Tonight, however, we received very disturbing news. Dr. Jonas Savimbi's UNITA fighters have withdrawn from the newly unified armed forces of Angola, threatening the transition to democracy and raising the tragic possibility that hostilities could resume.

Dr. Savimbi has challenged the validity of the elections, alleging government fraud in the electoral process. If there are legitimate complaints about the process, there is a peaceful mechanism set up under the electoral rules to resolve these complaints. The United Nations is carefully supervising the elections.

Mr. President, I join with the U.S. Assistant Secretary of State Hank Cohen in urging all parties to accept the results of the elections. Now is the time for UNITA, the MPLA government and other parties to work together for the future of their country—not to resume fighting. •

**RURAL ELECTRIFICATION ADMINISTRATION IMPROVEMENT ACT OF 1992**

**LEAHY (AND LUGAR) AMENDMENT NO. 3400**

Mr. LAUTENBERG (for Mr. LEAHY, for himself and Mr. LUGAR) proposed an amendment to the bill (H.R. 5237) to amend the Rural Electrification Act of 1936 to improve the provision of electric and telephone service in rural areas, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Rural Electrification Administration Improvement Act of 1992".

**SEC. 2. DISCOUNTED LOAN PREPAYMENT.**

(a) IN GENERAL.—Subsection (a) of section 306B of the Rural Electrification Act of 1936 (7 U.S.C. 936b(a)) is amended to read as follows:

"(a) DISCOUNTED PREPAYMENT BY BORROWERS OF ELECTRIC LOANS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a direct or insured loan made under this Act shall not be sold or prepaid at a value that is less than the outstanding principal balance on the loan.

"(2) EXCEPTION.—On request of the borrower, an electric loan made under this Act, or a portion of such a loan, that was advanced before May 1, 1992, or has been advanced for not less than 2 years, shall be sold to or prepaid by the borrower at the lesser of—

"(A) the outstanding principal balance on the loan; or

"(B) the present value of the loan discounted from the face value at maturity at the rate established by the Administrator.

"(3) DISCOUNT RATE.—The discount rate applicable to the prepayment under this subsection of a loan or loan advance shall be the then current cost of funds to the Department of the Treasury for obligations of comparable maturity to the remaining term of the loan.

"(4) TAX EXEMPT FINANCING.—If a borrower prepays a loan under this subsection using tax exempt financing, the discount shall be adjusted to ensure that the borrower receives a benefit that is equal to the benefit the borrower would receive if the borrower used fully taxable financing. The borrower shall certify in writing whether the financing will be tax exempt and shall comply with such other terms and conditions as the Administrator may establish that are reasonable and necessary to carry out this subsection.

"(5) ELIGIBILITY.—

"(A) IN GENERAL.—A borrower that has prepaid an insured or direct loan shall remain eligible for assistance under this Act in the same manner as other borrowers, except that—

"(i) a borrower that has prepaid a loan, either before or after the date of enactment of this subsection, at a discount rate as provided by paragraph (3), shall not be eligible, except at the discretion of the Administrator, to apply for or receive direct or insured loans under this Act during the 120-month period beginning on the date of the prepayment; and

"(ii) a borrower that prepaid a loan before the date of enactment of this subsection at a discount rate greater than that provided by paragraph (3), shall not be eligible—

"(I) except at the discretion of the Administrator, to apply for or receive direct or insured loans described in clause (i) during the 180-month period beginning on the date of the prepayment; or

"(II) to apply for or receive direct or insured loans described in clause (i) until the borrower has repaid to the Federal Government the sum of—

"(aa) the amount (if any) by which the discount the borrower received by reason of the prepayment exceeds the discount the borrower would have received had the discount been based on the cost of funds to the Department of the Treasury at the time of the prepayment; and

"(bb) interest on the amount described in item (aa), for the period beginning on the date of the prepayment and ending on the date of the repayment, at a rate equal to the average annual cost of borrowing by the Department of the Treasury.

"(B) EFFECT ON EXISTING AGREEMENTS.—If a borrower and the Administrator have entered into an agreement with respect to a prepayment occurring before the date of enactment of this subsection, this paragraph shall supersede any provision in the agreement relating to the restoration of eligibility for loans under this Act.

"(C) DISTRIBUTION BORROWERS.—A distribution borrower not in default on the repayment of loans made or insured under this Act shall be eligible for discounted prepayment as provided in this subsection. For the purpose of determining eligibility for discounted prepayment under this subsection or eligibility for assistance under this Act, a default by a borrower from which a distribution borrower purchases wholesale power shall not be considered a default by the distribution borrower.

"(6) DEFINITIONS.—As used in this subsection:

"(A) DIRECT LOAN.—The term 'direct loan' means a loan made under section 4.

"(B) INSURED LOAN.—The term 'insured loan' means a loan made under section 305."

(b) CONFORMING AMENDMENTS.—Section 306B(b) of such Act (7 U.S.C. 936b(b)) is amended by striking "(b) Notwithstanding" and inserting the following:

"(b) MERGERS OF ELECTRIC BORROWERS.—Notwithstanding".

**WIC INFANT FORMULA PROCUREMENT ACT OF 1992**

**LEAHY AMENDMENT NO. 3401**

Mr. LAUTENBERG (for Mr. LEAHY) proposed an amendment to the bill (S. 2875) to amend the Child Nutrition Act of 1966 to enhance competition among infant formula manufacturers and to reduce the per unit costs of infant formula for the special supplemental food program for women, infants, and children [WIC], and for other purposes; as follows:

S. 2875

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Children's Nutrition Assistance Act of 1992".

**TITLE I—HOMELESS CHILDREN'S ASSISTANCE**

**SEC. 101. SHORT TITLE.**

This title may be cited as the "Homeless Children's Assistance Act of 1992".

**SEC. 102. EXPENDITURE OF FUNDS FOR ADMINISTRATIVE EXPENSES.**

Section 18(c)(2)(B)(i) of the National School Lunch Act (42 U.S.C. 1769(c)(2)(B)(i)) is amended by striking "Each such organization" and inserting "Each private nonprofit organization".

**SEC. 103. ALLOCATION OF RETURNED FUNDS.**

Section 7(a)(5)(B)(i) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(a)(5)(B)(i)) is amended—

(1) by striking "the Secretary shall—" and inserting a colon;

(2) by striking subclause (I) and inserting the following new clause:

"(I) The Secretary shall allocate, for the purpose of providing grants on an annual basis to public entities and private nonprofit organizations participating in projects under section 18(c) of the National School Lunch Act (42 U.S.C. 1769(c)), not more than \$4,000,000 in each of fiscal years 1993 and 1994. Subject to the maximum allocation for the projects for each fiscal year, at the beginning of each of fiscal years 1993 and 1994, the Secretary shall allocate, from funds available under this section that have not been otherwise allocated to the States, an amount equal to the estimates by the Secretary of funds to be returned under this clause, but not less than \$1,000,000 in each fiscal year. To the extent that amounts returned to the Secretary are less than estimated or are insufficient to meet the needs of the projects, the Secretary may, subject to the maximum allocations established in this subclause, allocate amounts to meet the needs of the projects from funds available under this section that have not been otherwise allocated to States."; and

(3) in subclause (II), by striking "then allocate," and inserting "After making the allocations under subclause (I), the Secretary shall allocate,".

#### SEC. 104. EFFECTIVE DATE.

This title and the amendments made by this title shall become effective on September 30, 1992.

### TITLE II—WIC INFANT FORMULA PROCUREMENT

#### SEC. 201. SHORT TITLE.

This title may be cited as the "WIC Infant Formula Procurement Act of 1992".

#### SEC. 202. WIC INFANT FORMULA PROTECTION.

##### (a) FINDINGS.—

(1) the domestic infant formula industry is one of the most concentrated manufacturing industries in the United States;

(2) only three pharmaceutical firms are responsible for almost all domestic infant formula production;

(3) coordination of pricing and marketing strategies is a potential danger where only a very few companies compete regarding a given product;

(4) improved competition among suppliers of infant formula to the special supplemental food program for women, infants, and children (WIC) can save substantial additional sums to be used to put thousands of additional eligible women, infants, and children on the WIC program; and

(5) barriers exist in the infant formula industry that inhibit the entry of new firms and thus limit competition.

(b) PURPOSES.—It is the purpose of this title to enhance competition among infant formula manufacturers and to reduce the per unit costs of infant formula for the special supplemental food program for women, infants, and children (WIC).

#### SEC. 203. DEFINITIONS.

Section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)) is amended by striking paragraph (17) and inserting the following new paragraphs:

"(17) 'Competitive bidding' means a procurement process under which the Secretary or a State agency selects a single source (a single infant formula manufacturer) offering the lowest price, as determined by the submission of sealed bids, for a product for which bids are sought for use in the program authorized by this section.

"(18) 'Rebate' means the amount of money refunded under cost containment procedures to any State agency from the manufacturer or other supplier of the particular food product as the result of the purchase of the supplemental food with a voucher or other purchase instrument by a participant in each such agency's program established under this section.

"(19) 'Discount' means, with respect to a State agency that provides program foods to participants without the use of retail grocery stores (such as a State that provides for the home delivery or direct distribution of supplemental food), the amount of the price reduction or other price concession provided to any State agency by the manufacturer or other supplier of the particular food product as the result of the purchase of program food by each such State agency, or its representative, from the supplier.

"(20) 'Net price' means the difference between the manufacturer's wholesale price for infant formula and the rebate level or the discount offered or provided by the manufacturer under a cost containment contract entered into with the pertinent State agency."

#### SEC. 204. PROCUREMENT OF INFANT FORMULA FOR WIC.

Section 17(h)(8) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(8)) is amended by

striking subparagraph (G) and inserting the following new subparagraphs:

"(G)(i) The Secretary shall offer to solicit bids on behalf of State agencies regarding cost-containment contracts to be entered into by infant formula manufacturers and State agencies. The Secretary shall make the offer to State agencies once every 12 months. Each such bid solicitation shall only take place if two or more State agencies request the Secretary to perform the solicitation. For such State agencies, the Secretary shall solicit bids and select the winning bidder for a cost containment contract to be entered into by State agencies and infant formula manufacturers or suppliers.

"(i) If the Secretary determines that the number of State agencies making the election in clause (i) so warrants, the Secretary may, in consultation with such State agencies, divide such State agencies into more than one group of such agencies and solicit bids for a contract for each such group. In determining the size of the groups of agencies, the Secretary shall, to the extent practicable, take into account the need to maximize the number of potential bidders so as to increase competition among infant formula manufacturers.

"(iii) State agencies that elect to authorize the Secretary to perform the bid solicitation and selection process on their behalf and enter into the resulting containment contract shall obtain the rebates or discounts from the manufacturers or suppliers participating in the contract.

"(iv) In soliciting bids and determining the winning bidder under clause (i), the Secretary shall comply with the requirements of subparagraphs (B) and (F).

"(v)(I) Except as provided in subclause (II), the term of the contract for which bids are to be solicited under this paragraph shall be announced by the Secretary in consultation with the affected State agencies and shall be not less than 2 years.

"(II) If the law of a State regarding the duration of contracts is inconsistent with subclause (I), the Secretary shall permit a 1-year contract, with the option provided to the State to extend the contract for additional years.

"(vi) In prescribing specifications for the bids, the Secretary shall ensure that the contracts to be entered into by the State agencies and the infant formula manufacturers or suppliers provide for a constant net price for infant formula products for the full term of the contracts and provide for rebates or discounts for all units of infant formula sold through the program that are produced by the manufacturer awarded the contract and that are for a type of formula product covered under the contract. The contracts shall cover all types of infant formula products normally covered under cost containment contracts entered into by State agencies.

"(vii) The Secretary shall also develop procedures for—

"(I) rejecting all bids for any joint contract and announcing a resolicitation of infant formula bids where necessary;

"(II) permitting a State agency that has authorized the Secretary to undertake bid solicitation on its behalf under this subparagraph to decline to enter into the joint contract to be negotiated and awarded pursuant to the solicitation if the agency promptly determines after the bids are opened that participation would not be in the best interest of its program; and

"(III) assuring infant formula manufacturers submitting a bid under this subparagraph that a contract awarded pursuant to the bid

will cover State agencies serving no fewer than a number of infants to be specified in the bid solicitation.

"(viii) The bid solicitation and selection process on behalf of the State agencies shall be conducted in accordance with any procedures the Secretary deems necessary for the effective and efficient administration of the bid solicitation and selection process and consistent with the requirements of this subparagraph. The procedures established by the Secretary shall ensure that—

"(I) the bid solicitation and selection process is conducted in a manner providing full and open competition; and

"(II) the bid solicitation and selection process is free of any real or apparent conflict of interest."

"(H) In soliciting bids for contracts for infant formula for the program authorized by this section, the Secretary shall solicit bids from infant formula manufacturers under procedures in which bids for rebates or discounts are solicited for milk-based and soy-based infant formula, separately, except where the Secretary determines that such solicitation procedures are not in the best interest of the program.

"(I) To reduce the costs of any supplemental foods, the Secretary—

"(i) shall promote, but not require, the joint purchase of infant formula among State agencies electing not to participate under the procedures set forth in subparagraph (G);

"(ii) shall encourage and promote (but not require) the purchase of supplemental foods other than infant formula under cost containment procedures;

"(iii) shall inform State agencies of the benefits of cost containment and provide assistance and technical advice at State agency request regarding the State agency's use of cost containment procedures;

"(iv) shall encourage (but not require) the joint purchase of supplemental foods other than infant formula under procedures specified in subparagraph (B), if the Secretary determines that—

"(I) the anticipated savings are expected to be significant;

"(II) the administrative expenses involved in purchasing the food item through competitive bidding procedures, whether under a rebate or discount system, will not exceed the savings anticipated to be generated by the procedures; and

"(III) the procedures would be consistent with the purposes of the program; and

"(v) may make available additional funds to State agencies out of the funds otherwise available under paragraph (1)(A) for nutrition services and administration in an amount not exceeding one half of 1 percent of the amounts to help defray reasonable anticipated expenses associated with innovations in cost containment or associated with procedures that tend to enhance competition.

"(J)(i) Any person, company, corporation, or other legal entity that submits a bid to supply infant formula to carry out the program authorized by this section and announces or otherwise discloses the amount of the bid, or the rebate or discount practices of such entities, in advance of the time the bids are opened by the Secretary or the State agency, or any person, company, corporation, or other legal entity that makes a statement (prior to the opening of bids) relating to levels of rebates or discounts, for the purpose of influencing a bid submitted by any other person, shall be ineligible to submit bids to supply infant formula to the pro-

gram for the bidding in progress for up to 2 years from the date the bids are opened and shall be subject to a civil penalty of up to \$100,000,000, as determined by the Secretary to provide restitution to the program for harm done to the program. The Secretary shall issue regulations providing such person, company, corporation, or other legal entity appropriate notice, and an opportunity to be heard and to respond to charges.

"(ii) The Secretary shall determine the length of the disqualification, and the amount of the civil penalty referred to in clause (i) based on such factors as the Secretary by regulation determines appropriate.

"(iii) Any person, company, corporation, or other legal entity disqualified under clause (i) shall remain obligated to perform any requirements under any contract to supply infant formula existing at the time of the disqualification and until each such contract expires by its terms.

"(K) Not later than the expiration of the 180-day period beginning on the date of enactment of this subparagraph, the Secretary shall prescribe regulations to carry out this paragraph."

**SEC. 205. PROCEDURES TO REDUCE PURCHASES OF LOW-IRON INFANT FORMULA.**

Section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)) is amended by adding at the end the following new paragraph:

"(22) In the State plan submitted to the Secretary for fiscal year 1994, each State agency shall advise the Secretary regarding the procedures to be used by the State agency to reduce the purchase of low-iron infant formula for infants on the program for whom such formula has not been prescribed by a physician or other appropriate health professional, as determined by regulations issued by the Secretary."

**SEC. 206. ASSISTANCE TO ENCOURAGE ADDITIONAL COST CONTAINMENT EFFORTS.**

The second sentence of section 17(h)(2)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(2)(A)) is amended—

(1) by striking "formula shall—" and inserting "formula—";

(2) by inserting "shall" after the clause designations of each of clauses (i), (ii), and (iii);

(3) by striking "and" at the end of clause (ii);

(4) by striking the period at the end of clause (iii) and inserting "; and"; and

(5) by adding at the end the following new clause:

"(iv) may provide funds, to the extent funds are not already provided under subparagraph (I)(v) for the same purpose, to help defray reasonable anticipated expenses associated with innovations in cost containment or associated with procedures that tend to enhance competition."

**SEC. 207. TECHNICAL ASSISTANCE.**

Section 17(h)(8)(E)(ii) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(8)(E)(ii)) is amended by striking "that do not have large caseloads and".

**SEC. 208. STUDY.**

Not later than April 1, 1994, the Secretary of Agriculture shall report to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on—

(1) State agencies that request the Secretary of Agriculture to conduct bid solicitations for infant formula under section 17(h)(8)(G)(i) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(8)(G)(i)) (as amended by section 204 of this Act);

(2) cost reductions achieved by the solicitations; and

(3) other matters the Secretary determines to be appropriate regarding this title and the amendments made by this title.

**SEC. 209. TERMINATION.**

The authority provided by this title and the amendments made by this title shall terminate on September 30, 1994, except with regard to section 17(h)(8)(J) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(8)(J)) (as amended by section 204 of this Act).

**REQUIREMENTS ON IMPORTED PAPAYA**

**INOUYE AMENDMENT NO. 3402**

Mr. LAUTENBERG (for Mr. INOUYE) proposed an amendment to the bill (S. 568) to require that imports of fresh papaya meet all the requirements imposed on domestic fresh papaya; as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. PAPAYAS.**

The first sentence of section 8e(a) of the Agricultural Adjustment Act (7 U.S.C. 608e-1(a)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by striking "or apples" and inserting "apples, or papayas".

**PIPELINE SAFETY IMPROVEMENT ACT**

**DANFORTH AMENDMENT NO. 3404**

Mr. LAUTENBERG (for Mr. DANFORTH) proposed an amendment to the amendment of the House to the bill (S. 1583) to amend the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979 to authorize appropriations and to improve pipeline safety, and for other purposes; as follows:

At the appropriate place, insert the following new sections:

**SEC. . PAGE AVENUE EXTENSION.**

(a) Upon submission of a request by the State of Missouri for Federal Highway Administration approval of the Page Avenue Extension project (hereinafter cited in this section as "the project"), the Secretary of the United States Department of Transportation (hereinafter cited in this section as "the Secretary") is authorized to waive the requirements of section 138 of title 23, United States Code and section 303 of title 49, United States Code, for the alignment designated by the State of Missouri as the "Red Alignment", as described in the draft environmental impact statement approved by the Federal Highway Administration on May 30, 1990; if:

(1) the Secretary determines that a final environmental impact statement has been completed by the State of Missouri and approved by the Secretary; and

(2) the State of Missouri enters into an enforceable agreement with the Secretary to implement a project mitigation plan that includes, at a minimum—

(A) expansion of the Creve Coeur Lake Memorial Park (hereinafter cited in this sec-

tion as "the Park") in the vicinity of St. Louis, Missouri, by at least fifty percent, through acquisition and addition to the Park of not less than 600 acres of land;

(B) development of a walking and bicycle path that is not less than ten feet in width and connects the Park to the KATY Trail State Park in St. Charles County, Missouri;

(C) construction of nature trails in the wooded upland portion of the additions to the Park referred to in subparagraph (A);

(D) development of a Wetland Wildlife area that includes lake areas and marshes, trails, observation points, and other environmentally compatible features in the Park or in one of the additions to the Park referred to in subparagraph (A);

(E) dredging of Creve Coeur Lake to help remedy a chronic siltation problem and to promote fish and wildlife populations;

(F) construction of a new lake in one of the additions to the Park referred to in subparagraph (A) to help alleviate the recurrence of a chronic siltation problem in a manner that minimizes, to the maximum extent practicable and in accordance with section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344), the disturbance of any existing wetlands;

(G) design and construction of features to minimize the visual and physical impact of the project in the vicinity of the Park, consistent, to the extent practicable, with recommendations of the design committee established in accordance with subsection (c), including—

(i) the use of textured concrete, as appropriate;

(ii) the minimization of bridge pier sizing in the elevated portion of the project;

(iii) the use of a bridge design that is more aesthetically pleasing than standard elevated roadway designs;

(iv) construction of bridge siderails with materials that are effective noise attenuators to reduce operational noise levels near the bridge;

(v) design and construction of a drainage system to prevent contamination of Creve Coeur Lake and Creve Coeur Creek with pollution from roadway runoff;

(vi) landscaping of the area between the elevated roadway and Creve Coeur Mill Road to enhance visual parameters without compromising road user safety; and

(vii) the placement of signs to direct road users to appropriate park entrances and facilities;

(H) such other mitigation measures as the Secretary may determine are appropriate to ensure that the environmental benefits of the project mitigation plan exceed the environmental damage associated with the project; and

(I) a monetary contribution by the State of Missouri as may be necessary to implement the entire mitigation plan, in an amount not less than \$6,000,000, including the payment of not less than \$250,000 for facility improvements in the Park, and all funds to develop and implement the mitigation plan shall come from non-Federal sources of funding.

(b) None of the costs to develop or implement the project mitigation plan referred to in subsection (a) shall be considered expenditures pursuant to or in satisfaction of the transportation enhancement requirements of section 133 of title 23, United States Code (as amended by section 1007 of The Intermodal Surface Transportation Efficiency Act of 1991, P.L. 102-240, 105 Stat. 1927-1931).

(c) The Governor of the State of Missouri shall establish a design committee to develop recommendations concerning design

and construction features to minimize the visual and physical impact of the project in the vicinity of the Park. The Committee shall include representatives of local elected officials, regional park officials, local community groups, design professionals, environmental organizations, and business organizations.

(d) To the maximum extent practicable, the State of Missouri shall implement the project mitigation plan referred to in subsection (a) prior to the commencement of construction of the Page Avenue Extension project. At a minimum, the mitigation measures specified in subsection (a)(2)(A) and (a)(2)(C) shall be completed prior to commencement of construction of the Page Avenue Extension project.

(e) If the project does not comply with all other requirements of Federal environmental law that are applicable to the project, including sections 134 and 135 of title 23, United States Code (as amended by sections 1024 and 1025 of the Intermodal Surface Transportation Efficiency Act of 1991, P.L. 102-240, 105 Stat. 1955-1962 and 105 Stat. 1962-1965) and all other requirements of the Intermodal Surface Transportation Efficiency Act of 1991 (P.L. 102-240, 105 Stat. 1914 et seq.), any waiver of the requirements of section 138 of title 23, United States Code and section 303 of title 49, United States Code, granted by the Secretary under the authority of this section shall be stayed pending a determination by the Secretary that the project has been brought into compliance with such other requirements. Any determination by the Secretary under the preceding sentence shall be subject to judicial review.

#### SEC. . RURAL ACCESS.

The table contained in section 1106(a)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2037-2042) is amended in item number 52, relating to Bedford Springs, Pennsylvania—

- (1) by striking "Bedford Springs,";
- (2) by striking "in Bedford Springs, Pennsylvania," after "access road"; and
- (3) by striking "or other projects in the counties of Bedford, Blair, Fulton, and Huntington, as selected by the State of Pennsylvania" after "therewith".

### RURAL ELECTRIFICATION ACT AMENDMENTS

#### LEAHY (AND LUGAR) AMENDMENT NO. 3403

Mr. LAUTENBERG (for Mr. LEAHY, for himself, and Mr. LUGAR) proposed an amendment to the bill (H.R. 5954) to amend the Rural Electrification Act of 1936 to clarify the status of the Rural Telephone Bank and its accounting policy, and for other purposes; as follows:

H.R. 5954

Strike all after the enacting clause and insert the following:

#### SECTION 1. IMPROVEMENT OF HEALTH CARE SERVICES AND EDUCATIONAL SERVICES THROUGH TELECOMMUNICATIONS.

(a) PROGRAMS FOR CONSORTIA IN QUALIFIED LOCAL EXCHANGE SERVICE AREAS.—Chapter 1 of subtitle D of title XXIII of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 950aaa et seq.) is amended by adding at the end the following new section:

#### "SEC. 2335A. SPECIAL HEALTH CARE AND DISTANCE LEARNING PROGRAM FOR QUALIFIED SERVICE AREAS.

"(a) DEVELOPMENT OF CONSORTIA.—The Administrator shall encourage the development of consortia to provide health care services or educational services through telecommunications in rural areas of a qualified local exchange carrier service area. Each consortium shall be composed of—

- "(1) a tertiary care facility, rural referral center, medical teaching institution, or educational institution accredited by the State;
- "(2) any number of institutions that provide health care services or educational services; and
- "(3) not less than three rural hospitals, clinics, community health centers, migrant health centers, local health departments, or similar facilities, or not less than three educational institutions accredited by the State.

#### "(b) SPECIAL PROGRAM FOR QUALIFIED LOCAL EXCHANGE CARRIER SERVICE AREAS.—

"(1) REGULATIONS AND SPECIAL PROGRAM.—Through regulations issued not later than 190 days after the date of enactment of this section, the Administrator shall establish a program under which qualified consortia described in subsection (a) located within qualified local exchange carrier service areas may apply to the Administrator for grants to support the costs of activities involved in the sending and receiving of information that will improve the delivery of health care services or educational services through telecommunications in rural areas.

"(2) SELECTION OF GRANTEEES.—The Administrator shall—

- "(A) establish application procedures;
- "(B) review the applications submitted under this subsection in a timely manner; and
- "(C) make grants in accordance with this subsection and with regulations issued by the Administrator.

#### "(3) PRIORITIES.—

"(A) IN GENERAL.—Priority for grants under this subsection shall be accorded applicants whose applications and plans demonstrate—

- "(i) the greatest likelihood of successfully and efficiently carrying out the activities described in the application and the plan of the applicant;
- "(ii) the greatest likelihood of improving health care services or educational services in the rural areas;
- "(iii) coordination between local exchange carriers to carry out activities as described in the application; and
- "(iv) unconditional financial support from each affected local community.

"(B) GEOGRAPHIC DIVERSITY.—In awarding grants, the Administrator shall seek to achieve geographic diversity among the grantees.

"(4) MAXIMUM AMOUNT OF GRANT.—The amount of each grant awarded under this subsection shall not exceed \$1,500,000.

"(5) DISTRIBUTION OF GRANTS.—Grants to a qualified consortium under this subsection shall be disbursed over a period of not more than 3 years.

#### "(6) USE OF FUNDS.—

"(A) IN GENERAL.—Grants under this subsection may be used to support the costs of activities involving the sending and receiving of information to improve health care services or educational services in rural areas, including—

- "(i) in the case of grants to improve health care services—
- "(I) consultations between health care providers;

"(II) transmitting and analyzing x-rays, lab slides, and other images;

"(III) developing and evaluating automated claims processing, and transmitting automated patient records; and

"(IV) developing innovative health professions education programs;

"(ii) in the case of grants to improve educational services—

"(I) developing innovative education programs and expanding curriculum offerings;

"(II) providing continuing education to all members of the community;

"(III) providing means for libraries of educational institutions or public libraries to share resources;

"(IV) providing the public with access to State and national data bases;

"(V) conducting town meetings; and

"(VI) covering meetings of agencies of State government; and

"(iii) in all cases—

"(I) transmitting financial information; and

"(II) such other related activities as the Administrator considers to be consistent with the purposes of this section.

"(7) LIMITATION ON ACQUISITION OF INTERACTIVE TELECOMMUNICATIONS EQUIPMENT.—Not more than 40 percent of the amount of any grant made under this subsection may be used to acquire interactive telecommunications end user equipment.

"(8) LIMITATION ON USE OF CONSULTANTS.—Not more than 5 percent of the amount of any grant made under this subsection may be used to employ or contract with any consultant or similar person.

"(9) PROHIBITIONS.—Grants made under this subsection may not be used, in whole or in part, to establish or operate a telecommunications network or to provide any telecommunications services for hire.

"(c) EXPEDITED TELEPHONE LOANS.—Local exchange carriers located in a qualified local exchange carrier service area shall be eligible to apply for expedited loans under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.). The Administrator shall respond to a completed application for such a loan no later than 45 days after receipt. The Administrator shall notify the applicant in writing of its decision regarding each such application.

"(d) DEFINITION.—As used in this section, the term 'qualified local exchange carrier service area' means the service area of a local telephone exchange carrier in which the local exchange carrier has a plan approved by the Administrator for upgrading and modernizing the rural telecommunications infrastructure of the service area. The plan shall—

"(1) provide for eliminating party line service within the local exchange carrier service area and for other improvements and modernization in rural telephone service;

"(2) provide for the enhancement of the availability of educational opportunities or the availability of improved medical care through telecommunications;

"(3) encourage and improve the use of telecommunications, computer networks, and related advanced technologies to provide educational and medical benefits to people in rural areas; and

"(4) provide for the achievement of the goals described in subparagraphs (A) through (C) not later than 10 years after the approval of the plan."

(b) EXTENSION OF CHAPTER 1.—Notwithstanding any other provision of law, chapter 1 of subtitle D of title XXIII of the Food, Agriculture, Conservation and Trade Act of 1990

(7 U.S.C. 950aaa et seq.), including the amendments made by this section, shall be effective until September 30, 1997.

(c) ALLOCATION OF FUNDS.—Section 2335(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 950aaa-4) is amended by adding at the end the following new paragraph:

“(8) USE OF APPROPRIATED FUNDS.—

“(A) IN GENERAL.—Subject to subparagraph (B), the Administrator shall make available—

“(i) 50 percent of the funds made available pursuant to paragraph (3) for grants for end users that are consortia participating in the special program established under section 2335A; and

“(ii) 50 percent of the funds made available pursuant to paragraph (3) to provide funds for the programs, and end users participating in the programs, authorized by sections 2331 through 2335.

“(B) RELEASE OF FUNDS.—Not earlier than April 1 and not later than May 1 of each year, the Administrator shall make such funds described in subparagraph (A) as remain unobligated, available for any purpose described in subparagraph (A).”

(d) EFFECT OF AMENDMENTS.—The amendments made by this section shall not apply to funds appropriated for fiscal year 1993 to carry out subtitle D of title XXIII of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 950aaa et seq.) or require the revision of any regulation proposed to carry out such subtitle during fiscal year 1993.

Amend the title so as to read: “An Act to amend the Food, Agriculture, Conservation, and Trade Act of 1990 to improve health care services and educational services through telecommunications, and for other purposes.”

## COMMISSION ON INFORMATION, TECHNOLOGY, AND PAPERWORK REDUCTION

### LEVIN AMENDMENT NO. 3405

Mr. LAUTENBERG (for Mr. LEVIN) proposed an amendment to the bill (H.R. 5851) to establish the Commission on Information, Technology, and Paperwork Reduction; as follows:

H.R. 5851

On page 1, strike out line 3 and insert in lieu thereof the following:

### TITLE I—COMMISSION ON INFORMATION TECHNOLOGY AND PAPERWORK REDUCTION

#### SEC. 101. FINDINGS AND PURPOSE.

On page 2, line 17, strike out “sec. 2.” and insert in lieu thereof “sec. 102.”

On page 2, line 18, strike out “section 1(b)” and insert in lieu thereof “section 101(b)”.

On page 2, line 22, strike out “sec. 3.” and insert in lieu thereof “sec. 103.”

On page 7, line 3, strike out “sec. 4.” and insert in lieu thereof “sec. 104.”

On page 8, line 5, strike out “sec. 5.” and insert in lieu thereof “sec. 105.”

On page 8, line 9, strike out “4” and insert in lieu thereof “IV”.

On page 9, line 1, strike out “sec. 6.” and insert in lieu thereof “sec. 106.”

On page 9, line 4, strike out “Act” and insert in lieu thereof “title”.

On page 9, line 19, strike out “5” and insert in lieu thereof “V”.

On page 10, line 14, strike out “sec. 7.” and insert in lieu thereof “sec. 107.”

On page 10, line 21, strike out “Act” and insert in lieu thereof “title”.

On page 11, line 4, strike out “sec. 8.” and insert in lieu thereof “sec. 108.”

On page 11, line 6, strike out “Act” and insert in lieu thereof “title”.

On page 11, line 7, strike out “sec. 9.” and insert in lieu thereof “sec. 109.”

On page 11, line 9, strike out “section 3” and insert in lieu thereof “section 103”.

On page 11, line 10, strike out “sec. 10.” and insert in lieu thereof “sec. 110.”

On page 11, line 11, strike out “Act” and insert in lieu thereof “title”.

On page 11, add after line 11 the following:

### TITLE II—NONDEVELOPMENT ITEMS ACQUISITION

#### SEC. 201. SHORT TITLE.

This title may be cited as the “Nondevelopmental Items Acquisition Act of 1992”.

#### SEC. 202. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the acquisition of nondevelopmental items can lower Federal agency procurement costs by—

(A) reducing or eliminating the need for research and development;

(B) reducing acquisition lead time by making use of existing production lines and facilities;

(C) opening competition for Federal agency contracts to thousands of manufacturers who sell products in the commercial market; and

(D) increasing Federal agency access to the market-driven innovations and efficiencies available in the commercial market;

(2) the efficient acquisition of nondevelopmental items is impeded when Federal agencies impose complicated specifications and unnecessarily burdensome contract requirements on simple commercial and off-the-shelf products; and

(3) legislation is needed to reduce impediments to the acquisition of nondevelopmental items and encourage increased acquisition of such items.

(b) PURPOSE.—The purposes of this title are to—

(1) establish a preference for the use of performance specifications and the acquisition of nondevelopmental items by Federal agencies;

(2) require training of appropriate personnel in the acquisition of nondevelopmental items;

(3) require Federal agencies to designate personnel responsible for promoting the acquisition of nondevelopmental items and challenging barriers to the acquisition of nondevelopmental items; and

(4) reduce impediments to the acquisition of nondevelopmental items by Federal agencies.

#### SEC. 203. NONDEVELOPMENTAL ITEMS.

(a) AMENDMENT TO THE FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended by inserting after section 303G the following new section:

##### “ACQUISITION OF NONDEVELOPMENTAL ITEMS

“SEC. 303H. (a) The Federal Acquisition Regulation issued under section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)) shall require that, to the maximum extent practicable—

“(1) the requirements of Federal agencies with respect to a procurement of supplies are stated in terms of—

“(A) functions to be performed;

“(B) performance required; or

“(C) essential physical characteristics;

“(2) such requirements are defined so that nondevelopmental items may be procured to fulfill such requirements;

“(3) such requirements are fulfilled through the procurement of nondevelopmental items; and

“(4) prior to developing new specifications, executive agencies conduct market research to determine whether nondevelopmental items are available or could be modified to meet agency needs.

“(b) As used in this section, the term ‘nondevelopmental item’ means—

“(1) any item of supply that is available in the commercial marketplace;

“(2) any previously developed item of supply that is in use by a department or agency of the United States, or a State or local government;

“(3) any item of supply described in paragraph (1) or (2) that requires only minor modification in order to meet the requirements of the procuring agency; or

“(4) any item of supply being produced that does not meet the requirements of paragraph (1), (2), or (3) solely because the item—

“(A) is not yet in use; or

“(B) is not yet available in the commercial marketplace.”

(b) TECHNICAL AMENDMENT.—The table of contents for the Federal Property and Administrative Services Act of 1949 is amended by inserting after the item relating to section 303G the following:

“Sec. 303H. Acquisition of nondevelopmental items.”

#### SEC. 204. COMMERCIAL ITEMS.

(a) SIMPLIFIED UNIFORM CONTRACT.—(1)(A)

The Federal Acquisition Regulation issued under section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)) shall include a simplified uniform contract for the acquisition of commercial items by Federal agencies and shall require that such simplified uniform contract be used for the acquisition of commercial items to the maximum extent practicable. The uniform contract shall include only—

(i) those contract clauses that are required to implement provisions of law applicable to such an acquisition;

(ii) those contract clauses that are essential for the protection of the Federal Government's interest in such an acquisition; and

(iii) those contract clauses that are determined to be consistent with standard commercial practice and appropriate for inclusion in such contracts.

(B) In addition to the clauses described under subparagraph (A), a contract for the acquisition of commercial items may include only such clauses as are essential for the protection of the Federal Government's interest in the particular contract, as determined in writing by the contracting officer for such contract, or in a class of contracts, as determined by the agency head with the approval of the Administrator for Federal Procurement Policy.

(2)(A) The Federal Acquisition Regulation shall require that, except as provided in subparagraph (B), a prime contractor under a Federal agency contract for the acquisition of commercial items be required to include in subcontracts under such contract only—

(i) those contract clauses that are required to implement provisions of law applicable to such subcontracts; and

(ii) those contract clauses that are essential for the protection of the Federal Government's interest in such subcontracts.

(B) In addition to the clauses described under subparagraph (A), a contractor under a

Federal agency contract for the acquisition of commercial items may be required to include in a subcontract under such contract only such clauses as are essential for the protection of the Federal Government's interest in the particular subcontract, as determined in writing by the contracting officer for such contract, or in a class of subcontracts, as determined by the agency head with the approval of the Administrator for Federal Procurement Policy.

(3) Notwithstanding paragraphs (1) and (2) of this subsection, the Department of Defense may use uniform contract and subcontract clauses developed under section 824 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (10 U.S.C. 2325 note) in lieu of the uniform contract and subcontract clauses developed under this subsection.

(b) **WARRANTIES.**—The Federal Acquisition Regulation shall require that, to the maximum extent practicable, Federal agencies take advantage of warranties offered by commercial contractors and use such warranties for the repair and replacement of commercial items.

(c) **MARKET ACCEPTANCE.**—The Federal Acquisition Regulation shall direct agencies to require, where appropriate and in accordance with criteria prescribed in the regulations, offerors to demonstrate in their offers that products being offered have—

(1)(A) achieved a level of commercial market acceptance necessary to indicate that the products are suitable for the agency's use; or

(B) been satisfactorily supplied under current or recent contracts for the same or similar requirements; and

(2) otherwise meet the product description, specifications, or other criteria prescribed by the public notice and solicitation.

(d) **PAST PERFORMANCE.**—The Federal Acquisition Regulation shall provide guidance to Federal agencies on the use of past performance of products and sources as a factor in award decisions.

(e) **DEFINITIONS.**—As used in this section—

(1) the term "commercial item" means any item of supply that—

(A) requires no modifications or only minor modifications to meet the needs of the procuring agency;

(B) regularly is used for other than Government purposes; and

(C) is sold or traded to the general public in significant quantities in the course of normal business operations; and

(2) the term "Federal agency" has the meaning given such term in section 3(b) of the Federal Property and Administration Services Act of 1949 (41 U.S.C. 472(a)).

#### SEC. 205. RULE OF CONSTRUCTION.

Nothing in this title or amendments made by this title shall be construed to impair or affect the authorities or responsibilities conferred by section 111 of the Federal Property and Administration Services Act of 1949 (40 U.S.C. 759) with respect to the procurement of automatic data processing equipment and services.

#### SEC. 206. IMPLEMENTATION.

(a) **TRAINING.**—The Administrator for Federal Procurement Policy shall issue guidelines for the training by executive agencies of contracting officers, program managers, and other appropriate acquisition personnel in the acquisition of nondevelopmental items. The guidelines shall provide, at a minimum, for training in the requirements of this section and the implementing regulations. In addition, the program shall provide for training of appropriate personnel in—

(1) the fundamental principles of price analysis and other means of determining price reasonableness which do not require access to commercial cost data; and

(2) market research techniques and the drafting of functional and performance specifications.

(b) **NONDEVELOPMENTAL ITEMS ADVOCATES.**—Section 20(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 418(c)) is amended to read as follows:

"(c) The advocate for competition for each procuring activity shall be responsible for promoting full and open competition, promoting the acquisition of nondevelopmental items, and challenging barriers to such acquisition, including such barriers as unnecessarily detailed specifications, unnecessarily restrictive statements of need, and unnecessarily burdensome contract clauses."

(c) **REGULATIONS REQUIRED.**—Within 270 days after the date of the enactment of this Act, Government-wide regulations to carry out the requirements in this section and rescind any regulations that are inconsistent with such requirements shall be published for public comment.

Within one year after the date of enactment of this Act, final regulations shall be promulgated in the Federal Acquisition Regulation, and as necessary in the Federal Information Resources Management Regulation.

(d) **IMPROVED MARKET RESEARCH.**—Within 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives a report and recommendations on the use of market research in support of procurement of nondevelopmental items. Such report shall include—

(1) a review of existing Government market research efforts to gather data concerning nondevelopmental items;

(2) a review of the feasibility of creating a Government-wide database for storing, retrieving, and analyzing market data, including use of existing Government resources; and

(3) such recommendations for changes in law or regulation as the Comptroller General may consider appropriate.

### TITLE III—GENERAL ACCOUNTING OFFICE BID PROTEST SYSTEM.

#### SEC. 301. GENERAL ACCOUNTING OFFICE BID PROTEST SYSTEM.

(a) **GAO RECOMMENDATIONS ON PROTESTS.**—Section 3554 of title 31, United States Code, is amended—

(1) in subsection (b) by adding at the end the following new paragraph:

"(3) The head of the procuring activity responsible for the solicitation, proposed award, or award of a contract shall report to the Comptroller General if the Federal agency has not fully implemented recommendations of the Comptroller General under this subsection with respect to that contract within 60 days after receiving the recommendations, by not later than the end of that 60-day period."

(2) in subsection (c)(1) by striking "declare an appropriate interested party to be entitled to" and inserting "recommend that the Federal agency conducting the procurement pay to an appropriate interested part";

(3) by amending subsection (c)(2) to read as follows:

"(2) If the Comptroller General recommends under paragraph (1) that a Federal agency pay an amount of costs to an interested party, the Federal agency shall—

"(A) pay the amount promptly out of amounts appropriated by section 1304 of this

title for the payment of judgments, and reimburse that appropriation account out of available funds or by obtaining additional appropriations for that purpose, or

"(B) report to the Comptroller General promptly why the recommendation will not be followed by the agency.";

(4) by adding at the end of subsection (c) the following new paragraph:

"(3) An interested party to which the Comptroller General has recommended that costs be paid under paragraph (1) and the Federal agency recommended to pay those costs shall attempt to reach agreement on the amount of the costs to be paid, but if they are unable to agree, a party may request that the Comptroller General recommend the amount of the costs to be paid."; and

(5) by amending subsection (e) to read as follows:

"(e)(1) The Comptroller General shall report promptly to the Committee on Government Operations and the Committee on Appropriations of the House of Representatives and to the Committee on Governmental Affairs and the Committee on Appropriations of the Senate in any case in which a Federal agency fails to implement fully a recommendation of the Comptroller General under subsection (b) or (c). The report shall include—

"(A) a comprehensive review of the pertinent procurement, including the circumstances of the failure of the Federal agency to implement a recommendation of the Comptroller General, and

"(B) a recommendation regarding whether, in order to correct inequity or to preserve the integrity of the procurement process, the Congress should consider—

"(i) private relief legislation;

"(ii) legislative rescission or cancellation of funds;

"(iii) further investigation by the Congress; or

"(iv) other action.

"(2) Not later than January 31 of each year, the Comptroller General shall transmit to the Congress a summary report describing each instance in which a Federal agency did not fully implement a recommendation of the Comptroller General under subsection (b) or (c) during the preceding year."

(b) **RATIFICATION OF PRIOR AWARDS.**—Amounts to which the Comptroller General declared an interested party to be entitled under section 3554 of title 31, United States Code, as in effect immediately before the enactment of this Act, shall, if not paid or otherwise satisfied by the Federal agency concerned before the date of the enactment of this Act, be paid promptly from the appropriation made by section 1304 of title 31, United States Code, for the payment of judgments, and the Federal agency shall reimburse that appropriation account out of available funds or by obtaining additional appropriations for that purpose.

(c) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall take effect at the end of the 45-day period beginning on the date of the enactment of this Act.

### RELIEF OF LLOYD B. GAMBLE

#### THURMOND AMENDMENT NO. 3406

Mr. JEFFORDS (for Mr. THURMOND) proposed an amendment to the bill (H.R. 3590) for the relief of Lloyd B. Gamble; as follows:

On page 1, line 10, immediately following the words "United States arising from" add the following: "economic or non-economic".

## EDUCATION OF THE DEAF ACT AMENDMENTS OF 1992

### HARKIN (AND DURENBERGER) AMENDMENT NO. 3407

Mr. LAUTENBERG (for Mr. HARKIN, for himself and Mr. DURENBERGER) proposed an amendment to the bill (H.R. 5483) to modify the provisions of the Education of the Deaf Act of 1986, and for other purposes; as follows:

H.R. 5483

On page 3, line 25, strike out "and".

On page 3, after line 25, add the following: (B) in paragraph (4) by amending the paragraph to read as follows:

"(4) appoint a president and establish policies, guidelines, and procedures related to the appointments, the salaries, and the dismissals of professors, instructors, and other employees of Gallaudet University, including the adoption of a policy of outreach and recruitment to employ and advance in employment qualified individuals with disabilities, particularly individuals who are deaf or individuals who are hard of hearing; and"

On page 4, line 1, strike "(B)" and insert "(C)".

Beginning on page 4, strike out line 12 and all that follows through line 17 on page 5, and insert the following new section:

#### "SEC. 104. ELEMENTARY AND SECONDARY EDUCATIONAL PROGRAMS.

"(a) GENERAL AUTHORITY.—(1)(A) The Board of Trustees of Gallaudet University is authorized, in accordance with the agreement under section 105, to maintain and operate exemplary elementary and secondary education programs, projects, and activities for the primary purpose of developing, evaluating, and disseminating innovative curricula, instructional techniques and strategies, and materials that can be used in various educational environments serving individuals who are deaf and individuals who are hard of hearing throughout the Nation.

"(B) The elementary and secondary programs described in subparagraph (A) shall serve students with a broad spectrum of needs, including students who are lower achieving academically, who come from non-English speaking homes, who have secondary disabilities, who are members of minority groups, or who are from rural areas.

"(C) The elementary and secondary programs described in subparagraph (A) shall include—

"(i) the Kendall Demonstration Elementary School, to provide day facilities for elementary education for individuals who are deaf, to provide such individuals with the vocational, transitional, independent living, and related services they need to function independently, and to prepare such individuals for high school and other secondary study; and

"(ii) the Model Secondary School for the Deaf, to provide day and residential facilities for secondary education for individuals who are deaf, to provide such individuals with the vocational, transitional, independent living, and related services they need to function independently, and to prepare such individuals for college, other postsecondary opportunities, or the workplace."

On page 6, line 8, insert before the semicolon "or hard of hearing".

On page 6, line 11, after "deaf" insert "or hard of hearing".

On page 6, line 12, after "deaf" insert "or hard of hearing".

On page 6, line 20, after "deaf" insert "or hard of hearing".

On page 11, line 25, strike "and" after the semicolon.

On page 12, line 10, strike the period and insert "; and".

On page 12, between lines 10 and 11, insert the following:

(3) in subsection (b) by adding, at the end the following new paragraph:

"(6) establish a policy of outreach and recruitment to employ and advance in employment qualified individuals with disabilities, particularly individuals who are deaf or individuals who are hard of hearing."

On page 15, line 5, insert before the period " , except that nothing in this subparagraph shall be construed to prohibit the University and NTID from educating the Congress, the Secretary, and others regarding programs, projects, and activities conducted at those institutions".

On page 16, line 15, strike the end quotation marks and the second period.

On page 16, between lines 15 and 16, insert the following new subparagraph:

"(C) The Secretary is not authorized to add items to those specified in subparagraph (B)."

On page 19, line 14, strike "Section" and insert "(a) EDUCATION OF THE DEAF ACT.—Section".

On page 19, line 17, strike "and evaluation" and insert " , evaluation, and reporting".

On page 20, between lines 17 and 18, insert the following new subsection:

(b) REPORT.—Not later than 180 days after the date of enactment of the Education of the Deaf Act Amendments of 1992, the Secretary of Education shall submit a report to Congress regarding progress made by the Department of Education in implementing the recommendations of the Commission on Education of the Deaf pertaining to the provision of a free and appropriate public education to children who are deaf, and children who are hard of hearing, and with respect to the establishment of standards for programs and personnel to meet the educational, communicative, and psychological needs of children who are deaf, and children who are hard of hearing. In preparing this report, the Secretary of Education shall solicit input from the community of individuals who are deaf, and individuals who are hard of hearing.

On page 21, line 2, before the period insert "or hard of hearing".

On page 21, line 14, after "deaf" insert "or hard of hearing".

Beginning on page 22, strike line 4, and all that follows through line 23 on page 27, and insert the following new subsections:

"(a) ESTABLISHMENT OF PROGRAMS.—

"(1) The Secretary and the Board of Trustees of Gallaudet University are authorized to establish the Gallaudet University Federal Endowment Fund as a permanent endowment fund, in accordance with this section, for the purpose of promoting the financial independence of the University. The Secretary and the Board of Trustees may enter into such agreements as may be necessary to carry out the purposes of this section with respect to the University.

"(2) The Secretary and the Board of Trustees or other governing body of the institution of higher education with which the Secretary has an agreement under section 112

are authorized to establish the National Technical Institute for the Deaf Federal Endowment Fund as a permanent endowment fund, in accordance with this section, for the purpose of promoting the financial independence of NTID. The Secretary and the Board or other governing body may enter into such agreements as may be necessary to carry out the purposes of this section with respect to NTID.

"(b) FEDERAL PAYMENTS.—

"(1) The Secretary shall, consistent with this section, make payments to the Federal endowment funds established under subsection (a) from amounts appropriated under subsection (h) for the fund involved.

"(2) Subject to the availability of appropriations and the non-Federal matching requirements of paragraph (3), the Secretary shall make payments to each Federal endowment fund in amounts equal to sums contributed to the fund from non-Federal sources (excluding transfers from other endowment funds of the institution involved).

"(3) Effective for fiscal year 1993 and each succeeding fiscal year, for any fiscal year in which the sums contributed to the Federal endowment fund of the institution involved from non-Federal sources exceed \$1,000,000, the non-Federal contribution to the Federal endowment fund shall be \$2 for each Federal dollar provided in excess of \$1,000,000 (excluding transfers from other endowment funds of the institution involved).

"(c) INVESTMENTS.—

"(1) Except as provided in subsection (e), the University and NTID, respectively, shall invest its Federal endowment fund corpus and income in instruments and securities offered through one or more cooperative service organizations of operating educational organizations under section 501(f) of the Internal Revenue Code of 1986, or in low-risk instruments and securities in which a regulated insurance company may invest under the laws of the State in which the institution involved is located.

"(2) In managing the investment of its Federal endowment fund, the University or NTID shall exercise the judgment and care, under the prevailing circumstances, that a person of prudence, discretion, and intelligence would exercise in the management of that person's own business affairs.

"(3) Neither the University nor NTID may invest its Federal endowment fund corpus or income in real estate, or in instruments or securities issued by an organization in which an executive officer, a member of the Board of Trustees of the University or of the host institution, or a member of the Advisory Board of NTID is a controlling shareholder, director, or owner within the meaning of Federal securities laws and other applicable laws. Neither the University nor NTID may assign, hypothecate, encumber, or create a lien on the Federal endowment fund corpus without specific written authorization of the Secretary.

"(d) WITHDRAWALS AND EXPENDITURES.—

"(1) Except as provided in paragraph (3)(B), neither the University nor NTID may withdraw or expend any of the corpus of its Federal endowment fund.

"(2)(A) The University and NTID, respectively, may withdraw or expend the income of its Federal endowment fund only for expenses necessary to the operation of that institution, including expenses of operations and maintenance, administration, academic and support personnel, construction and renovation, community and student services programs, technical assistance, and research.

"(B) Neither the University nor NTID may withdraw or expend the income of its Federal

endowment fund for any commercial purpose.

"(C) Beginning on October 1, 1992, the University and NTID shall maintain records of the income generated from its respective Federal endowment fund for the prior fiscal year.

"(3)(A) Except as provided in subparagraph (B), the University and NTID, respectively, may, on an annual basis, withdraw or expend not more than 50 percent of the income generated from its Federal endowment fund from the prior fiscal year.

"(B) The Secretary may permit the University or NTID to withdraw or expend a portion of its Federal endowment fund corpus or more than 50 percent of the income generated from its Federal endowment fund from the prior fiscal year if the institution involved demonstrates, to the Secretary's satisfaction, that such withdrawal or expenditure is necessary because of—

"(i) a financial emergency, such as a pending insolvency or temporary liquidity problem;

"(ii) a life-threatening situation occasioned by natural disaster or arson; or

"(iii) another unusual occurrence or exigent circumstance.

"(e) INVESTMENT AND EXPENDITURE FLEXIBILITY.—The corpus associated with a Federal payment (and its non-Federal match) made to the Federal endowment fund of the University or NTID shall not be subject to the investment limitations of subsection (c)(1) after 10 fiscal years following the fiscal year in which the funds are matched, and the income generated from such corpus after the tenth fiscal year described in this subsection shall not be subject to such investment limitations and to the withdrawal and expenditure limitations of subsection (d)(3).

"(f) RECOVERY OF PAYMENTS.—After notice and an opportunity for a hearing, the Secretary is authorized to recover any Federal payments under this section if the University or NTID—

"(1) makes a withdrawal or expenditure of the corpus or income of its Federal endowment fund that is not consistent with this section;

"(2) fails to comply with the investment standards and limitations under this section; or

"(3) fails to account properly to the Secretary concerning the investment of or expenditures from the Federal endowment fund corpus or income.

"(g) DEFINITIONS.—As used in this section:

"(1) The term 'corpus', with respect to a Federal endowment fund under this section, means an amount equal to the Federal payments to such fund, amounts contributed to the fund from non-Federal sources, and appreciation from capital gains and reinvestment of income.

"(2) The term 'Federal endowment fund' means a fund, or a tax-exempt foundation, established and maintained pursuant to this section by the University or NTID, as the case may be, for the purpose of generating income for the support of the institution involved.

"(3) The term 'income', with respect to a Federal endowment fund under this section, means an amount equal to the dividends and interest accruing from investments of the corpus of such fund.

"(4) The term 'institution involved' means the University or NTID, as the case may be.

"(h) AUTHORIZATION OF APPROPRIATIONS.—

"(1) In the case of the University, there are authorized to be appropriated for the purposes of this section such sums as may be

necessary for each of the fiscal years 1993 through 1997.

"(2) In the case of NTID, there are authorized to be appropriated for the purposes of this section such sums as may be necessary for each of the fiscal years 1993 through 1997.

"(3) Amounts appropriated under paragraph (1) or (2) shall remain available until expended.

"(i) EFFECTIVE DATE.—The provisions of this section shall take effect as if included in the provisions of the Education of the Deaf Act of 1986."

On page 29, line 17, strike "71" and all that follows through "1997" on line 20, and insert "75 percent beginning the academic year 1993-1994, and 90 percent beginning the academic year 1994-1995".

On page 29, between lines 20 and 21, add the following new subsections:

"(c) REDUCTION OF SURCHARGE.—Beginning the academic year 1993-1994 and thereafter, the University or NTID may reduce the surcharge under subsection (b) to 50 percent if—

"(A) a student described under subsection (b) is from a developing country;

"(B) such student is unable to pay the tuition surcharge under subsection (b); and

"(C) such student has made a good faith effort to secure aid through such student's government or other sources.

"(d) DEFINITION.—For purposes of subsection (c), the term 'developing country' means a country that has a 1990 per capita income not in excess of \$4000 in 1990 United States dollars."

Beginning on page 32, strike out line 9 and all that follows through line 12 on page 36 and insert the following:

#### SEC. 201. POSTSECONDARY EDUCATION.

(a) REGIONAL CENTERS.—Section 625(a) of the Individuals with Disabilities Education Act (20 U.S.C. 1424(a)) is amended by inserting after the first sentence in paragraph (6) the following new sentences: "The Secretary shall continue to provide assistance through September 30, 1994, to the current grantees operating the four regional centers for the deaf under subsection (a) of this section. The Secretary shall continue to provide such assistance through September 30, 1995, unless the authorization of appropriations for parts C-G of the Act is extended by September 30, 1994."

(b) STUDY.—There shall be conducted a General Accounting Office study of the four regional centers for the deaf under section 625(a)(2) of the Individuals with Disabilities Education Act (20 U.S.C. 1424(a)(2)). The scope of such study shall be determined by the Chairpersons and Ranking Minority members of the Subcommittee on Disability Policy of the Committee on Labor and Human Resources in the Senate, and of the Subcommittee on Select Education of the Committee on Education and Labor in the House of Representatives.

Beginning on page 39, strike out line 8 and all that follows through line 10 on page 40.

On page 40, line 11, strike "Subtitle C" and insert "Subtitle B".

On page 40, strike lines 13 through 16 and insert the following:

The amendments described in this title shall take effect on October 1, 1992.

#### FEDERAL PROGRAM IMPROVEMENT ACT

#### D'AMATO (AND MOYNIHAN) AMENDMENT NO. 3408

Mr. D'AMATO (for himself and Mr. MOYNIHAN) submitted an amendment

intended to be proposed by them to the bill (H.R. 3837) to make certain changes to improve the administration of the Medicare program, to reform overtime pay practices, to prevent the payment of Federal benefits to deceased individuals, and to require reports on employers with underfunded pension plans; as follows:

Strike all after the enacting clause and insert:

"(c) SPECIAL MERCHANDISE COMPLETED OR ASSEMBLED IN THE UNITED STATES OR IN OTHER FOREIGN COUNTRIES

(1) SPECIAL PROVISION.—If—

"(A) merchandise sold in the United States is the same class or kind as any merchandise that is the subject of an antidumping duty order issued under section 736 on May 9, 1980 or August 28, 1991,

"(B)(i) such merchandise sold in the United States is completed or assembled in the United States from parts or components produced in the foreign country with respect to which the relevant order applies or supplied directly or indirectly by an exporter or producer covered by the order, or from parts or components from suppliers that have historically supplied the parts or components to that exporter or producer or to any other exporter or producer covered by the order, or from any party related to the exporter, producer, or historical supplier, whether such parts or components are supplied from the foreign country or any third country(ies), or

"(B)(ii) before importation into the United States, such imported merchandise is completed or assembled in another foreign country from merchandise which—

(I) is subject to the relevant order,

(II) is produced in the foreign country with respect to which such order applies, or

(III) is supplied by an exporter or producer covered by the order, or by suppliers that have historically supplied that merchandise to that exporter or producer or to any other exporter or producer covered by the order, or by any party related to the exporter, producer, or historical supplier, whether such merchandise is supplied from the foreign country or any third country(ies), and

"(C) with respect to merchandise under paragraph (B)(ii), the administering authority determines that action is appropriate under such paragraph to prevent evasion of such order, and

"(D) the difference between the value of such merchandise sold in the United States and the value of the imported parts or components referred to in subparagraph (B)(i), or the merchandise referred to in subparagraph (B)(ii), is small.

the administering authority, after taking into account any advice provided by the Commission under subsection (f), may include within the scope of the relevant order the imported parts or components referred to in subparagraph (B)(i) that are used in the completion or assembly of the merchandise in the United States, or such imported merchandise referred to in subparagraph (B)(ii), at any time such order is in effect.

Parts or components not identified in subsection (c)(1)(B)(i) and merchandise not identified in subsection (c)(1)(B)(ii) shall not be included within the scope of the outstanding order if a finding of circumvention is made under this section.

"(2) FACTORS TO CONSIDER.—In determining whether to include parts or components, or merchandise assembled or completed in a foreign country, in the relevant antidumping duty order under paragraph (1), the admin-

istering authority shall take into account such factors as—

“(A) the pattern of trade,

“(B)(i) whether the manufacturer or exporter of the parts or components described in (1)(B)(i) is related to the person who assembles or completes the merchandise sold in the United States from the parts or components produced in the foreign country with respect to which the order described in subparagraph (1)(A) applies, or

“(B)(ii) whether the manufacturer or exporter of the merchandise described in paragraph (1)(B)(ii) is related to the person who uses the merchandise described in paragraph (1)(B)(ii) to assemble or complete in the foreign country the merchandise that is subsequently imported into the United States, and

“(iii) whether imports into the United States of the parts or components described in subparagraph (1)(B)(i), or imports into the foreign country of the merchandise described in paragraph (1)(B)(ii)(I), (II) and (III), have increased after the filing of the petition, issuance of such order or, if the allegation of circumvention has been raised more than one year after the issuance of such order, have increased since the time circumvention is alleged to have commenced.

“(C) FORCE AND EFFECT.—This section shall have no force or effect if the petitioner in the investigations referenced in paragraph (a)(1) cease production or final assembly of such products in the U.S. or shifts the sourcing of major components to a foreign country.

#### 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 Monday, October 5, 1992, at 3:30 p.m. in Executive Session, to consider the nominations of: (A) Vice Admiral David M. Bennett, USN, to be Inspector General of the Navy; (B) Vice Admiral Richard C. Macke, USN, to be Director of the Joint Staff; and (C) Lieutenant General Henry J. Viccellio, Jr., USAF, for promotion to the grade of general and to serve as the Commander, Air Training Command; to receive a briefing on the accidental firing of a missile into the Turkish ship TCG Muavenet, and on naval personnel matters related to certain navy nominations; to consider certain pending military nominations.

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

##### COMMITTEE ON ARMED SERVICES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 12:00 noon on Tuesday, October 6, 1992, in Executive Session, to continue to discuss pending military nominations.

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

#### ADDITIONAL STATEMENTS

##### HONORING THE GENERAL MOTORS WOMEN'S CLUB

• Mr. LEVIN. Mr. President, I am here today to commemorate the General Motors Women's Club 50th anniversary.

The General Motors Women's Club was founded in September 1942. Their primary mission was to assist local charities in the Saginaw and Bay City areas of Michigan through volunteer projects and fund raising activities. Through the years, their efforts have been successful, raising hundreds of thousands of dollars, for various organizations such as the East Side Soup Kitchen, Restoration Community Outreach, Cystic Fibrosis, Hospital Hospitality Houses, the Salvation Army, and Big Brothers/Big Sisters.

In honor of the anniversary of the club, members have raised funds to provide two annual scholarships to Saginaw Valley State University beginning this fall, which the club hopes will support women in the business field.

But their efforts do not stop there. Every Easter the women's club hosts a party for mentally handicapped children and adults. At Christmas-time they host a special Christmas party for the Community Village.

Over the past 50 years the General Motors Women's Club has provided help for the less fortunate members of their communities. Michigan is fortunate to have such concerned citizens, and we truly appreciate them. •

##### JUDICIAL NOMINATIONS

• Mr. SPECTER. Mr. President, I compliment the distinguished chairman of the Judiciary Committee, Senator BIDEN, for his leadership in moving so many judicial nominations through the committee and through final approval by the Senate.

While I fully understand the realities of 1992, I do wish to commend two outstanding Federal judges who have been approved by the Judiciary Committee for the Court of Appeals for the Third Circuit, but who have not been considered by the full Senate through no fault of their own. Judge Jay C. Waldman and Judge Franklin S. Van Antwerpen serve on the U.S. District Court for the Eastern District of Pennsylvania where they enjoy outstanding reputations. They have unblemished records and enjoy the respect of their colleagues and prominent members of the bar with whom I am familiar.

Both Judge Waldman and Judge Van Antwerpen received the highest rating of well qualified from the American Bar Association for the Third Circuit. I consider it important to note their outstanding qualifications to avoid any possible inference that any facet of either of their records was responsible

for their not being considered by the full Senate.

I trust that Judge Waldman and Judge Van Antwerpen will have an opportunity for confirmation for the Court of Appeals for the Third Circuit next year. •

##### TRIBUTE TO JOHN A. LUKE

• Mr. SARBANES. Mr. President, it gives me great pleasure to add my voice to the chorus of well-wishers who congratulate Mr. John A. Luke upon his retirement from Westvaco Corp. John, who serves as president and chief executive officer, is ending a distinguished career that has spanned more than four decades.

He joined Westvaco in 1949 after graduating from Yale University and service in the U.S. Air Force. From 1955 through 1962, he lived in my State and served as manager of Westvaco's fine papers mill in Luke. That city bears his family name and was the birthplace of his company more than 100 years ago. From those beginnings Westvaco has become one of the top 200 industrial companies in America and markets its products in more than 50 nations.

In his career progression through Westvaco, John has had direct responsibility for much of the company's growth and many of its major activities. He executed a carefully planned series of companywide growth programs during periods of great change and challenge in the world economy resulting in major gains in the company's competitive stature.

My State has been a significant beneficiary of the company's growth. In fact, in 1987 I had the pleasure of joining John and other Westvaco officials in announcing a \$200 million capital project for the Luke mill. As a result, the mill's future prospects increased considerably; and Westvaco responded by more than doubling actual investment to a total of more than half a billion dollars over 5 years. The company has also upgraded a research facility in Laurel and a container plant in Baltimore. Today, Westvaco employs more than 2,100 people in Maryland and has a total annual economic impact on the State of nearly \$400 million.

I have had the pleasure of visiting with John and with other Westvaco people on a number of occasions. Through such experiences, I have become well acquainted with the high standards of business conduct that John has instilled throughout the entire Westvaco organization. Just as he emphasizes his company's growth, John stresses outstanding corporate citizenship and broad and responsible environmental stewardship. He has truly been a friend with a strong attachment to the State of Maryland.

It has been a privilege to know John and to work with him and other

Westvaco people to expand the company presence in Maryland. It is a pleasure for me to join with his family, friends, and colleagues in wishing him well in his retirement.●

#### THE EPA AND LAKE CHAMPLAIN

● Mr. LEAHY. Mr. President, I would like to address the Senator from Maryland, the chair of the VA, HUD, and Independent Agencies Appropriations Subcommittee, regarding a minor clarification on the fiscal 1993 \$2.25 million appropriation for Environmental Protection Agency [EPA] Lake Champlain basin activities which passed the Senate on September 25.

Ms. MIKULSKI. Mr. President, would the Senator from Vermont outline the nature of that clarification?

Mr. LEAHY. I have been concerned that some important Lake Champlain constituencies, including the fishing public, have been underrepresented on the Lake Champlain Management Conference. I would appreciate the support of the VA, HUD Appropriations Subcommittee in recommending that, as new appointments are made to fill management conference resignations as they occur, the conference and the Vermont and New York Citizens Advisory Committees make every effort to promote extensive representation of all Lake Champlain interests.

Ms. MIKULSKI. Mr. President, the Senator from Vermont can be assured that in recommending the continuation of EPA funding to implement the Lake Champlain Special Designation Act (Public Law 101-596), the subcommittee supports the broadest possible representation of diverse interests on the management conference and encourages the participants to address this matter as you have suggested.

Mr. LEAHY. Thank you, Mr. President, and my thanks to the Senator from Maryland. The Lake Champlain Basin Program continues to benefit from her ongoing interest and assistance.●

#### INDIAN TRIBAL GOVERNMENT WASTE MANAGEMENT ACT OF 1992

● Mr. INOUE. For the past 2 years, the Select Committee on Indian Affairs has been involved in addressing the issues surrounding solid waste problems on Indian lands. S. 1687, the Indian Tribal Government Waste Management Act of 1991 was introduced by Senator MCCAIN and myself on August 2, 1991. The measure was favorably reported by the select committee to the Senate on July 2, 1992.

Tribal governments, like State and local governments, have been confronted with the often urgent need to address issues of solid waste disposal. Immediate attention must be focused upon the resolution of problems associated with open dumps on Indian Reservation Lands.

There are over 650 sites on Indian Lands where solid waste is deposited. This number includes 108 tribally owned landfills which were constructed by the Indian Health Service and which met existing IHS standards when they were built. Since 1970, however, because more stringent standards have been enacted by the Congress, at this time, only 2 of the 108 tribal landfills are in compliance with EPA requirements.

In addition, the select committee has been involved in addressing the matter of commercial waste project development on Indian lands.

S. 1687 addresses these two major issues. While I understand that this measure cannot be acted upon this session, the members of the select committee, with the support of the Environment and Public Works Committee, intend to craft a bill to address these issues in the next Congress.

I now ask my friend from the State of Arizona and vice chairman of the select committee for his comments.

Mr. MCCAIN. I thank my good friend from the State of Hawaii.

Mr. President, on August 2, 1991, I introduced S. 1687, the Indian Tribal Government Waste Management Act of 1991. I introduced this bill to stimulate discussion about the idea of establishing a framework for Indian tribal governments to regulate and enforce programs necessary for sound waste management operations on Indian lands, and for the provision of financial, technical, and administrative assistance to tribal governments. This bill was the focus of two hearings conducted by the Select Committee on Indian Affairs. As stated by the distinguished chairman of the select committee, S. 1687 was favorably reported out of the select committee on July 2, 1992.

On July 2, 1992, the Environment and Public Works Committee sought sequential referral. The environment committee expressed both jurisdictional and substantive concerns about the bill. In their request for referral, the environment committee indicated their willingness to cooperate in developing a mutually acceptable agreement to facilitate consideration of this measure by the select committee. In the past several weeks, staff of the select committee and the environment committee have met to consider the concerns of the environment committee.

Unfortunately, due to the lack of time remaining in this session, it appears that the two committees will not be able to reach a mutually acceptable agreement with regard to this legislation. I am pleased that the environment committee has recognized the need to address environmental issues on Indian lands, and has pledged their support in reaching such an agreement in the next Congress.

In the course of discussions, both committees recognize that Indian trib-

al government face unique environmental problems. There is also recognition that most tribal governments have not received adequate Federal funding or technical assistance to develop necessary environmental programs. Further, tribal governments, unlike local and State governments, do not have an underlying tax base on which to draw revenue for solid waste management purposes. These factors, combined with the Federal trust responsibility for the protection of Indian lands and resources, necessitate special legislation.

It must also be recognized that tribal governments, unlike local or State governments, must coordinate activity with the Bureau of Indian Affairs [BIA], the Environmental Protection Agency [EPA], and the Indian Health Service [IHS]. The historic lack of coordination between BIA, EPA, and IHS with respect to these issues may be attributed to the overlapping and conflicting authority of each agency. The select committee has received numerous complaints from tribal governments which suggest that serious threats to reservation environments are not being addressed by BIA, IHS, or EPA. I believe that S. 1687 is necessary to streamline and clarify the roles of the three Federal agencies.

While the BIA historically has had broad statutory authority to approve or disapprove various activities on Indian lands, in the area of waste management, Congress has never provided explicit direction, guidelines or standards for the exercise of that authority.

With these considerations in mind, I look forward to working with the Environment and Public Works Committee next year to shape a bill which will address these environmental problems on Indian lands.

Mr. MOYNIHAN. I would say to my colleagues on the Select Committee on Indian Affairs that I welcome the opportunity to work with them to resolve our mutual concerns about waste management on Indian lands. The members of the select committee are to be commended for their efforts on this matter and I assure the chairman and vice chairman that I will continue to work with them to address the problems they have outlined.

Mr. CHAFEE. I am happy to offer my support to the Select Committee on Indian Affairs with regard to addressing these complex issues.

The Environment Committee's initial concern, expressed on July 2, 1992, was that provisions of S. 1687 where perhaps duplicative of provisions in a S. 976, the Resource Conservation and Recovery Act Amendments of 1992. That measure sets forth a comprehensive process through which tribal governments may achieve primary enforcement responsibility, and grant funding, to regulate solid and hazardous waste facilities on reservation lands.

In addition, the Environment Committee expressed concern that certain provisions of S. 1687 provided for a system of solid and hazardous waste management on Indian lands that is possibly inconsistent with the terms of the Solid Waste Disposal Act.

Based upon our meetings with the select committee staff, the Environment Committee has learned that S. 1687 is not intended to be inconsistent with the Solid Waste Disposal Act. In addition the Environment Committee understands there are unique issues which are not addressed in S. 976. Nonetheless, the Environment Committee has concerns which must be addressed before this measure can move forward. Unfortunately, that will not be possible in the time remaining in this session.

The Environment Committee recognizes the Federal Government has a trust responsibility to Indian tribal governments. The Environment Committee also recognizes that tribal governments, unlike local and State governments, must work cooperatively with three Federal agencies in matters involving waste disposal and management. These are certainly factors which should be considered.

With these concerns in mind, I look forward to the Environment Committee working with the select committee in shaping a bill that will allow tribal governments to fulfill their objective of maintaining a clean environment. The protection of the environmental quality of Indian reservations is in the best interests of all residents of a reservation community as well as of adjacent non-Indian communities.

Mr. BAUCUS. I am also pleased to pledge my cooperation to the chairman and vice chairman of the Select Committee on Indian Affairs in developing legislation to address the problems of waste management on Indian lands. During consideration of S. 976, amendments to the Resource Conservation and Recovery Act by the Environment and Public Works Committee earlier this year, I supported provisions to grant state status to tribal governments for the purpose of managing solid and hazardous waste programs. I would be pleased to work with my colleagues on the select committee next Congress to craft mutually acceptable legislation.

Mr. MCCAIN. I thank the distinguished Senators from the Environment and Public Works Committee for their support. I also want to express my appreciation to the Environment Committee for securing language in S. 976 that would treat Indian tribal governments as states for purposes of RCRA. I look forward to working with the Environment Committee in the next Congress. •

#### TRIBUTE TO ROBERT C. BAIRD

• Mr. DURENBERGER. Mr. President, it is my pleasure to mark the retirement, after over 30 years of service to the State of Minnesota and the Nation, of Robert C. Baird, deputy assistant commissioner of the Minnesota Department of Human Services.

Bob has been the director of Minnesota's Medicaid Program since it began in 1966. In a time when government officials seem to last only a couple of years in any position, Bob's commitment and knowledge have led Minnesota to be one of the Nation's most respected Medicaid programs, run efficiently, creatively, and compassionately.

Bob set up one of the first Medicaid management information systems, which are so important to efficient program operation. And he has been a leader, now copied by the majority of States, in enrolling Medicaid clients in health maintenance organizations and other forms of managed care. The last time he testified before the Senate was last April, when he shared his expertise on this topic with me and my colleagues on the Finance Committee.

As long as anyone can remember, Bob has been an important influence at the national level. For many years he served on the executive committee of the State Medicaid Directors Association, working closely with the Health Care Financing Administration particularly in the areas of management information systems, managed care, and third-party liability.

Unlike some people whose work brings them to Washington, Bob saw the interests he represented as being consistent with, not opposed to, those of the Federal Government. He established an excellent working relationship with HCFA officials, who valued his expertise and ability. Last month, Bob was awarded the HCFA Administrator's Citation, and among his many contributions the citation noted that his recommendations on prescription drug processing have saved the Federal Government over \$60 million a year.

I know how much everyone who worked with Bob will miss him. He has achieved a great deal, and at all times he has been a gentleman, a diplomat, and a mentor to the many people who have worked with him.

Last week about 150 of his friends and colleagues honored him with quite a party. His retirement present was a canoe, and that is so fitting for someone who loves the Minnesota wilderness as much as he does. I wish him happiness and I thank him and congratulate him for his many years of service and accomplishment. •

#### PIMA COUNTY SUMMER JOBS PROGRAMS

• Mr. MCCAIN. Mr. President, I want to call the attention of my colleagues to

the August 28 article in the Wall Street Journal entitled "Summer Youth-Jobs Program Falls Short of Its Mark Despite Emergency Funding." It appears that this article does not tell the whole story of local summer jobs program efforts.

I recently received a copy of a letter for Mr. Jim Mize, chairman of the Pima County Private Industry Council, addressed to the editor of the Wall Street Journal which outlines in very clear terms how the article falls short. I ask that the letter from Mr. Mize and a copy of the Wall Street Journal article be printed in the RECORD following my remarks.

The material follows:

PIMA COUNTY  
PRIVATE INDUSTRY COUNCIL,  
Tucson, AZ, August 28, 1992.

EDITOR,

*The Wall Street Journal, New York, NY.*

DEAR EDITOR: Your August 29, article, "Summer Youth Jobs Program Falls Short of its Mark Despite Emergency Funding" misled your readers. Not every city faced an "administrative nightmare" and "organizational snafus."

Recognizing the crisis in summer jobs for youth, our Private Industry Council had already launched several local job programs early in the summer. The County Board of Supervisors contributed \$250,000 of local money and private businesses added 100 positions.

When the federal supplement came, we were well-prepared for the infusion of urban aid funding approved by Congress. Each year we have many more applicants than available slots. Anticipating passage of the bill, the JTPA staff had already worked with service providers and asked employers for additional workites so that more youth could be put to work immediately. When we were notified of additional funds, 420 youth were contacted by staff and placed in a job or in remedial education classes within a week. This program lasted 5 weeks and provided much needed income to youth and their families.

We are proud of our summer program, especially its remedial education component. This year, we enrolled 60% of all youth in remedial education. On average, youth gained a year and a half grade increase over the summer.

Thanks to additional funding, and pledges from local employers, 1,200 youth were served instead of the 500 possible with the original federal allocation. Your review of selected cities seriously undermines the positive response in many communities.

Sincerely,

JIM MIZE,  
Chairman.

[From the Wall Street Journal, Aug. 28, 1992]  
SUMMER YOUTH-JOBS PROGRAM FALLS SHORT  
OF ITS MARK DESPITE EMERGENCY FUNDING

(By Bob Ortega and Carol Hernandez)

DALLAS.—Fourteen-year-old Charlotte Wilson got her first job this summer, courtesy of the \$1.1 billion urban-aid-bill enacted by Congress as a response to the Los Angeles riots.

Unfortunately, her job, watching younger children at a day-care center here, lasted only five days—about as long as the riots. Although she applied for the summer youth-jobs program in April, after her father was

laid off from a factory job, her position didn't materialize until late August, just days before the school year began. "My whole summer was wasted," she says with a frown.

She has plenty of company. In a classic example of the gap between promises made in Washington and programs delivered on city streets, the summer youth-jobs initiative appears to have fallen short of its mark. With kids beginning to return to school all over the country, the Department of Labor estimates that the emergency appropriation created 265,000 jobs, far short of the 400,000 anticipated by Congress. Thousands of teens who wanted the minimum-wage jobs never got them; and, because of bad timing and organizational snafus, many who did receive jobs worked only briefly.

#### TWO DIFFERENT VIEWS

"The program is peanuts," says Max Sawicky, a public-finance economist at the Economic Policy Institute, a Washington, D.C., think tank. He calls the appropriation "a public-relations decision."

But Hugh Davies, who oversees the summer youth-jobs program for the U.S. Department of Labor, defends the effort, saying: "As late as the money came, and as short time as the system had to gear up, I think it was a tremendously successful program."

Few disagreed about the need to help youths find summer jobs. Despite a shrinking teenage labor force, teen unemployment reached 23.6 percent in June, the highest figure since the early 1980s. Because of the recession, far fewer jobs were available in the retail and service industries that hire most teens.

But the bill swerved off the fast track before it left the station. Bickering among factions in Congress and the Bush administration delayed the measure for two months. By June 22, when the president signed the bill, most cities' summer job programs had been under way for weeks.

The final \$1.1 billion measure, besides providing emergency increases in existing disaster programs for Los Angeles and Chicago, earmarked \$500 million for youth-jobs creation around the country, tacked onto an existing \$683 million youth-employment budget already on hand. State governments were given money to distribute through local private-industry councils, bodies created in the early 1980s to oversee federal job programs. The money paid the salaries for the teen-agers, who filled jobs with government agencies and nonprofit organizations, as well as the councils' administrative expenses.

Even under normal circumstances, the local councils have a tough time lining up jobs. They typically have to start contacting prospective employers as early as February but may not find out how much federal money they will get till months later. And the last-minute funding bonanza forced the agencies to do in two weeks what they would normally do in three or four months.

Many cities were swamped with applicants. In Oakland, Calif., 1,000 youths waited in line at the local convention center an hour before the doors opened for a one-day sign-up. "The kids are there," says Manuel Rico, assistant director for the summer youth-jobs program in Los Angeles. "We're having trouble developing the jobs." He estimates that, by Labor Day, Los Angeles will have spent just 80% of the \$27 million it received.

Other cities have had the opposite problem. In Houston, agency workers spent weeks handing out fliers at city pools and advertising in church bulletins to attract teens. Only after more than 1,000 jobs re-

mained unfilled by the third week in July did the agency ask for help from local television stations and newspapers. Within days, 6,000 youths applied.

#### ADMINISTRATIVE NIGHTMARES

Cities that created jobs quickly often faced administrative nightmares. The Washington, D.C., city government assigned 1,000 youths to clean up and beautify more than 50 public-housing projects and crammed 1,500 more into an arts program where they played music in bands, put on plays or took part in other arts programs. Both programs paid the same \$4.25-an-hour minimum wage.

Suddenly swamped with more than 2,500 youths, instead of the 1,000 it had contracted for, D.C. Artworks, the non-profit group running the arts program, sometimes sent youths to the wrong places to pick up their pay. Others stood in line for up to five hours before being turned away empty-handed, prompting the city to intervene to straighten things out.

Dallas provides a good snapshot of the program's snags. Ill-prepared for the rush of new money, which more than doubled the total funding to \$8.3 million from \$3.5 million, the local Private Industry Council found itself working 12-hour shifts and still struggling to find enough additional jobs. Many youths who registered in early spring weren't contacted for months, if at all, while thousands were turned away because they didn't meet Dallas' stringent poverty requirements.

By summer's end, the Dallas council had spent only about 75% of the extra \$4.8 million it was granted, even after extending the program by a few extra weeks, raising hours for interested youths in the program from 30 a week to 40 a week and buying 3,600 packs full of school supplies to pass out with the last paychecks.

Local critics lambasted the agency. "This is a classic example of throwing money at a problem and then pretending that it has gone away," says Chris Luna, a city-council member.

Laurie Bouillion Larrea, executive director of the Dallas council, concedes that the agency was slow to adjust to the new funds but argues that it couldn't start trying to match kids with jobs until it knew the precise level of funding. "There isn't anybody to make good on the bills if you guessed wrong," she says.

But that is little consolation to Douglas Manley, 15 years old, who says council workers told him in June that all the summer jobs had been taken, then failed to contact him when the new funds arrived. Douglas wound up as an unpaid volunteer at a small church, handing out bologna sandwiches and chips to children.

Timothy Maxey, a cheerful 15-year-old volunteering alongside Douglas, was rejected by the summer youth-jobs program after reporting that his mother, who is single, makes about \$14,000 a year on the assembly line at a pump plant. "What they don't realize is that after paying rent and all the bills, we're struggling," he says.

#### LEARNING EXPERIENCE

Not every teen was disappointed. Blanca Fernandez, 17, who missed the first round of jobs, was placed immediately as a clerk at the Texas Employment Commission when she applied in early July. "I really learned a lot—the suitable way to dress in an office, how to run a switchboard, working on computers," she says.

As for the future, local councils are already starting to worry about next year. Eunice Elton, president of the Private Industry

Council of San Francisco, says that after the boom this summer, "it'll be hell on wheels having to sign up everybody next April and say we don't know if we'll have money for jobs. We have no reason to believe we'll have a bonanza next year."

Local program managers say that until this year the only constants had been that funding kept dropping and the costs of operating the program kept going up. Ms. Elton says the number of youths placed by her program has slid steadily, from a high of about 8,000 in the late '70s to about 3,400 this summer, of which only 1,800 were in the pre-urban-aid-bill budget.

"It's commendable that these dollars flowed as a result of the Los Angeles riots," says Stephanie Palmer, director of operations for New York City's Private Industry Council, "but we need to think about long-term strategies or we'll always be chasing the crises." ●

#### TRIBUTE TO JOSEPH A. CALIFANO, JR.

● Mr. DURENBERGER. Mr. President, my old friend Joe Califano has a new job.

No one familiar with Joe's energy, ability and wide interests will be surprised to hear this. After all, in his 37-year career Joe has been Secretary of Health, Education and Welfare, an architect of President Johnson's Great Society, a top aide to Defense Secretary Bob McNamara and one of the Nation's leading attorneys. And in his off hours he has written no fewer than eight books on politics, health care and public policy.

I came to know Joe best in his role as a member of Chrysler Corp.'s board of directors. Throughout the 1980's we spoke often—and early in the decade—about the need for America to get the cost of medical care under control if we were to have any chance of universal access. Joe was, and is, always ahead of his time.

A few years ago a reporter asked one of Joe's law partners whether he would stay at Dewey Ballantine, the well-known firm Joe helped to turn around. "He'll never be satisfied," said the partner, "and he will never be complacent." But the partner thought only a Cabinet position could lure Joe away.

Mr. President, a few months ago Joe Califano left the world of law, and this time he says he has left forever. He now devotes his many talents to the problem of substance abuse in America. From scratch, he has established the Center on Addiction and Substance Abuse in New York City and convinced the Robert Wood Johnson Foundation and other public-spirited organizations to fund it.

Perhaps we should not be surprised. As Secretary of Health, Education and Welfare, Joe was one of the first officials to be really serious about reducing smoking in America. And as a private citizen, he wrote "The 1982 Report on Drug Abuse and Addiction" as well as "America's Health Care Revolution:

Who Lives? Who Dies? Who Pays?," which was published in 1986.

Naturally, Joe has ambitious plans. His institute will address problems caused by illegal drugs, abused prescription drugs, alcohol and tobacco. And it will look at and combat their effect on all aspects of our social system: crime, housing, education, health care, productivity.

He is now assembling experts drawn from many fields to attack these problems. They are working on estimating the costs of substance abuse, on evaluating which prevention and treatment programs work best and on how best to equip professionals and institutions to work with substance abusers.

Mr. President, Joe Califano's career already has been full of achievement and public service. At age 61 he has taken on a new challenge that will require all the energy and ability he and his colleagues can summon. I believe I speak for all members of the Senate in wishing him and his colleagues the greatest success in the important work they have undertaken.●

#### IN GRATITUDE OF THE CONTRIBUTIONS OF MRS. WILLIE GRAHAM

● Mr. DODD. Mr. President, I rise today to express my gratitude and affection for my dear friend, Mrs. Willie Willis Graham, a lady who has had an integral role in my constituent service office since I assumed a seat in the U.S. Senate nearly 12 years ago.

Willie performed as the volunteer coordinator of my 1980 campaign bid for the Senate and joined by staff when I took office in 1981. Since then, she has brought to her position of community liaison a range of experiences in leadership, community, organization and political activism which has assisted me in my effort to more fully represent the interests of all of my constituents.

Exemplifying the importance of active participation in the political and social process, Willie Graham has been a salient force in countless clubs and organizations, among them, the National Association for the Advancement of Colored People, the Les Bonnes Amies, Club of New Britain, the Daughters of Isis, the State Federation of Black Democratic Clubs, the Windsor town committee and the Windsor Black Democratic Club. These organizations have recognized her great contributions by honoring her with numerous awards and testimonial banquets over the years.

In 1982, realizing a long-time dream of establishing a scholarship fund for Black students of her community whose residence rendered them ineligible for other sources of financial assistance, Willie founded the Windsor Afro-American Civic Association. This effort reflected her own sensitivity to the importance of higher education, a goal she achieved personally in 1984

when she was awarded a bachelor of science degree from New Hampshire College.

Paralleling her dynamic civic activism, Willie Graham has also been an active member of the A.M.E. Zion Church in Hartford for 33 years. Participating in church groups and organizations like the Rochester/Strickland Scholarship Fund, the Carrie T. Wilson Missionary Society, the Ladies Usher Board and the Gospel Choir, Willie has expressed her abiding love of God by fostering fellowship and philanthropy in her church. Her civic and political involvement has blazed a path in public service for many young people, while her spiritual resolve, steely tenacity and principled determination to live her life fully and with an ever generous heart in the face of difficult personal challenges, humbles and gives courage to all who know her.

Throughout her life, Willie Graham has dedicated her formidable energies toward the goals of social justice and opportunity, with the kind of enduring investment into our collective future that demonstrates the power of the individual to make a lasting difference in the world. She has raised four fine children into outstanding adults who carry her torch of commitment and industry forward. She has been my loyal and steadfast champion in the community and has toiled countless hours to mobilize her friends and colleagues on my behalf. Much loved, Mrs. Willie Willis Graham has lived her life as an extraordinary citizen, a shining example of graciousness, dignity, resolve and devotion. To this remarkable lady, I owe my lasting gratitude and admiration.●

#### U.S. IMMIGRATION POLICIES APPEAR TO BE UNDERCUTTING OUR CITIZENS' EMPLOYMENT AND ECONOMIC OPPORTUNITIES

● Mr. SHELBY. Mr. President, immigration has been an important force over the years in our Nation's development. As is so often said, the United States is a nation of immigrants, and our people have benefitted in many ways from immigrants' contributions in many diverse areas. However, immigration can also cause problems, and our current immigration policies may be doing so in certain key areas. In particular, our policies may be inappropriately undercutting many U.S. citizens' employment and economic opportunities.

Congress and other policymakers should give much greater scrutiny to our existing immigration policies in order to determine what changes may be needed. When Congress reconvenes early next year, I hope that there will be hearings to explore issues such as whether policy changes are needed to protect U.S. citizens' jobs and economic opportunities. In the interim, I

would urge my colleagues and other policymakers to spend some time on their own to learn more about the immigration-related public policy issues that already are being raised in the press and in various studies and reports.

In that regard, Mr. President, let me call my colleagues' attention to several new interesting and enlightening documents that provides helpful background information on these matters.

First, there is a new book entitled, "Immigration 2000: The Century of the New American Sweatshop," just published by the Federation of American Immigration Reform [FAIR], a non-profit public interest organization devoted to reforming outdated immigration policies. This book includes 25 studies and articles by some of the country's leading economists and immigration scholars on the effects of immigration on the American labor force and economy. Many of these articles suggest that current immigration policies are contributing to a decline in the U.S. economic competitiveness and undercutting the wages, job opportunities and working conditions of our country's own disadvantaged citizens. This new book addresses many key questions on the social and economic effects of immigration to the United States, including: Does immigration perpetuate the underclass and impede economic improvement for African-American and Hispanic citizens? Is the purpose of immigration law to protect American workers? Do immigrants displace American workers? Does immigration depress American workers' wages? What happened to the labor shortage?

Second, another new FAIR report, "Immigration Outpaces a Sluggish American Economy: A New American Dilemma," examines how high levels of immigrant laborers are impacting our already troubled labor market. This report notes, for example, that despite increasing U.S. unemployment and the loss of good jobs, the Immigration Service continues to issue work authorizations faster than jobs are created. I find the fact to be troubling, and it reinforces my belief that it is time for Congress, the administration, and other concerned parties to focus on issues such as this to determine if changes in our current immigration policies would be in our national interest.

Mr. President, in order to facilitate my colleagues' access to this information, I ask that a copy of the report entitled, "Immigration Outpaces a Sluggish American Economy: A New American Dilemma," be printed in today's CONGRESSIONAL RECORD.

The report follows:

### IMMIGRATION OUTPACES A SLUGGISH AMERICAN ECONOMY—A NEW AMERICAN DILEMMA

(A Report from the Federation for American Immigration Reform, September 1992)

Summary: For the first time in at least a century, the American labor force is subject to two conflicting and potentially volatile trends: the first is the rapid increase in unemployment produced by a prolonged recession and structural changes in the manufacturing base of the nation; the second—and this is new—is unprecedented, unremitting, large-scale immigration into an already distressed labor market. Despite increasing U.S. unemployment and the loss of good jobs, the immigration service continues to issue work authorizations faster than jobs are created.

The reasons for continued high levels of immigrant labor force entrants are:

(1) Congress has fashioned an immigration law that fails to consider labor market needs and conditions. Because of the priority placed on family preference over job skills, hundreds of thousands of immigrants are admitted each year without regard to their skills or education or the availability of jobs. Labor economists, such as Vernon Briggs of Cornell University, have warned for a decade that the mismatch between immigrant skills and U.S. labor market needs was a worrisome trend.

(2) In 1990, for the first time in American history, Congress increased immigration as the nation was moving into a recession, on the questionable assumption that we were heading into a protracted, structural labor shortage. The Immigrant Act of 1990 (IMMACT90) raised admission levels for both permanent and temporary immigrant workers.

(3) Because of (a) the 1986 amnesty to illegal aliens, (b) the Salvadoran TPS program, (c) massive fraud and abuse of our asylum system, (d) judicial settlements mandating mass reconsideration of certain asylum claims, and (e) the development of so-called "administrative work authorization," illegal aliens are acquiring work authorizations at the rate of more than half a million a year.

(4) While the United States has a process called "labor certification" to protect U.S. workers from unfair foreign labor competition, fewer and fewer aliens are admitted subject to that protective certification. Labor certification represents a declining percentage of all aliens admitted to work, far less than 20 percent. Most aliens are given work authorization without any labor market analysis.

(5) Immigrant flows today come predominantly from less developed nations. The income and wage gap between sending nations and the U.S. often is great. This contrasts sharply with earlier periods in our history and helps explain why immigration levels no longer respond to adverse labor market conditions in the U.S.

The result of all these factors is a volatile, alarming and disastrous situation: immigration flows that are unresponsive to labor market conditions, and immigrant admissions that are out-racing job creation and paralleling the increase in U.S. unemployment.

#### A. INTRODUCTION: JOB STAGNATION

At the start of the Bush Administration, there were 116.7 million jobs in the United States for an active labor force of 123.4 million workers. During the first three-and-a-half years of his administration, only 1.5 million jobs have been added to the economy, while the labor force has grown by 4.1 mil-

lion. Because the work force has increased faster than the number of new jobs, unemployment has also increased, from 6.7 million in 1988 to nearly 10 million today.<sup>1</sup>

Most new jobs during the past four years were created during 1989, the first year of the Bush administration. The number of jobs actually decreased during 1990 and 1991, as a result of the recession. Confirming the administration's predictions that the 1990-1991 recession was coming to an end, the number of jobs in the economy increased by 846,000 during the first half of 1992. In spite of that increase, the number of unemployed workers increased by 1.1 million. In effect, the number of new jobs was exceeded by the number of new job seekers.

#### B. IMMIGRANT SURGE

Why is the labor force growing faster than the economy?

Statistics recently obtained by the Federation for American Immigration Reform (FAIR) from the Immigration and Naturalization Service (INS) provide one critical answer: the rate of immigration and work authorization issuance.

During the first half of 1992, the INS issued a record-keeping 439,000 temporary work permits to foreign workers. Most of these are not subject to the labor certification schemes designed to protect American workers. During the same six months, approximately 390,000 immigrants and refugees acquired "green cards" entitling them to live and work permanently in the United States. Because not all green card holders work (some are children and homemakers), INS estimates that only 57% of these new green card holders immediately enter the labor market. Therefore, a prudent estimate is that 220,000 of these new green card holders entered the 1992 labor market.<sup>2</sup>

The total of 659,000 new workers is close to the total of 864,000 new jobs that were created nationwide in the first half of 1992. When undocumented illegal aliens are taken into consideration, the number of foreign workers who entered the U.S. labor market during the first half of 1992 may easily have exceeded that total number of new jobs created.

#### C. SITUATION UNPRECEDENTED

This situation is unprecedented in the past century. In 1893, the U.S. entered a severe recession (known as the "Panic of '93"), a recession comparable, on scale, to today's. Immigration, running at about 300,000 that year, was cut in half by 1894. Moreover, given that less than half were immediate labor market entrants (considering the proportion of women and children), the immigrant flow was very responsive to changing labor market conditions.

By 1929, the year of the Great Depression began, immigration had already been dramatically reduced by the Johnson-Reed Act of 1924. Immigration remained low during the remainder of the '30s, World War II, and during the heady job-creation and high-productivity days of the postwar era. Immigration remained low through the oil shocks of 1974, running at only 386,000 by 1975 (as compared to a 1975 labor force size of 94 million). It was not until the 1980s, when the effects of the Immigration and Nationality Act amendments of 1965 were felt, that immigration began to rise; by 1991 it had risen to all-time

<sup>1</sup>All labor employment figures are from the U.S. Department of Labor, Bureau of Labor Statistics (BLS).

<sup>2</sup>Source of all immigration statistics: U.S. Department of Justice, Immigration and Naturalization Service, Statistics Branch.

historic highs. For the first time in American history, the number of immigrants entering the work force was divorced from the demands for labor.

#### D. PART OF A NEW, TROUBLING TREND

The 1.5 million net increase in jobs since 1988 is more than matched by (1) the 1.4 million new green card holders who have entered the labor force in the same time frame, and (2) the increase in the size of the non-citizen work force with temporary work papers (from about 150,000 in 1988 to nearly 800,000 in the current year).

As a result of the rapid increase in the number of aliens eligible to work in the United States, American workers displaced from their jobs because of cheaper labor overseas are also facing tough competition from foreign workers for the jobs that remain in the United States. The chart (Chart I) attached to this report shows that, in each year since the recession began in 1990, nine aliens were issued work permits to work in the United States for every 10 workers who became unemployed.

#### E. GREEN CARD GROWTH

Chart II shows the growth in various categories of aliens acquiring U.S. work papers since 1988. The first category is legal immigrants (green cards), who have permanent residence in the U.S. In 1990, Congress and the president approved a 40 percent increase in legal immigration. Although some of these new immigrant visas were allocated to skilled foreign workers for whom a job was being held in the United States, most of them were allocated to relatives of other recent immigrants. Under the 1990 law, over 800,000 immigrant visas will be issued in the current fiscal year. Of these, only about 60,000, or 8 percent will go to foreign workers for whom a job is waiting in the U.S., while at least 550,000 will go to relatives of immigrants.

Supporters of the 1990 law, particularly Senator Ted Kennedy (D-MA), Senator Frank R. Lautenberg (D-NJ), Representative Howard Berman (D-CA) and former Representative Bruce Morrison (D-CT), claimed that increased immigration would benefit the United States because the country was running short of labor. However, these labor-shortage forecasts now appear ridiculous given the huge pool of unemployed Americans and the dim economic prospects of the mature manufacturing sectors that once provided key higher-paid blue-collar jobs.

#### F. "ADMINISTRATIVE WORK AUTHORIZATION": THE GREAT BLACK HOLE

TABLE 1.—TYPES OF IMMIGRATION WORK AUTHORIZATION

Type of alien	Statutory	Nonstatutory	Duration of authorization
Lawful permanent residents—(Green card aliens).	X	.....	Life (About 8 percent are subject to labor market test.)
Temporary alien workers.	X	.....	Limited to designated period of time. (Almost all receive labor market test by INS or DOL.)
Pending asylum applications.	.....	X	Until final disposition of case. (No labor market tests.)
Approved asylum applications.	.....	X	Until adjustment to permanent residence or departure from U.S. (No labor market tests.)
Illegal aliens released on bond.	.....	X	Until after deportation hearing and all appeals. (No labor market tests.)

The increased number of green card aliens is a problem in and of itself. Nearly 80 percent come because they have a relative here, not a job waiting. For that reason, these entries are not responsive to labor market conditions. On the other hand, the changes in the so-called "nonimmigrant" temporary worker visa levels have not been disproportionately great (in fact, because non-immigrant worker visa issuances are relatively responsive to labor market conditions, these may actually drop in the current year).

Although legal immigration accounts for a large share of the growth in the alien work force, even more significant has been the uncontrolled expansion of a host of categories of "soft" interim work categories (see Table 1). Most of these soft categories have been established by regulation and do not require any form of labor market impact analysis. Yet their impacts are profound.

These soft categories are responsible for the most dramatic increase. (See Chart II.) Most of these categories are for aliens who have either entered illegally or by fraud, and who are being issued temporary work authorizations while they appeal deportation orders, file petitions for asylum (many frivolous or fraudulent), or claim "temporary protected status" (TPS) under IMMACT90. (Most of the latter are from El Salvador.)

Other soft categories in Table 1 include nonimmigrant status violators released on bond and illegal entrants released on bond pending final dispositions on deportation. These hearings can be prolonged for years by zealous counsel.

All of the soft categories have expanded since 1988. In 1988, the year before President Bush took office, fewer than 20,000 work permits were issued to illegal aliens trying to remain in the United States. The number of these temporary work authorizations increased to over 40,000 in 1989, over 300,000 in 1990 and over 500,000 in 1991. At the present rate, more than 700,000 temporary work authorizations will be issued in 1992, substantially all of them to illegal immigrants pursuing administrative relief—all without any labor market analysis.

As a result, the proportion of working immigrants subject to labor certification is declining rapidly and dramatically. Although U.S. immigration law contains provisions to protect American workers, fewer than one out of six alien work authorizations are covered by these rules. The majority of green cards are issued to relatives of prior immigrants. The majority of temporary work permits are issued to illegal immigrants who are resisting deportation from the United States or are seeking an amnesty. In effect, under current law, regulations and judicial settlements, five out of six alien work authorization documents—more than a million a year—are issued without regard to their impact on job prospects for unemployed Americans.

As Table 1 illustrates, most of the soft categories of administrative work authorization have no explicit statutory basis (Salvadoran TPS is an exception under the 1990 law). Indeed, the Supreme Court has specifically ruled that the INS has no obligation to issue work permits to illegal aliens while they challenge their deportations or await adjudication of asylum petitions. (INS versus National Center for Immigrants' Rights, 112 S.Ct. 551, 1991). The number of asylum petitions being filed is growing. In all of 1988 there were 74,000 asylum applications filed with the INS. Almost that many were filed in the first six months of 1992. The ability of

the INS to adjudicate this flood of asylum petitions has been limited by a lack of resources and court challenges to procedures that would expedite the hearing process. As a result, the filing of a petition for asylum has become an increasingly popular means of avoiding deportation and obtaining a work permit.

The huge increase since 1988 in the number of illegal aliens seeking and obtaining temporary work authorizations is partly a result of 1986 reforms that eliminated the loophole that once allowed employers to hire illegal aliens. Prior to these reforms, employers were not required to verify an alien's eligibility to work; thus, most illegal aliens could find work without documentation. Under the 1986 law, employers are subject to fines and other "sanctions" if they hire aliens who do not present proper documentation of their work eligibility. As a result, the temporary work authorization, the only work document available to any illegal alien, has become increasingly valuable.

Although temporary work authorizations are issued for a limited period of time, for many illegal aliens they are a steppingstone into the permanent labor market. The 1986 reforms permitted alien workers to show employers a wide variety of documents to demonstrate eligibility to work in the United States. Illegal aliens with temporary work authorization documents have been using those documents to obtain Social Security cards, drivers licenses, and other documents that, alone or in conjunction with counterfeit documents, can be used to obtain permanent employment. Because of the long delays in the deportation and asylum processes and relatively easy access to the permanent work force that temporary work authorization affords, many illegal aliens simply disappear while the deportation or asylum process is pending. Consequently, as the number of work authorizations skyrockets, so too does the number of illegal aliens who end up in the permanent work force.

Of course, the dramatic increase in the number of legal and illegal aliens obtaining work authorizations in the United States does not reflect the full impact of immigration on the U.S. labor market. Apprehension levels at the border between Mexico and the United States suggest that the flow of illegal workers into the United States is approaching or exceeding the levels that existed prior to the 1986 reforms. Growing awareness abroad that most illegal aliens who are not promptly deported acquire temporary work authorization entices even more illegal immigration.

Although a number of civil rights groups and ethnic organizations have alleged that the immigrant work force suffers from employment discrimination, immigrants are often preferred to native-born workers. The immigration law was changed in 1965 to eliminate restrictions that favored immigration from Europe and other areas of the world with standards of living comparable to the United States. As a result, the bulk of today's immigrants come from countries where wages and working conditions are dramatically below those in the United States. Employers perceive that immigrants will work harder for less pay and fewer benefits than American-born workers. Undocumented workers in particular are unlikely to complain about unsafe working conditions or other legal violations. Immigrants who establish businesses in the United States frequently recruit most of their work force from relatives and other immigrants from their home countries. These "ethnic recruit-

ment" networks effectively lock out American workers from segments of the economy where immigrant entrepreneurs have become predominant.

Some labor economists, including Donald Huddle of Ric University, have argued that the growing number of alien job-seekers entering the United States in recent years has contributed to a perennial "labor surplus" that diminishes economic opportunities for native-born workers and the large population of immigrants who have arrived since 1965. Traditional economic theory suggests that large increases in the supply of labor over an extended period, regardless of the reason, are likely to diminish wages and working conditions absent extraordinary improvements in technology and investment. During the last 20 years there have been many signs of a steady deterioration in the real wages of American workers who are not professionals or managers. This economic decline has brought about wrenching social changes as millions of young mothers have been required to enter the work force to supplement the wages of working fathers. The long-term decline in wages has been accompanied by the largest and longest wave of immigration in the nation's history, leading some labor economists to conclude that a temporary suspension of large-scale immigration would certainly benefit many working Americans.●

#### NOTICE OF PUBLICATION

● Mr. SANFORD. Mr. President, the Senate Select Committee on Ethics has adopted and herewith publishes in the CONGRESSIONAL RECORD interim procedures for requests for review under section 308 of the Government Employee Rights Act of 1991.

The material follows:

ETHICS COMMITTEE INTERIM PROCEDURES UNDER TITLE III OF P.L. 102-166, THE GOVERNMENT EMPLOYEE RIGHTS ACT OF 1991

##### RULE 1. AUTHORITY

The Senate Select Committee on Ethics (the Committee) is authorized by section 308(a) of the Government Employee Rights Act of 1991 (the Act), Title III of the Civil Rights Act of 1991, Pub. L. 102-166, 105 Stat. 1088, to review hearing board decisions in employment discrimination cases filed with the Office of Senate Fair Employment Practices (the Office) under the Act, and by section 307(f) (2) and (3) of the Act to receive referrals for rulings on testimonial objections arising in connection with such cases, and to recommend to the Senate civil or criminal enforcement of hearing board subpoenas.

##### RULE 2. TIME

###### 2.1 Computation of time

(a) Counting days: A day means calendar day. In computing the time for taking any action required or permitted under these rules to be taken within a specified time, the first day counted shall be the day after the event from which the time period begins to run and the last day counted is the last day for taking the action. When the last day falls on a Saturday, Sunday, or federal government holiday or any other day, other than a Saturday or a Sunday, when the Office is closed, the last day for taking the action shall be the next day that is not a Saturday, Sunday, or federal government holiday or a day when the Office is closed. Where a prescribed time period is less than seven days then Saturdays, Sundays, and federal gov-

ernment holidays shall be excluded from the computation of the time period. Federal government holiday means New Year's Day, Birthday of Martin Luther King, Jr., Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, Christmas Day, any other day appointed as a holiday by the President or Congress of the United States.

(b) Added days for mail: Whenever a party or the Office has the right or is required to do some act within a prescribed period after the date of service of a notice or other paper and the notice or other is served upon the party by mail through the United States Postal Service, 3 days shall be added to the prescribed period. This additional 3 days does not apply to the request for Committee review under Rule 3.

2.2 Service and filing: Except as otherwise provided in Rule 3.1, a document required under these rules to be submitted to or filed with the Committee or the Office, or served on a party or the Office within a specified time shall be deemed timely submitted, filed, or served if it is received by the Committee, the Office or the party, or if mailed, it is postmarked, on or before the last day of the applicable time period.

2.3 Extension of time: Upon written request of the Office or a party, the Committee may extend the time for taking action under these rules, except that the Committee may not extend the time for taking any action for which the Act specifies a time limit.

2.4 Where to File: Documents required to be filed with the Committee shall be filed at the offices of the Senate Select Committee on Ethics, Hart Senate Office Building, Room 220, Washington, D.C. 20510. Documents required to be filed with or served on the Office shall be filed or served at the Office of Senate Fair Employment Practices, Hart Senate Office Building, Suite 103, Washington, D.C. 20510.

#### RULE 3. REQUESTS FOR COMMITTEE REVIEW OF HEARING BOARD DECISION

##### 3.1 Requirements for filing a request for review

(a) Who May Request Review of a Hearing Board Decision: An employee or the head of an employing office with respect to whom a hearing board decision was issued is a party entitled to request Committee review of that decision. The Office may also request review of a decision.

(b) Request by a party: Not later than 10 days after receipt of a decision of a hearing board, including any decision following a remand of the case as provided in Rule 4.2(c), a party may file with the Office a request that the Committee review the decision. A request for review shall specify the party requesting review, and shall designate the decision, or part thereof, for which review is requested. A request for review must be received in the Office not later than the 10th day after the date of receipt of the hearing board decision [a postmark on the 10th day will not satisfy this timeliness requirement] Within 24 hours after receipt of a request for review, the Office shall transmit a copy of such request to the Committee and serve a copy on any other party.

(c) Request by the Office: The Office, at the discretion of its Director, on its own initiative and for good cause, may file with the Committee a request for review of a hearing board decision, including any decision following a remand of the case as provided in Rule 4.2(c), not later than 5 days after the time for the parties to file a request for review with the Office has expired. A request for review shall specify that the Office is requesting review, shall designate the decision,

or part thereof, for which review is requested, and shall specify the circumstances which the Office asserts constitute good cause for the request. A request for review by the Office must be received in the Committee's office not later than the 5th day after the time for the parties to file a request for review with the Office has expired [a postmark on the 5th day will not satisfy this timeliness requirement.] Within 24 hours after filing a request for review with the Committee, the Office shall serve a copy of such request on all parties.

3.2 Transmittal of Record: As soon as possible, and in no event later than 10 days after receipt by the Office of a request for review or the Office's filing of a request for review with the Committee, the Office shall transmit to the Committee the full and complete record of the hearing board connected with the decision for which review has been requested. The Chief Clerk of the Committee shall promptly serve notice of the Committee's receipt of the record on all parties.

#### RULE 4. PROCEDURES UPON RECEIPT OF A REQUEST FOR REVIEW OF A HEARING BOARD DECISION

##### 4.1 Briefs and arguments

(a) Petitioner brief: A party who filed a request for review, or the Office if it requested review, may file a brief in support of its position. The brief shall be filed with the Committee and a copy served on any other party and the Office, if it requested review, within 10 days of the filing of the request for review with the Office, or the Committee if the Office requested review.

(b) Respondent brief: A party may file a brief in response to a petitioner's brief. Such respondent brief shall be filed with the Committee and a copy served on any other party and the Office, if the Office filed a request for review, within 15 days after service of the petitioner brief. If no petitioner brief is filed, such respondent brief shall be filed within 20 days of filing of the request for review. The Office may file a respondent brief only if it filed a request for review.

(c) Reply brief: Any reply brief shall be filed with the Committee and served on all parties and the Office if it requested review, within 5 days after service of the respondent brief to which it replies. No one may file a reply brief who did not file a petitioner brief.

(d) Alternative briefing schedule. With notice of all parties and the Office, if it requested review, the Committee may specify a different briefing schedule that that prescribed by subsections 4.1 (a), (b), and (c).

(e) Additional briefs: At its discretion, the Committee may direct or permit additional written briefs.

(f) Requirements for briefs: Briefs shall be on 8½ inch by 11 inch paper, one side only, and 15 copies shall be provided. No brief shall exceed 50 typewritten double spaced pages, excluding any table of contents, list of authorities, or attached copies of statutes, rules, or regulations. Footnotes shall not be used excessively to evade this limitation. All references to evidence or information in the record must be accompanied by notations indicating the page or pages where such evidence or information appears in the record.

(g) Oral argument: At the request of a party or the Office, the Committee may permit oral argument in exceptional circumstances. A request for oral argument must specify the circumstances which are asserted to be exceptional.

##### 4.2 Remand

(a) Only one Remand: There are two kinds of remand. The Committee may remand, the

record respecting a decision, or it may remand the case respecting a decision, but in no event can there be more than one remand with respect to a decision of a hearing board. If the Committee remands the record respecting a decision, there can be no further remand of any kind with respect to such decision. If the Committee remands the case respecting a decision, there can be no remand of any kind with respect to a hearing board decision issued following remand. A Committee decision remanding to the hearing board shall contain a written statement of the reasons for the Committee decision.

(b) Remand of the Record: Within the time for a decision under subsection 308(d) of the Act, the Committee may remand the record of a decision to the hearing board for the purpose of supplementing the record. After the hearing board has supplemented the record as directed by the Committee, the hearing board shall transmit the record to the Office, and the Office shall immediately notify the parties of the hearing board's action and transmit the supplemented record to the Committee. The Committee retains jurisdiction over a request for review during remand of the record, and no new request for review is needed for further Committee consideration under section 308 of the Act. A record shall be deemed remanded to the hearing board until the day the Committee receives the supplemented record from the Office, and the Committee shall transmit a written final decision to the Office not later than 60 calendar days during which the Senate is in session after receipt of the record as supplemented on remand. The Committee may extend the 60 day period for 15 days during which the Senate is in session.

(c) Remand of the Case: Within the time for a decision under subsection 308(d) of the Act, the Committee may remand the case to the hearing board for the purpose of further consideration. After further consideration, the hearing board shall issue a new written decision with respect to the matter as provided in section 307 of the Act. If the Committee remands the case to the hearing board, the Committee does not retain jurisdiction, and a new request for review, filed in accordance with Rule 3, will be necessary if a party or the Office seeks review of a decision issued following remand.

4.3 Final Written Decision: All final decisions shall include a statement of the reasons for the Committee's decision, together with dissenting views of Committee members, if any, and shall be transmitted to the Office not later than 60 calendar days during which the Senate is in session after filing of a request for review. The period for transmission to the Office of a final decision may be extended by the Committee for 15 calendar days during which the Senate is in session. A final written decision of the Committee with respect to a request for review may affirm, modify, or reverse the hearing board decision in whole or in part. The Committee may decide not to grant a request for review of a hearing board decision. The Committee will serve a copy of any final decision on all parties.

#### RULE 5. HEARING BOARD REFERRAL OF TESTIMONIAL OBJECTIONS

5.1 Procedure for Ruling On Testimonial Objections: If any witness to a hearing board proceeding appearing by subpoena objects to a question and refuses to testify, or refuses to produce a document, a hearing board may refer the objection to the Committee for a ruling. Such referrals may be made by telephone or otherwise to the Chairman or Vice Chairman of the Committee who may rule on

the objection or refer the matter to the Committee for decision. If the Chairman or Vice Chairman, or the Committee upon referral, overrules the objection, the Chairman or Vice Chairman, or the Committee as the case may be, may direct the witness to answer the question or produce the document. The Committee, or the Chairman or vice Chairman, shall rule on objections as expeditiously as possible.

5.2 Enforcement: The Committee may make recommendations to the Senate, including recommendations for criminal or civil enforcement with respect to the failure or refusal of any person to appear or produce documents in obedience to a subpoena or order of a hearing board, or for the failure or refusal of any person to answer questions during his or her appearance as a witness in a proceeding under section 307 of the Act. The Office shall be deemed a Senate committee for purposes of section 1365 of Title 28 of the United States Code.

#### RULE 6. MEETINGS AND VOTING

6.1 Quorum, Proxies, Recorded Votes: A majority of the members of the Committee shall constitute a quorum for purposes of issuing a decision under section 308 of the Act, and for purposes of hearing oral argument if such argument is permitted. Proxy votes shall not be considered for the purpose of establishing a quorum, nor for purposes of decisions under section 308 (c) or (d) of the Act. Decisions of the Committee under section 308 (c) or (d) of the Act shall be by recorded vote.

6.2 Meetings: Meetings to consider matters before the Committee pursuant to the Act may be held at the call of the Chairman or Vice Chairman, if at least 48 hours notice is furnished to all Members. If all Members agree, a meeting may be held on less than 48 hours notice.

#### RULE 7. CONFIDENTIALITY OF PROCEEDINGS

Confidentiality: The final written decision of the Committee shall be made public if the decision is in favor of a Senate employee who filed a complaint or if the decision reverses a decision of the hearing board which had been in favor of the employee. The Select Committee may decide to release any other decision at its discretion. All testimony, records, or documents received by the Committee in the course of any review under these rules shall otherwise be deemed "Committee Sensitive Information" and subject to the "Non-Disclosure Policy and Agreement" as prescribed in Rule 9 of the Committee's Supplemental Rules of Procedure.

#### RULE 8. AUTHORITY TO DISCIPLINE

Official Misconduct: None of the provisions of the Act or these rules limit the authority of the Committee under S. Res. 338, 88th Cong., 2d Sess. (1964), as amended, to otherwise review, investigate, and report to the Senate with respect to violations of the Senate Code of Official Conduct, or any other rule or regulation of the Senate relating to the conduct of individuals in the performance of their duties as members, officers, or employees of the Senate.

#### RUSSIAN DEBTS TO AMERICAN COMPANIES

• Mr. WOFFORD. Mr. President, as we prepare to vote today on the Foreign Operations conference report, which contains funds for the Commonwealth of Independent States, I would like to take a moment to remind my colleagues of a serious problem that could

be a potential threat to subsequent assistance to the former Soviet Union.

When the Soviet Union collapsed, many American companies that had been trading with that country were left with unpaid bills, often worth millions of dollars. For example, an employee-owned Pennsylvania company, INDSPEC, is owed \$1.7 million for its 1990 shipment of resorcinol to Russia. The Government of Russia has acknowledged the debt and used the product, but has not seen fit to settle its bill. Given the hundreds of millions in aid that the Government of Russia has requested and received, I suggest they should reconsider.

I would like to draw the attention of my colleagues to a section of the conference report for the Freedom Support Act, which addresses the problem of commercial debts to American companies. In considering the allocation of assistance to governments of the Commonwealth of Independent States, the President must take into account not only relative need but the extent to which the government of an independent state is acting on 11 different criteria, including acceptance of responsibility for paying indebtedness to American firms.

In some ways, this is a relatively small problem. Russia does have the money to pay its debt to INDSPEC and other companies. But this problem has the potential to become a serious issue in future consideration of financial assistance to the former Soviet Union. I have been an advocate for such assistance, and believe it is in the best interest of the United States to assist the Commonwealth of Independent States in their transition to democracy. Nonetheless, it will be increasingly difficult to explain to American companies why we send their tax dollars to a country that reneges on its debts to these same companies.

Again, I urge the Government of Russia to make good on its debts and call on the Department of State and the Department of Commerce to facilitate the timely resolution of this problem.

#### TRIBUTE TO THE HONORABLE CLAUDE C. HARRIS UPON HIS RETIREMENT FROM THE U.S. HOUSE OF REPRESENTATIVES

• Mr. SHELBY. Mr. President, I rise today to honor the service of the Honorable CLAUDE HARRIS of Tuscaloosa, AL, who is retiring from the House of Representatives at the end of the 102d Congress.

Mr. President, CLAUDE took my seat in the House in 1987 when I came to the U.S. Senate, and he has served the people of Alabama's Seventh Congressional District with honor and distinction. He is a long-time friend and a Congressman who will be sorely missed by his colleagues in Washington and by the people he has represented so well in Alabama.

CLAUDE HARRIS has dedicated most of his life to public service by improving and advancing his State and his country. As a prosecutor in the Tuscaloosa district attorney's office from 1965 to 1976, CLAUDE went beyond the call of duty and greatly improved the efficiency of the law enforcement community. As a judge on the Sixth Judicial Circuit of Alabama from 1977 to 1985, CLAUDE was instrumental in modernizing Alabama's judicial code and legal system. Finally, as a Congressman and member of the House Energy and Commerce Committee and the Veterans' Affairs Committee, CLAUDE has been a strong voice for the people of Alabama.

Mr. President, it is always difficult to summarize a man's accomplishments in a simple tribute. However, I do want to take this opportunity to acknowledge CLAUDE service and express my appreciation for the assistance and friendship CLAUDE has given me over the years. I wish him and his family the best of luck in their future endeavors. While I hate to see him leave the House of Representatives, I know that we have not heard the last of Congressman HARRIS.

Thank you Mr. President.●

#### HONORING A GREAT PUBLIC SERVANT

• Mr. SIMON. Mr. President, I rise today to honor and pay tribute to a great public servant, Floyd Fithian, my chief of staff. While Floyd is not leaving the Simon staff, he will be moving into a new position with me off the Hill after the first of the year. Because of this, it is appropriate to talk of the years of selfless, valuable services Floyd gave first to the people of Indiana, during his 8 years in the House of Representatives, and more recently to me and the State of Illinois, as my chief of staff for the past 8 years.

Floyd Fithian didn't originally intend to seek elective office himself. Instead, he worked for candidates whose ideals he shared. In 1968, while working as a professor of history at Purdue University, he joined forces with many of the idealistic, progressive individuals who were campaigning with and for Robert Kennedy. In 1970, he devoted his efforts to the congressional campaign of Indiana businessman Phil Sprague. After Sprague lost a close race to the incumbent, Earl Landgrebe, the new Congressional District created after the 1970 census eliminated Sprague from contention.

Feeling that the constituents in the new Second District deserved better, Floyd set out to find a qualified candidate. When no strong contender took to the field, he threw his own hat into the ring. It was a bad year in 1972 for Democratic challengers, but Floyd just kept on running until 1974, by which time the political landscape had changed dramatically.

Floyd came to Congress the same year as I did, as a member of the Watergate class, and immediately set out to improve the system. We achieved substantial reforms in the way Congress did its business—reforms designed to make the system more accountable to constituents and to Members.

During his 8 years in the House, Floyd served his constituents well. On issues like agriculture, small business, and foreign affairs, Floyd was a very successful legislator. He was willing to take on important issues, even if they weren't glamorous or popular. For example, he was instrumental in the reform of the Federal Insecticide, Fungicide and Rodenticide Act, carefully balancing the needs of the agriculture community with the grave necessity of protecting our fragile environment. In his role as my chief of staff, I came to rely heavily on Floyd's advice and thoughts on many areas of agriculture and issues of concern to the Illinois farming community.

It was redistricting that encouraged Floyd to run for office and redistricting that eliminated his seat in 1981 when the Indiana legislature divided it up into four pieces. After looking at running in any one of the four districts, as well as the possibility of State office, Floyd decided to run for the Senate. Although his campaign was unsuccessful, he raised many important issues throughout his campaign across the State of Indiana—issues like jobs, fair wages, care for the elderly, protection of the environment, education and renewable energy.

After leaving Congress, and a brief stint at the Democratic Senatorial Campaign Committee, Floyd agreed to become my chief of staff when I prepared to move to the Senate. To my knowledge, Mr. President, he is the only former Member who has gone on to work for one of his or her colleagues in Congress. It takes an individual whose feet are well on the ground to make the transition from Member to staff without any problems—and Floyd did it with grace, humor, and loyalty. We had shared many of the same goals, interests, and values in the House, and we were both confident that we would work well together in the Senate.

As my chief of staff, Floyd has been primarily responsible for assembling a superb staff, one to which I look for advice and also with great pride. They are hard-working and dedicated, and most of the credit that comes my way from the media and various groups really belongs to the staff which Floyd assembled and led. Let me also mention one other person here who deserves not only my thanks but those of the people in Indiana who Floyd so well served—his wife Marj, who kept Floyd organized and inspired him with her own deep commitment to critical issues like the environment, family, and social conscience.

Mr. President, while Floyd will continue to work closely with me and my staff in his new capacity, we will miss his day-to-day involvement. I am pleased that Floyd has agreed to take on yet another new challenge for me, that will also allow him to pursue some other activities as well. From the time he arrived in Washington, Floyd has proven himself to be a tireless, creative, caring public servant, the type of public servant we as a Nation need and deserve. •

#### FRAMEWORK CONVENTION ON CLIMATE CHANGE

• Mr. WIRTH. Mr. President, I rise today to comment on the Framework Convention on Climate Change now before the Senate. Passage of this treaty is both an historic and hopeful first step to address the enormous challenge of global climate change.

I went to the Earth summit, Mr. President, and saw a new world order begin to unfold. Rio reaffirmed that we are entering a new era of international relations, not only in terms of our relationships with individual nations, but also in terms of our relationship with the Earth and the global environment.

In many ways, the mere fact that we are considering this treaty is a remarkable achievement and signal of the new era initiated in Brazil. Although members of the scientific community long have been concerned about the impact of manmade greenhouse gas emissions on our climate, only recently have world leaders begun addressing this enormous challenge. In fact, the seeds of this treaty were sown only 4 years ago, when dramatic global climate events captured the world's attention.

The 1988 drought in North America, Asia, and Europe provided a graphic snapshot of what a warmer world and changing climate could mean—the Mississippi River was closed to barge traffic as vast stretches became unnavigable; the breadbasket dried out; intense storms rocked our coastlines. All of these events galvanized world attention to the issue of climate change, forcing the issue from the pages of obscure scientific journals to the front page of our daily newspapers.

I remember 1988 well, Mr. President. As a freshman Senator in 1987, I began developing a comprehensive bill that would establish policies for reducing greenhouse gas emissions. As I neared completion of that bill, I went to the Toronto Conference on the Changing Atmosphere in June 1988, a major milestone, at which scientists and policymakers declared common effort to combat global climate change. Consensus emerged at the Toronto conference about the need to act urgently and decisively to slow the buildup of heat-trapping greenhouse gases. The proposals by the Prime Ministers of Norway and Canada for a commitment to re-

duce carbon dioxide emissions by 20 percent in the year 2000 were echoed by many others, including myself, and in the final statement of the participants.

Late that year, the Intergovernmental Panel on Climate Change [IPCC] was established to develop a state-of-the-art and internationally-recognized assessment of the scientific basis for concern, impacts, and policy options related to global climate change. The United Nations reinforced the IPCC efforts when the General Assembly passed Resolution 43/53 to support the panel's efforts.

Two years of careful, peer-reviewed work were concluded in late 1990, when the IPCC issued its scientific assessment, concluding that:

First, there is a natural greenhouse effect;

Second, heat-trapping greenhouse gases are building in the atmosphere as a result of human activities;

Third, that the continued buildup of these gases will cause the global climate to change.

Acting on this broad international scientific consensus, resolution 45/212 was adopted by the U.S. General Assembly in December 1990. This resolution called for the creation of an Intergovernmental Negotiating Committee [INC] to develop a Framework Convention on Climate Change that would be available for signature at the U.N. Conference on Environment and Development in June 1992. The Intergovernmental Negotiating Committee held five official negotiations between February 1991 and May 1992, culminating in the agreement before us today.

I suspect that the development of this convention, with such broad implications and importance for the future, represents an unprecedented example of rapid and concerted international action. Unfortunately, Mr. President, this treaty—though worthy of our support—falls short of the expectations of most, and the imperative for all.

Despite the best efforts from the community of nations, only a lowest common denominator convention could be agreed to. And unfortunately, as has been widely discussed in the press, the current administration bears primary responsibility for the treaty's shortcomings.

Unhappily, it appears as if the convention—now signed by more than 150 nations—was the best possible at this time, even though it is a tremendous disappointment to the rest of the industrialized world, who were willing to change when U.S. negotiators were not, and to all those committed to protecting our fragile environment.

Absent U.S. leadership, the willingness of the other industrialized nations to establish binding targets for greenhouse gas reductions was wasted. And absent any commitment from the industrialized nations, the developing countries refused to enter into commit-

ments for reducing their contribution to the problem of global warming.

This was a significant missed opportunity, Mr. President. Despite the rapid pace of these negotiations, the nations of the world were ready to forge common cause on behalf of protecting the global environment for present and future generations.

Indeed, this commitment is reflected in one of the true accomplishments of this agreement—the long-term goal of the convention, articulated in article 2:

The ultimate objective of this Convention \*\*\* is to achieve \*\*\* stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system.

Stabilizing greenhouse gas concentrations in the atmosphere is the daunting long-term goal that would have to be reached if we were to halt further human interference in the Earth's climate system. Unfortunately, the specific commitments agreed to in this convention fall short of stabilizing emissions, let alone atmospheric concentrations of greenhouse gases. Instead, what this treaty does is to establish a common international goal and a process for moving forward—worthy accomplishments in and of themselves.

In order to begin the effort to achieve the objective of the convention, the parties agreed to undertake a number of noteworthy actions:

First, all nations agreed to establish and publish national inventories of emissions and to develop programs to reduce emissions.

Second, all nations agreed to cooperate in the process of transferring technology—unless we help the developing countries harness cleaner technology, emissions from this bloc of nations will overwhelm the best efforts of industrialized nations to reduce emissions.

Third, all nations agreed to promote research, education and the exchange of information.

Recognizing the differentiated capability and responsibility to reduce emissions, the treaty establishes commitments for the industrialized nations. Specifically, the industrialized nations agreed to:

First, adopt national policies to mitigate climate change, limit manmade emissions of greenhouse gases and enhance greenhouse gas sinks.

Second, develop detailed action plans for reducing greenhouse gas emissions and enhancing sinks, with the aim of returning individually or jointly (emissions) to their 1990 levels.

Third, to provide new and additional financial resources to help facilitate the transfer of technology to the developing countries.

These are constructive first steps. And while we are not legally bound to aggressively undertake these responsibilities, the treaty does send an implicit signal and does carry—as EPA

Administrator Bill Reilly has said—a moral responsibility to initiate a national effort to reduce our contribution to this global problem by stabilizing our greenhouse gas emissions at 1990 levels by the year 2000.

But is moral responsibility a strong enough incentive to stimulate viable activity to inhibit global climate change? As a witness to the negotiations leading to Rio and to the missed opportunity at the Earth summit to take more decisive action on behalf of the environment, I feel it is important to enumerate the shortcomings of this treaty.

The near-term commitments of the industrialized nations are vague—so vague in fact that the administration wrote soon after negotiations were completed that the treaty does not obligate the United States to anything—and furthermore, the commitments represent only the smallest of steps toward the long-term objective of stabilizing greenhouse gas concentrations in the atmosphere.

Second, the treaty lacks anything in the way of specific commitments by developing nations. Again, U.S. insistence on vague, minimal commitments for the industrialized nations, failed to inspire the developing countries to take on any obligation whatsoever. This is a major shortcoming. Today, the industrialized nations contribute the vast majority of global greenhouse gas emissions. That will not be true in the not too distant future. Coupled together, rapid population growth and even minimal economic development—so badly needed, of course—in the developing countries ensure that these nations collectively will overtake the industrialized world as the greatest contributor to the global inventory of greenhouse gas emissions.

And finally, Mr. President, further work needs to go into the treaty's provisions that would allow nations to undertake emissions reduction efforts in conjunction with other nations. No doubt, joint implementation mechanisms offer the possibility of more efficient reduction programs. However, without spelling out specific commitments and detailed guidelines for joint implementation, it is difficult to ascertain the feasibility of this objective. More work needs to be done to clarify joint implementation plans.

Having identified the most noteworthy accomplishments and shortcomings of this treaty, where do we go from here? First, as I said when I began my remarks, we should immediately ratify the Framework Convention. Despite the significant shortcomings of this agreement, we should not sell short the important process that has taken place and will be initiated through this convention.

Like the Vienna Convention adopted to address the buildup of ozone depleting substances, this convention should

be viewed as the first leg on a hard push to develop a meaningful and comprehensive program to take on the issue of global climate change.

Therefore, the United States—which has pledged to produce an action plan by January 1, 1993—should begin immediately working with the public and private sectors to develop a detailed, explicit and substantive action plan. This plan should spell out in detail how we intend to meet the implicit responsibility for stabilizing greenhouse gas emissions at 1990 levels in the year 2000. Our plan should be developed as a model for other nations in terms of its detail and exhaustiveness.

Second, we should begin in December of this year, at the next meeting of the Intergovernmental Negotiating Committee, to develop more specific language detailing the obligations agreed to by the industrialized nations, and to work with developing countries to outline their role in this global effort.

Third, we need to ensure that our commitment to providing new and additional resources is backed by action. We in the United States are wasting our early, significant, comparative advantage in ecological know-how and commerce. By hanging back, Americans jeopardize more than our 40-percent share of the current market—\$300 billion a year—for environmental goods and services. We also put at risk our broader claim to scientific, diplomatic, and moral leadership on a global scale.

Fourth, as occurred after the Vienna Convention was agreed to, we need to begin as soon as possible to develop protocols to this convention that will add meaning and additional commitment to the current treaty. These efforts should commence at the December meeting of the Intergovernmental Negotiating Committee.

Finally, we need to encourage our partners—North and South—to quickly ratify and begin implementing this treaty.

Mr. President, we have seen many incredible international political events in the past 2 years—none more remarkable than the collapse of the Soviet Union which signalled the last leg of the cold war, and Rio, which signalled the first leg of a new priority for urgent, concerted, and decisive international alliance on behalf of our collective environmental security.

The representatives of 170 countries who attended the Earth summit surveyed this new mission. There was genuine enthusiasm on the part of most industrialized nations to forge new relationships based on cooperative policy. Developing nations sought inspired leadership and assistance. The world was prepared for a new era of international relations.

Unhappily, when the world turned to the United States for leadership, the current administration responded with

inaction and indecisiveness, seriously tarnishing the U.S. legacy of environmental vision. Other nations have already begun to make the crucial transition to a new ordering of priorities. We saw extraordinary evidence of that in June at the Earth summit. I came home convinced that the road from Rio, is, in fact, the highway to the future.

That highway has opened because the biggest barricade to it has fallen. The end of the cold war, which for nearly 50 years defined our common goals, underlay our national budget, and guided our mission, is not the end of history. The end of the cold war is the beginning, instead, of a new competition for survival and well-being that America is superbly positioned to lead and, in a sense, to win. We leave the cold war behind and now face an equally imposing threat—the challenge of fighting our alteration of the global climate system; the war against global warming.

On the road ahead—the road from Rio—there is still time for America to move where it belongs, into the lead. As our own EPA Administrator has said, we took a wrong turn in the negotiations leading to the summit. But we can reverse and recoup.

On our own at home and in concert with other nations, we have to set the example for others to follow and commit the resources that will pay us double dividends through sustainable development: programs toward ecological balance and profits from selling the technology on which such progress depends.

By being the first nation to ratify this treaty, Mr. President, we can set such an example and begin the global effort to protect and preserve our environment for future generations. Although the treaty lacks definitive and binding language and no specific guarantees for implementation, we must adopt it as our first, albeit small, step toward preventing global climate change. Let us send a message to the global community that America supports this international effort and then prepare ourselves to regain leadership on this compelling and challenging issue.●

#### TRIBUTE TO SGT. MAJ. C.A.

“MACK” MCKINNEY, USMC (RET.)

● Mr. MCCAIN. Mr. President, on January 1, 1993, Sgt. Maj. C.A. “Mack” McKinney, USMC retired, will, once again, be retiring. His first retirement, some 21 years ago, concluded a Marine Corps career that spanned three decades and that saw him serve his country in three different conflicts.

Today, however, I rise to offer a tribute to this man who has served his country long and faithfully during not one, but two distinguished careers. At the end of this year, Sgt. Maj. “Mack” McKinney will retire from his posts as

legislative counsel for the Non Commissioned Officers Association, and as cochairman of the Military Coalition.

It is often said that the measure of leadership is not limited to an individual's singular accomplishments but is extended more broadly to the impact the individual has on the environment in which he works and of those around him.

For the past 20-plus years, first as legislative director and then as legislative counsel for The Non Commissioned Officers Association, Sgt. Maj. “Mack” McKinney has been, in every sense of the word, a leader. On over 100 occasions, as spokesman for the association, he has been in the vanguard of some of our Nation's toughest issues, such as the health and well-being of all members of the uniformed services—active, reserve, and retired—and their families and survivors.

I first met Sgt. Maj. “Mack” McKinney in the late 1970's when I was working as a Navy liaison officer to the Senate. I will never forget the words he told me on that occasion. He said, “Always tell it like it is, and always honor your commitments.” This has been his guiding philosophy in life, as it has been mine.

From the military community's perspective, some of Sgt. Maj. “Mack” McKinney's more notable accomplishments were in his role as a charter member and later cochairman of the Military Coalition. Through his untiring and unerring leadership, this group, comprised of 24 military affiliated organizations, representing over 3½ million active duty, reserve, and retired military members of the seven uniformed services plus their families and survivors, has coalesced into a powerful force on Capitol Hill. Ironically, few of the members Sgt. Maj. “Mack” McKinney represents know him personally or recognize the debt of gratitude they owe him.

By paying tribute to him in this RECORD, I hope to provide formal recognition of his legislative achievements and to note for posterity his painstaking efforts to secure passage of such vital laws as: separation pay for enlisted members, an issue he has fought on for over 18 years; CHAMPUS reform; and a transition plan that provides much needed benefits for service people affected by the current drawdown of military personnel. Additionally, he has successfully waged campaigns to modify the Gramm-Rudman-Hollings law to provide equitable COLA treatment for all retirees; to thwart countless attempts to diminish commissary benefits; to enhance medical readiness while concurrently honoring previous commitments to provide quality health care to military beneficiaries; and to secure an equitable Home Loan program for enlisted personnel. Mr. President, this list provides only a hint of Sgt. Maj. “Mack” McKinney's greatest accomplishments.

Several years ago, Sgt. Maj. “Mack” McKinney's influence spread beyond the military community to touch upon the lives of more than 30 million senior citizens involuntarily brought under the yoke of the Medicare Catastrophic Coverage Act and its struggle to repeal this surtax, Sgt. Maj. “Mack” McKinney was an invaluable ally and font of knowledge to members of both bodies, as we sought equitable solutions to the problems of catastrophic illness and affordable long-term nursing home care for the elderly.

Sgt. Maj. “Mack” McKinney may be officially retiring, but he has graciously promised to continue his efforts on vital health care issues and other issues that affect the lives and futures of our military personnel and their families.

Mr. President, Sgt. Maj. “Mack” McKinney is, and will continue to be, a sagacious leader and advisor. We all will miss him greatly as he retires. For those who have come to know him as I have, as a friend, I wish my dear friend, “fair winds and a following sea.”●

#### USDA FIGURES REFLECT POLITICAL TILT

● Mr. HARKIN. Mr. President, with President Bush running for reelection, I suppose it is only to be expected that his people over at the Department of Agriculture will do everything they can to convince America's farm families and rural communities that they have never had it so good. I suppose I can understand why political pressures would force the Bush administration to try to convince rural America that things are different from what they live and experience every day. It is a political game that insults the intelligence of people in rural America. Because the propaganda coming out of the Agriculture Department is belied by the facts.

Were it not for the real pain involved, the wrenching economic realities that confront rural America, I suppose it would be a little amusing to watch as George Bush shamelessly courts votes from a rural America that he and his predecessor wrote off for the past 12 years. And I say it is time to call a halt to this record of neglect and indifference toward rural America.

Let us look at some of the statistics. Since 1981, we have lost 344,000 farms in this country. During the 1980's, Iowa's farm population dropped 34 percent, while in the United States as a whole the farm population dropped 31 percent. In my State of Iowa the number of people whose primary occupation is farming fell by 25 percent in the 1980's.

We have lost virtually an entire generation of young farmers. The average farmer is now 52 years old. There are twice as many farmers over 60 as under 35. The number of people entering farming fell by 29 percent during the

1980's. But how can that be any wonder when the doors of opportunity have been slammed so tightly shut on young people wanting to farm?

Mr. President, the loss of farms and farm families represented by these figures has dealt a devastating blow to our rural communities. For they do not represent merely people finding another job or another place to live. These figures reflect massive and disruptive changes that are ripping the fabric of rural America, and undermining the whole system of schools, hospitals, churches, and small businesses that form our social communities.

In the face of this deeply disturbing information about what is happening to our farm families and rural communities, George Bush's Department of Agriculture continues to issue statistics designed to paint a rosy picture of prosperity in agriculture. But an examination of the facts refutes the political spin that USDA is seeking to generate.

When USDA brags about high, indeed record, levels of farm income, as it is wont to do, it conveniently fails to adjust the figures for inflation. I cannot understand why when the financial situation of our farm families is assessed we should not take inflation into account just like we do for other sectors of the economy. That is just basic economics. And it is just basic honesty.

And the truth of the matter is that in constant 1987 dollars, net farm income has not reached record levels under George Bush, and has in fact fallen dramatically. In constant dollars, net farm income fell from \$46.2 billion in 1989 to an estimated \$38 billion in 1991, nearly an 18 percent decline. Using USDA estimates, net farm income may fall by as much as 26 percent between 1989 and 1992.

As for comparisons with previous periods of time, the average net farm income under George Bush as projected by USDA—again in constant dollars—is lower than the average for the decade of the 1960's as well as the average for the decade of the 1970's. Farm income in the Bush years has been higher than in the earlier years of the 1980's, but I hardly see a reason to brag about doing better than the farm crisis years of the 1980's, when our farm economy was suffering the biggest downturn since the Great Depression.

We have also heard boasting from USDA about increases in agricultural exports. Let us look at the facts. USDA's forecast for agricultural exports for fiscal 1992 is still below the level of ag exports for fiscal 1981, even without any adjustment for inflation. And what is more, fiscal year 1981 immediately followed the Russian grain embargo in 1980. Again, the facts belie the bragging coming out of the Bush administration.

In addition, surveys show that farm debt and financial stress is also in-

creasing again. The drain on the assets and incomes of farm families is obvious. Indeed, USDA figures show that for 1990, 55 percent of farm households suffered losses from their farming operations. And the situation is not improving.

To add to these problems, USDA says we have an 8.7 billion bushel bumper crop of corn this year, exports have fallen dramatically, and corn prices are well below \$2 a bushel across Iowa. In Iowa, corn prices have fallen by about 50 cents a bushel and soybeans by about \$1 a bushel since June of this year. That means that in Iowa this year's corn and soybean crops are now worth well over \$1 billion less than they would have been without these price declines. For the United States as a whole, the corn and soybean crops are worth more than \$6 billion less than they would have been with June's prices. That means less income for farm families and larger outlays for Government price and income support payments. And even with these higher Government expenditures, Government payments will make up only a part of the losses for lower prices.

Mr. President, it is clear to me that America's farm families and rural communities are not going to be fooled by the propaganda coming out of the Bush administration. They know that the situation in the farm economy is worsening and they are ready to throw the low price, low-income policies of George Bush out the window. They are calling for policies that will capitalize on export opportunities and expand foreign markets, not forfeit them, policies that will emphasize developing markets for value-added and alternative ag products in the United States and abroad, and policies that will make the farm programs work for farm families once again. And it is high time they see these policies put into effect.●

#### PATENT ON OXAPROZIN

● Mr. SIMON. Mr. President, I would like to extend my appreciation to my esteemed colleague and friend from Arizona for assurances regarding legislation, likely to be introduced next year, that would reinstate a patent on Oxaprozin, an antiarthritic drug manufactured by Searle in Illinois. Specifically, my colleague has agreed to hold a hearing on this issue during the 103d session.

As my colleague knows, the House and Senate have spent much time considering a patent extension bill for a similar drug, called Ansaid. The House also examined another drug from the same class, called Lodine. The rationale for these two extensions has focused on particular circumstances that occurred at FDA delaying the market approval for the drugs. Since Oxaprozin falls within the same category of antiarthritic drugs as Ansaid and Lodine,

and since it has been subject to similar—if not longer—delays, I believe Searle's product should receive the same treatment that they do.

I fully understand that my colleague from Arizona has made no commitment about whether a bill reinstating and extending a patent on Oxaprozin would pass, or even whether he would support such a bill. Rather, he has agreed to hold a hearing on the merits of the legislation.

Mr. DECONCINI. That is correct. While I offer no opinion at the present time on the merits of a private patent extension for Oxaprozin, I understand the Senator's concerns and would be happy to honor his request to conduct a hearing on Oxaprozin, should legislation be introduced.

Mr. SIMON. I appreciate my colleague's cooperation and look forward to discussing this with him next year.●

#### IN RECOGNITION OF THE CONTRIBUTIONS OF THE AMERICAN INDIAN SCIENCE AND ENGINEERING SOCIETY

● Mr. INOUE. Mr. President, I rise today to recognize the contributions of the American Indian Science and Engineering Society [AISES], a nonprofit organization which seeks to increase the number of American Indian scientists and engineers and the development of technologically informed leaders within the Indian community.

The society will convene their 14th Annual National Conference in the Year of the American Indian on November 5-8, 1992, at the Hyatt Regency Hotel in Arlington, VA with the theme of "Year of the American Indian."

The conference will bring over 600 American Indian and Alaska Native college and university students to the Nation's Capital, in addition to many Indian professional scientists and engineers. The conference will offer a career fair where corporations from across the country, as well as Federal and State agencies, will provide information on employment opportunities to prospective employees. A major highlight of the conference is the awarding of scholarships to many talented and deserving American Indian students. The scholarship moneys are made available through the generous contributions of corporations, foundations, and individuals, and Federal scholarship grant programs.

The Federal agencies are to be commended for agreeing to serve as major hosts for this conference, in conjunction with the Mobil Corp. Many Federal agencies employ students and professionals in the science and engineering disciplines. The location of the conference will serve to further convey to students that the Federal sector can provide a rewarding career—a career that holds the potential of serving Indian country and Indian communities as well as the larger American society.

The American Indian Science and Engineering Society scholarship program has grown from \$1,400 in 1982 to \$246,500 in 1991, with a total of 213 students receiving scholarships in 1991. Nineteen ninety-two promises to be an even better year in the provision of scholarship assistance.

From its inception in 1988, the American Indian Science and Engineering Society has received over 2,000 applications for its precollege program which includes summer internship experiences for American Indian students. During the summer of 1991, nearly 200 middle school and high school students, representing 63 Indian tribes in 33 States participated in math and science programs at various universities and internship sites.

Another major achievement in the society's teacher programs, which are designed to train teachers in math and science with interdisciplinary and cultural applications aimed at enhancing the abilities of their American Indian students to deal with science and technology in their daily lives. The 1991 teacher workshops involved nearly 90 educators.

The society's education newsletter is published quarterly and is mailed to 35,000 educators and students nationwide. The newsletter is supported by a grant from AT&T.

The society's "Winds of Change," a national four-color magazine was awarded the prestigious Ozzie Award for Design Excellence by Magazine Design and Production. This competition included 1,600 entries from the best publications in the United States and Canada.

AISES also has a successful Pathway Program that assists the students in securing internship positions or assists members to secure employment.

AISES provides the Science of Alcohol Curriculum for American Indians in a series of supplementary science lessons designed for use in grades four through nine. The curriculum combines science, American Indian culture, and prevention through the use of stories, hands-on experiences and cooperative learning activities. This project was sponsored by the National Science Foundation.

The society is also a sponsor of science fairs. In 1991, over 330 students from 10 different States took part in the National Science Fair at New Mexico State University in Las Cruces, NM, which was supported by a grant from National Action Council for Minority Engineers and National Agricultural Statistics Service, U.S. Department of Agriculture.

Another important achievement of AISES is their annual Leadership Conference. Sixty students from AISES student campus chapters from across the Nation attended this conference in 1991. The 1992 conference in Colorado enjoyed equally good participation. In

past years, the leadership conference has been sponsored by the U.S. West Foundation. Activities include workshops on leadership and personal development, as well as issues relevant to the technical and social advancement of Indian people.

The American Indian Science and Engineering Society has over 80 chapters at colleges and universities across the country. These chapters provide peer and mentoring support for American Indian science and engineering students. They also provide a national network for the administration of AISES college programs.

The society is located in Boulder, CO. Mr. Norbert Hill serves as the society's executive director, working with the AISES board and its officers.●

#### COMMEMORATION OF THE CINNAMINSON, NJ, FIRE COMPANY NO. 1

● Mr. BRADLEY. Mr. President, I rise to congratulate the Cinnaminson Fire Company No. 1 as it commemorates its diamond anniversary.

The men and women of the Cinnaminson Fire Company No. 1 have given 75 years of faithful and vital support to Cinnaminson Township and the surrounding communities. I join all the residents in applause and appreciation for the dedication, expertise, and bravery of the firefighters.

I offer my best wishes for continued growth in the years ahead.●

#### RUSSIAN ARMS SALES

● Mr. COHEN. Mr. President, I would like to bring to my colleagues' attention two recent articles by Norman Friedman which appeared in the Naval Institute Proceedings. Mr. Friedman reports that in July the Russian aircraft industry closed a deal to sell \$2.5 billion in arms to Iran, including 12 Backfire bombers, 2 AWACS-type aircraft, 48 air superiority fighters, and many other aircraft and missiles. In his second article, he discusses new antiship missiles, more capable than Exocet, which the Russians are selling in the international arms markets.

Military officers sometimes describe a potential opponent in terms of intentions and capabilities. I am not trying here to paint a picture of Iran as an actual threat. This arms sale demonstrates, however, that advanced Soviet weaponry is being sold to other nations. As we witnessed when Iraq invaded Kuwait, we may have no warning time in future crises. It is imperative, I believe, that our naval forces be capable of defending against advanced antiship missiles. And this capability must exist in the fleet, and not just in some laboratory.

These articles deserve our attention. The Proceedings magazine is a leading professional journal read by senior

naval leaders worldwide; it has a circulation of more than 100,000 and the magazine estimates that nearly half a million people read the magazine each month. Mr. Friedman is the author of the Naval Institute Guide to World Naval Weapons Systems and he has testified before the Armed Services Committee.

The issue of how to fund improvements in air-defense for our naval forces will continue to be an issue in the future. I am pleased to report that the conference bill on the defense authorization for fiscal year 1993 funds four Aegis guided-missile destroyers and provides increased funding for ship self-defense capabilities for ships which do not have the Aegis system.

Mr. President, I ask that two items be printed in the RECORD. The first is an excerpt from the article by Norman Friedman which appeared in the September 1992 issue of Proceedings, and the second is the article by Mr. Friedman printed in the October issue.

The material follows:

[From Proceedings, October 1992]

WORLD NAVAL DEVELOPMENTS

(By Norman Friedman)

"IT'S DANGEROUS OUT THERE \*\*\*"

During the August 1992 Russian aircraft industry's major show in Moscow, the full range of air-to-surface missiles was on display, together with new air-to-air and even surface-to-surface weapons. All were for sale, and last month's sales to China and Iran show just how widely some of these weapons are likely to be deployed. The reported prices suggest that, at least for now, the Russians can undersell all Western suppliers.

The Russians have been increasingly forthcoming, and by late 1991, they had come close to revealing details of nearly all the missiles for which NATO had assigned designations. The Moscow show went much farther. It provided the sort of detail common in Western military advertising, but heretofore available in the West only in publications classified "Secret" or above.

It now appears that Western intelligence missed quite a few tactical programs.

Nothing in what follows should be read as an attempt to revive the old Soviet threat. The degree to which a country's arsenal presents a threat depends both on its politics and on its ability (including its economic ability) to support hostilities, and the Russia of late-1992 clearly is not a threat to the West. The Moscow show does, however, demonstrate quite clearly that Russia is a viable competitor in the international arms market. At least some of the weapons on display will be sold to Third World countries unfriendly to us, and the United States cannot reasonably try to prevent such sales. When the Russians renounced Communism and open hostility, we invited them into the world trade system. Like it or not, that system includes the arms trade. After all, the United States is part of it.

It would be tempting to imagine that only the Russians' second- or third-rate equipment will appear in hostile hands. This was true in the past; the old Soviets were not all that willing to export their best equipment, partly for fear that their erstwhile clients would change sides, or that key details would leak out. They manufactured special export versions of their equipment—all with

the suffix E. But the point of that secrecy was that one day the first-line equipment would face the West. To the extent that President Boris Yeltsin's Russia is unlikely to fight the West, inhibitions against exports are much weaker. Whoever has the cash will get excellent equipment.

From a naval point of view, probably the most spectacular—and the most alarming—weapon on display was an antiship version of the AS-16 air-to-surface "aero-ballistic" missile, previously counted as a strategic weapon because it is the Russian equivalent of the U.S. Air Force's short-range attack missile (SRAM), which used to be carried by B-52s. The AS-16 may well be the chosen successor to those nightmare weapons of the 1970s and 1980s, the AS-4 and AS-6. Like them, it can be carried by Backfire bombers, just like the ones purchased by Iran. Like the earlier missiles, the AS-16 flies a high trajectory with a terminal dive, making the missile particularly difficult to shoot down. Unlike them, more can be carried on an internal rotary launcher.

According to the brochure release in Moscow, the missile carries a 330-pound warhead to a range of 150 kilometers (about 90 nautical miles) against cruisers at speeds of up to Mach 5. Its range is much shorter when used against destroyers and fast attack boats. After it's dropped, the missile climbs steeply to assume a ballistic path. It uses inertial mid-course guidance, with a millimeter-wave active radar terminal seeker. Launch weight is up to 1,200 kilograms (about 2,600 pounds). Maximum range is associated with a launch altitude of 20,000 meters (about 65,600 feet).

The published drawing of the missile's flight path shows a straight run toward the predicted target position, with the missile maneuvering only in its final approach to compensate for target motion. True inertial guidance, however, would probably permit missile maneuvers in flight, so that the launching bomber would not have to fly directly toward the target. The warhead is considerably smaller than those of earlier antiship missiles, but the bomber carries many AS-16s. The logic may well have been that one or two AS-4s could be shot down, but that many of the more numerous AS-16s would get through and destroy a target by cumulative damage. The sheer speed of the missile adds considerable kinetic energy to the warhead. It is also possible that the Russians believe that more modern explosives will make up much of the difference.

There is one important divergence from earlier practice—the AS-16 uses solid propellant, while the AS-4, -6, and their predecessors use liquid. The liquid adds to the effect of the shaped-charge warhead, but solid fuel is safer and easier to handle. Future solid-fuel rockets may use their fuel to add to explosive effect, but that is unlikely thus far.

Clearly such a missile is very difficult to defeat. It arrives at a steep angle, and its seeker may be quite difficult to detect and jam (the higher the frequency, the more range for frequency agility to avoid jamming). If the best antidote to the high-flying AS-16 was to kill the archer before he fired, that is at least as true of AS-16.

With the decline of the Cold War, there was a general belief that the outer air battle—the battle against the bomber outside of its own missile range—was finished as a major issue. It was seen as the best defense against the threat posed by the Soviet naval air arm, but surely those aircraft would no longer be a major enemy. The real problem of the fu-

ture, planners believed, would be a Third World fighter-bomber or diesel-electric submarine, and these perceptions doomed the F-14D and the Phoenix missile successor—the advanced air-to-air missile (AAAM).

Now the Iranians have shown that a Third World country can buy heavy Russian bombers, and the Moscow Air Show may have given us a hint of what they will carry. For years, analysts have wondered why no AS-4/6 successor had appeared. They suspected that both missiles were being improved, with emphasis on guidance and warhead technology. Perhaps the correct answer was that the Soviets were busy with the AS-16. It may have been significant that, although the full range of tactical air-to-surface weapons was on display, the AS-4 and -6 were not. One might suspect that, to the extent that the AS-6 is part of a Backfire export package, it would be prominently displayed, especially since other, older missiles were shown. Incidentally, the AS-6 is on display in Moscow—at the air museum.

The AS-16 has another unwelcome implication. In the past, although clearly it paid to destroy bombers rather than missiles, it could be argued that shooting down a single bomber eliminated no more than two antiship missiles. A single Backfire, for example, carries two AS-6s. But the alternative is a pair of rotary launchers carrying many more AS-16s. Moreover, because the missiles fly a predominantly inertial path, the bomber need not lock them on before it fires. The flight path implies that the bomber can fire from relatively low altitude, below the target's radar horizon, on the basis of external targeting data. That might be the significance of the Iranian purchase of the maritime patrol version of the An-72 Coaler, mentioned in this column last month.

A single Backfire, then, now can launch a mass missile attack on a battle group. Shooting it down long before it can fire becomes a higher, not a lower, priority. From the point of view of a Third World country faced with U.S. naval air power, the Backfire/AS-16 combination must be enormously attractive. The effect of the Russian political revolution is that the old criterion of client-hood has been replaced by a much simpler one: cold cash.

In particular, the F-14 versus F/A-18 issue may be reopened. In very realistic Third World scenarios, the fleet's ability to fight an outer air battle becomes essential; it also becomes more difficult. In the past, it was assumed that the fleet would arrive after war had been declared, i.e., after aircraft in Soviet markings were fair game. The only problem was technical: the F-14s had to get far enough out fast enough to intercept beyond the AS-4's range. Now scenarios are likely to be much more ambiguous; the Backfires will be fair game only as they launch their weapons. We will still want to intercept them; indeed, our interceptors will have to be fast enough to reach them in time and then to escort them until they either turn away or fire their first few weapons. Such considerations make the F/A-18's endurance a much more important question than might have seemed to be the case only a few months ago.

There were numerous revelations. A sketch of what must be the SS-N-22 surface-to-surface missile (which has never been displayed before) showed it not only on-board a destroyer, but also in a coast-defense cannister and on a submarine. The latter is the real surprise: no submarine launch platform has ever been named. Another surprise was the name of the design organization: the old

Chelomei OKB (now called NPO Mashinostroeniya), the bureau that designed the big-ship missiles like the SS-N-2, -12, and -19. In the past, the SS-N-22 has been considered a sort of super-Styx, a longer-range fire-and-forget weapon. Chelomei specialized in weapons requiring targeting assistance, and providing their surface platforms with assistance in the form of a radar-video data link. As the old Soviet Union has become more porous, much more information about existing systems has surfaced. Coincidentally, at the same time that the poster of SS-N-22 named the Chelomei bureau as originator, it became clear that the missile has a video data link just like its larger brothers.

A model of the new SS-N-25 shows a missile looking like Harpoon. The same weapon was displayed as an air-to-surface weapon. The SS-N-25 is important because it may mark a shift away from earlier heavy missiles, which small attack craft cannot carry in numbers. The SS-N-22 is carried in a close-fitting cannister. In contrast, the Styx is carried in a massive hanger; although its wings fold, its tail does not. Examination of the Styx on board ex-East German Tarantul missile boats reveals just how loosely the missile is carried within its launcher; a U.S. crewman estimated that each launcher could accommodate six Harpoons.

Many of the world's navies currently carry Styx missiles, generally four to a boat. Many of the Styx operators cannot hope to buy Harpoon or Exocet. If the SS-N-25 is offered as a replacement, the number of weapons will probably at least double, and any such increase greatly complicates defense, which is quite aside from the likelihood that SS-N-25 matches Harpoon's sea-skimming capability. The Russians have said that they hope to begin marketing this missile in 1993.

The other current Russian antiship missile, the SS-N-19, was not on display, which suggests that it is not for sale (although the Chinese seem to have bought a ship designed to carry it, the incomplete carrier *Varyag*). The Chelomei bureau did display submarine and surface ship vertical launch tubes, but they did not seem linked to any particular weapon.

Virtually all the standard tactical air-to-surface missile on display were credited with antiship capability; in some cases there were special antiship versions. This may reflect an interesting marketing perception. Air shows rarely emphasize naval weapons, and air-to-surface missiles are much more often intended to attack ground targets. The Russians may well have realized that, to the likely Third World purchasers, warships—particularly U.S. warships—may be extremely important targets. After all, for many years, the U.S. Navy has emphasized that it is the main means of projecting our power. The objects of projection presumably are aware of our views.

New air-to-surface weapons on display included an antiship rocket-ramjet shown for the first time at Minsk earlier this year. As in the case of the AS-16, rocket-ramjet propulsion presumably greatly increases missile speed and greatly complicates defense. At Minsk the new weapon was shown under an Su-27K carrier attack bomber, the type the Chinese reportedly are buying for their new carrier. The AS-17 is a smaller version of the same airframe (no NATO reporting designation for the new missile has been announced).

There were also new-generation air-to-air weapons, including the Russian equivalent of the U.S. advanced medium-range air-to-air

missile (AMRAAM), with unusual lattice fins. Several missiles were new, and some showed previously unknown active radar-guidance modes. The newer naval surface-to-air missiles were also on display: SA-N-6, -7, and -9. Displays of the anti-aircraft weapons included more than just the missiles themselves; performance limits were listed and models of fire control spaces and below-decks launchers also were on display.

New ASW weapons also were displayed. One artist's concept showed a lightweight rocket torpedo, the APR-2E, designed for carriage on board helicopters. It is a small-caliber (350-mm., or about 14 inches) weapon that can dive to 600 meters (2,000 feet), and attain speeds up to 63 knots. In the past, Russian helicopters have carried quite conventional 45-cm (18-inch) homing torpedoes; there has not been a whisper of anything like a Russian Mk-50. Such a weapon might also be used as a warhead for weapons like SS-N-15 and -16. Once again, the "E" in the designation almost certainly means export version, not the fifth version of a long-existing program. The last known Russian rocket torpedo was a RAT-52 (in its case the number does indicate the year), a stand-off antiship weapon predating the big missiles. It may survive, barely, in China.

We are beginning to understand how the systems work, and how Russian thinking has differed from (and sometimes corresponded to) our own. For example, it is becoming possible to understand the Russians' shipboard command-and-control systems, their equivalents to our Navy tactical data system, combat data system, and Link 11.

Also on display were a variety of antiradar missiles, both air-to-surface and air-to-air. The Russians were not cagey; they knew their prospective clients, and described one missile explicitly as anti-AWACS (U.S. Air Force E-3 airborne warning and control system) and another as anti-Patriot—the air defense missile.

The anti-AWACS missile is a big ramjet (launch weight 600 kilograms—about 1,320 pounds) with a passive-active seeker, so that it can guide even if the target radar has been shut down; maximum speed is 1,000 meters per second (1,940 knots), and range is about 200 kilometers (108 nautical miles). As illustrated, it appears similar to—although longer than—the new AS-17 (Kh-32) air-to-surface antiradar missile.

The new weapon is likely to be quite significant. United States AWACS aircraft are often sent abroad to monitor evolving and dangerous situations. In such roles, they cannot operate with fighter escorts of any kind, since the host countries almost certainly will not permit such combat aircraft to operate from their soil. They are employed in very small numbers, and the Gulf War has shown any prospective enemy just how important they are. It seems obvious, at least to the Russian advertisers, that the ability to eliminate this problem at the outbreak of war will be quite attractive.

It seems likely that the new missile homes best on shorter-wave radars, like the AWACS' S-band APY-1/2. It may not be nearly as effective against the longer-wave radar of the E-2C. (For many years, Grumman claimed that the longer-wave set was relatively immune to antiradiation missile [ARM] attack.) The U.S. Navy is considering a new-generation airborne early warning airplane using a phased-array antenna. Like the AWACS, it would probably have to operate at higher frequency than does the E-2C radar. It, too, might well be susceptible to attack by an antiradar missile of the new type.

Air-to-air antiradiation missiles are not a new idea; they were seriously considered in the 1970s as a counter to the then-new Soviet MiG-25 Foxbat. They were abandoned because they are difficult to build, and because shutting down the target radar was likely to be an effect countermeasure. The Russians have apparently solved that problem by combining an active radar seeker with the passive ARM seeker. No Western air-to-air ARM currently exists.

Air-to-surface ARMs are, of course, well known, and the Russians distributed a description of a missile intended to attack Patriot radars. It has a range of up to 160 kilometers (86 nautical miles) and a maximum speed of Mach 3.6. Such weapons are less terrifying than the air-to-air missile, because the counter-measures are well known, and also because the missile site can probably shoot down the incoming weapon, which, after all, follows a very well-defined path.

It is now becoming clearer than many Russian shipboard antiship missiles have antiradar variants. That certainly includes the SS-N-12, -19, and -22, and probably the SS-N-9. In the case of the SS-N-19, Russian officers have been quite open: the primary target was the Aegis radar. As in the case of Patriot, Aegis was designed to shoot down just such missiles, so the fact that they would home on its emissions does not raise additional problems. It does mean that these missiles would not announce their presence by their own emissions. It may be that the key to surviving massive attacks of this sort is to use different Aegis radars in sequence, all the ships sharing a common tactical picture and handing off missile control. Such operation is certainly within the possibilities presented by the Aegis system.

Another air-to-surface weapon was almost certainly a conventionally armed variant of the AS-15/SS-N-21 subsonic cruise missile ("Tomahawk"). Guidance techniques included terrain comparison (TerCom) and space-correction (using the Global Positioning System, or GLONASS—the Russian equivalent). This missile may have a naval significance. Presumably the SS-N-21s have been withdrawn as part of the Bush-Yeltsin agreement to eliminate tactical nuclear weapons at sea (nuclear Tomahawk went the same way). Also, presumably, a nonnuclear variant of the SS-N-21 is in the works, paralleling the nonnuclear AS-15 version. It will be a viable strike weapon. An anti-ship version also may be under development.

It should be stressed that these descriptions come from sales brochures available at the Moscow Air Show. It is not clear how many of the missiles actually exist and how many are merely plans, but all of them are being actively promoted. Several countries have either brought or are buying advanced Russian weapons, and not all of them are long-time Soviet clients. Hard cash is what the Russian aerospace industry now needs, and it is offering some very impressive equipment at low prices. U.S. manufacturers may argue that our own support is far better, and that we are probably also better at subtleties such as electronic counter-countermeasures. The Russian weapons are certainly far beyond what some of our Western competitors are selling, however, and, like our competitors, the Russians seem unlikely to impose any sort of political litmus test on the buyer.

These weapons are above all naval developments, because the U.S. Navy continues to be the principal means by which the United States enforces its presence abroad. They are what we are likely to meet in Third World

waters in the next decade or so. The end of the Cold War has made equipment available wholesale, without political dickering. Mass demobilization has made trained personnel available on a similar scale. Thus money can equal instant force structure. Strategic warning time can shrink from decades to months.

We are already seeing such developments on a very small scale in the civil wars in the southern part of what used to be the Soviet Union. Armenians and Azeris fighting over Azerbaijan now have their own miniature air forces, obtained by paying Russian pilots to desert with their own aircraft (an Su-25 Frogfoot on one side, two Mi-24 Hinds on the other).

None of this is particularly new. The Royal Navy had to demobilize after the Napoleonic Wars, and many of its officers went on the beach, on half-pay; they were encouraged to serve in other navies. This kept them employed, reduced pressure on the Admiralty to accept officers for the few remaining billets, and also insured that the Royal Navy would continue to enjoy active combat experience.

Full details of the newly revealed weapons and of the related systems will be included in the next edition of the Naval Institute Guide to World Naval Weapons Systems, which will be published in September 1993.

#### WORLD NAVAL DEVELOPMENTS

(By Norman Friedman)

##### IRANIAN AIR THREAT EMERGING

In July, the Russian aircraft industry made its largest sale to date—a \$2.5 billion deal with Iran. The sale included 12 Tu-22M Backfires, the first of their kind to be exported anywhere, plus examples of a new type of maritime reconnaissance aircraft, a variant of the An-72. The package also included 24 MiG-31 interceptors (with 2 Mainstay airborne radar-control aircraft), 48 MiG-29 air-superiority fighters, and 24 MiG-27 ground-attack fighters, plus a variety of surface-to-air missile batteries (long-range, fixed-site SA-5s and SA-11 and SA-13 mobile weapons). Unlike the bargain-basement prices described in an earlier column, these include post-sale service and spare parts. Even on that basis, the sale is still a considerable bargain.

The Russians have also agreed to help rehabilitate the large fleet of ex-Iraqi aircraft that fell into Iranian hands during the Gulf War. Moreover, the combination of SA-5 long-range missiles, interceptors, and airborne early-warning radar aircraft suggests that Iran is buying a Russian-style integrated air defense system, a package that would go considerably beyond the \$2.5 billion.

Although not included in the announced package, the Backfire deal almost certainly includes AS-6 antiship missiles. They are the bomber's standard armament; the alternative modular bomb-bay for gravity bombs seems a poor way to use so expensive an airplane. After all, the Soviets provided air-to-surface antiship missiles (AS-1 and AS-5) when they sold Badgers—the Backfire's predecessor—to Egypt and Indonesia.

The only alternative to the Backfire/AS-6 package currently on offer is the Chinese B-6 (Badger)/C601 (Silkworm) combination. Thus far it has been exported only to Iraq, and the aircraft involved were destroyed during the Gulf War. In any case, this combination falls far short of the Backfire/AS-6 combination; the C601 is comparable to the U.S. Harpoon in range, though it carries a much larger warhead.

The AS-6 is a fast, steep-diving missile, that can be fired from well beyond a battle

group's anti-aircraft envelope; it was in part responsible for stimulating intense U.S. Navy interest in what came to be called the outer air battle. Given the geography of the Persian Gulf, the AS-6 could be launched at a target anywhere in the Gulf by an Iranian Backfire flying in its own air space. No Gulf navy has anything remotely like the sort of long-range defensive missile required to provide defense in depth against such a weapon. The only point defense missiles currently in use in any Gulf navy are the French Crotale and Mistral.

The An-72 radar-control variant aircraft adds a new twist. It is intended to search electro-optically, and data-link its pictures down to a command center that would send in the Backfires. Such search techniques are limited in range, and weather can negate them altogether. But they are passive, and thus do not alert the potential target. Perhaps the Mainstays are intended to provide initial target detection using their big long-range radars, cuing the An-72's. Electro-optical searches can be quite accurate, but the searcher must know its position very precisely; the An-72's will have inertial navigation systems.

The Russian aircraft industry has long shown a flair for advertising and for export sales apparently lacking in the Russian naval industry. For example, it has exhibited its wares at the main Western air shows, Paris and Farnborough, and held its own big Moscow air show last month. As a consequence, Western understanding of Russian aircraft and air-launched missiles is substantially better than Western knowledge of the corresponding shipborne weapons.

All of this suggests that the Backfire/An-72/AS-6 combination will be marketed aggressively. It will be attractive, if only because it promises Third World countries a way of countering the favored U.S. means of power projection, the carrier battle group. The U.S. literature on carrier battle group air defense is itself a sort of advertisement for this product.

U.S. readers should remember that most Third World regimes are now unhappily aware that there is no longer any counterbalance to U.S. military pressure. U.S. professions of totally peaceful intent or policy statements limiting us to working within the United Nations, will not affect this perception. To most regimes, the United States is a profoundly subversive force, pressing upon them the terrifying concept of democracy. In the past, the Russians provided such regimes with two means of resisting U.S. political pressure. One was to side with the United States against the Russians, and thus to receive support. The other was to side with the Russians and thus receive direct military insurance (albeit at a high cost in local political control).

Now both possibilities have melted away. The crushing defeat of Iraq showed clearly that even before their Union dissolved, the Russians no longer had the heart to protect their former client states. With the Cold War buried, strategic position had lost much of its attraction. The Russians are most unlikely to recover quickly enough to provide one, whatever the future of their current revolution.

For its part, the United States has very real reasons to want to be able to influence events in many Third World countries. It is most unlikely to undertake the democratic crusade some of its citizens favor (and many regimes fear), but the United States economy is inescapably tied to that of the Third World. Third World eruptions often affect

this country directly, not least in creating waves of refugees.

There cannot be any legitimate restriction on sales of the Backfire/AS-6 combination. The main effect of the collapse of Soviet ideology is that it will surely be offered on a nonideological basis. The total price of the Iranian deal suggests that the bombers went for well under \$100 million each, an excellent price.

Such sales should change our own perception of the likely post-Cold War naval air threat. In the past, it was generally assumed that the attackers would be limited to short-range standoff missiles such as Exocet and Harpoon, so that they would have to come within the effective range of SM-2 missiles. It seemed that the outer air battle, the attempt to shoot down the bombers before they could drop their missiles, was almost an obsolete idea, limited to fighting the one least-likely enemy—the former Soviet Union. Because of this, not only was the F-14D cancelled, but also the program to develop a Phoenix successor—the advanced air-to-air missile (AAAM). The much shorter range F/A-18 and advanced medium-range air-to-air missile (AMRAAM) combination seemed to offer enough range.

After all, who but the ex-Soviets would challenge us with exotica such as Backfires and long-range antiship missiles?

Now we have a possible answer. The Iranians may not consider our carriers the likely targets of their weapons, but it now seems clearer that they want to be able to dominate the Persian Gulf. The Backfires and the new Kilo-class submarines announce that intention. Moreover, the Backfire sale is likely to be repeated elsewhere.

Now it may seem rather premature to have dispensed with the outer air battle and its new air-to-air missile.●

#### UNFINISHED BUSINESS ON CIVIL RIGHTS AGENDA

● Mr. SIMON. Mr. President, as we approach the close of the 102d Congress, it appears we will not have the opportunity to address two important matters that were carried over from the Civil Rights Act of 1991.

Both the Equal Remedies Act and the Justice for Wards Cove Workers Act have been approved by the Labor and Human Resources Committee with support from Democratic and Republican Members. Among those who led the way on these bills are three of our departing colleagues, Senator ADAMS of Washington, Senator CRANSTON of California, and Senator WIRTH of Colorado.

Part of the price we had to pay for the President's signature on the Civil Rights Act, after he vetoed the 1990 bill, was to accept two measures which effectively keep the Civil Rights Act from fully doing what we intended it to do.

First, we had to accept an artificial cap on the amount of damages a victim of intentional discrimination could be awarded if that claim were based on gender, religious, or disability discrimination. While the Civil Rights Act enabled these victims of international discrimination to recover punitive and compensatory damages, this section treats them differently than

victims of intentional racial or national origin discrimination. This inequity remains today and I want to see that legislation is introduced early in the 103d Congress to eliminate it so that all victims of international discrimination are treated fairly and equitably.

The second bill we have not taken up on the floor this year is the Wards Cove bill. You will recall, Mr. President, that it was the U.S. Supreme Court's unwise decision on the suit brought by the thousands of Asian-American and Pacific Islander employees against the Wards Cove Co. that precipitated the Civil Rights Acts of 1990 and 1991 in the first place. We set out to restore the civil rights of all Americans by enacting the Civil Rights Act and, because of the intransigence of the administration, covered virtually everyone but the Wards Cove workers.

This is an injustice that has outraged not only the Asian-American communities but individuals in other communities, in many States and regions around the country. Such nationwide concern is not surprising when one looks at the Wards Cove case. According to the dissenting opinions by Justice Stevens and Justice Blackmun in the case, the company maintained segregated housing and dining facilities for the mainly Filipino and Alaska Native employees. These cannery workers were hired during salmon season in unskilled jobs and assigned separate housing and separate eating facilities from the mainly white, noncannery, highest paid, skilled workers. And, as Judge Tang wrote for the 9th Circuit Court of Appeals in the case, "Race labeling is pervasive at the salmon canneries, where 'Filipinos' work with the 'Iron Chink' before retiring to their 'Flip bunkhouse.'" (*Atonio v. Wards Cove Packing Company*, 827 F.2d 439, 447)

Chief among the supporters of the Justice for Wards Cove Workers Act outside the Senate have been the National Asian and Pacific-American Bar Association, Japanese-American Citizens League, Organization of Chinese-Americans and Leadership Conference on Civil Rights. Although we will not be successful in the 102d Congress, I look forward to working with them in the coming months and next year to enact this legislation.●

#### NUCLEAR TESTING

● Mr. DURENBERGER. Mr. President, I rise to comment briefly on recent legislative actions regarding nuclear testing. In early August, I joined with all but 26 of my colleagues in supporting a version of the nuclear testing moratorium sponsored by my friend from Oregon, Senator HATFIELD.

Many of us had reservations about some specific aspects of the amendment, which we hope would be worked out between Senators COHEN, HAT-

FIELD, and MITCHELL before the DOD authorization bill came to the floor.

When the Senate returned to consideration of these issues during the debate on the DOD bill last month, Senator COHEN offered an amendment that, in my view, substantially improved upon the language that passed the Senate 1 month earlier.

Among other things, the Cohen language was more realistic regarding tests for safety and reliability purposes. These are the most compelling reasons for the United States to continue any testing at all—safety and reliability. We clearly don't need to develop new weapons, but safety and reliability are enduring concerns that don't go away just because the Berlin Wall came down.

Mr. President, I also believe that Senator COHEN'S proposal more effectively linked a U.S. moratorium to other arms control and nuclear non-proliferation concerns. That's an area of particular concern and interest for this Senator.

I would note for the record, Mr. President, that my support for the Hatfield amendment in August did not stem from my opposition to nuclear testing just because it's nuclear testing. I do not believe that testing is bad per se. I do believe, however, that a testing moratorium can be effective if it's linked to broader objectives. That's exactly where Senator COHEN'S version surpassed Senator HATFIELD'S.

When the Senate voted in September, the parliamentary situation did not permit a vote explicitly on the Cohen proposal. It was clear, however, that the vote on the Hatfield second-degree amendment was in essence a referendum on the Cohen version.

It is important to note for the record that Senator COHEN worked diligently to accommodate the concerns of Senators HATFIELD and MITCHELL, but that the differences could not be worked out and still remain within the parameters of nuclear safety that the experts believe to be imperative.

I voted against the Hatfield language not because I oppose a nuclear testing moratorium, but because I believed the Cohen proposal was stronger and more realistic, particularly regarding the need for limited continued testing for safety and reliability. The administration and other experts were particularly persuasive on these matters.

Now, according to recent press reports, we learn that in signing the energy and water appropriations bill, the administration traded off its concerns about nuclear testing in order to secure funding for the super conducting super collider. Having voted against the super collider and been persuaded by the considered judgment of nuclear experts on the safety and reliability arguments, I must admit to a certain disappointment that the administration took this position.

In any event, Mr. President, the Hatfield language is an important step forward, although I continue to believe that Senator COHEN'S proposal would be much more effective.

Thank you, I yield the floor.●

#### CONDEMNING AZERBAIJANI FORCED RELOCATION OF ARMENIANS IN NAGORNO-KARABAJAN

● Mr. D'AMATO. Mr. President, I rise today to condemn the acts of aggression perpetrated by Azerbaijan against the Armenian population in Nagorno-Karabagh. The ongoing acts of ethnic persecution are nothing less than genocide. Forcibly relocating Armenians from their home is a deplorable act and one that cannot be ignored by the rest of the world. It is appalling that in 1992, ethnic cleansing has become so commonplace, not only in Bosnia, but also in Karabakh.

What the Azeris say and do are two entirely different matters. Azerbaijan and Armenia signed a cease-fire agreement, engineered by Russian defense minister General Pavel S. Grachev, which was to take effect on Saturday, September 25th. These peaceful negotiations, however, have eroded into a new offensive by Azerbaijan. Reportedly, the Azeris rejected a Russian proposal for peacekeeping forces in the region. The Azeri denial shows their true intentions.

The response of the Turkish Government to the Karabagh conflict is also unacceptable. Turkey's President Turgut Ozal has made statements threatening military intervention into the conflict. In response to my letter urging a rescission of these remarks, Ambassador Nuzhet Kandemir sent me a response. I ask that it be printed in the RECORD.

The letter follows:

TURKISH EMBASSY,  
Washington, DC, June 12, 1992.

HON. ALFONSE M. D'AMATO,  
U.S. Senate, Hart Office Building, Washington, DC.

DEAR SENATOR: I am writing in response to your fax of June 8, regarding President Ozal's recent statements on the Nagorno-Karabagh conflict. I was pleased to learn of your interest in the issue.

As you should be aware, Armenian aggression against the sovereign territory of Azerbaijan has recently escalated the conflict in the Caucasus. With their attack on the autonomous region of Nakhichevan, the Armenians have taken it to a new level of violence, even as they have not slowed their onslaught into Azerbaijan. The Armenians, armed with heavy weaponry, have shown no mercy for the Azerbaijanis, a people who are not currently in a position to defend themselves and whose leadership was in disarray until elections last week. The Azerbaijanis are hopelessly outgunned, and so far the international community has done very little to halt the Armenians' expansionism.

I might add that the Armenian representative from Karabagh failed to appear at the Rome Emergency Meeting convened earlier this month in an attempt to find a political

solution to the conflict. Indeed, the Armenian side at the meeting refused to adopt a compromise package put forth by the U.S.: the Azeris, on the other hand, were willing to make every effort to end Armenian hostilities. You may recall that the Armenians also blocked the consensus in the CSCE when they rejected a resolution condemning their naked aggression in Azerbaijan. Presumably this was because the resolution reaffirmed the territorial integrity of Azerbaijan and called upon the Armenians to cease and desist.

This approach has been voiced at various press conferences by the U.S. Administration's spokespersons. Needless to say, this U.S. approach is very much in line with Turkey's. I might also add that world leaders, including the U.S. and Germany, have on more than one occasion called on the Armenian side to stop its attacks on Azeri territory. Those who actually follow the course of the conflict closely are aware of this.

Given the realities of the Azeri-Armenian conflict, I dare say that President Ozal's comments could have had little effect. They certainly did not escalate the conflict; the level of the fighting is entirely in the hands of the Armenians at this time. If, however, his statements made the Armenian side stop for a moment to consider the ramifications of their aggression, and if in that moment an Azerbaijani life was spared, then his statements were certainly not in vain.

Yours sincerely,

NUZHET KANDEMIR,  
Ambassador.

Mr. D'AMATO. This response only reiterates the Turkish position with regard to the continuation of the horrific persecution being carried out against the Armenian people.

The international community, cannot allow for a continuation of these atrocities. The conflict has already created 500,000 refugees and cost over 3,000 lives. How long must persecution be allowed to occur before we take a stand against it? The Armenian plea for help is muffled by gunshot and it is a tragedy if they are not heard. From 1915 to 1923, over 1,500,000 Armenians were slaughtered by the Turks. We cannot allow this to happen again.●

#### THE DEATH OF LUYEN NGUYEN

● Mr. SIMON. Mr. President, for the past year I have been utilizing the RECORD as a forum for speaking out against hate crimes. As author of the Hate Crimes Statistics Act and chairman of the Senate Judiciary Subcommittee on the Constitution, I have long been concerned by what certainly appears to be a rising wave of crimes based on racial, religious, or other hatred. These tragic incidents have the potential to divide our great country and each of us should be aware of their growing occurrence. Only by addressing the issue of hate crimes directly, and by acknowledging the prevalence of the problem, will we finally begin to make strides toward successfully dealing with the problem.

Today, I rise to address specifically the murder of Luyen Nguyen, a 19-year-old premedical student in Coral

Springs, FL. A Vietnamese-American, Luyen was beaten and kicked to death by a group of at least five young men on August 15, 1992, in a racially motivated incident. According to police reports and eyewitness accounts, he had been attending a party with high school friends but had decided to leave after several guests at the party began making racial slurs. When Luyen asked them why they were making fun of him, the men encircled him and one slapped him. Luyen ran and a group of men chased him down, an unknown number of whom began beating and kicking him while others looked on. Luyen was rushed to the hospital and placed on life support systems. He died 2 days later. I have received newspaper accounts of the murder and ask to have them included in the RECORD.

Mr. President, the violent death of Luyen Nguyen is an immense tragedy. There has been a sharp increase in violence against Asian-Americans in recent years. While hate crimes are directed at a specific victim because of his or her race, ethnicity, religion, or sexual preference, the shock and horror of these crimes is felt by all Americans. Hate crimes cannot be tolerated.

I have written to John Dunne, Assistant Attorney General for Civil Rights, regarding Luyen Nguyen's murder. I understand the Department of Justice has met with Asian-American community leaders and is monitoring the local prosecution of the case.

I hope that in the 103d Congress we are not faced as often by these tragic incidents. It will take the effort of many institutions and every American to combat hate violence.

I ask that the previously mentioned newspaper articles and letter to Assistant Attorney General John Dunne be printed in the RECORD.

The material follows:

U.S. SENATE,

Washington, DC, September 15, 1992.

Mr. JOHN DUNNE,  
Assistant Attorney General, Civil Rights Division,  
Department of Justice, Washington, DC.

DEAR MR. DUNNE: I have been contacted by the Asian American Institute in Chicago and a number of Asian American civil rights organizations across the country concerning the brutal killing of Mr. Luyen Phan Nguyen in Coral Springs, Florida.

According to news reports, Mr. Nguyen, a 19-year-old pre-medical student at the University of Miami, was severely beaten by a group of 15 men after he objected to a racial slur against him from that group. Mr. Nguyen later died as a result of the beating.

It is my understanding that the Coral Springs Police Department and the local prosecutor have pressed charges against 7 men involved in the incident. The case is being handled as a hate crime. I further understand that the Department of Justice has been informed of the incident.

As Chairman of the Senate Subcommittee on Constitution and author of the Hate Crime Statistics Act, I am greatly concerned about this deplorable act against Mr. Nguyen, and alarmed by the increasing vio-

lence against Asian Americans in recent years. Such violent crimes against any individuals because of their race, religion or ethnicity should not be tolerated.

I would like to be informed of any action the Department of Justice has undertaken or plans to undertake in connection with Mr. Nguyen's death. I also encourage you to keep an open dialogue with Asian community organizations who may come to seek assistance from your department in this matter.

My best wishes.

Cordially,

PAUL SIMON,  
U.S. Senator.

[From the Fort Lauderdale Sun-Sentinel]

ASIAN STUDENT'S SLAYING CANNOT GO UNANSWERED

I wish to applaud the Sun-Sentinel for your coverage of the horrifying and repugnant murder of Luyen Nguyen. You have recognized the importance of your role in the community by informing the public and by speaking out against this sickening crime.

We must unite against the specter of hate and racism. Otherwise we will head into a silent anarchy in which no one speaks out to the obvious social unraveling around us. When I moved to Coral Springs, I was told ad nauseam what a wonderful exemplary city it was to raise my children in. I believe it is obvious to see that even Coral Springs is not insulated from the inherent hatred that you would find in the most polarized regions throughout the world.

As U.S. citizens, we must see that justice is done. We must keep up the pressure on the State Attorney's Office to seek the maximum sentence possible with no plea bargains. I believe all the people who participated in the attack are cowards and this country has no room for cowards.

If you are as outraged as I am, please (1) write to the Sun-Sentinel and voice your opinion, (2) write and call the State Attorney's Office. If you are not outraged, remember, we are all in the minority at one time or another and we could be the ones who are beaten to death just for being different! I will not allow Luyen's death to go unanswered.

PAUL FIELDS,  
Coral Springs.

SEVEN FORMALLY CHARGED IN BEATING DEATH  
(By Roberta DeFoor)

CORAL SPRINGS.—The death of 19 year old Luyen Phan Nguyen was quite a shock to his family given the circumstances behind the tragedy. His beating was a racially motivated action and seven young men have been charged with his death.

Originally police had arrested nine men but evidence for two of these young men was not substantial enough to make a case against the two who were released this week.

Being formally charged are Brad Mills, 19, Derek Kozma, 19, Christopher Madalone 19, and William Madalone, Jr., 22, who all live in Tamarac. Coral Springs residents Christopher Anderson, 18, and Michael Barychko, 19, were also charged with second degree murder. Barychko was arrested while working at his job at the Coral Springs Chevron 2251 University Drive.

Nguyen was kicked and punched by a group of young men until he stopped breathing after he had objected to a racial slur. An unfortunate way to end the life of the pre-med student who seemed to have a promising future.●

HAPPY 80TH BIRTHDAY  
GREETINGS TO MR. TIH-WU WANG

● Mr. AKAKA. Mr. President, I wish to congratulate Mr. Tih-wu Wang, a good friend of America, on his 80th birthday.

Chairman Tih-wu Wang of the Taiwan-based United Daily News Enterprises is a former member of the Standing Committee of the Central Committee of the Kuomintang, the ruling party of Taiwan. He is also a retired commanding general of Chiang Kai-shek's personal security division. Upon retirement from the military, Mr. Wang established, with very modest resources, a newspaper from which he developed a multi-national communications corporation.

Chairman Wang created what has become the largest Chinese language daily in both Canada and the United States, the World Journal. And, over the years, he has spared no effort in promoting the friendship and cooperation between the peoples of America and Taiwan through the media.

Our late distinguished colleague, Spark Matsunaga, entered a congratulatory message into the CONGRESSIONAL RECORD on the 10th anniversary of the World Journal to recognize Mr. Wang's many achievements and contributions. I wish to add my commendations to Chairman Wang in two very personal aspects of his life.

First, in the process of building his communications empire, Mr. Wang has always made the welfare of his employees, now numbering in the thousands, a top priority. The testament of his commitment to the well-being of his employees is the modern hotel-resort complex, South Garden, in a beautiful oriental setting on the outskirts of Taipei. It is devoted exclusively for the use of his employees, and it has now also become a famous sightseeing attraction.

Second, Chairman Wang's success does not rest on sound business practices alone. In fact, it is a result of his high regard for family values in the finest Chinese tradition. He sets the highest standards for himself and for his family members to follow. It is no surprise therefore, that his two sons, Peter and Pi-ly, have earned the respect of their peers and others on their own merits, and have become leaders of their country.

Mr. President, I ask my colleagues in the Senate to join me in wishing Mr. Wang a happy 80th birthday, and urge him to continue to further the friendship between our two peoples.●

PATRICK J. NILAN

● Mr. GLENN. Mr. President, as Chairman of the Committee on Governmental Affairs, I have many opportunities to work with the American Postal Workers Union [APWU] and have had many opportunities to work with its national legislative director, Mr. Pat-

rick J. Nilan. After 28 years as legislative director, Mr. Nilan will retire in November. I would like to congratulate Mr. Nilan on his retirement and would like to add my sentiment to the resolution which was proposed to the 4,000 APWU convention delegates to designate Mr. Nilan as National Legislative Director Emeritus. I ask that a copy of the resolution be included in the record.

The resolution follows:

**DESIGNATE PATRICK J. NILAN, NATIONAL LEGISLATIVE DIRECTOR EMERITUS**

Whereas, National Legislative Director Patrick J. Nilan has announced that he is not seeking re-election and will retire at the end of his present term in November, 1992 after serving the APWU membership as Legislative Director for 28 years in Washington, D.C., and

Whereas, Prior to being elected in 1964 to that position, he was the elected Clerk Craft Vice President (now NBA) for 6 years representing Union members in the midwest states of Minnesota, North Dakota, South Dakota, Wisconsin, Iowa, Missouri—a total of 34 years as a nationally elected officer of the American Postal Workers Union and his predecessor Union, the United Federation of Postal Clerks, and

Whereas, Brother Pat Nilan, a member of the Minneapolis, Minnesota Area Local was also Secretary of his home Local for four years and President for 8 years for an incredible total of 46 years, a lifetime of working for and on behalf of APWU postal workers, and

Whereas, Legislative Director Patrick J. Nilan established the Union's first Congressional political fund in 1965, shortly after he came to Washington and named it, the "Committee on Political Action" (COPA) which progressed from a few thousand dollars a year, over the years until today. The APWU membership now provides well over a million dollars during each two-year congressional election cycle and has been able to help the campaign committees of our congressional "friends" and help defeat those who are not. Brother Nilan has served as COPA Secretary-Treasurer for the past 27 years, and

Whereas, In addition, Pat Nilan has been serving as the constitutional editor of the APWU News Service and Associate Editor of the monthly APWU publication for his entire 28 years as National Legislative Director, and

Whereas, Legislative Director Pat Nilan also established in 1966, at the request of then President E.C. "Roy" Hallbeck and as provided in a national convention, approved resolution from the Miami, Florida Local Union the respected and important APWU Postal Press Association. Nilan served as the first PPA President until proposing several years later that the PPA become autonomous within the National Union and establish a constitution, elect its own officers and determine its own programs and policies, which it did do, and

Whereas, With his decision to retire in November, we believe he should be recognized and appreciated for this tremendous record of service to our Union and membership, particularly for his 28 years as a dedicated, outstanding and most senior of all AFL-CIO Union legislative and political director working with the Congress of the United States and representing us so effectively on "Capitol Hill."

Whereas, Pat Nilan was a major player in the enactment of the two most important laws tremendously affecting postal workers and the U.S. Postal Service namely:

Public Law 89-301, enacted on October 29, 1965, which among many major employees benefits included:

(1) Establish a separate (from Federal Employees) basic compensation schedule for postal field service employees which established the symbol "PFS," and

(2) For the first time established a basic work week for all PFS full-time employees consisting of 5 eight-hour days with the 8 hours of service not exceeding 10 hours in one day—except in emergencies as defined by the PMG and even then cannot be worked more than 12 hours in a day, and

(3) "To the maximum extent practicable, senior regular employees should be assigned to a basic work week, Monday through Friday inclusive," and

(4) Eliminated the extreme burden of "Compensatory Time" (time off—for 6th or 7th day or required work) in lieu of overtime pay for postal employees. True overtime pay was established for the first time by law—for an annual rate (now full-time) regular employee in excess of regular work schedule and a substitute employee (now, part-time flexible) in excess of 40 hours a week, and

(5) The postal unions subsequently won a Federal Court Case "Groettium vs. USPOD" (a Minneapolis postal clerk) against the Post Office Department's refusal to abide by these new overtime payment laws and as a result, most postal employees were paid many, many, many millions of dollars in overtime back pay, and

(6) Also, for the first-time each regular postal employee regular work schedule includes an eight-hour period of service, any part of which is within the period commencing at midnight Saturday and ending at midnight Sunday shall be paid extra compensation at the rate of 25 per centum of his/her hourly rate of basic compensation for each hour of work performed during that 8-hour period, and

(7) Among many other benefits postal employees received as the result of P.L. 89-301 and favorable court decisions were guaranteed time and one half for all hours worked by regular full time employees and part-time substitute employees for Christmas Day, and also for the first time "Postal Employee Relocation Expenses" were granted, and

Whereas, Legislative Director Patrick J. Nilan was also, a major player with deceased UFPC and APWU President Frances "Stu" Filbey in another most important major law affecting postal workers namely Public Law 91-375 enacted on August 12, 1970. Known as the "Postal Reorganization Act of 1970," which followed the successful postal strike earlier that year and guaranteed postal employees and their Unions for the first-time ever, "union recognition" by law, and

Whereas, as a direct result of that law combined with P.L. 89-301, APWU has been able to negotiate wages, and other compensation benefits and conditions of employment. The "PRA" also specifically included all statutory benefits as retirement (CSRS-FERS) health benefits (FEHBA), life insurance (FEGLI) and injured worker compensation (FECA-OWCP). These benefits were guaranteed above and beyond other negotiated compensation benefits, and

Whereas, Legislative Director Pat Nilan and APWU have been successful in defeating all regressive legislative proposals during the past 12 years by Presidents Reagan and Bush to cut back, reduce, terminate or

amend postal worker and retirees benefits including rejection and defeat of determined efforts by Reagan and Bush to "Privatize the U.S. Postal Service," and

Whereas, Pat Nilan is recognized by many prominent Congress persons and Senators and their top personal staff persons and committees as an outstanding, persuasive, honest and effective legislative and political representative of the APWU on "Capitol Hill," and

Whereas, Civil Service Committee Congressman BILL CLAY (D-MO) and Mrs. Clay, after being advised of Legislative Director Nilan's retirement personally wrote Pat to say:

"After knowing of your decision to retire after such a long and illustrious career, we were still saddened by it; and we were deeply moved to know that we were with you during half of your 42 year struggle to improve the quality of life for postal workers and their families. We rejoiced with you in your greatest triumph securing Union Recognition by law for your membership," and

Whereas, Federal/Postal employee columnists in Washington, D.C. newspapers also know well of Pat Nilan's efforts on behalf of the APWU membership with the U.S. Congress and on "Capitol Hill." For example, the nationally known and respected syndicated federal columnist Mike Causey for the major D.C. newspaper, The Washington Post after hearing of Brother Nilan's retirement earlier this year reported in his column:

**"THE DEAN DEPARTS"**

"Patrick J. Nilan, dean of the federal-postal union lobbyists here won't run for re-election in November. He's been a national officer of the American Postal Workers Union and predecessor unions for 34 years and legislative director for the last 28 years.

"Nilan's close relationship with fellow Minnesotans (Vice Presidents) Hubert H. Humphrey and Walter F. Mondale made it easier to get pro-postal workers bills through the Senate and White House.

"Nilan is easy to spot on Capitol Hill. He always wears a bow tie, and has a commanding voice that can charm members of Congress, or shatter marble as necessary. He usually was the top vote-getter in union elections for national officers," and

Whereas, We can understand Brother Nilan's desire to retire after 46 years as a Local and National Union officer with 28 years in Washington and enjoy "the fruits of his Union labor" with his family. However, he will certainly be missed and we believe that he richly deserves appropriate recognition and also the opportunity, if he so desires, to be available for advice, counsel and support for APWU and his successor as Legislative Director, and

Whereas, Brother Nilan's expertise, professional and personal Congressional contacts and with important staff persons developed over his long tenure can be very helpful on an as needed basis to the new Legislative Director, APWU President, Executive Board and membership, and

Whereas, Our friend and great champion in the Congress, House PO&CS Committee Chairman Bill Clay always says, "We have not permanent enemies, only permanent issues." APWU has more than enough permanent legislation issues to campaign for in the future and we suggest if Brother Nilan is available when needed, as Legislative Director Emeritus, therefore be it

Resolved, The American Postal Workers Union, AFL-CIO national convention convened in Anaheim, California, August 3-7,

1992 provides recognition and appreciation to the retiring "APWU Institution," National Legislative Director Patrick J. Nilan for his 28 years of outstanding leadership and accomplishments in legislative and political representation on behalf of the APWU membership including the establishment and continued success of the Union's Committee on Political Action (COPA), and be it further

*Resolved*, That Patrick J. Nilan has designated as the "National Legislative Director Emeritus" of the American Postal Workers Union, AFL-CIO, as an "APWU Institution" whose 28 years as a Washington, D.C. National Officer may never be surpassed, and be it further

*Resolved*, We urge all delegates to the Anaheim, California APWU National Convention August 3-7, to vote unanimously in support of this resolution.●

#### INTERNATIONAL PROTECTION OF PATENT RIGHTS ACT OF 1993

● Mr. ROCKEFELLER. Mr. President, on August 12, Senator MIKULSKI and I introduced S. 3190, a bill dealing with one of the most important trade issues facing U.S. businesses around the world at the present time—the protection in foreign countries of U.S. intellectual property. The United States has long held to the principle that inventors have the right to meaningful protection for their inventions and that others should not be allowed to steal their creations from them. We provide this patent protection in the United States, and we must ensure that U.S. inventions are protected against illegal copying in foreign countries as well.

The improper use of a company's creativity is theft that can cost the company the many millions of dollars it spent developing a patentable invention. 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-tech area, receive when they apply for patents overseas, particularly in Japan. Four years ago, I chaired a hearing in my Foreign Commerce and Tourism Subcommittee which 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-tech 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, academic experts, and a cross-section of American industry. The list of problems was long. I provided many examples of these difficulties in my remarks on the Senate floor on August 12.

A major problem is that the long delays in the Japanese Patent Office system, combined with its practice of giving competitors the opportunity to see patent applications while they are being processed, are an open invitation to copying and abuse. Another significant problem is that patent claims in Japan are interpreted very narrowly, thereby allowing others to make minor changes in the patented invention to avoid liability for infringing the original patent, and often to force the owners of the original to cross-license their technology if they want to offer their product in the improved manner.

There is a plethora of other areas where improvements are 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 offered in July 1988, which the Senate passed unanimously. That resolution 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. However, partially because the Bush Administration has not taken serious efforts to combat these problems, Japanese government officials failed to recognize the critically important trade ramifications of these patent problems. Little progress on patent issues was made in 1988 and 1989.

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 to respond to the actions of countries like Japan that did not provide adequate and effective patent protection to U.S. nationals.

Well, Mr. President, since my colleagues and I introduced that legislation, which we did not expect to be enacted so soon after passage of the Omnibus Trade Act of 1988, the patent process in Japan has not changed much. For that reason, in August of this year I decided it was time to renew legislative efforts in this area. The bill I introduced was not another "shot across the bow." The time for warnings and patience had passed. It was time for us to force the Administration to take action.

Unfortunately, the Senate was unable to take action on S. 3190 during

this session, and the problems addressed by that proposal continue to afflict U.S. companies. Another example of this situation was brought to my attention just this week. It concerns a small, American company that has developed a truly innovative technology which promises to provide many American jobs, American exports, and American profits. This case also concerns the threat that this technology will be stolen by a large Japanese conglomerate because of the lack of effective intellectual property rights protection by the Japanese patent system.

The American company is Noise Cancellation Technologies, Inc. (NCT) of Linthicum, Maryland. NCT controls the basic technology that cancels unwanted noise through the application of active counter noise through its trade secrets, proprietary computer software codes, and, most important, its patents. It owns dozens of patents, except in Japan, and has other patent applications pending worldwide.

In Japan, the Patent Office has refused to recognize a key patent that has been granted in the United States and every other foreign country where NCT has filed a patent application. As a result, at least one very large Japanese automobile company has announced plans to market cars with an active noise cancellation system in the passenger compartment. Although a recent patent validity and infringement legal opinion found that this system infringes three of the patents owned by NCT, the Japanese company has made no arrangements to pay for its use of NCT patents. Current law would provide NCT some recourse, but only after the U.S. market had been flooded with infringing imports. This is a predicament that U.S. inventors have repeatedly faced because of the vagaries of the Japanese patent process.

Why is this an important issue? Just a brief description of what this one new, U.S.-developed technology does—and what it could mean in terms of U.S. jobs, production, exports, and profits—will show how important it can be to American workers, manufacturers, and consumers. Applications of NCT's patented noise cancellation technology include: Selective headsets for the military and workplaces that eliminate noise but let you hear what you want; similar, but much larger systems for vehicle and aircraft passenger compartments; quiet mufflers for all types of internal combustion engines, for automobiles, trucks, industrial machinery, construction equipment, etc.; quieting enclosures for pumps and compressors; elimination of "in-wire" noise signals in communications equipment; many military applications where noise stealth is important; and many others.

One needs only to think of situations where noise is a problem to imagine what other applications and their bene-

fits could be. Each one of these applications will spawn "spin off" products and industries that could employ hundreds of thousands of workers in the United States if the technology is not stolen by other countries.

Some of the benefits are less obvious. For example, it has been found that substituting NCT's new muffler for the existing types can increase the vehicle's gas mileage by 3 to 7 percent. This means a potential national savings of billions of dollars annually.

Because of this case and many other similar ones, I inform my colleagues today that Senator MIKULSKI and I plan to reintroduce our proposal, to be called the International Protection of Patent Rights Act of 1993, when the 103rd Congress convenes in January. With standards for adequate and effective foreign patent protection for U.S. companies similar to those in my 1989 bill, the legislation we plan to propose will use the Special 301 provisions of the trade law to require USTR first to determine which countries do not provide adequate intellectual property protection and then to negotiate a satisfactory solution. With Special 301's specific mandates and strict timetables, this legislation can, I believe, help eliminate the type of problem I have just described. I hope all of my colleagues will support this effort.●

● Ms. MIKULSKI. Mr. President, it is important for the United States to stand up and support the rights of our inventors and businesses. A big part of this responsibility is protecting our intellectual property. America protects the rights of innovators because we know that encouraging these entrepreneurs is the best way to create the jobs and the technology that keep our country competitive.

We do a pretty good job of protecting intellectual property rights in our own country, but we haven't done enough to stand up to other nations that allow patented inventions, copyrights and other products to be stolen. This theft costs our companies billions of dollars and thousands of jobs every year, and it hits our high technology industries the hardest.

That is why I joined Senator ROCKEFELLER in August to introduce S. 3190, the Intellectual Protection of Patent Rights Act. This bill is designed to protect American companies who invest their resources and their employees' skills to develop a new product, and to make sure that such a great investment is not lost to foreigners that "cherry pick" American inventions.

Unfortunately, this has been a very serious problem for Maryland companies trying to do business in Japan. Three years ago, when I first joined with Senator Rockefeller to work on this issue, Fusion Systems of Rockville, Maryland, was coming under siege in Japan as they tried to protect their patents and their products. It be-

came clearer to many Senators that the Japanese patent law system is problematic and threatens American businesses.

And now, just recently, another Maryland company is having very similar problems with patents in Japan. This company is facing possible theft of its inventions by a big Japanese corporation. Unfortunately, it seems the Japanese patent system is still stacked against this and other innovative American businesses.

This Maryland company cannot get Japan to issue a patent they need, even though that same patent has been granted by every other country where they applied. Even though the company has made it clear that a Japanese company is already infringing on their patents, by the time they get any recourse under Japanese law, the United States market could be flooded with infringing products.

Unfortunately, the problems this Maryland company is facing are not unusual in Japan. This is part of the way the Japanese patent system works. That's why our Government has to work on behalf of American businesses to get Japan to change that system. Senator Rockefeller and I introduced S. 3190 to get Japan and other nations to treat American companies fairly when it comes to patents, and we will keep up our fight.

Our bill requires the United States Trade Representative to use "Special 301" provisions in American trade law to target countries that are the worst protectors of patents. Then, USTR will have to negotiate a solution to these countries' lack of patent protections in a specified time frame, or those countries will face retaliation.

We hope that this bill will get the rest of the world to understand the value that America places on rewarding innovation, and let them know we are serious about standing up for the rights of our businesses and our workers.●

#### C-17 FAILS LOAD TESTING

● Mr. D'AMATO. Mr. President, what better day to have the news hit the street that the wings on the C-17 failed load testing than the day the Defense Appropriations Conference bill is being considered. The Air Force is so beguiled at this point that a spokesman thought it a victory that the wing failure was not attributable to the now notorious rivet problem. In other words, the wing failure was due to a design or structural flaw, not a manufacturing defect. If that's a win, one can only wonder at what the Air Force considers a loss.

I ask that an article that appeared in the *Defense Daily* on October 5, 1992, entitled "C-17 Static Vehicle Wings Damaged During Loads Testing" be entered into the RECORD at this point.

The article follows:

#### C-17 STATIC VEHICLE WINGS DAMAGED DURING LOADS TESTING

Both wings on a non-flying C-17 being used for loads testing were damaged when stressed to a point 130 percent of normal maximum operating loads, C-17 prime contractor Douglas Aircraft Co. reported Friday.

The wing tips were at 100 inches above resting position when the "upper wing panels on both wings experienced symmetrical buckling" during wind gust ultimate loads testing on Thursday at the company's Long Beach, Calif., facility, Air Force spokesman Capt. Scott Vadnais said.

"While there is a 30 percent safety margin, military design requirements call for a 50 percent margin over and above normal maximum operating loads," the company reported.

The company said it does not know what caused the damage but is working to find a solution.

"This is a normal part of the development process," Douglas said. "That is what this rigorous test did."

Douglas spokesman Jim Ramsey said the damage is in no way related to "the alleged rivet problems."

Opponents of the C-17 program have charged that the airlifter's wings are held together by faulty rivets and leaks in the first test plane's wing tanks delayed the test program much longer than reported by McDonnell Douglas and the Air Force.

"The initial reading is that this buckling is not related to the rivets issue," Vadnais said. "Those issues deal with the fatigue life of the wing, not the structural strength."

Vadnais added that the incident will not impact the C-17 flight test program being conducted at Edwards AFB, Calif. The flight test fleet is undergoing loads testing at 80 percent of their maximum loads and that will continue through early next year, he said, noting those flight test loads are nowhere near the amount that caused wing damage.●

#### WILLIAM PENN MOTT REMEMBRANCE

● Mr. SEYMOUR. Mr. President, on September 21, 1992 California and the nation lost a great conservationist and friend of the environment when William Penn Mott passed away at his home in Orinda, California.

Bill Mott, who is remembered by many as a modern-day John Muir, was a tireless advocate of our national park system. While serving as park service director on both the state and national levels, his efforts yielded countless recreational opportunities for Americans everywhere.

A native of New York, Mr. Mott received degrees in landscape architecture from Michigan State and the University of California at Berkeley. He began his career with the National Park Service in 1933 and, in the next 13 years, helped create Crater Lake, Sequoia-Kings Canyon, Lassen and Death Valley National Parks and Monuments.

After leaving the park service in 1946, Mr. Mott became Oakland, California's Park Superintendent and remained in that post until 1962. He then served as

General Manager of the East Bay Conservation District in the San Francisco Bay Area until 1967.

His innovations in fundraising and problem solving on behalf of the environment, park preservation and conservation received recognition in 1967 when then-Governor Ronald Reagan appointed Mr. Mott to the Directorship of California's State Park system. He quickly gained the confidence of Governor Reagan and California's Legislature and was able to double the acreage of California's State Park system in just 8 years.

During his tenure as director of parks and recreation in California, William Penn Mott founded the California State Parks foundation, which has since raised more than \$88 million for California's State parks. In 1975, he became director of this foundation and served in this capacity for 10 years.

In 1985, President Reagan again called on his old friend, this time asking Mr. Mott to head the National Park Service.

As director of the National Park Service, he worked with members of Congress to find new parklands in states throughout the Union. In the next four years, he created a total of 12 new national parks and monuments.

After his retirement from the Park Service in 1989, Mr. Mott became an assistant to the Director of the Western Region of the National Park System and played an essential role in the historic plan for the conversion of the Presidio Military Base into a national park.

Mr. Mott's commitment to the preservation of our natural heritage was superseded only by his love for Ruth Barnes Mott, his wife of 57 years. Ms. Mott died in 1991.

Throughout his distinguished career in public service, Mr. Mott has left an environmental legacy for a grateful nation. In all his years of public service, Mr. Mott was always willing to go the extra mile to ensure that America's Park System would be second to none.

All Americans who value our natural heritage mourn the loss of William Penn Mott. His influence has unalterably changed America for the better and, as a Nation, we are forever in his debt.●

#### S. 492, LIVE PERFORMING ARTS LABOR RELATIONS AMENDMENTS

● Mr. ROCKEFELLER. Mr. President, I would like to take just a few moments before we adjourn this 102d Congress to address an issue that I believe strongly deserves discussion and debate by the full Senate.

The live performing arts labor relations amendments was first introduced in Congress ten years ago. It has been introduced every Congress since, and I am proud to say that I have cosponsored this legislation since coming to

the Senate in 1985. And this is not the first time that I have addressed the Senate on this subject.

On September 16, 1992, S. 492 was reported favorably—by voice vote in fact—out of the Labor and Human Resources Committee and on September 29, it was placed on the Senate calendar. Twelve days after the September 16 hearing, six Republican Members of the Committee filed a minority view. It is their opinion, as well as that of the Administration as evidenced by a letter from Secretary Lynn Martin, that this bill would "create a special interest exception in the law for labor organizations in the live performing arts industry." The minority report says that to reopen the National Labor Relations Act would create an unprecedented exception to sound and longstanding principles of labor law.

Mr. President, have not exceptions already been made to improve the working conditions of those in the construction and garment industries? Are those who earn a living and support their families by performing live entertainment in concerts, nightclubs, and restaurants less worthy of the right to bargain for decent working conditions than men and women in other professions?

The minority report goes on to say, "Either there is a basis for excluding independent contractors from the Act or there is not. And we have no reason to believe that anyone in this body has suggested or is prepared to suggest that this longstanding exclusion under the Act is inappropriate." Odd, Mr. President, that over 30 Senators would cosponsor a piece of legislation if they did not feel that the law they were trying to change was inappropriate. This is just an example of the inconsistencies that have plagued this legislation from the beginning.

I would like to quote for the Record from the American Federation of Musicians' President Mark Massagli's testimony before the Senate Labor Committee last month. He said, "Most musicians, acting as individuals or as self-contained acts, have far, far less bargaining power (compared to the bargaining power of musicians who achieve enough fame to command high fees and good working conditions). Often, their desire to perform—to develop and share their God-given talent—leaves them no alternative but to work in venues that do not pay a living wage. If a particular venue pays only substandard wages or provides only substandard conditions, it is nearly impossible for the musicians to do anything about it. Often, no stable group of them appears at the venue long enough to vote for union representation and bargain a contract that improves wages and working conditions.

"So if the musicians want to perform, they have little choice but to accept the gig on the best terms their

limited bargaining power can achieve. After their engagement is over, they move on. The poor wages and conditions remain for the next group of musicians to face."

Recording star Lee Greenwood described in detail his experiences in the entertainment industry before he hit the big time. He told of deplorable conditions, and although his current fame now prevents him from having to endure such hardships, he told the Committee that the current labor laws need to be modified to treat professional musicians with the fairness and equality that this country has come to represent.

Mr. President, the intent of this legislation when it was originally introduced, and still today, is to give performing artists the right to negotiate the terms of their employment. Having been reported out of Committee and placed on the Senate calendar is certainly a step forward. Let's hope that the 103rd Congress can provide the successful negotiations for a solution to the dilemma. Until we act, the problem remains unresolved and we in Congress will continue to hear from workers who feel that they do not have equal rights under our labor law.

I pay tribute to the hard-working men and women who have invested so much in this legislation. It is especially unfortunate that some Members of this body chose to block the bill from open debate and consideration. I am absolutely certain that a fair debate would convince the vast majority of Senators to support this legislation.●

#### CRIMINAL ALIENS IMPACT AND REMOVAL ACT

● Mr. GORTON. Mr. President, the Criminal Aliens Impact and Removal Act of 1992, S. 3264, provides a comprehensive approach to the growing problem of illegal alien crime and I am proud to say that I am a cosponsor of this important legislation.

I recently made a visit to the city of Yakima, Washington, to meet with local law enforcement officials. Yakima is not a large city; the population of the entire county totals only 180,000. Yakima is an agricultural city. I imagine most of my colleagues have sampled the richness of Yakima produce, for it lies in the heart of Washington state's apple growing region. Yakima is also a family city; a true community, populated with hardworking, dedicated people. In fact, Yakima, Washington embodies nearly everything good about rural American, except one: Yakima is riddled with crime. What's more, the perpetrators of the majority of this crime are not even citizens of this country. They are criminal aliens: foreign nationals violating our borders and engaging in serious criminal activity.

The Yakima Valley is one of Washington state's greatest agriculture export centers, shipping apples and other produce to destinations around the globe. Thanks to criminal aliens, however, the Yakima Valley has also become one of the Pacific Northwest's leading import centers for some new agricultural products: cocaine and blacktar heroine. According to local Drug Enforcement Agency officials the amount of cocaine coming into the Yakima Valley far surpasses the amount that could conceivably be consumed. Beginning at the Mexican border, where our Border Patrol is so lacking in equipment and personnel that two out of every three illegal aliens are escaping apprehension, criminal aliens smuggle in shipments of cocaine and blacktar heroine. These narcotics are then transferred up the coast until they arrive in the Yakima Valley, soon to be dispersed throughout the region.

This drug traffic has ushered in a host of other criminal activity as well: burglaries, document fraud, illegal firearms possessions, assaults, and even murder. And while criminal alien activity has been increasing, Federal resources in the Yakima area have been reduced dramatically. The Yakima INS office is authorized to have a total of 7 agents: one Supervisory Special Agent, one agent from the Organized Crime and Drug Enforcement Task Force (OCEDEF) and five special agents. This year, however, they have been forced to operate understaffed by two special agents and one OCEDEF agent. In FY 1990, operating at full strength, the Yakima INS office apprehended 260 criminal aliens. For FY 1992, apprehensions slipped to 146. This dramatic drop in apprehensions was not the result of any decline in criminal alien activity, it was due to a disastrous failure on the part of the Federal Government to provide the Yakima INS office with the resources it needs; the resources it is already authorized to have.

The criminal alien problem in Washington state is by no means limited to the Yakima Valley. Indeed, the entire state is deeply affected. According to statistics from the Washington State Department of Corrections for November 1991, there were 1226 alien inmates in Washington state prisons. Although it is difficult to say how many of these entered this country illegally, not one of them was a U.S. born or naturalized citizen. Not including work-release or pre-release, categories to which aliens are seldom assigned, the entire Washington state inmate population was between 8081 and 8323. Thus, criminal aliens accounted for an astounding 15 percent of that population.

Washington state neither sets Federal immigration policy nor bears responsibility for enforcing it; and yet, Washington state has become the vic-

tim of the Federal Government's inability adequately to control its borders. These criminals are not tax-payers in this country, but they are costing the citizens of Washington state nearly \$28 million a year just to incarcerate them. That figure does not even include the tremendous costs to law enforcement agencies for apprehension or the state criminal justice system for prosecution.

Given their limited resources, Yakima law enforcement has done an outstanding job dealing with the crime problem. When I met with them, however, they told me that this problem has simply grown too large for them to handle alone. I agree. Criminal aliens are the responsibility of the Federal Government not Washington state. It is time for the government to accept its responsibility and deal with the problem of alien crime. That is why I support the Criminal Aliens Impact and Removal Act and will work to see that it becomes the law of the land.

S. 3264 would address the criminal alien problem in Washington state by expediting the deportation of criminal aliens. One of the main difficulties the INS is having with criminal aliens in Washington state is that they simply cannot track them. Current tracking methods are archaic and ineffective. S. 3264 would authorize funds for a new criminal alien tracking system using electronic fingerprinting and photo-imaging technology. Once an alien can be tracked, he can be deported that much easier—putting an end to the revolving door of aliens whom, upon deportation, only to return to commit more crimes. Further, S. 3264 require Congress to examine and improve the current Prisoner Transfer Treaty with Mexico and negotiate similar agreements with other nations. Deporting criminals with a guarantee that they will serve out their entire sentence is undoubtedly preferable to incarcerating them here at tax-payer expense.

S. 3264 also provides for stronger border enforcement to keep criminal aliens out once they have been deported. The INS would be authorized to add an additional 600 people to its anti-smuggling program; 600 people that would help stem the flow of cocaine and heroin into the Pacific Northwest. This legislation would also authorize over new 6000 Border Patrol Personnel and much needed support equipment and training.

Most importantly, this bill provides for the direct assignment of additional Federal personnel and resources to states and localities designated as High Intensity Criminal Alien Population Areas (HICAPA's). Can there be any doubt that the Yakima Valley qualifies? The law enforcement community of Yakima asked for my help in obtaining more Federal manpower to address the criminal alien problem. S. 3264 would provide it.

Finally, the Criminal Aliens Impact and Removal Act transfers the financial burden of incarcerating criminal aliens back to the Federal Government where it belongs. Once an alien is convicted, he must either be immediately transferred to a Federal prison facility, or the state must be fully compensated for the costs of his incarceration. In Washington state, that would mean an additional \$28 million a year that would be available to spend on creating jobs and expanding economic opportunity for families and communities. That is how Washington state taxpayer money should be spent!

Mr. President, there is no stronger advocate for immigration in the United States Senate than I. Immigrants bring this country a cultural richness and diversity of ideas beyond compare. Believing this country offers them the opportunity for a better future, believing this country offers their children a better life than they have had, and believing hard work and perseverance are the keys to success, immigrants are truly the embodiment of the American dream. Criminal aliens are not immigrants. In fact, they are a threat to immigrants and the goals for which they came to this great nation.

The citizens of Washington State have asked for help in addressing the plague of alien crime. I have heard them and will continue to work towards a solution. I believe S. 3264 takes a giant step in the right direction. •

#### POSTAL SERVICE IN ALASKA

• Mr. STEVENS. Mr. President, recently, the residents of metropolitan Anchorage, Alaska, suffered damage and inconvenience as a result of the volcanic eruption of Mt. Spurr and the resulting ash fallout. The ash from this volcano played particular havoc with travel. I know from my own experience how ash fallout can disrupt one's travel plans. However, the U.S. Postal Service came through this ordeal with flying colors.

The eruption caused the Postal Service's adopted motto of "Neither snow nor rain nor heat nor gloom of night stays these couriers from the swift completion of their appointed rounds," to be amended by adding ash to the list of impediments that has not prevented the delivery of mail.

In addition to carrying out the yeoman's task of delivering mail during this volcanic eruption, the U.S. Postal Service's Alaska Division has done more than its share to control the burgeoning costs of the U.S. Postal Service by ending the fiscal year under budget for the sixth year in a row. No other U.S. Postal Service Division can make that statement.

Mr. President, I ask to enter into the RECORD at the end of my remarks a column which appeared in the August/September edition of the *Alaska North-*

ern Star. It was written by U.S. Postal Service General Manager/Postmaster Bob Opinsky, and it confirms my comments.

The column follows:

'NEITHER \* \* \* NOR ASH' STOPPED THE  
POSTAL SERVICE IN ALASKA

It was the Greek philosopher Herodotus that wrote, "Neither snow nor rain nor heat nor gloom of night stays these couriers from the swift completion of their appointed rounds."

At the time he was talking about mounted couriers in Persia, and the year was about 500 B.C.

Today's philosopher, when reflecting on the accomplishments of postal workers in Alaska, would have to add volcanic ash to that great saying, which has become the unofficial motto of the Postal Service.

While employees in Southeast can lay claim to the rain part, and those in the Interior and further northern areas can talk about the snow, postal employees in Southcentral can relate to the newly added ash part.

Take for example the latest trick of nature—the eruption of Mt. Spurr, 80 miles from Anchorage. Ash was thrown over 60,000 feet in the air, and it soon blanketed Anchorage, Eagle River, Chugiak and parts of the Matanuska Valley.

I don't think I have to tell you that I consider you the finest group of employees in the Postal Service. You work hard, and you have a great deal of pride in your accomplishments. In the last Customer Service Index, the mail service in Alaska ranked among the top five divisions in the country.

For the sixth year in a row we are making our budget, and I don't think many other divisions can make that same statement. During AP12 we were one of only three divisions in the Western Region to make budget, and we did it by saving a higher percentage of our budget than the other two. You should really pat each other on the back for that fine accomplishment.

It's no wonder you do so well. Through even the toughest situations, you all come through. Ash began to fall about 7 p.m. on Aug. 18, and by the next morning, Anchorage air looked like a bad day in downtown Los Angeles.

Anchorage employees, as well as those in the affected areas, came to work, despite the hardship.

We've received numerous Customer Service Cards complimenting the Postal Service on being on the job when other government employees as well as many private company employees, were not.

Masks and safety glasses helped you along, but I believe that it was sheer dedication to your customers and to the Postal Service that resulted in us not allowing rain, sleet, snow \* \* \* or volcanic ash to keep us from our appointed rounds, whether that be on a route, behind the counter, in the mail processing areas, the administrative offices, or in vehicle and building maintenance.

NATIONAL COMMISSION ON FINANCIAL  
INSTITUTION REFORM,  
RECOVERY AND ENFORCEMENT

• Mr. BOND. Mr. President, I just want to make a few comments about my expectations for the National Commission on Financial Institution Reform, Recovery and Enforcement.

When Senator DODD and I drafted the legislation that established a national

commission to look at the savings and loan debacle, we were above all concerned that the commission produce a definitive account of how we got into that mess and provide us with recommendations to avoid a repetition of the problem.

To make certain that the commission did not disband until after it had completed its work, we included subsection 2536(a) of the Crime Prevention Act of 1990, which provides that the final report is due 9 months after the election of the Chairperson of the Commission. We drafted the section in this way—rather than for a fixed period of time from the date of enactment—to avoid a situation where the time for the commission to act was limited because it took too long to get the members appointed and have funds appropriated for its work.

In addition, we included section 2537 which provides that the Commission shall terminate 30 days after submission of the required report. This section was included to assure that the commission would disband after it completed its work.

As it has turned out, we were wise to draft the reporting requirement the way we did because it took a considerable amount of time for the Commission to get appointed and to actually begin its work. The Commission has had co-chairman for almost five months now and has announced an ambitious work schedule. However, the commission, Senator DODD and I were concerned that nine months may not be sufficient time for the commission to complete its important work. In fact, the Commission itself has requested a four month extension of its deadline.

Had the Commission's request come somewhat earlier, we would have had time to formally enact a brief extension of its life. However, due to the lateness of the session, there is inadequate time to enact legislation extending the life of the commission.

Therefore, I have consulted with Senator DODD about both the technical language of the legislation and our intent and we agree that the Commission may legally remain intact until one month after it submits its report. If the report is a few months late, the Commission may remain intact to finish it because the restriction on its life is tied to the time it actually files its report, not to a date certain from the appointment of a chairperson.

Frankly, both the purpose of the report and the needs of the country would be best served by the submission of an outstanding report, even if it takes a few months longer to complete. While we hope and expect the Commission to act expeditiously, Senator DODD and I would rather have it take a little longer if that is what is required to produce a comprehensive and definitive report.

We look forward working with the Commission members, both before and after submission of its report.●

TRIBUTE TO ROBERT J. BLOCK

• Mr. ADAMS. Mr. President, family and friends of Robert J. Block will gather next week in Seattle, WA, to observe the 70th birthday of a man who has become a local institution. Under normal circumstances, seven decades of life might pass without significant public attention, but in the case of my friend Bob Block, his extraordinary life deserves special recognition. Calling upon his range of interests, and dedication to community, family, and liberal causes, Robert J. Block has been a friend and confidant to dozens of public figures over the years. Knuckling under to the winds of a shifting political climate has never been one of RJ Block's shortcomings.

Years ago, Robert Block became a devoted member of the Young Mens' Democratic Club in Seattle. Over the years, Bob and the club grew in wisdom and experience, but they never considered changing the club name. Unflinching devotion to liberalism's proud banner have been a veritable fountain of youth for Robert Block and his fellow members of the YMDC.

Recalling his many years of civic activism, I am primarily impressed with his work to clean up Lake Washington. Observing the polluted shoreline of the lake from a campaign poster, the little Block children tugged at the heartstrings of an entire community. Before long, Lake Washington has come back to life as a community treasure. Every citizen living within the Puget Sound area owes a debt of gratitude to RJ Block for that, and other civic endeavors. Remembering his roots as heir to the family shoe-store, Bob believed in shoelace politics at the grassroots level. Thank you, Bob Block, for keeping the political climate in Seattle, Washington, as fresh as a breeze over Lake Washington!●

COOK COUNTY NATIONAL  
RECYCLING AWARD

• Mr. DURENBERGER. Mr. President, I would like to take this time to recognize and congratulate the Cook County recycling program which has been named the Best Rural Recycling Program for 1992 by the National Recycling Coalition. Like many people in Minnesota, I grew up learning to appreciate our state's great outdoors and the variety of its natural beauty. That's why I'm especially proud to salute the people of Cook County, Minnesota, for their attention to recycling.

Cook County is located in the overwhelmingly vibrant, woodland county of Northern Minnesota. There is an abundance of life wherever you look,

and it is this environment that the citizens of Cook County hope to preserve. In 1991, the county did this by recycling 685 tons of material at a low cost with a 33 percent rating. It is believed that the participation rating will be from 35 to 40 percent for 1992. I believe that one of the best compliments about the program was reported in the Cook County News-Herald—the Cook County recycling program has clearly become institutionalized as a part of the community for the long term."

It is obvious that the citizens of Cook County understand how precious and important their environment is for their quality of life and for the quality of life for future generations. Their efforts will spread by example through Minnesota, the Midwest and the entire United States. I am proud of the steps made by individuals, community leaders, and the Cook County Commissioners to preserve their environment and heritage.

Congratulations to the citizens of Cook County for all they have accomplished in their comprehensive and growing recycling program. As a member of the Senate Environment and Public Works Committee, I know about the efforts of many communities across the nation to make the environment clean and safe. Just as it is natural that Cook County won the award for the best Rural Recycling Program for 1992, Hennepin County won the national award for the Best Urban Recycling Program, and runner-up for the national Best Rural Recycling Program went to Houston County of Southeastern Minnesota. This is a record to be proud of in Minnesota, and we will continue our work to be leaders in recycling products. Together we all have the power to make a difference to protect the treasures of Earth.●

**POLICY ISSUES RELATING TO H.R. 5368, THE FOREIGN ASSISTANCE APPROPRIATIONS BILL**

● Mr. DOMENICI. Mr. President, last evening the Senate completed action on the 1993 foreign assistance appropriations bill by voice vote during consideration of the legislative branch appropriations bill.

There was no recorded vote on this measure, but I want the record to show that I was not prepared to support the conference agreement on foreign assistance.

When this bill passed the Senate last week, I stated then that I voted aye in order to move the vital international monetary fund measure to conference. At that time, I also expressed strong reservations about the tendency toward earmarks and micromanagement and away from long-overdue restructuring of American foreign assistance efforts.

I am convinced that this conference agreement precludes meaningful re-

form of a discredited foreign aid program by the next administration.

The cold war is over, but this bill, for the most part, reflects outdated cold war priorities. Most people don't know this, but our cold war foreign aid programs rejected market solutions and relied on socialist-type approaches to economic growth. This bill continues that misguided pattern.

**ONLY 8 PERCENT OF FUNDS GO TO FORMER COMMUNIST NATIONS**

The changes now underway in the former Soviet Union and Eastern Europe are the most critical legacy of the cold war. These nations have more freedom, but little else. The survivors of communism face multiple disasters: refugees and ethnic cleansing, dangerous nuclear power plants, open warfare, economic disarray, and social disintegration.

But the dollar priorities in this bill don't reflect that fact. In fact, less than 8 percent of the money in this bill would aid those nations. Most of the remaining 92 percent goes to outdated and failed programs that have resisted our efforts and betrayed our hopes for decades.

Should we Americans decide that we need to do more to help the survivors of communism, just as we helped the survivors of fascism, we will not increase foreign aid. We can't.

We will have to take any increase for Eastern Europe, Russia, and Ukraine from other foreign aid programs: from outdated cold war relics and from programs that discourage the development of free markets.

**TALK OF REFORM WHILE EXISTING MESS IS CEMENTED IN PLACE**

This year, both presidential candidates indicate that the existing, unreformed cold war structure we use to provide foreign aid will be drastically changed after the election.

I would go further than they do. I would abolish the Agency for International Development, dramatically restructure the State and Commerce Departments, and start over.

This bill does nothing to make it possible for the next administration to restructure American foreign aid. It does the opposite!

Recognizing the differences between the former Soviet bloc and traditional aid clients in poorer countries, Congress has generally given the executive branch unparalleled flexibility to develop new ways of helping Eastern Europe and Russia.

This bill reverses that trend and seeks to place the Agency for International Development and its captive contractors in command there. When the bill was before the Senate I moved to delete an amendment requiring the establishment of A.I.D. missions in Eastern Europe. But the timing of floor consideration of this bill left little time for consideration of these policy issues.

The statement of managers issues specific directions that threaten to force these new endeavors into the mold crafted for the largely failed programs in Africa and South Asia.

SENATOR KASTEN'S BUY AMERICA PROVISIONS

By contrast, less executive branch flexibility is needed in enforcing the buy America provisions of current law.

The distinguished ranking Republican member and former chairman of this committee, BOB KASTEN of Wisconsin, moved to strengthen A.I.D.'s buy America compliance. His amendment added a "buy America advocate" to A.I.D.'s management. It would have limited local waivers of the buy America law.

BOB KASTEN wanted to force our aid missions overseas to get permission from Washington before buying Japanese trucks with American aid dollars. Is that asking too much?

The conference rejected the Kasten initiative. It substituted a provision from the Freedom Support Act that may result in more paperwork than purchases of American goods. That's flexibility.

Either enforce the Buy America provisions, or repeal the law.

**SCHOLARSHIPS AND EXCHANGES IN FORMER SOVIET UNION**

The conferees agreed to earmark for scholarships \$50 million of the \$417 million provided for Russia, Ukraine, and the other new independent states. This appealing effort has been championed by our Librarian of Congress, James Billington, and by the senior Senator from New Jersey.

As one of the original sponsors in 1984 of a similar program of broad-based scholarships for Central American students, I appreciate the work that has gone into this proposal.

Nevertheless, I must inquire whether this is the highest priority for a very limited amount of U.S. assistance to these twelve new independent states.

Already the United States Information Agency has an Edmund Muskie scholarship program for law and business students from Russia and Ukraine. We have appropriated \$7 million for that program in another appropriation bill. There are numerous other scholarship and exchange programs already in place.

Seven years ago, when we established the Central American scholarship program, it was a far smaller percentage of our overall aid to Central America than these scholarships will prove to be as a percentage of our aid to the new states.

With all of the challenges facing Russia, Ukraine, and the others, does a startup scholarship program this large make sense? Is this what the people over there want and need first?

**THIS BILL IMPEDES FOREIGN AID REFORM; IT WON'T PREVENT IT**

More than ever, this is the time to give the executive branch appropriate flexibility.

The President elected next month will undertake foreign aid reform. He will have to reduce foreign aid as he tackles the terrible deficit. This bill makes the job much more difficult.

**GILA RIVER INDIAN COMMUNITY WATER RIGHTS SETTLEMENT LEGISLATION**

• Mr. DECONCINI. Mr. President, on September 10, 1992, my colleague, Senator MCCAIN, introduced S. 3227, legislation which provides for the settlement of the water rights claims of the Gila River Indian Community against the Roosevelt Water Conservation District. I have often said that it is critical that we resolve these Indian water rights through negotiated settlement as opposed to litigation. Litigation is costly, time consuming, uncertain in outcome, and once decided, can displace existing water uses and provide only paper rights, not "wet water." This prolonged uncertainty clouds the validity of water rights for Indians and non-Indians alike, forestalling investment based on the availability of, and rights to, water. This hurts tribes, businesses, states and the nation. As a result of this pending litigation, there has been an effort to undertake an aggressive program to negotiate settlements for the outstanding Indian water rights claims throughout the west. The Gila River settlement is a product of these efforts.

However, having said that, I want to be sure that as we enact these settlements, we are not causing other conflicts. It must be pointed out that the Gila River Indian Community has filed water rights claim against a number of non-Indian parties including the federal government. The legislation introduced by Senator MCCAIN settles only the claims of the Tribe against the Roosevelt Water Conservation District. Prior to supporting this legislation I want to be sure that it does not affect the resolution of the other of the Community's claims against these parties.

Therefore, I wrote to both of Gila River Indian Community and the Roosevelt Water Conservation District asking them a series of questions about the legislation. I have received their responses and I am satisfied with them. Consequently, I am now prepared to cosponsor this legislation prior to the Congress adjourning for the year.

I look forward to working with the proponents of this legislation in the 103rd Congress.

Mr. President, I ask that letters I sent to the Gila River Indian Community and the Roosevelt Water Conservation District be included in the RECORD.

The letters follow:

U.S. SENATE,  
COMMITTEE ON APPROPRIATIONS,  
Washington, DC, September 10, 1992.

Mr. MICHAEL O. LEONARD,  
General Manager, Roosevelt Water Conservation District, Higley, AR.

DEAR MICHAEL: I have recently been asked by representatives of the Gila River Indian Community (Community) and the Roosevelt Water Conservation District (District) to cosponsor legislation which will provide for a partial settlement of the water rights claims of the Community. I understand the importance to negotiate and enact legislation implementing Indian water rights settlements. However, prior to supporting these settlements, I want to be sure that I completely aware of their full implications. Therefore, I need several questions answered so that I may have a better understanding of your proposal.

(1) To what degree is the Department of Interior involved in your settlement with the Community? Has the Department taken a position on the settlement?

(2) Has the Arizona Department of Water Resources been consulted and if so have they taken a position on the settlement?

(3) There are a number of other potential settlement parties with which the Community is involved in water rights disputes. Has the District analyzed how this settlement with the Community may impact efforts to negotiate the resolution of the water rights disputes with these other parties? If so, please share with me your findings in this regard.

(4) It appears from a review of the legislation, that no federal funding is required to implement this settlement. If this is the case, why is legislation needed to implement it? Can you not have the Community's claims against the District discharged by the appropriate Court without legislation?

Your answers to these questions will prove helpful to me in evaluating whether or not I should support the proposed legislation at this time. Your time and efforts in this regard will certainly be appreciated.

Warmest regards, as always.

Sincerely,

DENNIS DECONCINI,  
U.S. Senator.

U.S. SENATE,  
COMMITTEE ON APPROPRIATIONS,  
Washington, DC, September 10, 1992.

Hon. THOMAS WHITE,  
Governor, Gila River Indian Community,  
Sacaton, Arizona

DEAR GOVERNOR WHITE: I have recently been asked by representatives of the Gila River Indian Community (Community) and the Roosevelt Water Conservation District (District) to cosponsor legislation which will provide for a partial settlement of the water rights claims of the Community. I understand the importance to negotiate and enact legislation implementing Indian water rights settlements. However, prior to supporting these settlements, I want to be sure that I am completely aware of their full implications. Therefore, I need several questions answered so that I may have a better understanding of your proposal.

(1) To what degree is the Department of Interior involved in your settlement with the District? Has the Department taken a position on the settlement?

(2) Has the Arizona Department of Water Resources been consulted and if so have they taken a position on the settlement?

(3) There are a number of other potential settlement parties with which the Commu-

nity is involved in water rights disputes. Has the Community analyzed how this settlement with the District may impact efforts to negotiate the resolution of the water rights disputes with these other parties? If so, please share with me your findings in this regard.

(4) It appears from a review of the legislation, that no federal funding is required to implement this settlement. If this is the case, why is legislation needed to implement it? Can you not have the Community's claims against the District discharged by the appropriate Court without legislation?

Your answers to these questions will prove helpful to me in evaluating whether or not I should support the proposed legislation at this time. Your time and efforts in this regard will certainly be appreciated.

Warmest regards, as always.

Sincerely,

DENNIS DECONCINI,  
U.S. Senator.

GILA RIVER INDIAN COMMUNITY,  
September 16, 1992.

Re S. 3227—A bill to provide for the resolution of the conflicting water rights claims for lands within the Roosevelt Water Conservation District ["RWCD"] in Maricopa County, Arizona, and the Gila River Indian Reservation.

Senator DENNIS DECONCINI,  
U.S. Senate, Washington, DC.

DEAR SENATOR DECONCINI. This is in response to your letter of September 10, 1992, regarding S. 3227. On behalf of the Gila River Indian Community ("Community") I urge your strong support of S. 3227 as this bill represents an important initial step in arriving at a comprehensive water settlement for the Community. The Agreement with the RWCD took place after years of arduous negotiating sessions and reflects the ability of both RWCD and the Community to reasonably and rationally resolve conflicting water claims.

I will now respond to your questions in the order presented in your letter. First, the Department of Interior has been intensively involved in the development of this Agreement. The Federal Negotiating Team for the Community has met with our Community Negotiating Team and RWCD individually and separately on numerous occasions and provided all parties substantial assistance in developing the Agreement. Interior Department representatives have advised us that the Department will support the Agreement and this is evidenced by the fact that the Commissioner of Reclamation signed an agreement among the United States, RWCD, and the Community on August 7, 1992, which required RWCD to relinquish its CAP agricultural water entitlement and obligated the Secretary to hold the water relinquished by RWCD for the use and benefit of the Community.

The second area of concern discussed in your letter is whether the Arizona Department of Water Resources ("DWR") has been consulted and whether they oppose S. 3227. The Community has met with DWR on a regular basis with respect to the total water settlement. DWR representatives have advised us that they are in agreement with the concept of this proposed settlement. Betsy Reike, the Director of DWR has been sent a draft copy of the Agreement and attachments for review.

The third issue you raise concerns the impact of this Agreement on other parties now negotiating with the Community. The impact should be beneficial because it dem-

onstrates that any party sincerely interested in negotiating a settlement with the Community will be able to arrive at mutually beneficial solutions. We firmly believe that other parties will be convinced that settlements are not only desirable but possible. The contributed water adds substantially to the Community's water budget and should facilitate a comprehensive water settlement.

Finally, congressional authorization is needed to (1) authorize the Secretary to dismiss pending litigation against RWCD and make enforceable a waiver of claims provided in the settlement agreement, (2) to render non-reimbursable by Central Arizona Water Conservation District the capital costs associated with water moved from a non-Indian use to an Indian use, and (3) to waive the sovereign immunity of the United States and the Community from litigation brought (solely) to interpret or enforce the settlement agreement.

The Community requests your support of S. 3227 and if any further information is needed, please do not hesitate to contact me or our General Counsel, Rod Lewis.

Sincerely yours,

THOMAS R. WHITE.

ROOSEVELT WATER CONSERVATION  
DISTRICT,

Higley, AZ, September 16, 1992.

Re Roosevelt Water Conservation District and Gila River Indian Community Water Rights Settlement Agreement.

Senator DENNIS DECONCINI,  
Washington, D.C.

DEAR SENATOR DECONCINI: I am writing to respond to your letter of September 10, 1992, concerning a water rights settlement agreement reached between Roosevelt Water Conservation District ("RWCD") and the Gila River Indian Community ("Community").

RWCD appreciates the opportunity to work with you and your staff in enacting legislation authorizing the settlement. We have previously provided David Steele with a narrative description of the settlement agreement between RWCD and Community, and we enclose another copy of that description for your use.

I will attempt to answer your specific questions in the order in which they appeared in your September 10th letter.

First, the Department of Interior has been actively involved in negotiating the settlement between RWCD and Community. Members of the federal negotiating team attended many of the negotiating sessions and were instrumental in guiding RWCD and Community to a settlement consistent with the current policies of the Department of Interior. Indeed, it is only because of the involvement of the federal negotiating team that we have been able to draft a complete set of settlement documents, including exhibits. The complete set of documents was provided to the Department of Interior in July; the documents are currently undergoing formal review by agency staff and lawyers within the Solicitor's office. The Department has not taken an official position on the settlement. However, the Department has made the settlement of Gila River claims one of the highest priority settlements. Evidence of the Department's support for RWCD's settlement with Community exists in the fact that the Commissioner of Reclamation signed an agreement among the United States, RWCD, and Community on August 7, 1992, which agreement required the RWCD to relinquish its CAP agricultural water entitlement (subject to the requirements of Exhibit "12.3" of the Salt River

Pima-Maricopa Indian Community ["SRPMIC"] Water Rights Settlement Agreement) and obligated the Secretary of Interior to hold the water relinquished by RWCD for the use and benefit of Community.

Second, RWCD and Community have met with representatives of Arizona Department of Water Resources ("ADWR") on two occasions and have been given a positive reception by ADWR. ADWR requested a copy of the settlement documents so that it could finish a complete review before formally endorsing the settlement. In response, a set of the settlement documents has been provided to ADWR on a confidential basis, and we expect to know ADWR's reaction to the documents in the near future. RWCD and Community last met with ADWR staff on September 9, 1992. A copy of a September 11, 1992 letter to the Department from RWCD's legal counsel is enclosed for your review.

Third, RWCD and Community have analyzed the potential impact of the settlement on other parties who are attempting to negotiate settlements with Community. Our analysis is that the settlement has no effect on the rights of any other party. RWCD offered Community CAP water RWCD had under contract; no other party had the right to receive RWCD's CAP agricultural entitlement. RWCD obtained in the SRPMIC Settlement Agreement the right to relinquish its CAP supply to the United States, and RWCD's original allocation was not the subject of the Secretary's reallocation decision. RWCD's relinquishment pursuant to a settlement with Community was exercised in the same way it might have been exercised if RWCD had simply relinquished its entitlement to CAP water without achieving a negotiated agreement with Community. It is difficult to see how anyone could have a legitimate objection to RWCD's action.

RWCD has described its settlement with Community to the Salt River Project, New Magma Irrigation District, Queen Creek Irrigation District, San Tan Irrigation District, Chandler Heights Irrigation District, Tonopah Irrigation District, Hohokam Irrigation District, Central Arizona Irrigation and Drainage District, San Carlos Irrigation District, Harquahala Valley Irrigation District, Maricopa-Stanfield Irrigation and Drainage District, ASARCO, City of Mesa, City of Chandler, and the Town of Gilbert. None of these parties has indicated an objection to the settlement. In fact, it seems to be widely recognized that other potential settlement parties are generally benefited from RWCD's settlement with Community; RWCD's water makes a substantial contribution to the water budget which must be satisfied before the group of potential settlement parties can reach a comprehensive settlement with Community. RWCD will explain its settlement to other parties as time permits. Of course, a hearing on the settlement act will also help RWCD and Community learn of any potential concerns of which we are currently unaware.

Finally, the settlement act which is required to implement the settlement between RWCD and Community is relatively simple. The act is needed (1) to authorize the Secretary to dismiss pending litigation against RWCD and make enforceable a waiver of claims provided in the settlement agreement, (2) to render nonreimbursable by Central Arizona Water Conservation District the capital costs associated with water moved from a non-Indian use to an Indian use, and (3) to waive the sovereign immunity of the United States and the Community from litigation brought (solely) to interpret

or enforce the settlement agreement. With these objectives in mind, one can see that there is no adequate alternative to legislation to authorize the settlement.

We trust that we have answered the questions you have raised regarding our proposal that you co-sponsor the act authorizing settlement between RWCD and Community. Of course, if you have additional questions, we stand ready to provide any requested information. RWCD appreciates the leadership and assistance you have given in the past in the effort to negotiate the settlement of Indian water rights claims, and we look forward to the implementation of this settlement, as well.

Sincerely,

MICHAEL O. LEONARD.

NARRATIVE DESCRIPTION OF SETTLEMENT AGREEMENT BETWEEN ROOSEVELT WATER CONSERVATION DISTRICT AND GILA RIVER INDIAN COMMUNITY

Pursuant to the agreement, Roosevelt Water Conservation District ("RWCD") will relinquish all of its rights to 6.33% of the CAP non-Indian agricultural water supply, subject to the rights of certain cities and the Town of Gilbert to receive up to 5,000 acre-feet of water previously assigned by RWCD pursuant to the Salt River Pima-Maricopa Indian Community Water Rights Settlement Agreement ("SRPMIC Agreement"). The United States agrees to hold the water acquired by reason of RWCD's relinquishment for the use and benefit of the Gila River Indian Community ("Community"). The water relinquished supply will be subject to the monthly limitation of 11% of the Community's annual entitlement from RWCD's relinquished by RWCD and held by the Secretary for the use and benefit of the Community will continue to have a non-Indian agricultural priority, unless converted to a higher priority as described below.

For a period of thirty years after the CAP is substantially completed, RWCD will be entitled to lease from the Community up to 11,200 acre-feet annually of the non-Indian agricultural supply relinquished by RWCD. A Project Water Lease Agreement is attached to the settlement agreement as an exhibit. A CAP water delivery contract for delivery of the balance of the water relinquished by RWCD to the Community is also attached to the settlement agreement as an exhibit.

Pursuant to the Project Water Lease Agreement, the use and delivery of CAP water to RWCD will be under the same terms and conditions as are provided in RWCD's CAP subcontract, but RWCD will not be subject to a "take-or-pay" obligation until the Community's water distribution system is constructed. Any water which RWCD is entitled to lease, but does not schedule for delivery in a particular year, will be made available to the Community. Also, the Community will have the right to reduce RWCD's entitlement to lease water to the extent that RWCD fails to use some portion of its entitlement for seven years.

The water delivery contract which the Secretary will enter into with the Community for the delivery of RWCD's relinquished supply will be substantially the same as the Community's water delivery contract for its own CAP allocation, except that the water to be delivered from RWCD's relinquished supply will be subject to the monthly limitation of 11% of the Community's annual entitlement from RWCD's relinquished supply. Also, because the water from RWCD's relinquished supply will continue to have a non-

Indian agricultural priority, the water delivery contract deals with priority in time of shortage in the same way as RWCD's CAP subcontract deals with shortages. As between RWCD and the Community, the settlement provides for a pro rata sharing of shortages. Water delivered to the Community from RWCD's relinquished supply is considered to be marketable by the Community in the same way as is other CAP water and subject to the same restrictions. Water which is deliverable to RWCD pursuant to its lease will not be marketable by RWCD.

The capital costs associated with water relinquished by RWCD will be excluded from CAWCD's repayment obligation. However, RWCD has agreed to pay the same capital charge per acre-foot of water leased by RWCD as it would have paid under its subcontract. Provisions must be added to set forth the mechanism for RWCD's payment of this capital charge.

Water which is acquired by the Community pursuant to the settlement agreement is to be credited against the Community's Winters rights in the manner as may be agreed upon between the Secretary and the Community when the Community's water rights are finally determined. The credit mechanism used is the same as in other Indian CAP contracts. If the settlement agreement is not approved by Congress, the water acquired by the United States from RWCD for the use and benefit of the Community is to be credited in full satisfaction of all surface water and groundwater rights or claims which GRIC and its members may be entitled to from RWCD and all landowners within RWCD with respect to the landowners' use of water within RWCD.

Under the settlement agreement, RWCD reserves whatever conversion rights it may have by virtue of CAP agricultural water having already been applied to RWCD lands, or by virtue of the application of CAP water to RWCD lands in the future. Water relinquished by RWCD and held by the Secretary for the Community may be converted to an M&I or Indian priority when 75% of the Community's original CAP allocation is being used for M&I purposes, and then the conversion will be permitted to the extent conversion might have occurred if the relinquished supply were still held in the hands of a non-Indian agricultural subcontractor. The other circumstances under which a conversion might be permitted, as set forth in the agreement, is where the Secretary of the Interior determines that conversions from non-Indian agricultural priority to Indian or M&I priority elsewhere on the CAP system threaten the reliability/dependability of the supply relinquished to the Community by RWCD. Conversion in this circumstance would be limited to a maximum of 24,409 acre-feet. All conversions under the agreement are committed to the Secretary's discretion, based upon the standards noted above.

Pursuant to the agreement, RWCD agrees not to challenge the Community's water rights. The Community waives claims for past and present damages and agrees not to assert any prior or paramount rights it may have with respect to the use of surface water rights and groundwater withdrawals by RWCD and its landowners with respect to their use of such water on lands within RWCD.

RWCD agrees to limit its groundwater withdrawals and usage to an amount permitted by the management plans promulgated under the Arizona Groundwater Management Act (the "Groundwater Code"). If the Groundwater Code should ever be re-

pealed or amended to adopt an objective which is not the practical equivalent of safe yield, RWCD will continue to operate within the constraints of the groundwater use limitations in effect prior to the repeal or amendment of the Groundwater Code. Under the settlement agreement, the Community will be permitted to enjoin excessive groundwater pumping by RWCD and its landowners without being required to show injury to the Community. The settlement agreement requires dismissal with prejudice of pending litigation filed by the United States on behalf of the Community with respect to historical groundwater pumping by RWCD and its landowners. The litigation is not required to be dismissed as to the use of water withdrawn by RWCD landowners for use outside of RWCD. The Community and the United States on behalf of the Community also agree to confirm RWCD's surface water rights as described in the SRPMIC Agreement, and further agree not to challenge RWCD's claims to spill water, as described in the SRPMIC Agreement.

RYLEY, CARLOCK & APPLEWHITE,  
Phoenix, Arizona, September 11, 1992.

Ms. ELIZABETH A. RIEKE,  
Director, Department of Water Resources, Phoenix, AZ.

Gila River Indian Community/RWCD Water Rights Settlement

DEAR BETSY: Please accept my thanks on behalf of RWCD for your time and the time of your staff in meeting with RWCD and the Gila River Indian Community on September 9th to discuss the settlement we have entered into. I am sure the Gila River Indian Community feels the same way.

Enclosed per your staff's request are two copies of the draft settlement documents. The United States is currently reviewing the documents, which will certainly be changed to accommodate whatever concerns the United States may have as to their content. Accordingly, since they are not final, we would appreciate the documents not being disclosed to anyone outside the Department. We do, however, recognize the Department's need to review the documents before endorsing the settlement and are therefore pleased to provide copies of them to you.

We will await your call after your staff has had a chance to review the documents. We will make ourselves available to you and your staff to answer any questions or to address any concerns the Department may have. In the meantime, please again accept our thanks for the positive reception, and, in anticipation, for whatever good offices the Department may be able to provide in securing the enactment of legislation approving the settlement.

Very truly yours,

MICHAEL J. BROPHY.

#### SOMALIA

● Mr. LIEBERMAN. Mr. President, the famine in Somalia is the world's worst humanitarian crisis at this moment in history, with people starving to death every day. According to the international relief organization, Doctors Without Borders, a whole generation of children is in danger of disappearing in Somalia. This crisis demands that we do our utmost to respond to the cries of help we hear from that land.

I would like to share with my fellow Senators what I have recently learned about the ongoing United States relief

effort. Andrew Natsios, the United States Special Coordinator for Somali Relief, visited my office to brief me and several other Senators on the situation in Somalia.

To paint the picture in Somalia, one would need Jackson Pollack. After a devastating civil war, all traditional lines of order and authority, namely the clan elder system, have broken down. Instead, there are competing clans at war with each other, none with clear control over any other. On another level of violence, armed gangs of teenage boys are terrorizing the country, committing horrible acts of rape and violence. What we see happening there is really a social disaster, more than it is a natural disaster.

This makes an orderly relief effort next to impossible, since the port at Mogadishu is far from secure. Food shipments are often attacked and stolen right at the port, and even relief workers are in danger. At least one worker from the International Committee of the Red Cross (ICRC) has been shot dead in Somalia.

So, clearly the first priority of the United Nations peacekeeping force that will arrive shortly from Pakistan should be just that: keeping some sort of peace in Somalia, particularly at the port in Mogadishu. The port is, literally and figuratively, the mouth of a nation that is starving to death.

Mr. Natsios outlined several other elements of the U.S. relief strategy which follow from there. Monetization of the food market is next, which means flooding the markets and merchants with food at a lower price, forcing the price of food down. When the price of food goes down, so does the incentive to loot, steal, and hoard. While it may defy rhyme and reason, the people of Somalia are not always starving for lack of food, but for lack of money to pay for food. During this famine, as in all famines, food prices become impossibly inflated. To this end, the United States has pledged 143,000 tons of food to Somalia during the fiscal year that begins this month.

Second among these elements is the 1-day system set up by the ICRC feeding kitchens, which move and cook enough food to feed people only one day at a time. They operate on the logic that once food is cooked, it loses its value to those who would loot and steal. They also serve corn and sorghum, which are less desirable to food thieves than rice and sugar. Currently, the U.S. Defense Department is operating a 60-day emergency airlift that supplies the food being distributed by the ICRC.

The third element of the U.S. relief strategy is decentralization, which means encouraging people to stay where they are, even in rural villages, rather than taking long walks to urban relief centers. That way, there is a chance that they will plant crops for

next year. To that end, the ICRC has set up 600 feeding kitchens all over this country, including remote areas.

Rehabilitation is one more element of our relief strategy, meaning we must do what we can to replace Somalia's broken infrastructure: wells, animal herds, electricity, and most importantly, its traditional system of authority. Where there are still functioning local elites who resolve disputes by negotiation, rather than violence, we must do all we can to encourage and strengthen them. For instance, we can refuse to deal with clan leaders unless they practice nonviolence.

These are all immediate measures we are taking in response to a crisis that is even worse than the scenes that shocked the world in Ethiopia. Yet, at the same time, we must face the grim reality that these measures are not nearly enough to put Somalia back together again.

If the U.N. peacekeeping force fails to meet the need in Somalia, the United States should urge the United Nations to increase the size of its peacekeeping force there. Besides sending food, what the world community can do for Somalia, in the end, is enforce a peace that lasts long enough for Somalia to rise again from this wreckage, and build the kind of governmental authority that will maintain peace. The Somali people need peace to rebuild their communities and provide for their families once again.●

#### THE BUDGETARY IMPACT OF H.R. 5368, THE FOREIGN ASSISTANCE, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS BILL

● Mr. DOMENICI. Mr. President, the conference report on H.R. 5368, the Foreign Assistance, Export Financing, and Related Programs appropriations bill for fiscal year 1993 cleared the Senate last evening by voice vote.

This bill provides new budget authority of \$26.4 billion and new outlays of \$5.7 billion to finance operations of the Agency for International Development, the Export-Import Bank, the World Bank, and various other international agencies including the Peace Corps, State Department refugee programs, and federally financed arms sales.

I am pleased to report that the conference agreement is within the subcommittee's 602(b) allocation. In fact, it is \$0.6 billion below the subcommittee's budget authority allocation. When outlays from prior-year BA and an adjustment for \$12 billion in IMF credits are taken into account, the bill totals \$14.1 billion in BA and \$13.3 billion in outlays. The total bill is under the subcommittee's 602(b) allocation by \$0.6 billion in BA and less than \$1 billion in outlays.

The conference agreement appropriates \$1 billion less than the Presi-

dent's request. The Foreign Assistance appropriations bill and the Food for Peace Program in the Agriculture appropriations bill constitute our entire foreign aid program. Together these foreign aid programs constitute less than 1 percent of the entire budget.

The largest single item—for \$12.3 billion—does not result in any net outlays or increase our deficit. It is for the United States' share of a 50-percent increase in the size of the International Monetary Fund. The IMF appropriation is not a grant or a conventional loan. It is a secured line of credit. When the IMF uses any part of it, our Treasury receives market interest rates and a liquid claim on the IMF's lines of credit with other Western nations.

The second largest item—for up to \$10 billion over a 5-year period—authorizes the President to guarantee private loans by the Government of Israel. All fees and reserves required by the Credit Reform Act of 1990 will be paid by the Government of Israel. The guarantees are linked to reforms that are designed to move Israel from a socialist to a market economy. The Office of Management and Budget doesn't estimate any net outlays for this item, but the Congressional Budget Office interprets the Credit Reform Act such that it scores \$170 million in both BA and outlays for this item in the conference agreement.●

#### THE SALE OF F-15S TO SAUDI ARABIA

Mr. LAUTENBERG. Mr. President, I would like to go on record in opposition to the Administration's proposed sale of 72 F-15s to Saudi Arabia. I oppose this sale for many reasons.

The sale has dangerous implications for the escalating arms race in the Middle East.

Just two years ago, American soldiers were sent to the front lines because Saddam Hussein, with the help of our government and other Western nations, in his unrelenting quest for power, built up a massive arsenal of dangerous and destabilizing weapons which he then used against our soldiers. We may still pay a further price for his possession of these weapons.

In the wake of that war, the Administration announced a plan for restraining the sale of destabilizing arms to the Middle East. The President said we ought to take another look at our military exports to the Middle East. He said that we and the other nations of the world ought to learn a lesson from the war and be more restrained with our destabilizing arms exports.

I thought the President had learned an important lesson—that pumping weapons into the hands of some leaders in the volatile Middle East is a formula for disaster.

Well, that was two years ago, and the President has apparently forgotten

that important lesson. Now, he is embracing the sale of some of America's most sophisticated offensive weapons to Saudi Arabia.

Mr. President, I'm also deeply concerned about the impact this arms sale could have on Israel's qualitative military edge. Saudi Arabia remains in a state of war with Israel and is her sworn enemy. Until very recently, Saudi Arabia bankrolled Israel's mortal enemy—the P.L.O. I worry about the threat this sale poses to Israel's security.

Now some will argue that Saudi Arabia poses no military threat to Israel, our most stable ally in the Middle East, and that the F-15s will never be used against Israel or against American interests.

Mr. President, I'm not so sure. I would remind my colleagues of a story Prime Minister Rabin told on his recent visit to the United States. The story is about American tanks that were sold to Jordan in 1965.

Now, when the tanks were provided to the Jordanians, then Secretary of State Kissinger gave personal assurances to then IDF Chief of Staff Rabin that they would never be used against Israel.

So what happened? Two years later, the Six Day war broke out. And, despite our Government's assurances, Israel found her soldiers facing those tanks in combat with Jordan. It was Prime Minister Rabin's unit that ultimately destroyed the American made tanks.

Not much has changed. With the exception of Israel, America's friendships in the Middle East are all too often short-lived. We saw that in Iraq. We saw that in Iran. Who knows if we will see that in Saudi Arabia?

Mr. President, Israel has expressed serious concerns about the impact of this sale on her security. The Administration has reviewed those concerns and has agreed to provide some additional equipment to Israel to address Israeli security concerns. Israel is our most dependable ally in the region. Guaranteeing her security, guarantees our own.

Mr. President, there is another aspect related to this F-15 sale that we ought to consider: while President Bush has agreed to sell American weapons to Saudi Arabia, Saudi Arabia continues to boycott American companies.

I believe that before this F-15 sale is consummated, the Government of Saudi Arabia ought to publicly renounce the boycott of American companies. And I think the Administration should be more forceful in demanding that renunciation before the sale goes through.

Since the founding of Israel in 1948, the Arab League countries, with the exception of Egypt since her peace accord with Israel, have not only waged military war against Israel, but have

declared economic war against her, and those who do business with her. The Arab League has sought to put Israel in an economic vise by cutting off her commercial contacts with the rest of the world, and by penalizing those companies and businesses that dare to trade with her.

The Arab League has waged this economic war on several fronts. It has maintained a primary economic boycott against Israel, refusing to do business with any individual or business in that country.

Further, in what is known as the secondary boycott, the Arab League has demanded that companies worldwide refrain from trading with or investing in Israel. A company that trades with Israel is blacklisted, and Arab League countries then refuse to trade with it. Under the 'tertiary' boycott, they also refuse to trade with any company that does business with a blacklisted company.

It is longstanding U.S. policy that the Arab League countries should end the boycott of Israel. In fact, U.S. law explicitly bars American companies from providing certain information to Arab countries to demonstrate compliance with the boycott.

America has opposed the Arab boycott against Israel because it is a declaration of economic war against our most trusted and dependable ally in the Middle East. And we've opposed the boycott because it doesn't just hurt Israel. It harms America as well.

The Arab boycott threatens, penalizes, and attempts to coerce American firms that do business with Israel. It causes American businesses to lose valuable contracts with the Arab world, costing American jobs and profits, and impairing American competitiveness.

Moreover, Mr. President, Saudi Arabia's willingness to buy our F-15's despite our close commercial ties to Israel exposes the blatant hypocrisy of that nation on this issue.

Strict adherence to the Arab boycott by Saudi Arabia would foreclose Saudi Arabia from buying our weapons because the U.S. Government does business with Israel. Further, since Israel has made numerous purchases of weapons and equipment from McDonnell Douglas, Saudi Arabia's willingness to buy F-15's from them is also a violation of the boycott rule.

Yet, Saudi Arabia seems to have no problem with ignoring the boycott when it serves its self-interest. Too bad American individuals and businesses don't have the same option.

According to the Commerce Department's most recent report on the boycott, American businessmen and women were asked 1,442 times by Saudi Arabia to answer questions about their business relations with Israel or to modify those business relations. U.S. businesses lost 842 contracts because of the Saudi Arabian government's en-

forcement of the secondary and tertiary levels of the Boycott against U.S. firms.

Even more, the number of contracts lost in Saudi Arabia was the largest number of contracts lost in any Arab League country. It is more than two times the number of contracts lost in any other Arab state.

Mr. President, I have consistently called on the Arab nations to end this unreasonable and unfair trade practice. But after the gulf war, it seems especially appropriate to insist that our gulf war allies, specially Saudi Arabia and Kuwait, publicly renounce the Arab boycott.

American soldiers put their lives on the line to protect the independence and security of Saudi Arabia and Kuwait. American lives were lost and families were shattered. Given that sacrifice, is it too much to ask that the Arab nations we defended buy our products and services, regardless of who else our companies do business with, and regardless of where else they invest?

Apparently they think so.

Because, to date, Mr. President, neither Saudi Arabia nor Kuwait has renounced the boycott that hurts our companies and deprives them of valuable business.

We fought a war for them. Yet they continue to wage economic war against us. This policy should not be allowed to stand unchallenged.

Mr. President, the response of this administration has been disgraceful. In the wake of the gulf war, the President not only failed to demand that Arab countries publicly renounce and lift the boycott; he actually supported the Arabs' blackmail of American industries by linking a suspension of the boycott to the unrelated issue of a settlement freeze by Israel.

When he should have been standing up for America, it was our President whose policy affirmed the right of the Arab League to blackmail American companies so long as Israel did not do what it wanted on settlements. It was our President who sanctioned the loss of American jobs and American business, with its daily damage done to the American economy.

The President's policy has never made sense to me. But given current developments in the Middle East, especially Israel's recent conciliatory moves, it is especially mystifying and counterproductive.

Over the last several months, Prime Minister Rabin has taken bold steps to move the peace process along and create a climate where real peace is possible.

He's scrapped plans to build nearly 8,000 housing units. He has suspended construction of roads serving the West Bank and grants for West Bank industries. He's reviewing incentives that have been given to Israeli citizens living in the West Bank.

He has also reversed longstanding Israeli policy by stating that part of the Golan Heights might be returned in exchange for peace with Syria, and agreed to discuss autonomy for the Palestinians. These moves represent a dramatic shift in longstanding Israeli policy. They represent an olive branch to the Arab nations who, with the exception of Egypt, have yet to renounce their formal state of war against Israel.

What has been the response of the Arab states, particularly Saudi Arabia and Kuwait, to these far-reaching and conciliatory moves on settlements and other critical issues?

A resounding silence on the Arab boycott.

What has been the response of our President, who has been campaigning of late with a pledge to save the American economy, and whose own policy linked the end of the Arab boycott to a halt in Israeli settlements?

A resounding silence on the Arab boycott. And a pledge to sell Saudi Arabia our most sophisticated F-15 aircraft.

Mr. President, it is time for the Arab nations to take up the olive branch, reach for the outstretched Israeli hand, and make a move to respond to Israel's peace overtures.

An end to the Arab boycott would be a positive move toward recognition of Israel's right to exist. It would give Israelis new hope that her neighbors are serious about acknowledging her permanence. It would open up the possibility that one day Israel's Arab neighbors may formally end their state of war with Israel and reach real peace agreements with her. It would give Israel confidence to proceed with her bolder steps for peace.

The President needs to get tough on this issue, and to forcefully demand that Saudi Arabia and all complying Arab countries publicly renounce the boycott of American companies. In the case of Saudi Arabia, the President ought to demand a public renunciation before the F-15's are sold.

Mr. President, it is long past time for us to get serious about ending the Arab boycott. It is a direct violation of America's interests, and an affront to the patriotic Americans who fought in the gulf.

I think the President ought to demand that the Government of Saudi Arabia immediately and publicly renounce the boycott of American companies before the F-15's are sold. I hope he will do that. To do otherwise, would reconfirm his seeming indifference to the boycott's negative effects on U.S. business and acquiesce in this intolerable policy.

#### SALE OF SUBMARINES TO IRAN BY RUSSIA

• Mr. LIEBERMAN. Mr. President, I would like to comment on a serious

matter the Senate must not overlook as we approach the end of this Congress. According to press reports, Russia has sold at least one and perhaps as many as three diesel submarines to Iran, making Iran the first Persian Gulf country to possess such an advanced submarine. This has serious consequences for U.S. naval operations and security in the Persian Gulf.

From a military standpoint, this submarine sale means an escalation of the threat to U.S. forces in the gulf. The Kilo-class diesel submarine fires torpedoes, lays mines and moves more quietly than even its nuclear counterparts. In the event of war in the Persian Gulf, U.S. aircraft carriers might well be a prime target of these Iranian submarines.

No doubt, the Iranian submarines would be out-classed by our own submarines and by our submarine crews. But as we saw in the Falklands war, even a small number of submarines can have a major impact on the operations of a superior fleet. The mere rumor of Argentinian submarines diverted British Naval resources from preparing for their main task, invasion of the Falklands Islands.

Iranian submarines would have a similarly diversionary impact on U.S. operations in the gulf especially in the event of war. The shallowness of the Persian Gulf exacerbates the usual problems of antisubmarine warfare. Sonar signals bounce off the bottom more easily in shallow water, and ships and oil rigs produce higher noise levels.

The Iranian purchase of Russian submarines must be viewed in the context of geopolitics in the gulf. With the devastating military defeat of Iraq, Iran is no longer checked by its historic rival. Teheran is doing all it can to tip the balance of power by committing billions of dollars to a nuclear program and eventual purchases of fighter aircraft, missiles, tanks—and now, we see, submarines.

Iran's rearmament program is unfortunately consistent with its more aggressive foreign policy in the gulf. In recent months, Iran asserted exclusive control over Abu Musa Island, near the Strait of Hormuz, the narrow entry point into the gulf. This broke an understanding reached under the Shah, that Iran and the United Arab Emirates would share sovereignty in Abu Musa, including oil revenues. The small gulf countries are rightly concerned about this unilateral declaration of Iranian power and privilege.

Some day these developments are less serious than they would have been in the past because of the alleged birth of a more moderate Iranian regime since the death of the Ayatollah Khomeini. I would argue, however, that Iranian policy has become more pragmatic rather than more moderate. For example, Iran is more crafty in its use of terrorism. So, while no hard evi-

dence was ever found of Iranian government involvement in the killing of the Shah's last prime minister in Paris, Shapour Bakhtiar, in 1991 or the bombing of the Israeli Embassy in Buenos Aires in March 1992, these terrorist acts were sophisticated enough to lead one to believe that Teheran was indeed involved.

Nor is there anything reassuring in the leadership of the Iranian Navy. Despite a veneer of professionalism, the Iranian Navy is effectively controlled by the Revolutionary Guards. The Guards are the radical military-police force that provided the elan for the Iran-Iraq and war for the puritanical edicts of the Khomeini regime. The Commander of the Navy, Ali Shamkani, was the former Deputy Commander of the Revolutionary Guards during the Iran-Iraq War; the Deputy Commander of the Navy, Abbas Mohtaj, was until recently a senior member of the Revolutionary Guards. Both are considered to be radicals. The Guards' control of the Navy does not bode well for U.S. naval forces in the Gulf, especially in light of this latest news.

As the philosopher George Santayana observed, those who forget the mistakes of history are bound to repeat them. Faced with the rise of Iranian power, we do not want to repeat the mistake that we made with Saddam Hussein. During the 1980's, the American Government became so obsessed with the rise of revolutionary Iran under Khomeini that it closed its collective eyes to Saddam's armaments program. Today, we should not be so focused on Saddam that we underestimate the significance of Iran's drive towards regional dominance. In other words, let's not fight the last war and invite the next one.

The growing power of Iran also reminds us that submarine warfare is still relevant in today's world. That is why we need advanced submarines like the Seawolf to counter the growing threat from third world submarines. The former Soviet Union has already sold submarines to India, Algeria, Libya, and Syria. Germany has also gone into the submarine export business. Some developing nations, including North Korea, have begun to produce their own submarines. Overall, at least 20 countries have submarines greater than mini-submarine size.

Mr. President, let us remember we still live in a dangerous world. Some argue that we are moving towards a more peaceful world in which economics will become the primary form of international competition. Unfortunately, the primacy of economics will not necessarily make the world more peaceful, as we see in Yugoslavia and Israel today. So we must not let down our guard; we must remain vigilant. Every good ship keeps up a 24-hour look-out. The ship of state must do the

same. The Iranian purchase of Russian submarines should concentrate our minds on that fact.●

#### THE NATIONAL PRAYER BREAKFAST—1992

● Mr. STEVENS. Mr. President, as this Congress draws to a close and I reflect back on the year, I have to say one of the great highlights for me personally has been the fellowship I have enjoyed each Wednesday at the Senate's weekly prayer breakfast. I had the honor with Senator HOWELL HEFLIN of leading the group and of hosting the 40th annual National Prayer Breakfast here in Washington. With the help of Senator HEFLIN and the Chairman of the House Prayer Breakfast, Congressman CHARLIE STENHOLM, we hosted 4,000 people from every walk of life, from every State in the Union, and from over 140 countries at that annual event.

We were honored to have with us President and Mrs. Bush, Vice President and Mrs. QUAYLE, Ratu Sir Kamisese Mara of Fiji, members of the Cabinet and Diplomatic Corps, as well as many of our friends and colleagues from both the House and the Senate. My good friends, Senator LARRY CRAIG and Congressman SONNY MONTGOMERY offered remarks from the Senate and House Prayer Groups, and Senator AL GORE read a passage from the New Testament.

We gave special recognition to representatives that came from prayer groups in our State legislatures from across the country. Senator JOSEPH PITTS from Pennsylvania was the most senior legislator who was able to join us for this special occasion, and he blessed us with a reading from the Old Testament.

From a prebreakfast prayer delivered by Ms. Shoshana Cardin to the reflections of my good friend, Maestro Mstislav Rostropovich, we were blessed with messages that gave us hope and inspired our faith. The music was downright heavenly from the touching performance of the Savoonga Eskimo Singers from my home State to the stunning performance of Ms. Cissy Houston to the beautiful voices of the West Point Choir.

Mr. President, at the request of the National Prayer Breakfast Committee, I request that the transcript of the proceedings from this year's National Prayer Breakfast be printed in the RECORD at the conclusion of my remarks. I would also like to express my deepest appreciation for the efforts of the Senate Chaplain, Rev. Halverson, and Doug Coe in organizing the National Prayer Breakfast and in serving as the Senate's spiritual leaders as we seek God's guidance and pray for his wisdom. May the Good Lord grant them both good health and long lives, so they can continue to guide the Senate as it seeks to do what's best for this great Nation.

The transcript follows:

\* \* \* \* \*  
 another with psalms, hymns and spiritual songs. Sing and make music in your hearts to the Lord, always giving thanks to God the Father for everything, in the name of our Lord, Jesus Christ.

This next song we'd like to sing for you is a common prayer at the end of any prayer. It's called "Amen" by Glad.

(Song.)

CADET. SIVES: Thank you very much, ladies and gentlemen. We are so honored to be with so many people this morning who love and worship the Lord. You know that by keeping the commandments we are able to find true happiness in our lives. We would like to sing a song for you now as our closing number that speaks about this happiness. It's by a group called the Cathedral Quartet, entitled "Feel'n' Mighty Fine".

(Song.)

SENATOR STEVENS: The Vice President of the United States and Mrs. Quayle.

(Applause.)

SENATOR STEVENS: Ladies and gentlemen, the President of the United States and Mrs. Bush.

(Applause.)

SENATOR STEVENS: Please be seated. Thank you for welcoming our honored guests.

We have some singers for you but before they sing, Congressman Sonny Montgomery of Mississippi will present an opening prayer. Our singers have traveled thousands of miles from a small island in the Bering Sea, off the coast of Russia. They're 70 miles from Russia and they're 160 miles from the coast of my state of Alaska. These singers come from the Alaskan native village of Savoonga to sing for us. Their village has approximately 500 people, no automobiles, no running water. Their men hunt for subsistence and their ladies keep busy making beautiful Alaskan native crafts. These singers will sing "How Great Thou Art" in Alaska-Siberian Ubic and then in English. We ask that you remain seated for the prayer and enjoy the songs.

REPRESENTATIVE MONTGOMERY: Good morning and let us pray. Good Lord, thank you for this new day and for giving us the opportunity to gather this morning to express our love for you and for our neighbor. To our friends from overseas, welcome to our country. We are proud that you are part of this great National Prayer Breakfast.

In 1991, the world changed so much for the better. Many people in our lands can now worship without fear. Please give them the strength and courage to keep these new freedoms.

Bless our President and Barbara Bush, and thank you for helping our President work through the many problems he faces each day.

Bless Vice President and Marilyn Quayle plus the Congress and all the officials in our great government. Lord, Bless this food to the nourishment of our bodies, and let us remember that every good and perfect gift comes from You.

Amen, amen.

(Savoonga Singers.)

(Applause.)

SENATOR STEVENS: Thank you all very much. That was very lovely.

Mr. President, Mrs. Bush, Mr. Vice President, Mrs. Quayle, distinguished heads of state, honored guests and friends, coming from all walks of life, every political persuasion in every corner of our globe, we have gathered together today to pray and to thank our God. The book of Matthew tells us that where two or three are gathered in

God's name, He is among them. And where two or three agree in prayer, our Father in heaven will answer those prayers.

We have much for which to be thankful: a world earnestly seeking peace, the end of walls separating mankind, the rebirth of democratic freedoms, and most of all, our United Nations forced have returned after liberating Kuwait.

Our prayers offered here in this room a year ago have been answered. But while we may differ on issues of policy and politics, foreign affairs and business and commerce, our faith in our God unites us. As we come closer together and our world is at peace, God will listen. Ask and it will be given you, seek and you shall find. Knock and it will be opened to you.

Now I would like to introduce to you those seated at the head table whose names do not appear on your program. First on my right, a lady who needs no introduction. To me, I believe that when our good Lord thought of the words "wife, mother and family", he thought of our nation's First Lady, Barbara Bush.

(Applause.)

Thank you very much. Those of us in the Senate truly love Barbara Bush. She has been involved with our wives now for many years. She is totally one of us.

On my left, the lovely and gracious wife of our Vice President, Marilyn Quayle.

(Applause.)

Now I ask that you hold your applause until I finish introducing the remainder of those at the head table who are not listed in your program. Beginning at my far left, Mrs. Tipper Gore, wife of Senator Al Gore.

Mrs. Mike Heflin, wife of Senator Howell Heflin.

And Mrs. Cindy Stenholm, wife of Congressman Charlie Stenholm.

And Mrs. Galina Vyezinskaya, wife of Maestro Rostopovich.

Mrs. Suzanne Craig, wife of Senator Larry Craig.

Mrs. Alma Powell, the wife of General Colin Powell.

My wife, Catherine Stevens. Now join me in welcoming the true powers of Washington.

(Applause.)

Next I'm honored to introduce A Head of state, a friend of all. He has traveled thousands of miles to be with us this morning, Prime Minister Sir Ratu Kamise Mara of Fiji. Mr. Prime Minister.

(Applause.)

I ask this morning that we give special recognition to the state legislators who have come to be with us, despite the fact that our State Legislatures are in session. They represent prayer groups from almost all of our state governments. Will those legislators who represent state prayer groups, please stand?

(Applause.)

The House and Senate Prayer Group sponsor this breakfast. I ask now that you welcome my good friend, the Honorable Larry Craig of Idaho, who will speak for the Senator Prayer Group.

SENATOR CRAIG: Mr. President, Mr. Vice President, Chairman Ted, good morning to everyone and especially to our international friends. I'm deeply honored to have been asked to speak on behalf of the United States Senate and its members who participate in the Senate Prayer Breakfast.

This morning's gathering is one of the largest assemblies of love, fellowship and prayer I believe the world has seen. Let me tell you, my wife, Suzanne, and I are deeply honored, humbled and pleased to be among all of you.

In the early 1940's, members of the U.S. Senate gathered to consider the spiritual problems they were experiencing with warfare and to pray together about it. The Senate Prayer Breakfast was born.

Later, Senator Frank Carlson of Kansas met with President Eisenhower and found the common denominator that brought this nation's leaders together in fellowship through prayer. The National Prayer Breakfast movement, which today spans the globe, has resulted from that effort.

Thousands of people here this morning, from over 150 countries, should serve as testimony to the never-ending power of love and values of fellowship spoken clearly to use by our Lord Jesus Christ.

Well, I'm a veteran of both the House and the Senate Prayer Breakfasts. Every morning, while the Senate is in session, Senator Ted Stevens and Senator Howell Heflin, our current leaders, bring us together in fellowship. This fellowship results in stronger bonds between people of different political opinions and religious beliefs. Our isms are checked outside the door as we meet to share what oftentimes comes to be an expression of very personal beliefs and ideas. We open with prayer and we close with prayer.

The Prayer Breakfast has helped me personally to disagree without being disagreeable and to remember that what unites mankind is much stronger than that which pulls us apart or divides us. That unifying force is the power of love of our fellow man.

It is my pleasure to bring greetings from this unique body of men and women who are responsible for the genesis of thousands of similar groups throughout the world.

Let me close with Romans 14:13, which speaks of love and consideration for your brother. "Let us not therefore judge one another anymore, but judge rather that no man put a stumbling block or have occasion to fall in front of his brother."

Now it is my pleasure to introduce the Chairman of the U.S. House of Representatives Prayer Breakfast. For 10 years I had the privilege of attending this Prayer Breakfast and sharing with this gentleman. He is a Democrat and I'm a Republican. Our states are divided by a thousand miles and many different opinions. But we are united in friendship. We believe in our Lord and we believe in the love that He has asked us to expend.

Ladies and gentlemen, from the 17th Congressional District of Texas, the president of the House Prayer Breakfast, Congressman Charlie Stenholm.

REPRESENTATIVE STENHOLM: Thank you, Larry, Mr. President, Mr. Vice President, distinguished guests, one and all. In the words of St. Paul, "Grace and peace to you from God our Father and the Lord, Jesus Christ."

I thank God for you because of His grace given you in Jesus Christ. I appeal to you, brothers and sisters, in the name of our Lord, Jesus Christ, that all of you agree with one another so that there may be no divisions among you and that you may be perfectly united in mind and in thought.

From the reports you hear on the news, it may be difficult for you to believe that Members of the Congress of the United States ever agree with one another on anything, or find it possible ever to be perfectly united in mind and thought, as St. Paul admonished us to do. But it is my pleasure and privilege to bring you greetings this morning from the House of Representatives Prayer Breakfast Group, where we try to take those instructions seriously. Like St. Paul, I greet you in

the name of Christ with thanksgiving for everyone gathered here from all across the world and from many different walks of life.

I want to share with you the good news of God's work in our House Prayer Group. Looking out across this impressive crowd this morning, I am reminded of the Prophet Isaiah's words when he said, "My house will be called a house of prayer for all nations." This room may normally be a ballroom, but this morning it is definitely a house of prayer for all nations, and it is a wonderful sight.

Normally on Thursday mornings at this hour I am seated in a little room in the Capitol Building with about 40 or 50 colleagues. We meet without fanfare, simply to find fellowship with each other and to share each other's burdens and joys and to pray.

I have to tell you that prayer is something I don't totally understand, even though I am convinced of its power. The Holy Spirit, as the Bible says, guides us in our prayers. It is a lot like the wind that sweeps across the rolling plains of west Texas. The wind itself is invisible, but its effects are undeniable.

The hostages, for whose release we praised God this year, have all told us about the power which sustained them through their long lonely years. Those who were able to link hands in prayer while in their cells, which they called the Church of the Locked Door, have testified that the strength that they gained from each other and from the Holy Comforter was what kept them alive.

In the House Prayer Breakfast Group, we have seen the power of prayer in the Holy Spirit at work as well. Through the report which we affectionately call, the "Sick and Wounded Report", given every week by General Sonny Montgomery, we share our daily concerns with and for our fellowman. Through Jake Pickle's colorful explanations of the background of the hymns we sing, we lift our voices in praise and gain a sense of how God has worked through the lives and experiences of past believers. Through the message brought by a different Member of Congress each week, alternating between Democrat and Republican, we learn something of our colleagues' own spiritual journeys.

I personally have felt the impact that fellowship and prayer can have on those of us who meet together. As a conservative farmer from the rural southwest, it's not always obvious to me how I might relate to a liberal New Yorker. When we sit together on Thursdays, however, all the other labels are left at the door and we are transformed into simply being two men seeking fellowship and God's guidance. Even when we leave the room and we reattach our labels, something of that connection through fellowship remains with us.

Just as we Representatives meet every Thursday morning, asking God to direct us while we debate the laws of our land, I ask that you pray for us, as we make those decisions so that our words and deeds may always be pleasing to Him.

It is now my privilege to introduce to you Ms. Sissy Houston, who will bring us her rendition of "Sweet Hour of Prayer". While many people may be tempted to boast of a successful recording career, Grammy Award nominations or numerous other awards, I suspect that the one which may be most special to Sissy was being named Mother of the Year in 1991. While we don't know about her other children, we do know that Sissy did a marvelous job of raising and training her daughter, Whitney.

May I now introduce Ms. Sissy Houston?  
(Ms. Houston's song.)

(Applause.)

SENATOR STEVENS: Thank you very much, Sissy. My grandmother used to say, when you hear a good song, your heart sings. Our hearts were singing with you.

Next, we are honored by a former Senator. As a matter of fact, he is the President of the Senate, a friend and a true believer, the Vice President of the United States, the Honorable Dan Quayle.

VICE PRESIDENT QUAYLE: Thank you, Ted, Mr. President. Thank you very much, Senator Stevens, Mr. President, Barbara, Marilyn, Maestro Rostropovich, ladies and gentlemen.

As we welcome our international friends and guests to the National Prayer Breakfast, let us just stop for a moment and think what has happened in the world this past year. We welcome this day of prayer to once again give thanks to our Lord for the wonderful blessings that he has bestowed upon us. In the words of the 77th Psalm, Verse 14, "You are the God who does marvelous deeds, the Lord who brings nations to acknowledge your power."

Indeed he does. For the most dramatic events of our lifetime, the rebirth of nations long covered by darkness, the reunion of East and West upon their shared heritage, this was not done by the force of arms. This was brought by the force of faith. It began when a group of Polish workers insisted upon erecting a cross at their shipyard. It drew strength from those who fell, martyrs, like Father Populisko, who, even in death, could not be silenced.

Last summer, Marilyn and I and two of our children, prayed at his grave and now we witness his victory. Like many before him, he taught the most profound lesson of our time, that faith, family and freedom are intertwined. Destroy any one and the others are threatened as well. Strengthen anyone and the others revive along with it.

That's why the bogus messiahs of this century tried to shackle religion and ruin family life, because they knew their monster states could never enslave believing families. Now, bells ring out again from the ancient churches in the Kremlin, voicing to the heavens their prayers of thanksgiving.

Yet even at this season of rejoicing, there is still danger. People of faith should not ignore it. For the totalitarianisms of this century, evil as they were, were only symptoms of a deeper malady in the western world. It was an emptiness of the spirit that, by denying humanity's creator, denied human limits and human dignity as well. That denial built the extermination camps and the Gulag. That denial remains amid the rubble of empires. It persists in our own institutions and distorts the face of our culture. My friends, it challenges all of us. For the spiritual vacuum at the heart of what Paul Johnson called modern times will be filled one way or another, filled either by a revival of faith or by some new fanaticism, promising heaven on earth.

Now, after all we have seen, after all we have been given, after so much has been done for us, surely we should now be the people with hope, with confidence in the Lord's governance of world affairs.

Thank you and God bless you.

SENATOR STEVENS: Representative Joseph Pitts of Pennsylvania has the most seniority of all state legislators who answered our invitation to join this breakfast. We've asked him to share a passage of the Old Testament with us at this time.

REPRESENTATIVE PITTS: Mr. President, Mrs. Bush, Mr. Vice President, Mrs. Quayle,

distinguished guests and friends. When I asked my colleagues in the State House Fellowship Group in Pennsylvania what I should read this morning, we concluded that as state legislators, grappling with issues and ethical concerns in matters of public policy, we often find values, meaning and guidance in reading the Old Testament. The Scriptures are a place we can go, not only in our personal lives, but in our corporate lives, to rediscover God as individuals, as communities and as a nation.

We selected these verses from the Book of Psalms, chapters 33 and 145, some selected verses, beginning at verse 8.

"Let all the earth fear the Lord. Let all the people of the world revere Him, for He spoke and it came to be.

He commanded and it stood firm.

The Lord foils the plans of the nations. He thwarts the purposes of the peoples. But the plans of the Lord stand firm forever. The purposes of His heart through all generations.

Blessed is the nation whose God is the Lord, the people He has chosen for His inheritance.

From Heaven, the Lord looks down and sees all mankind. From His dwelling place, He watches all who live on earth, He who forms the hearts of all, who considers everything they do.

No king is saved by the size of His army, no warrior escapes by His great strength.

But the eyes of the Lord are on those who fear Him, on those whose hope is in His un-failing love."

And from 145:

"The Lord is gracious and compassionate, slow to anger and rich in love. The Lord is good to all. He has compassion on all He has made.

The Lord is faithful to all His promises and loving toward all He has made. He upholds all those who fall and lifts up all who are bowed down.

The Lord is near to all who call on Him, to all who call on Him in truth.

He fulfills the desires of those who fear Him. He hears their cry and saves them."

SENATOR STEVENS: Thank you, Representative Pitts. Let me now present to you another friend and member of the Prayer Group, the Honorable Al Gore of Tennessee, who will read to us from the New Testament.

SENATOR GORE: Mr. President and Mrs. Bush and Mr. Vice President and Mrs. Quayle, distinguished guests and ladies and gentlemen. In three of the four Gospels of the New Testament, there is a simple story about an unfaithful servant. The master of the house leaves on a journey and puts his servant in charge of the house with instructions. He says "If while I'm gone vandals come and ransack my house or thieves come and steal by belongings, it will not be a good enough excuse for you to say, I was sleeping."

We are gathered here from nations all over the face of God's Earth. The Earth is the Lord's and the fullness thereof. The vandalism of God's Earth on a global scale calls us out to watch, to bear witness and to respond. In Matthew, chapter 24, verse 43, Christ says, "If the good man of the house had known in what watch the thief would come, he would have watched and would not have suffered his house to be broken up. Therefore, be ye also ready."

In Luke, chapter 12, verses 54 through 57, "When you see a cloud rise out of the west, straightaway ye say there cometh a shower, and so it is. And when you see the south wind blow, yea say, there will be heat, and it

cometh to pass. Ye hypocrites, ye can discern the face of the sky and of the Earth, but how is it that ye do not discern this time. Yea, and that ye even of yourselves judge ye not what is right?"

And in Mark, chapter, 13, verses 34 through 37, "For the son of man is as a man taking a far journey, who left his house, and gave authority to his servants, and to every man his work, and commanded the porter to watch. Watch ye therefore: for ye know not when the master of the house cometh, at even, or at midnight, or at the cockcrow or in the morning, lest coming suddenly he find you sleeping. And what I say unto you, I say unto all: Watch."

SENATOR STEVENS: Thank you very much, Senator Gore.

On August 19th of last year, dark clouds literally hung over Red Square in Moscow. It was the first day of the feast of the Transfiguration for Russian Orthodox true believers, and one of the first days for open religious freedom in the capital of the Soviet Union. A coup, a military coup was underway. As the Patriarch of the Orthodox Church, Alexi II was addressing his religious bloc in the square, Soviet tanks rolled into that square, threatening the protectors of the Russian White House in which Boris Yeltsin, the first elected leader of Russia, and the Russian Parliament, were meeting.

That night, cellist was in Paris. He went to the airfield, bought a ticket for Tokyo on a flight he knew stopped in Moscow. Upon arrival in Moscow, he went right to the Russian White House and joined Mr. Yeltsin. And he joined Father Burkov. And together they gave out 2,000 bibles to young soldiers in tanks. Only one of those soldiers refused to accept a Bible. That, to me, was a trip of faith, taken by Mstislav—we call him Slava—Rostropovich. He returned to the country of his birth to defend freedom. And we have asked Maestro Rostropovich—Slava—the music director of our National Symphony Orchestra now and for the past 15 years, as a true believer—to be our speaker, to give you our message today.

Ladies and gentlemen, I present to you a great patriot and a good friend, Slava Rostropovich.

MAESTRO ROSTROPOVICH: Mr. President, Mrs. Bush, Mr. Vice President and Mrs. Quayle, Chairman and Mrs. Stevens, Honorable Members of Congress, Honorable ladies and gentlemen, my good friends. The more I immerse myself in my music, the more certain I am that sound is a bridge between our real world and the world into which we all will eventually pass, a Godly world, a spiritual world.

Perhaps an oblique proof of this is the existence of sound in all of the different religious temples and churches. I have heard the choirs in the Greek and Russian Orthodox, the organs in Catholic and Protestant, the cantors in the Jewish and the drums in the Buddhist. Sometimes, in some rare cases in my imagination, together with the music rising out of the silence, I would experience an emotional communicate with my departed friends.

This is what happened on the evening of August 19th of last year. I had learned of the putsch in Moscow and was waiting in my Paris apartment for the broadcast of the press conference of the junta leading the coup. Watching and listening, I was horrified. I understood that the cursed terror that had reigned in my country for over 70 years was returning. I closed my eyes, then felt in my inner being the sounds of the music of the 8th Symphony of Dimitry Shostakovich.

The music was quiet, devastating, evocative of the inhuman suffering of its composer.

What I feared was a return of the time when that music was written: the time of lies, of deceit, of trampled human dignity. I understood in that mystic moment that I was being summoned by a power it was useless to resist.

The next morning I flew to Moscow and went to the Parliament building, the Russian White House, where I spent the following three days. During those three days, like never before in my life, I felt in me the spirit of Christ.

During that first night, while waiting for the imminent attack, we were sure of the inevitability of death. There were over 30,000 unarmed people defending those of us who had voluntarily locked ourselves in the Parliament Building. But what were those numbers to the combined forces of the KGB, the Army and the Militia united as they were by the presence of their Ministers in the junta?

It poured rain all night and fog shrouded the roof-tops. As we learned later, the attack had been planned by helicopters, depositing their forces on the roof of the White House. But the fog and the gusting wind aborted that plan. The junta could not know that they had planned the overthrow for the Holy Feast of the Transfiguration. I am SO certain that we had been saved only through the intervention of God. God did not loose yet greater suffering on a people tortured by their merciless history.

When I left the White House at 3 o'clock in the morning, amid the constant expectation of attack, to walk among the volunteer defenders surrounding the building, I saw many, many, many with symbols of their faith, using them as defense and salvation. In the silence of the night, broken by the sound of moving tank threads, the aura of faith was almost palpable. That moment and the salvation of all of us and of the future of the country, came only from God.

There are not words enough to cover the spectrum of emotion I felt during those three days, these happiest days: as they were days of closeness with God, an almost physical awareness of His power. Days of a unity of Faith with my people.

Thank you very much.

SENATOR STEVENS: Thank you, Slava. When I first heard that story of the beginning of the Feast of the Transfiguration and the power of those true believers standing in the square to stop the tank, I thought it was a story that should be shared with all of you.

Now let me ask you to welcome a true warrior, a man who led our military forces as we won the Cold War, and led them through a shooting war in the Persian Gulf, working with the United Nations. A man who has helped make our world a more peaceful place to live, the Chairman of our Joint Chiefs of Staff, General Colin Powell, will offer for us a prayer for the Armed Services.

GENERAL POWELL: Thank you, Senator Stevens. President and Mrs. Bush, Vice President and Mrs. Quayle, distinguished international visitors, ladies and gentlemen. Last year at this time, America was at war. Dr. Antonia Novella, the Surgeon General, opened last year's breakfast by asking for God's blessing on the men and women of our Armed Forces as they went in harm's way. Last year, 8,000 miles from here half a million G.I.s and their colleagues from many, many other countries carried the heavy burden of war. They also sought God's blessings. In their own individual way, in groups around tanks and airplanes, in foxholes and on board ships, these men and women steeled

themselves with faith for the coming battles. And now, thank God, the war is over. We are at peace.

And with the end of that other war, the Cold War, we stand at the threshold of what promises to be an exciting future, a future where freedom, democracy and peace will reign. Yet as we move toward that brighter future, we must not forget that still today at 1,000 campfires around the world, the men and women of your Armed Forces stand guard. On the cold snow covered DMZ in Korea, in Guantanamo Bay, in southern Turkey, afloat in the Mediterranean, in the Persian Gulf, all across the world, soldiers and sailors and airmen and marines and coast guardsmen silently keep their watch.

Please join me in a prayer for their service, their sacrifice and for their safety.

Heavenly Father, we are grateful beyond all bounds for your mercy and your loving kindness in caring for and protecting the men and women of our Armed Forces. In Operation Desert Storm our men and women went to war, as Abraham Lincoln went to war with their faith as their might. And in that faith, they dared to do their duty as they understood it. But Father, without your sure presence among them, we know that victory would never have come.

We pray again for those who did not live to see that victory and are now with you. We know that the battle for peace is never without cost, but we are human and we hurt as only humans can hurt when we lose loved ones. We pray that you will be with all the families and friends who have suffered loss. Comfort them and give them strength as they go on with their lives. And let them always remember with pride the selfless sacrifice of their fallen comrades and loved ones.

Above all, Heavenly Father, we now pray for peace. As the aircraft we built to carry our troops to war instead now carry food and medicine to our former enemies, we pray for that day when no American shall ever again have to go into war. We long for peace and for the time when every man and every woman in the world shall love his brother and his sister as Your precepts command. But we know that the road to peace is a hard road and a dangerous road. We have walked many a mile upon that road and we know that many miles may yet be ahead.

So Father, we ask your strong presence with our men and women who travel that road all around the world. Be with them, sustain them, give them the strength to do their duty despite the intensity of the trial. As we have seen from Operation Desert Storm, your presence among them surpasses the strength of 10,000 battalions.

Accept our eternal gratitude for Your love and kindness and for Your watching, caring presence in our midst today. Guide us today and tomorrow.

And Father, thank you for giving us this beloved country, which You have blessed and which we are proud to call America. Thank you.

SENATOR STEVENS: And now I call upon the Co-Chairman of the Senate Prayer Group, Senator Howell Heflin.

SENATOR HEFLIN: Last April I had the privilege of representing the Senate Prayer Breakfast at the dedication of the Camp David chapel, which serves as a house of worship for the presidential party and over 200 permanent residents, most of whom are Naval and Marine security personnel and their families. In the worship service our nation's highest leaders were co-mingled with average people like foresters, sailors and ma-

rines. The forester's wife might be seated next to the First Lady, and a Marine gunnery sergeant might stare at the President as he passes the collection plate.

When the President rose to give his remarks at the dedication service, a young mother took her crying baby out of the chapel. The President remarked that the first crying baby to be removed from the chapel just happened to be his grandson.

In 1789, George Washington in his inaugural address, said "It would be peculiarly improper to omit in this first official act my fervent supplications to that Almighty Being who rules over the universe. It is my hope that His benediction may consecrate to the liberties and happiness of the people of the United States, a government instituted by themselves."

Some 200 years later, in 1989, the second George to occupy the office, made his first act as president a prayer. "Heavenly Father, we bow our heads and thank you for your love. Accept our thanks for the peace that yields this day. Make us strong to do your will and write on our hearts these words: Use power to help people. There is but one use of power and it is to serve the people. Help us to remember it, Lord."

This National Prayer Breakfast has a meaningful international attendance. Let me mention another George, King George VI of Great Britain. During a World War II broadcast he encouraged his countrymen by invoking words from Louise Haskin's poem, "The Gate of the Year":

I said to the man who stood at the gate of the year

"Give me light that I may tread safely into the unknown."

And he replied "Go out into the darkness  
And put your hand in the hand of God.  
That to you shall be better than light,  
And safer than a known way."

Throughout our history, we have been fortunate to have leaders who have sought God's guidance. How comforting it is to know that so many of our great leaders, including our President, George Bush, have placed their full confidence in His power. It is my high privilege and distinct honor to present such a leader, the President of the United States.

**PRESIDENT BUSH.** Thank you all very, very much. Please be seated. Slava, thank you. Thank you, Senator Heflin for such a lovely introduction. Dan and Marilyn, the Vice President and Mrs. Quayle; members of my Cabinet; Members of Congress, all so many here today; General Powell; our host, Ted Stevens, to our dear friend, Billy Graham, and all gathered, let me first just say a special greeting to Prime Minister Kamisese Mara of Fiji. This is not his first time here, and I am sure it won't be his last. He is an inspiration to all of us who know him and consider him a friend, as I do.

And may I salute our other friends from overseas? and those who serve in the state legislatures. We are glad you all are here.

Four principles, four ideals, really inspire America and I think they are all here this morning, reflected in one way or another—freedom, family, and faith that Dan Quayle talked about and to that I would add fellowship. So many people, brought together by a shared spirit, the simple joy of praying to God.

Slava, that was a tremendously moving story and one of the most dramatic moments in recent history. And if sound has anything to do with entry into heaven, I believe you can choose the fluffiest, most generous cloud in the firmament when you get there. Thank

you for your inspiring message. You reminded us all of the powerful role that prayer has played in the unprecedented events of the past year.

When I last stood here, as Colin reminded us, we were at war. Compelled by a deep need for God's wisdom, we began to pray. And we prayed for God's protection in what we undertook, for God's love to fill hearts and for God's peace to be the moral north star that guided us.

Abraham Lincoln said "I've been driven many times to my knees by the overwhelming conviction that I have nowhere else to go." And in his example, we came together for a special national day of prayer. Americans of every credit turned to our greatest power to bring us peace, "peace which passeth all understanding". At the end of the war, we prayed as one during our national days of thanksgiving.

Let us pray today that as a people we will continue to bring the power of prayer to bear on all the challenges we confront. Let us pray that we will strengthen the values that this great land was founded on, that we will reverse any threat of moral decline, and that we will dedicate ourselves to the ethic of service, of being what I call a point of light to someone else, someone in need.

In this work, we are not without inspiration. We need look no further than the handful of men who became heroes by their courage their strength and, above all, their faith—the last of whom returned in December. I'm talking about our hostages. In brutalizing conditions, as we've heard this morning, they prayed together daily in what they called the Church of the Locked Door. They unrolled floor mats in order to make rosaries. And these men who every day lived the story of Job treasured their first book, the Bible. And when Terry Anderson was released, one of the first things he did was to thank strangers across the world who had prayed that he be set free. Your prayers made a big difference, said this man, who imprisoned had rediscovered the faith that sets and keeps men free.

There's another story from last year's news that tells of the transformation of faith. While it's a story familiar to all of you, it's intensely personal to Barbara and me and to others in this room. We lost a dear friend last March, Lee Atwater, a restless, fiercely-driven, fun-loving good old boy from South Carolina, who rode life as hard and fast as he could. But he also lived a kind of miracle because his illness reintroduced him to something he had put aside, his own faith. And in his last months, he worked intensely to come to grips with his faith. Through reading the Bible and through prayer, he learned that, as he put it, "what was missing in society was what was missing in me, a little heart and a lot of brotherhood."

He was so right. Prayer has a place, not only in the life of every American, but also in the life of our nation. For we are truly one nation, under God.

May God bless this very special gathering. For those of you who have come from overseas, for those of you from across our land, for those of you right here in the nation's capitol, thank you for participating in this celebration of faith. Thank you very much.

(Applause.)

**SENATOR STEVENS:** Thank you very much, Mr. President.

Now we have asked West Point Cadet Doug McInvail to lead us in song, "Amazing Grace". He wants to sing the first verse alone, and then asks us to join with him and the choir for the second and third verses. I ask that you please stand for this song.

(Song—"Amazing Grace")

**SENATOR STEVENS.** Amen. Thank you very much. This is the first year in the history of the Prayer Breakfast that the United States Military Academy Choir from West Point has been with us. We want to thank the Commandant of the United States Military Academy, General Howard Graves, for allowing them to join us and thank them all.

Immediately following this closing song, one of the participants in the first Prayer Breakfast, which was conducted during the administration of President Dwight D. Eisenhower, Dr. Billy Graham, will lead us in a closing prayer. We hope that you will remain standing for the song and the prayer.

(Song—"America the Beautiful".)

**REVEREND GRAHAM:** President and Mrs. Bush, Vice President and Mrs. Quayle, Senator Stevens. This has been a marvelous and wonderful Prayer Breakfast, in which all of our hearts have been stirred.

The theme seems to have been peace. And the greatest peace was bought for us 2,000 years ago at the cross, where Jesus Christ reached out with one hand and took the hand of man, and the other hand of the Father, and brought us together—if we put faith and our confidence in Him.

And so we do have the possibility of peace. We sang that song a moment ago, "Amazing Grace". Did you know that the man who wrote it was a very wicked man? He was a slave trader. And one night coming back from Africa there was a storm on board that almost overwhelmed his ship. He thought he was going to die. He fell down on his knees. He received Christ into his heart. He felt the peace of God "that passeth understanding". And he went back to England and helped lead the cause to free the slaves. He became a great Anglican clergyman and wrote many songs. That's what Christ can do for us today.

Our Father and our God, once again, you have brought us together to look to You and to praise You for the freedoms we have in this great nation. We thank Thee for those people that gave their lives this past year to help keep us free and to bring peace to the world, especially that part of the world that has seen so much war, that part of the world where the Bible was born, where it was written, where Christ lived and died.

And today we would like to pray especially for President and Mrs. Bush, Vice President and Mrs. Quayle and their families.

We also commit to you the leaders of Congress as they deliberate the matters of State of this year. We pray for the leaders of our Armed Forces. We thank You that we, as a Nation, are once again at Peace. And, we pray that our own hearts may also be at peace because of our faith in You.

Thank you for promising peace to those who put their trust and confidence in You. We pray that as we repent our sins and put our faith in Jesus Christ, You will prepare us for that eternity that lies ahead of us all.

Now the grace of our Lord Jesus Christ, the love of God the fellowship of Holy Ghost be with us all forevermore. Amen.

**SENATOR STEVENS:** Thank you, Dr. Graham. Vaya con Dios. God go with you all. ●

#### MORE KELP, BILLY?

● **Mr. JEFFORDS.** Mr. President, as most anyone involved in politics knows, the old axiom about a lie traveling faster than the truth is all too true.

Its twentieth century manifestation seems to be in the realm of science.

Hardly a month goes by that we do not learn of some new threat to our health that flies directly in the face of conventional wisdom.

That is the beauty of science. But science and politics are a combustible mix. Too often, a group with a political agenda will seize upon the slimmest shred of scientific evidence to make an argument. And the press, just as often, cannot resist such a scientific "man-bites-dog" story.

The best and latest example of this phenomenon came last Wednesday. There, on the third page of the *Washington Post*, was a picture of Dr. Benjamin Spock surrounded by cartons emblazoned with the words "Diabetes," "Heart Disease," and "Anemia."

Was Dr. Spock the latest recruit in the anti-smoking crusade? No, the cartons surrounding him contained not cigarettes, but milk.

It seems Dr. Spock had been enlisted by the Physicians Committee for Responsible Medicine in its campaign to end the consumption of milk, substituting for it foods like kale or kelp of kippers.

The *Post* article left Dr. Spock's position somewhat in doubt. Although the headline proclaimed "Dr. Spock Joins Milk's Detractors," the statements attributed to him struck a different chord.

Dr. Spock is reported to have said that "I want to pass the word to parents that cow's milk from the carton has definite faults for some babies. \* \* \* Human milk is the right one for babies." He also cautioned parents not to overreact, saying that "I don't think we should go from enthusiasm about milk to scaring the bejebeers out of parents."

To that I say "Amen." I do not know of anyone who would argue that cow's milk is preferable to a mother's milk. From a medical and dietary standpoint, the longer a mother is able to breast feed a baby the better.

But most mothers must return to work, and cannot nurse as long as might be ideal from a medical standpoint. At that point, the American Academy of Pediatrics, which just reviewed this issue, recommends that babies be fed iron-fortified soy- of milk-based formula until they reach a year old. Beyond that point, according to the pediatricians, whole milk is fine for all but the fewer than 1 in 200 children who end up being allergic to milk protein. Milk, according to the pediatricians, is a "major source of nutrition."

While those of us who have reached middle age and beyond are rightly watching our consumption of fat, we should not make the mistake of assuming that babies should do likewise. In the first few years, babies are growing and consuming calories at a tremendous rate. And while there is a difference of medical opinion on when a

child should move to low-fat milk, many believe that children should drink whole milk for a period of their growth.

The scientific backing is lacking behind this group's claims. The American Medical Association issued a statement in response that I will append to my remarks. While using more polite language than I, it said essentially that the group's claims were equal to that which is found mounded below the terminus of the gutter cleaner.

Dr. M. Roy Schwarz, the AMA's senior vice president of medical education and science, describes the Physician's Committee, which boasts about a five percent physician membership, as "made up of vegetarians with a vegetarian agenda." It is reported that the Physicians Committee is allied with the People for the Ethical Treatment of Animals and the Animal Liberation Front.

The Physicians Committee and its allies have raised some valid points in the past. I happen to agree with the notion that we have been too cavalier in our approach to the use of animals in the testing of consumer products. But I think it would be unfortunate for all concerned if milk were to become part of the animal rights agenda.

Frankly, it would undermine that agenda. For the case against milk is so weak it would remove whatever credibility these groups might have.

That weakness is further revealed by another bit of pseudo-science we were treated to last week. The charge was made that vast quantities of milk are tainted with antibiotics, putting our health at risk. Neither proposition is true, but again, the truth is not news.

Milk is the most regulated food we consume. Every single tank of milk a farmer ships to the dairy is sampled. And every single truckload of milk is tested for antibiotics. If any are found, they can be traced back to an individual farmer. And a farmer found shipping contaminated milk is suspended from shipment for several days.

No farmer in his or her right mind would risk dumping the entire herd's milk down the drain for a few days in order to ship a single cow's milk for an extra day or two.

The system is not perfect. According to data compiled from state regulatory agencies by the Food and Drug Administration, 1 sample of milk in 5000 contained drug residue. By contrast, fish, which was recommended by the Physician's Committee as a substitute for milk, is virtually unregulated and uninspected. How safe is fish? We do not know, because it is seldom inspected.

My point is not to raise concerns about fish. Handled and prepared properly, I think it is quite safe. I use it only to illustrate the curious scientific method employed by the Physician's Committee.

Another illustration of the scientific reasoning of the group was the claim that we should not consume cow's milk because "[i]t was designed for calves," and not humans. But I am not sure where this logic takes us. The raising of cows for milk production seems far less disruptive of some design than the harvesting of fish or vegetables. By that argument, anchovies were designed to make baby anchovies, not to be my favorite pizza topping.

Philosophy aside, there are tremendous practical problems involved. Milk is a nutrient-dense food that is difficult to replace.

Two glasses of milk provide the average person with not only 100 percent of the recommended daily allowance of calcium, but half the RDA for Vitamin B2, a third for protein, a quarter for Vitamin A, and a fifth for B2.

Milk is also a source of Vitamins D, E, K, riboflavin, niacin, phosphorous, magnesium, potassium, sodium, sulphur, aluminum, copper, iodine, iron, manganese and zinc.

Milk is the only source of the protein casein, which contains all of the essential amino acids. And milk's fatty acids are essential for childhood development.

There's even more good news. As we all know, you can go to a store or cafeteria and pick out milk with several variations of fat content. Ten years ago, people drank about twice as much whole milk as lowfat. Today, people drink more lowfat than whole. And the state of California has pioneered fortification of milk, adding milk solids but not fat. Doing so increases its protein by 27 percent, calcium and B vitamins by 17 percent, and improves its flavor. Rather than shunning milk, I think we can and should improve it.

As an example of how difficult it would be to replace milk, consider that fact that a young child should have 800 milligrams of calcium per day. One cup of milk contains 300 milligrams of calcium. According to Dr. Susan Baker, who serves as a member of the nutrition committee of the American Academy of pediatrics, a cup of kale contains 56 milligrams.

Think of it this way. You could offer young Billy three cups of milk, and slightly exceed the RDA for calcium, or you could offer him 16 cups of kale. Mmmmm, good.

In the brave, new, milkless world, breakfast will never be the same. Cereal must be eaten dry. Pancakes and waffles are forbidden. And I suppose eggs are out, as are bacon and sausage.

I'm not sure I want to be part of this world. And I am not sure the normal child will settle for a bale of kale a day. To be sure, that child would be regular, but nor normal.

In the real world of stubborn children and bedraggled parents, would kale and anchovies replace milk? Or would soda and sugar—the nutritional null set?

This is just the point made in recent editorials by the Burlington Free Press and the New York Times, the latter of which could hardly be considered a friend of the dairy farmer. I ask that these editorials, and a column by Jonathan Yardley, be made a part of the RECORD. I also ask that a statement by the American Medical Association be included.

Mr. President, milk is nature's most perfect food. You may not read about it in the Post, but just ask the pediatricians.

The article follows:

[From the Washington Post, Oct. 5, 1992]

THE MILK RUN: MORE SUBSTANCE ABUSE

(By Jonathan Yardley)

The scenario has become as familiar, and as tiresome, as any played out on the silver screen that is American public life. A news conference is held in which claims are made of a dramatic finding about American dietary habits. The story is played all over the local and national news broadcasts that evening; in the morning, it is splashed all over the papers. But 24 hours later it has vanished from the media as quickly as it appeared, leaving parents and other custodians of the dining table to pick up the pieces.

Thus it was last week. On Tuesday an organization calling itself the Physicians Committee for Responsible Medicine held a news conference in Boston at which the star performers were Frank A. Oski, the head of pediatrics at Johns Hopkins University, and the eternally redoubtable, or redoubtably eternal, Benjamin Spock. Oski declared: "There's no reason to drink cow's milk at any time in your life. It was designed for calves, it was not designed for humans, and we should all stop drinking it today, this afternoon. . . . There's no reason for us to spend lots of money to give milk to kids when it doesn't do them any good."

Spock chimed in, albeit halfheartedly. "This does not mean that every child that's been on cow's milk is doomed," he said. "I want to urge parents, especially with subsequent babies, to use breast milk." Later he said, "I don't think we should go from enthusiasm about milk to scaring the bejebeers out of parents," thereby leaving the rest of us to ask what on earth he was doing there on stage with Oski, who seems to be something of a true believer when it comes to the undesirability of milk—not to mention under the auspices of the Physicians Committee for Responsible Medicine, which behind its innocuous name is reported to be in part an animal rights organization.

But the specific details of last Tuesday's dog-and-pony show are less important than the pattern of which they are a part. The cautionary words of Spock notwithstanding, scaring Americans about the various substances they funnel into their bodies has become a growth industry both for the high priests of medicine and the low priests of journalism. Each day, it seems, the air is filled with one report or another to the effect that if we will only (a) stop consuming Substance X or (b) start consuming Substance Y, all of us will forever be healthy, wealthy and wise. The net effect is air time for a few publicity-hungry medics and utter confusion for everyone else.

The confusion is pointedly addressed in the current issue of Consumer Reports, to wit: "It's little wonder: In the past year alone, we've been advised to use oils sparingly but to load up on olive oil; to avoid overweight,

yet somehow avoid 'yo-yo' dieting; to drink red wine because the French have fewer heart attacks but to refrain from alcohol because the French have more liver disease. The food industry has profited from the confusion by marketing a wide range of products with dubious nutritional claims and by saturating the market with products that follow the nutritional fad of the moment."

A case can be made, not entirely frivolously, that the most sensational publication in these United States is not the National Enquirer but the New England Journal of Medicine. That august gazette masquerades as the sober voice of American medicine, but its stock in trade is carefully orchestrated campaigns to grab headlines in the non-medical press; its strategies include barrages of press releases and embargoed publication dates. Like Moses coming down from the mountain with the original Top Ten, the New England Journal periodically descends from its own altitudes to present the latest—sometimes in conflict with the previous—Rules for Living.

No one falls more eagerly for this than those of us in the business of journalism. After more than three decades in the trade I have concluded as follows: A journalist is someone who becomes infinitely agitated over matters that are inherently unexciting. To wit: Roseanne Barr. To wit: Jesse Jackson. To wit (the two words compress so easily into twit): H. Ross Perot.

Not to mention, to wit: Oat bran. Gatorade. Saccharin. Wheat bran. Saturated fat. Polyunsaturated fat. Good cholesterol. Bad cholesterol. Salt. Caffeine. Aspartame. Vitamin C. Vitamin D. Vitamin E. Red meat. Calcium. Sugar. Skim milk. Canola oil.

Never mind that when it comes to matters nutritional, most of us in the media don't know salt from Shinola. What we do know is what makes for a headline, and nothing—with the possible exception of whatever lubricious nonsense Madonna has most recently committed—makes for a hotter headline than the latest cure or calamity dished out by the medical rumor factory.

Elaborate explanations are scarcely needed. Medical news comes closer than any other to the questions that most fascinate and trouble all of us. Am I healthy? How can I be healthier? How long will I live? How can I live longer? Even though we Americans have nutritional habits that are sloppier and more self-indulgent than those of any other ostensibly civilized nation, we conduct an endless search for the packaged equivalent of the Fountain of Youth: the one-shot nostrum that will wipe out the effects of all those bad habits and restore us to the purity of (breast-fed) infancy.

Day by day in every way, we prove that there's one born every minute. We are absolute suckers for quackery, so the press stands alertly by to feed our hopes and fears whenever the occasion presents itself, which, thanks to the medics, it does with depressing regularity. It is true that journalists possessing more than dilettantish knowledge of medical matters are rarer than hens' teeth—most journalists probably think hens have teeth—but that is an inconvenience all of us are happy to overlook in order to keep the flow of half-truths and misinformation going at full volume.

Apart from making journalists happy and enriching various undesirables, what that flow mainly accomplishes is to keep millions of ordinary Americans in a state of perpetual tension. Like fighters in the ring, we bob and weave with every punch. After the great oat bran ballyhoo erupted, you needed a squad-

ron of Green Berets to track down a box of the stuff. After "60 Minutes" played its red wine card, liquor dealers couldn't keep cabernet sauvignon on the shelves. After last week's milk episode—who knows? Let's just say that the American Dairy Council isn't exactly dancing in the streets.

What it's probably going to mean is that for about two weeks sales of kale, broccoli, tahini and tofu will enjoy a brief and otherwise inexplicable surge. Those essentially inedible substances are, according to vegetarians and other true believers, God's way to inject calcium into the human body. But after a few million Americans have spent a few million meals staring down their kale and their tofu, they'll head right back where they belong, slurping at the udders of Elsie the Cow.

As well they should. The only sensible response to the endless flow of nutritional gobbledygook is to ignore it. Maybe it's true that Americans should stop drinking milk, that pregnant women shouldn't have even an eensy-weensy sip of wine, that cheddar cheese is a one-way ticket to the coronary care unit, that yogurt will let us all live a hundred years, that canola oil is to lowly humans as ichor was to the gods and that white bread is the biggest killer since Al Capone. . . . Maybe all that is true, but don't bet your booties—or your life—on it.

So the next time someone tries to tell you what you should or should not eat or drink, do two things: Grab your wallet and race to the refrigerator for a bracing swig of milk. Yes, doctor: skim milk.

STATEMENT OF AMERICAN MEDICAL ASSOCIATION

AMA BLASTS ANIMAL RIGHTS GROUP ON MILK PANIC

The following statement is attributable to: N. Roy Schwarz, M.D., Senior Vice President of Medical Education and Science.

The American Medical Association is alarmed by today's allegation that milk is dangerous and should not be required or recommended in government guidelines. There is absolutely no scientific proof to support such a claim.

The fact that breast milk is more healthy for infants than cow milk is well documented. Responsible research established this fact years ago.

For instance, we know that whole milk has the potential for causing health problems in children up to 12 months and that breast milk is recommended during that period. However, whole milk has been found to be nutritious for children 12 to 24 months, and milk products for children 24 months or older.

The AMA continues to marvel at how effectively a fringe organization of questionable repute continues to hoodwink the media with a series of questionable research that fails to enhance public health. Instead, it serves only to advance the agenda of activist groups interested in perverting medical science.

The "Physician's Committee for Responsible Medicine" (PCRM) is an animal "rights" organization and, despite its title, represents less than .005 of the total U.S. physician population. Its founder, Dr. Neil Barnard, is also the scientific advisor to People for the Ethical Treatment of Animals (PETA), an organization that supports and speaks for the terrorist organization known as the Animal Liberation Front (ALF).

[From the New York Times Editorials/  
Letters, Thursday, Oct. 1, 1992]

#### MILKING OUR MEMORIES

It sounded too good to be true. For years many people have drunk milk only under duress, or when it was flavored with chocolate. Now, it suddenly appeared, Mom had it all wrong. A group of doctors headed by the fabled Dr. Benjamin Spock seemed to be saying the other day that you don't need milk to grow up strong and healthy. In fact, you'd be better off leaving it to the calves.

Their evidence was seductive. Milk has lots of fat in it. Some people can't tolerate milk digestively. It can lead to iron deficiency in tiny infants. One worrisome study, not yet replicated, suggests milk may trigger juvenile diabetes in genetically susceptible individuals.

But there were reasons to be skeptical about the denunciation of milk. Dr. Spock sounded as if he were not quite endorsing it all, just making a plea for breast feeding. Some of the experts involved in the campaign are said to be animal rights advocates, which might make them biased against animal products. And experts from the American Medical Association and the American Academy of Pediatrics rose to defend milk, at least for children more than a year old.

But the real weakness in the anti-milk crusade is the alternatives offered. You don't need milk to get calcium. You can get it from broccoli (President Bush's least-favorite food), tofu or kale, a green known more for hardness than taste. Pass the chocolate milk.

[From the Burlington Free Press, Oct. 2,  
1992]

#### MODERN MOTHERHOOD, APPLE PIE, AND MILK

From childhood, we've held these Vermont truths to be self-evidence; Ethan Allen was a hero. Lake Champlain is the largest U.S. freshwater lake after the Great Lakes. Children can't grow strong bones or healthy bodies without four glasses of milk a day.

This week, the bedrock of brief cracked beneath our feet.

Dr. Spock—Dr Spock!—appeared to endorse the idea that milk is *bad* for children and not so good for the rest of us.

Say it ain't so, we cried. In a blow, the guru of parenthood threatened Vermont dairying and our conviction that Mom knew what she was talking about when she told us to drink our milk, or else.

It ain't, in fact, so.

Turns out, Dr. Spock only endorsed what most pediatricians now believe. Regular cow's milk isn't the drink for infants under nine months to one year of age. It can irritate their digestive systems and, at worst, lead to iron deficiencies. (Breast milk is the ideal tittle; lacking that, iron-fortified, soy- or milk-based infant formula).

The fringe Physicians Committee on Responsible Medicine, which hauled out the aging Spock to decorate its cause, went further. The doctors asserted that toddlers, older children or adults should give up milk.

We asked around among the pediatricians and found that most disagree strongly.

Milk is an important source of calcium, vitamin A and vitamin D, says Vermont pediatrician Joseph Hagan Jr. The American Academy of Pediatrics agrees. (For children over 2, milk should be lowfat—1 percent or skim).

Besides, there's a danger to the anti-milk campaign. What will scared parents put on the table instead? Coke? Pepsi? Over-sugared fruit drinks? Most of the likely American al-

ternatives to milk have little or no food value.

While debunking the milk-is-dangerous campaign, the Vermont pediatricians didn't entirely restore milk to the center of our nutritional universe.

Four glasses of milk a day? Not necessary, they say. "Do you need to drink a lot of milk? No," says Dr. Paul M. Costello of Essex.

"If I have a family tell me that a school-age child is getting half a pint of milk a day, as well as other dairy products, that works fine," says Hagan. In short, milk in sensible quantities, along with the other ingredients of a balanced diet.

But what's the dairy industry to do if milk can't be sold as the essential drink of childhood?

Sell milk as one part of a balanced diet—and sell milk for its taste. A chocolate brownie without a cold glass of milk? Unthinkable. Apple pie without milk? Never!

In this corner, we're sticking with milk. Lowfat milk on the table, three times a day. Pass the apple pie.

#### RECENT DEVELOPMENTS ON INDIA

• Mr. LIEBERMAN. Mr. President, I would like to say a few words about one of the most important countries in the world, India. For too long, India has not received the attention that it deserved from the United States. As a country, we have tended to downplay the importance of Southwest Asia, although it is home to about 20 percent of the world's population. We have also not given India its due because it has, until recently, been tied to the Soviet Union because of a mutual fear in China.

All of that has changed, however, with the end of the cold war. India is reconsidering its old alliances. This offers a real opportunity for the United States to respond favorably. I am heartened, therefore, that the United States and India conducted a joint naval exercise for the first time last May with vessels from the United States Seventh Fleet and two Indian ships. We should increase military ties along these lines.

We should also respond favorably to India's recent economic reforms. Under the Government of Prime Minister P.V. Narasimha Rao, India is trying to shuck off the dead-hand of socialism. We should encourage and assist in these reforms for our own self-interest, as well as for India's. I believe that the Indian community in the United States, which has contributed so much to our country already, will play an important role in fostering commercial ties between the United States and India.

Mr. President, since its independence in 1948, India has always provided a democratic model for the developing world. Now, we can look forward to the day when India will develop a modern economy and may well become one of the world's most influential countries during the next century.

The future of United States-Indian ties is bright. The world's two largest

democracies have always had much in common. With the end of the cold war and the beginning of economic reforms, I believe that our ties will be even closer in the future. •

#### HONORING REP. DANTE FASCELL

• Mr. D'AMATO. Mr. President, as a member and past Chairman of the Commission on Security and Cooperation in Europe, better known as the Helsinki Commission, I rise today to pay tribute to my friend DANTE FASCELL, who will conclude 28 years of distinguished service in the House of Representatives at the end of this session. His leadership, his great experience, and his unyielding commitment to the highest principles of democracy and human rights will greatly be missed.

DANTE FASCELL has been chairman of the House Foreign Affairs Committee since 1983. He served as chairman of the Helsinki Commission from its founding in 1976 to 1985. Under his leadership, the Commission rose to prominence for its work in defense of the human rights enshrined in the Helsinki Final Act. DANTE took on the State Department establishment to ensure that human rights played an integral role in U.S. foreign policy.

Chairman FASCELL was a frequent target of attacks in the Soviet press for his tireless work in defending the rights of political and religious prisoners, refuseniks, and others denied their human rights and fundamental freedoms. He worked closely with non-governmental organizations to keep the pressure on our own Government to continue to vigorously challenge those responsible for human rights violations in the Soviet Union and other Final Act signatory states. His persistence and hard work helped free hundreds of individuals imprisoned for their beliefs and paved the way for the reunification of thousands of families.

I was the second chairman the Commission ever had. I recall clearly how helpful DANTE was, how gracious and how professional he was, when the leadership passed to me at the beginning of 1985. With his help, we sustained the Commission's continuity and its bipartisan approach to Helsinki issues. His kind and thoughtful counsel has been a sustaining and guiding resource for me, and for my successors, Rep. STENY HOYER and Senator DENNIS DECONCINI. He will be greatly missed.

DANTE FASCELL'S service with the Commission was not an isolated instance during his long career in the House. In fact, it was a major thread in a fabric of principled views on the role the United States should play in foreign affairs. He has been a staunch supporter of Israel. He has been an ally and supporter of freedom and democracy throughout Latin America. He not only was a force for the establishment of the Commission, he also was one of

the fathers of the National Endowment for Democracy. He supported Radio and TV Marti, major tools to break through Castro's propaganda barrage and tell the Cuban people the truth.

DANTE believed that ideas count. He believed that American ideas—democracy, free enterprise, and the concept of ordered liberty under law—are not just ideas, but proven principles upon which human progress and world peace could be established. He worked to advance those ideas through Government programs, U.S. diplomacy, and private action. His tireless advocacy, I believe, was a major force for the good, injecting these ideas and principles into American policy and programs when others found them troublesome and had no desire to stand up for them against foreign criticism.

He was a believer in a concept that has become old fashioned in recent years—a bipartisan foreign policy. He began his distinguished career in the House when it was truly the case that "politics stopped at the water's edge." He never abandoned that approach, working as chairman of the House Foreign Affairs Committee to manage some of the most divisive and partisan issues of the past decade. He made a measurable contribution to the West's victory in the cold war, helping hold together a sometimes tenuous consensus on matters which produced heated argument and legislative conflict.

I commend DANTE FASCELL, a good friend and trusted colleague, for his commitment to human rights and his very valuable contribution to the Helsinki Commission.●

#### 15TH ANNIVERSARY OF THE NORTHEAST-MIDWEST SENATE COALITION

● Mr. JEFFORDS. Mr. President, institutional memory is a bit spotty. As best as we can tell, though, this summer marked the fifteenth anniversary of the Northeast-Midwest Senate Coalition. The Coalition's longevity is testimony to the importance of its mission and the quality of its work.

For those who do not know it, the Coalition is a bipartisan, voluntary alliance of 36 Senators from New England, the Mid-Atlantic, the Great Lakes, and Iowa. The Coalition's mission is to inform its members of the regional implications of Federal policies and legislation.

The House of Representatives has a similar legislative service organization, which I helped to found in September 1976.

Both Coalitions draw upon the public policy research and analysis the non-partisan, not-for-profit Northeast-Midwest Institute conducts.

I am pleased to co-chair the Senate Coalition with Senator MOYNIHAN who, in his freshman year in the Senate, was "present at the creation". My imme-

diat predecessor was the late John Heinz. Others who have co-chaired the Coalition include former Indiana Senator Birch Bayh, and Senators METZENBAUM, CHAFEE, RIEGLE, SPECTER, and DIXON.

Senator DIXON in particular has been an able and committed defender not just of Illinois, but of the larger region. We will miss his leadership on regional issues in the 103d Congress.

Mr. President, our 18 States have much in common. We are older, industrial, cold-weather States. We have ample natural and human resources and a highly developed infrastructure. Over the years, we have provided the coal, the steel, the cars, trucks, and farm implements, the machine tools—and the entrepreneurial spirit, the generosity, and capital—that made it possible to develop the other parts of the country.

We are strikingly alike in one particularly important respect. Our per capita income is relatively high.—It has to be, because our cost of living is relatively high, also.—A consequence of having higher per capita incomes is paying a larger share of the Nation's tax burden.

Unfortunately, our share of allocable Federal expenditures is not nearly so high. So there is a gap between taxes paid and expenditures received. Let me quantify the difference.

Between fiscal years 1982 and 1991—a 10-year period—our share of allocable Federal expenditures fell short of our share of the Nation's tax burden by 531 billion inflation-adjusted dollars. Think of it: over half a trillion dollars "leaked", as an economist would put it, out of our region.

The money didn't disappear, Mr. President, it went to States in the South and the West. Southern States' share of expenditures exceeded their share of tax burden by \$285 billion. Western States' share of expenditures exceed their share of tax burden by \$246 billion. A fiscal stimulus totaling \$531 billion over the decade.

I have a bar chart entitled "The \$531 Billion Imbalance: Shortfall/Windfall Because Share of Tax Burden Has Not Equaled Share of Spending. Our States are on the left. They fall below the zero horizontal line indicating that shares of tax burden and expenditures are equal. A negative \$210 billion for the Northeast and a negative \$321 billion for the Midwest.

Our States are depicted in red because they are in the red, so to speak, paying out more than they receive. They are the big donors.

The Western and Southern States are represented by black bars that rise above the horizontal line. They are in the black, receiving more than they pay; they're "donees."

In a very real sense, our States have been "pulling the wagon" while States in the South and the West have been "going along for the ride."

This long-term hemorrhaging has enormous macroeconomics consequences for our region. Because there is no Federal investment—relatively speaking—in our infrastructure, in our housing stock, in our natural and human resources, State and local governments must make up the short fall—through higher taxes.

The higher taxes drive industry, jobs, and people to the South and West, where tax burdens are lower. The tax burdens are lower because of the enormous fiscal stimulus the Federal Government provides—relative to the taxes it collects—in grants-in-aid, direct payments to individuals, in Federal salaries and wages, and in procurement.

Mr. President, is it any wonder our region has been plagued by slow population growth? Is it any wonder that our cities are deteriorating? Is it any wonder that our share of manufacturing has slipped below 50 percent for the first time in the Nation's history? We have, after all, exported over half a trillion dollars over the past few years. Money—our own money—to rebuild our roads and bridges, protect our environment, feed our hungry, house our homeless, educate our children, and train our work force has flowed to the South and the West.

The Coalition will continue to address and, we hope, redress this fundamental imbalance in the way our Federal system works.●

#### VIOLENCE AGAINST WOMEN ACT

● Mr. JOHNSTON. Mr. President, I rise today to express my disappointment that this Congress has not considered and passed S. 15, the Violence Against Women Act, legislation that I am proud to have cosponsored.

The need for this legislation has been amplified with the report released by Senator Biden, "Violence Against Women: A Week in the Life of America." This account of 200 incidents of violence against women that took place over the first 7 days in September, 1992 is a clear call to action for our Nation to face up to this catastrophe.

Mr. President, the statistics alone are staggering. For example, 95 percent of victims of violent crime are women, wife-beating accounts for more injuries than rape, automobile accidents, and muggings combined, 20 percent of women admitted to emergency rooms are victims of abuse, three-fourths of the women in our Nation will be victims of violent crime during their lifetimes, and more than one-half of female murder victims are killed by their male partners.

But, the scope of this tragedy cannot be fully explained by statistics alone, however compelling they may be. As we all know, cases of domestic violence, rape, and assaults are normally under-reported, and this is cause for even greater concern.

The report issued by the Judiciary Committee puts these numbers into sharper focus, providing human background to give the numbers substance. And the report depicts vividly how much our attitudes must change.

Mr. President, consider the example cited on the night of September 5, 1992 in a city in Texas:

A 27-year-old woman who works in a night club is abducted by two men as she is leaving work. She is raped by both men and abandoned. After returning home, she relates the story to her husband. He responds by beating her and throwing her out of the house.

This case is almost beyond belief. Tragic circumstances such as this must urge this body to action.

In my view, we must provide a support network as well as effective legal remedies to empower victims to confront their attackers. Legislation such as the Violence Against Women Act is an important step in the direction of empowering women who have been injured in ways that most of us cannot imagine.

A common theme runs throughout the devastating descriptions of violence outlined in the report—our society must begin to recognize violence against women as a serious public health threat.

Public awareness about violence against women must be fostered, including training for law enforcement officers, the courts, and medical professionals. And we must ask family members, neighbors, co-workers, and friends to share in the duty of bringing this issue out in the open.

Mr. President, the issue of violence against women is also about our future. The most disturbing aspect of this tragedy, in my opinion, is the effect the brutality is having on our children.

Of the 200 cases described in the Judiciary Committee report, I have counted at least 49 examples in which children either witnessed or were also victims of violence.

The report is replete with instances such as, "Her children are home during the attack, and one witnesses the rape," and "The children were in the house and called the police when they heard her screaming." Imagine the terror that so many of our children must witness.

Also, evidence suggests that too many of these children grow up to commit violent acts themselves. Consider the experience of a doctor who interviewed men who perpetrated domestic violence as reported in the January 6, 1992, edition of American Medical News:

One man gave a typical answer: He said that when he was growing up his mother would sometimes not have dinner ready on time. When that happened, his father would beat his mother. After that, dinner would be on time.

Mr. President, the Violence Against Women Act will provide resources for

intervention programs which include counseling and shelters for women and children. This will afford many victims the opportunity to begin to put their lives back together.

In addition, this legislation will back up the victims of gender-motivated violence with the authority of Federal law. In essence, under this measure, such violence is defined as the same as violence motivated by race, religion, or ethnicity.

Again, I feel that it is unfortunate that we could not effect passage of this measure during this session of Congress. My friend from Delaware can count on me to help in passing the Violence Against Women Act in the 103d Congress.●

#### REGARDING THE 100TH ANNIVERSARY OF BLACK COLLEGE FOOTBALL

● Mr. ROBB. Mr. President, I rise to note two happy anniversaries.

One-hundred-years-ago this season, teams representing Johnson C. Smith College and Livingston College met for the first football game between black colleges in America. The tradition begun that day has led to some of the most illustrious careers in professional football, entertained generations of Americans, and brought the lifelong benefits of a college education to many young men who otherwise might not have had that opportunity.

Today, those two colleges and many others belong to the Central Intercollegiate Athletic Association, which celebrates its own anniversary this year. I'm pleased to recognize the CIAA in this, its 80th year of bringing students together for hard play and good sportsmanship. I ask that all of my colleagues join me in wishing black college football another century of success.●

#### TRIBUTE TO AN OUTSTANDING POLITICAL LEADER

● Mr. D'AMATO. Mr. President, I rise today to pay tribute to a very special person who made many great contributions to numerous New Yorkers, Representative NORMAN LENT. After 22 years of notable service in Washington, NORM LENT has announced that he is stepping down as Representative of the Fourth Congressional District of New York. As he leaves I would like each of us to remember the many contributions that he made, and pay tribute to his many years of dedication by our own selfless efforts on behalf of our Nation's most noble ideals.

NORMAN LENT's outstanding qualities of enlightened leadership and exceptional dedication brought him to Washington where he became instrumental in crafting our Nation's laws. His long and outstanding career in Congress began in 1970 when he was first elected

by defeating the incumbent. He has served 11 consecutive terms in the U.S. House of Representatives with great distinction. During his career, Representative LENT has earned a reputation as a hard-working legislator deeply concerned about his constituents and the issues.

His accomplishments were great, his approach was philanthropic, and we might say that NORMAN LENT was a model Representative. He has done much for his constituency and for New York State.

We are grateful to NORMAN LENT for his relentless dedication to the people of Long Island, New York for the past 22 years. We will remember what NORM stands for and has sought to accomplish in the House of Representatives.

I wish to personally thank NORM LENT for his personal commitment to the fight for New York. He will be missed but his legacy will continue.●

#### OUTSTANDING SUPPORT SENATE STAFF

● Mr. D'AMATO. Mr. President, I rise today to commend the superb achievements of the dedicated staff of the Senate Computer Center. Their success is exhibited by the recent enhancements to computer service and the programming changes which have recently come into effect during this Congress.

Some special individuals have gone above and beyond the call of duty to make huge improvements in the mail correspondence system. These improvements have resulted in a more efficient and greatly improved mail system. Mr. President, I am speaking of Douglas Horn, Francesco Ghebresillassie, Larry H. Draver, Ken Ertter and Thomas Torrell. These fine individuals have given of themselves in an effort to upgrade the mail system. They have succeeded in making the mail system a very integral part of Senatorial-constituent relations, much more proficient and for this I wish to thank them. These gentlemen have given their time freely and made quantum leap improvements in achieving the absolute best results for the Senate.

I also wish to thank the rest of the support staff for their many contributions to this effort. The entire Senate Computer Center has come together to do an extremely good job and I want to salute each person who has contributed to this monumental accomplishment.●

#### WE'RE NUMBER ONE?

● Mr. DASCHLE. Mr. President, football season is again underway, and across the country college stadiums will echo with the cry "We're Number One!" For students and alumni, this chant does not have to be true to be repeated over and over again, and after all, who's to judge? The chant is harmless, in and of itself, and serves to ex-

press pride in the team and the college or city. It is one obvious manifestation of Americans' desire to be "the best," and, indeed, the conviction that, in fact, we are the best in every endeavor.

President Bush, challenged to confront the health care problem that virtually everyone outside his administration acknowledges is near the breaking point, repeats this cry of "we're number one!" He and his spokesmen use that mantra over and over again to justify his proposal to make just a few refinements in an otherwise near-perfect system. Indeed, if we accept the assertion that the United States *does* have the best health care, his argument makes some sense. Why throw the baby out with the bath water? Why make fundamental changes in a system that needs only fine-tuning?

Mr. President, in a recent article in the *Journal of the American Medical Association*, Victor Fuchs, a Professor of Economics at Stanford University, analyzed the assertion that "Americans enjoy the best health care system in the world." Professor Fuchs uses an economist's point of view to evaluate health care from the standpoints of its output—technology, public health, and service—and considers each of these in terms of efficiency and distributional equity.

If the question about "the best" is posed in terms of "where is the cutting edge," the answer is usually the United States. As Professor Fuchs point out, this is the country in which the most advanced technologies are found in the greatest abundance. It is here that ambitious young physicians most frequently come for advanced training and where the super-rich from Third World countries come when they want high-tech medical care. If technological superiority is the yardstick to be applied, then the assertion "we're number one" has some validity.

But there are other yardsticks that must be used. After all, owning more MRIs or CAT scanners, or developing the latest and best monoclonal antibodies, or performing more bone-marrow transplants than any other country in the world does not result in a healthier population. And the health of the population is a very valid standard to employ. How does the United States measure up? By the majority of indices, we are below average among the industrialized countries—whether in life expectancy, infant mortality, or other measures of the quality of life.

Another parameter that Professor Fuchs uses is that of service: The access to a physician, either in person or by telephone, or the responsiveness of hospital personnel in the Emergency Room or on the wards. Who among us has not received a letter or telephone call from a constituent with a horror story about the unavailability of physicians in rural areas or unsympathetic

treatment at the hospital? Few objective data are available, but in Germany, as an example, patients see their physicians more than twice as often as Americans do.

Another measure that Professor Fuchs proposes is that of efficiency. Americans relish the notion of efficiency, and in my opinion, it is the lack of efficiency that infuriates the average American most—whether provider or consumer. If the United States excels in technology—which it does—or in public health or the provision of services—which it does not—but can do so only by devouring a substantial fraction of the country's resources, it cannot be said to excel in efficiency. And we do consume an enormous portion of our national resources to provide the health care we do provide. These figures are all too familiar: one-seventh of our gross national product goes to health care, \$820 billion in 1992! And of that \$820 billion, one-fourth—more than \$200 billion—goes to administrative costs. No other country in the world comes anywhere close to that amount of administrative overhead. Mr. President, I have said it before in this chamber, and I will say it again, we have a disgracefully wasteful, gas guzzler health care system that, even if we were first in all the other measures, would by itself keep us from rightfully claiming to be No. 1.

Finally, Professor Fuchs assesses the assertion that the American health care system is the best from the perspective of how egalitarian it is. After all, we regularly refer to our country as the land of equal opportunity, and we have gone to great lengths to ensure that all our citizens have equal access to such fundamental rights as voting, housing, employment, transportation and justice under the law. But how do we stand with health care? Health care is available if you are wealthy, or if your employer provides it, but more than 35 million Americans have no health insurance at all, and more than 65 million Americans were without insurance coverage for at least part of last year. The only other industrialized country that comes close to these disgraceful figures is South Africa. Is this what President Bush means by "The Best?"

Mr. President, I request placing this timely and well-written essay by Professor Fuchs in the *RECORD* following my remarks, and I commend it to my colleagues. It clearly should be required reading for President Bush. As every football fan knows all too well, just chanting "We're Number One" over and over again does not make it so.

The essay follows:

THE BEST HEALTH CARE SYSTEM IN THE WORLD?

Americans enjoy the best health care system in the world." So says President Bush, and many physicians agree with this claim.

But frequent repetition doesn't make it true. What kind of evidence would an objective observer examine to evaluate different systems of health care? Is it possible to determine the best system unambiguously, or does the choice depend on the criteria used? The "best" health care system may be like the "best" spouse—it all depends on what one is looking for. Physicians, for instance, may assign values to system characteristics that differ markedly from those assigned by the public. Even within the profession, each specialty may have a different point of view and reach different conclusions about the system, eg, radiologists vs family physicians.

Naoki Ikegami, a Japanese psychiatrist, has suggested three criteria for assessing "best medical practice": (1) maintenance of technical standards in diagnosis and treatment; (2) preventive measures and reassurance of essentially healthy patients; and (3) rehabilitation and nursing care provided for the chronically sick and disabled.<sup>1</sup> In his view, Japan has chosen to emphasize the second definition.

Three different criteria have been used by American pediatrician Barbara Starfield, MD, to evaluate 10 Western nations: (1) access to primary care; (2) health indicators (eg, infant mortality); and (3) public satisfaction with health care relative to per capita cost.<sup>2</sup> She finds the United States lagging in all three areas.

The economic point of view suggests assessing three dimensions of the "output" of health care; technological, public health, and service, and then considering each of these from the perspectives of efficiency and distributional equity.

TECHNOLOGY

One way to evaluate health care systems is to ask which country is in the forefront of pushing out the technologic frontier. In which country do we find the most advanced medical technologies in the greatest abundance? Where do the world's most ambitious young physicians go for advanced training? And where do the superrich from Third World countries go when they want high-tech medical care? The answer to all these questions is usually the United States. In this sense, we can accurately say that the United States has the best health care system in the world. This country is the source of many of the most notable technologic advances in medicine, and even those developed abroad are usually more rapidly diffused in the United States. New drugs are an exception; the Food and Drug Administration's lengthy review may result in prior introduction abroad, even if drugs were developed by U.S. companies.

PUBLIC HEALTH

Another way of judging the merits of a health care system is by the health of the population. This could be based on simple measures, such as life expectancy, or on more complex ones that take into account quality of life as indicated by the absence of morbidity or disability. From this perspective, the United States ranks below average among economically developed countries according to most measures. For example, life expectancy at birth is 4.5 years less in the United States than in Japan (1988).<sup>3</sup> One exception is life expectancy at the age of 80 years, where the United States is second among all industrialized nations.

Physicians may argue that poor health levels in the United States are the result of social, cultural, and genetic factors. There is much truth in this argument, but it can be used against the medical profession. If im-

provement in health is an important goal, and if physicians concede that they are not effective in modifying diet, exercise, drinking, smoking, and other important determinants of health, public policy may choose to shift resources away from medical care.

#### SERVICE

Health care has always meant more than improving health outcomes. Particularly important are the caring function (sympathy and reassurance) and the validation function (provision of professional certification of health status). Until this century, the service, caring, and validation offered by health professionals were undoubtedly more valuable than their therapeutic interventions. Even today most disease is either self-limiting or incurable, but people who are sick or in pain want access to physicians, nurses, and other health professionals. Thus, an important criterion for evaluating a health care system is the availability of services. Is it easy to get to see a physician? Or to reach one by telephone? How long does a bedridden hospital patient lie in urine before someone responds to a call? Do health aides regularly visit the home bound elderly? Are dying patients treated with compassion? Very few data are available concerning this perspective, but countries probably differ considerably in the quantity of services provided. Germany, for instance, provides more than twice as many physician contacts and hospital days per capita as the United States, but there are many dimensions of service that are unmeasured. If a country were only average in life expectancy and technology, but excelled in providing service, some people would say its health care system is the best.

#### EFFICIENCY

At any given time, resources used for health care are not available for education, housing, automobiles, and the thousands of other goods and services that people want. A nation's health care system, therefore, will be judged, in part, by how efficiently it uses the resources devoted to it. This perspective applies to technology, to efforts to improve the public's health, and to the provision of services. A country can rank high with respect to one or more of these criteria, but if it can do so only by making extraordinary claims on the country's resources, it would rank low from an efficiency perspective. Much of the criticism of the U.S. health care system arises because Americans spend 40% more than Canadians for health care, and the excess over European countries is even greater. England's parsimonious use of resources is particularly noteworthy. Although high-tech medicine is severely rationed, England's level of public health is about the same as America's, and it manages to provide a considerable amount of service while spending only \$1 per capita for every \$3 spent in the United States.

#### DISTRIBUTIONAL EQUITY

There is another perspective that, like efficiency, can be applied to the three dimensions of technology, public health, and service. The distributional perspective focuses on how egalitarian the health care system is. All else held constant, many people believe that a more equal system is a better system. Indeed, they might even be willing to sacrifice a little from one of the other perspectives in order to achieve more equality. Consider, for instance, a country that has an average life expectancy of 76 years, but that also has great inequality. Some of its citizens die in childhood or as adults, while others live past 90 years of age. Given reason-

able assumption about risk aversion, most people prefer to be born in a country in which everyone lives to age 75. Similar arguments can be made about the distribution of technology or of service. The fact that most countries provide universal health insurance while one in seven Americans is uninsured denies the United States a favorable ranking from this perspective.

#### CONCLUSION

Let us return to the original question. Does the United States have the best health care system in the world? It does technologically, but not from any of the other four perspectives. In particular, we need to improve efficiency (control the high cost of care) and distributional equity (provide universal insurance). The public health and service dimensions also need closer scrutiny. If and when we progress in those areas, claims of superiority for American health care will be more convincing.●

#### SUPPORT FOR TOUGH TRADE LAWS

● Mr. SANFORD. Mr. President, I rise to commend my colleagues from New York for their efforts to insist that tougher and more effective trade laws be applied to unfairly traded imports. I too have been disturbed and frustrated at the many ways in which our trade laws can be circumvented. It is tough enough for companies to compete against imports in today's increasingly competitive environment, but it is completely unreasonable to expect our workers to compete against imports that are unlawfully dumped in our markets.

I have been very troubled to see practices over the past 8 to 10 years that have effectively involved trading away good American jobs. In North Carolina, we have seen hundreds of thousands of textile, apparel and other manufacturing jobs lost to overseas competition. Last year, for example, a Hamilton Beach/Proctor Silex plant in Southern Pines, NC, moved its operations to Mexico. For 30 years, the plant had been the town's largest employer. When it opened in January 1962, the local newspaper called it the best New Year's present the community had ever received. More than 3,000 people applied for the 600 available jobs. Now those jobs have moved to Mexico. This plant is certainly not the only one. Thousands of North Carolina workers have lost their jobs over the past decade to foreign imports. A good deal of that competition has come from imports that have not been fairly traded or from companies that take our jobs overseas.

I agree with the Senators from New York that we must take a firmer stance to protect our jobs. We must ensure that our trade laws are fully and completely enforced and that we do not enter into trade agreements which we either cannot or are unwilling to enforce. It is time that all of us took a stand for American workers.

It is my concern over the impact of lax enforcement of our trade laws that

led me to, among other things, strongly support S. 3046, which includes a number of key provisions to toughen our trade laws, including provisions directed at the circumvention or diversion of antidumping and countervailing duty orders. It is the circumvention of the dumping order issued against Brothers, Inc., that has led to the great concern over Smith Corona expressed by my colleagues from New York.

My concern over North Carolina workers and their jobs is also what has prompted me to express repeatedly my opposition to the North American Free Trade Agreement. Without provisions to ensure fair hour and wage standards in Mexico and enforcement of sound environmental regulations, I have no doubt that the NAFTA agreement will cause hundreds if not thousands of workers in North Carolina to lose their jobs. Indeed, I do not support sending our jobs on a fast track to Mexico or elsewhere.

In addition, my concern over the implications of NAFTA and other trade treaties has also led me to be a strong supporter of S. Res. 109, which would permit the Congress to amend trade treaties in five key areas: First, the enforcement of environmental standards; second, the monitoring and enforcement of fair labor standards; third, the rule of origin, to make sure products are not simply labelled "Made in Mexico" in order to take advantage of NAFTA; fourth, the resolution of disputes over trade matters; and fifth, adjustment assistance for U.S. workers, firms and communities.

We simply cannot continue to enter into trade agreements which are not vigorously enforced or to permit the continued trading away of U.S. jobs.●

#### GATT NEGOTIATIONS

● Mr. LEAHY. Mr. President, with election day fast approaching, the administration appears to be making an all-out effort to reach an agreement in the General Agreement on Tariffs and Trade [GATT] before the voting starts. High level meetings are scheduled in Europe this weekend.

Throughout the last six years of the Uruguay round of GATT negotiations, the Europeans have been shrewd, patient bargainers. While they see benefits in freer trade, the Europeans are unwilling to give more ground than they need to simply to reach an agreement.

Their strategy seems to work. The Europeans appear to be tough, pragmatic negotiators, protecting their national interests. But their U.S. administration counterparts have often been ideologically rigid without regard to their impact on important American industries, including agriculture. Now the administration seems all too willing to modify their position just to get an agreement—any agreement.

At some point all sides must give if a GATT accord is reached. But a bad agreement is worse than no agreement at all. By rushing to finish by election day just to bolster the President's trade record, administration negotiators are simply increasing the likelihood that our country will be stuck with a bad agreement that will affect U.S. farmers and workers long after the final ballots are counted.

My advice to the administration is this. Do not cut a GATT deal if it is not in the best interests of all Americans. Forget about the election; do what is right for our country. ●

#### CONSULTANT LICENSING

● Mr. PRYOR. Mr. President, I rise today to discuss an issue I have focused on for 14 years: the use of contractors and consultants by the Federal Government. Since I discussed offering my contractor licensing amendment to the Labor-HHS appropriations bill and explained it then, I will keep my remarks on this amendment to a minimum.

However, I will speak somewhat longer about why I feel so strongly that the time has come for us to reform a system that has been operating beyond congressional control. I cannot stand-by while misrepresentations are circulated about an idea that is designed to reduce the waste and abuse of millions of tax dollars.

Mr. President, my amendment requires that each contractor who wants to provide certain services to the Federal Government apply for and receive a license. This office will collect information and grant or deny the license. The types of services covered by my amendment are: First, management and professional services; second, studies, evaluations, and analyses; third, engineering and technical services (excluding routine engineering services like building a bridge or designing a computer system); and fourth, research and development.

Mr. President, this amendment is directed specifically at those contractors that the Federal agencies have relied upon to perform their basic management work of budgeting, planning, procurement or other policy functions. These consultant services account for roughly \$9 to \$20 billion spent on service contracts in fiscal year 1990.

Mr. President, briefly stated, that is what this amendment seeks to do. The purpose is to increase the sunshine on Federal spending and create greater accountability.

Now let me turn to the arguments against my amendment. First, opponents state that the amendment would impose a costly regulatory burden when the Nation is struggling to create jobs and improve the economy. They say it would create barriers and drive contractors away.

Mr. President, the fact is that this amendment would centralize informa-

tion that contractors already submit when they bid on contracts. Contractors would not have to develop masses of new information to qualify for a license. The amendment requires a cost comparison between contractor and Government employees and prevents contracting for inherently governmental functions. These changes do not create barriers; they protect the Government and the taxpayers.

The second objection is that the amendment would create a new Government bureaucracy and force contractors to hire people to deal with this new license requirement.

Mr. President, this objection seeks to mask the need to take real action. The office established to administer the amendment would be relatively small with roughly 10 to 15 staff members. In fact, when we look at the number of Federal employees engaged in awarding contracts it seems prudent to have one small office set aside to carefully and independently review these contractors. Furthermore, as I stated earlier, since the contractors already submit this information when bidding on contracts, the contractors will not have to hire new staff to deal with the licensing.

Mr. President, a third argument against my amendment is that small business would be adversely affected.

While I can understand opponents to my amendment using the issue of possible harm to small businesses for political reasons, there is absolutely no basis for this concern. Small businesses will not be adversely affected. The amendment does not change the rules applying to small businesses. The amendment does not change the 8(a) program or any other program relating to small business. In fact, I am convinced that with more sunshine in this area of Federal contracting, the system will provide more opportunity for small businesses to effectively compete for legitimate Government contracts.

Finally, Mr. President, one part of my amendment has generated a great deal of concern among the consulting firms. My amendment would require a cost comparison between Government employees and private contractors be done before a contract for consulting services could be awarded.

Mr. President, why are the consulting contractors afraid of this provision? The short answer is that cost comparisons by GAO and several IGs have proven that consulting service contractors are more expensive than Government employees. The consultants apparently do not want this fact to become too well known.

Mr. President, I am not a supporter of red tape. I am not in favor of new bureaucracies. While I don't support red tape and bureaucracy, I do support the taxpayer. When it comes to protecting the interests of the taxpayers, I do not mind making it a little harder

to receive Federal dollars. When it comes to spending hard earned tax dollars, I want to be able to assure the taxpayers that we are carefully monitoring every dollar and we are not allowing contractors to bill the Government for drafting congressional testimony.

Furthermore, Mr. President, this industry is booming. Government contracting has grown from a \$40 billion industry in 1980 to a \$90 billion industry in 1990. It appears to me these contractors are more than able to wade their way through the red tape and find out where the money is. Again, the information required to apply for a license is very similar to the type of information that contractors already submit. The difference is that the information will be centralized and given an independent review. This booming industry will hardly notice this modest new requirement.

Mr. President, I think I have responded to the objections to my amendment, however, I would like to point out that I have not been contacted directly by anyone voicing his or her concerns. If these issues are of such concern, why has no one contacted me with any substitute language to address these problems? If small businesses are affected, why has no one from the consulting industry submitted language to ensure that small businesses are protected? If the process of applying for and receiving a license appears too cumbersome, why has no one tried to discuss a better way of addressing my concerns?

I do not pretend that my amendment is a cure-all, or that it is perfect. However, after 14 years I think we must try a new approach. If my colleagues have other ideas or different approaches, let them bring them up, and we can discuss them. If my colleagues have other ways to address these problems that have been documented for 14 years, I will gladly sit down and work out our differences.

Mr. President, I can appreciate that my colleagues who have not followed this issue do not understand why we should take this action at this time. I know that the contractors, consultants, and their lobbyists have been circulating the word that my amendment will bring their industry to its knees. While I hope my colleagues will now understand why I disagree with this assessment of my amendment, I want to close with an appeal that we take some action to solve this very real problem. Hearings, GAO reports, IG audits, and press investigations all continue to demonstrate that there is a serious and continuing problem with the government's use of consultants and contractors. Again, if any of my colleagues has an idea that they think might help, let them offer it.

Mr. President, I am dismayed and worried by the fact that the findings of

recent GAO reports are all too similar to GAO reports issued a decade ago. Listen to the following:

During the past 20 years, Federal agencies have failed to make satisfactory progress to improve their management of consulting services. During this period, GAO has issued over 30 audit reports identifying the need for practically every major Federal agency to better manage these services.

Mr. President, that quotation is from a GAO report entitled "Government Earns Low Marks on Proper Use of Consultants" released in June of 1980. GAO has issued over 20 audit reports since then with similar conclusions. When will we finally decide to correct these problems? How many audits, investigations, and scandals will be necessary to convince the Congress to act?

I stand ready to work to ensure that each and every tax dollar is spent in the most efficient and effective manner. But, I ask again, how long must we wait to correct these problems? As of today, no one has contacted me to work with me on improving my bill or offering another approach to this issue. The only response has been the same one I have received for 14 years, "Oppose any change and offer no compromise." Years of mounting evidence to the contrary, the opponents have taken the position that there is no problem.

Therefore, I will not offer my amendment today due to the apparently successful effort by the contractors and consultants to characterize the debate as government bureaucracy versus free enterprise. I am disappointed but not discouraged. The real issue is not bureaucracy versus free enterprise, it is the taxpayers versus special interests. My amendment is not about regulation, it is about accountability.

It appears that my colleagues have thrown in the towel, that they have surrendered to the contractors. Mr. President, there is no good reason not to take some action to increase the sunshine illuminating Federal spending. While the smoke screen from the lobbyists appears to have successfully obscured the issue, I have not thrown in the towel. I have not surrendered. I will be back in the near future to continue my efforts. While there have been some modest changes recently, namely my amendment creating a line item for consulting services, there is still far too many abuses to let this matter rest.

I extend an invitation to my colleagues to work together on this matter. I stand ready to work on my idea of licensing and consider other proposals aimed at increasing accountability and disclosure. ●

#### GRANBY, VT, FOREST LEGACY EASEMENT

● Mr. LEAHY. Mr. President, I rise today to recognize the Granby Selectmen and Champion International an-

nouncement of an innovative conservation deal to protect Cow Mountain Pond and its surrounding forests in Vermont's Northeast kingdom.

As reported today in Nancy Bazilchuk's splendid Burlington Free Press story, the Cow Mountain Pond tract will be the first in the Nation to be included in the Forest Legacy Program. Forest Legacy was authorized in the 1990 farm bill as a means to protect private forests and landowners' private property rights.

The Cow Pond easement provides a stellar example of how Forest Legacy was intended to work. Champion International voluntarily sold its forest management rights to Granby while the Forest Service bought Champion's development rights. This arrangement allows the Forest Service to forever keep Granby's forests from being developed while also allowing the people of Granby to hunt, fish, recreate, and manage timber as they have for generations.

The Cow Mountain Pond easement just shows what can be accomplished when timber companies, local communities, conservation groups, and Federal and State foresters work together. In fact, as Ms. Bazilchuk reported, Granby's residents were so enthused with the prospect of saving Cow Mountain Pond that they voted to raise their taxes by modest amounts in order to help share the cost of purchasing the easement. The town's citizens also raised several thousand dollars from bake sales and raffles at potluck dinners.

Congratulations to all those who made this first Forest Legacy project come to life. The people of Granby, VT and the Nation will thank you for helping to protect a very special place for our children and our children's children.

I ask that Ms. Bazilchuk's story and the town of Granby's announcement be entered into the RECORD.

The material follows:

[From the Burlington Free Press, Oct. 6, 1992]

#### GRANBY TO ACQUIRE LAND UNDER FOREST PROGRAM

(By Nancy Bazilchuk)

In a special town meeting last week, Granby residents—36 of 49 registered voters—voted unanimously to raise their taxes to buy an undeveloped pond that sits like a jewel in the wilderness.

But the town's purchase of Cow Mountain Pond has ramifications far beyond the boundaries of this little Northeast Kingdom town. The purchase of the land from Champion International Paper Co., along with the transfer of timber rights to another 1,600 acres around the pond, is the first in the nation under the federal Forest Legacy program.

"This is exciting," said Tom Goss, chairman of the Granby conservation commission. "We feel it is the most special spot in Granby."

The Forest Legacy program is the brainchild of Sen. Patrick Leahy, D-Vt, who in-

corporated it in the 1990 Farm bill. The program had a slow start—it finally won \$5 million of federal funding for 1992.

States can tap into the money to buy timber rights and other legal rights to forest lands from willing sellers who might otherwise sell the land for development.

Seven states have done the paperwork necessary to be eligible for money; Vermont's is the first project to clear all the hurdles.

"Granby's announcement to protect its working forests and Cow Mountain Pond sends a message to the rest of Vermont and the nation," Leahy said Monday about the purchase. "We can protect our private forests without regulating them." Congress has approved \$10 million for the 1993 Legacy program budget, he said.

The Granby deal has taken more than a year to put together, said Charles Johnson, staff coordinator for the Legacy program for the state's Forests, Parks and Recreation Department. Johnson said another project in north-central Vermont is being considered for funding. He estimates that the two purchases will exhaust Vermont's cut of the federal money—\$844,000. The Granby purchase will cost \$500,000, of which \$271,000 comes from Legacy money.

The rest of the money for Granby's purchase came from diverse sources—including Granby's decision to raise taxes to pay for a \$55,000 loan and \$180,000 from the Vermont Housing and Conservation Trust Fund. The Vermont chapter of the Nature Conservancy helped Granby engineer the deal.

Thomas Hartranft, Champion's region general timberlands manager for New York, Vermont and New Hampshire, said the company decided to sell the land because it is isolated from most of the company's Vermont holdings. The property doesn't have much spruce or fir on it, he said, which is what the company uses in its pulp mills.

But the company also is willing to "support a public-private partnership," he said. "This is the kind of deal that demonstrates that kind of commitment."

#### TOWN OF GRANBY,

GRANBY, VT, October 5, 1992.

#### UNIQUE CONSERVATION DEAL FOR COW MOUNTAIN POND AND FORESTLANDS GRANBY TO PROTECT A WORKING FOREST AND NATURAL AREA

Fred Hodgdon, Chairman of Granby's Selectmen, announced an innovative conservation deal to protect Cow Mountain Pond and 1,639 acres of productive forestland surrounding it. The property is currently owned by Champion International Corporation, a major forest products company, which has agreed to the arrangement.

Granby's effort will be the very first project in the country for the so-called Forest Legacy Program, which focuses on public acquisition of development rights on productive timberlands. This approach allows the land to remain in private ownership and in forestry use, while public resource values like recreational access, wildlife habitat protection, and scenic preservation are secured. The program was authorized in the 1990 Farm Bill, and Vermont is one of a handful of states participating in the program's "pilot phase."

In this case, Granby will be acquiring 11-acre Cow Mountain Pond, and the timber rights on the timberlands surrounding it. The forests there will be managed for multiple uses and guided by a stewardship plan now being written by the various parties involved. The Forest Service will buy the development rights, to insure that the prop-

erty cannot be subdivided or developed in the future.

According to Hodgdon, "Many of Granby's residents work in forestry-related jobs now, so managing our own timberland will insure the continued use of the area. This will become our town forest," he says, "with the added benefit of beautiful Cow Mountain Pond." He adds, "Granby residents have long worried about the fate of Cow Mountain Pond, which has been used by generations of our people for fishing and recreation. It's been a tradition here, yet since the pond was privately owned, we had little control over what happened to it."

With only 80 residents, Granby is one of Vermont's smallest towns. Last year, when townspeople learned that this property might be available, they opened discussions with Champion. They also asked for assistance from the state, the federal government, The Nature Conservancy, the Vermont Housing and Conservation Board, and the Northeastern Vermont Development Association. All have become partners in putting together a complex deal that includes \$500,000 in funding from a variety of sources. This is the property's fair market value, according to an outside appraisal commissioned by Granby.

By a unanimous vote at last Tuesday's special town meeting in Granby, residents approved borrowing \$55,000, as part of the town's contribution for the project. They've also raised several thousand dollars from bake sales and raffles at potluck dinners. The Vermont Housing and Conservation Board has agreed to grant up to \$180,000 toward the acquisition, and the U.S. Forest Service is expected to put in \$271,000 through the Forest Legacy Program.

Granby's project is a little unusual for the Forest Legacy Program, since most Legacy projects will leave the timber rights in private hands. According to Conrad Motyka, Vermont's Commissioner of Forests, Parks and Recreation, "The Granby project was chosen for the pilot phase for four reasons. First, it involved the timber industry. Second, it had overwhelming public support of the Granby voters. Third, the townspeople couldn't possibly have afforded to do this without some outside help. And fourth, Cow Mountain Pond was a special area, worthy of this collaboration and effort." At least one rare plant species, the purple bladderwort, is known from the property.

Tom Hartranft, Champion's Region Manager for New York, New Hampshire and Vermont, has been working with the town on this purchase for many months. Hartranft noted that "We are pleased to participate in this first-ever Forest Legacy Project. It demonstrates Champion's and the Forest Product Industry's commitment to the concept of public/private partnerships."

Granby doesn't intend to improve or change the property, other than by keeping trails open and possibly providing a few rustic lean-tos for overnight camping. "We want to keep Cow Mountain Pond just the way it is," says Hodgdon, "so that children will always be able to go there to fish and enjoy the woods."\*

#### ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 12 noon on Wednesday, October 7, that following the prayer the Journal of proceedings be deemed approved to date, that the

time for the two leaders be reserved for their use later in the day, that there then be a period for morning business not to extend beyond 2 p.m. with Senators permitted to speak therein for up to 5 minutes each.

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

#### RECESS

Mr. MITCHELL. Mr. President, if there is no further business to come before the Senate today, I ask unanimous consent that the Senate stand in recess as procedurally ordered.

There being no objection, the Senate, on Tuesday, October 6, 1992 at 10:47 p.m. recessed until Wednesday, October 7, 1992 at 12 noon.

#### NOMINATIONS

Executive nominations received by the Senate October 5, 1992:

##### THE JUDICIARY

GERALDINE R. GENNET, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA FOR THE TERM OF 15 YEARS, VICE RONALD P. WERTHEIM, RETIRED.

##### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

GERALD R. RISO, OF VIRGINIA, TO BE CHIEF FINANCIAL OFFICER, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT. (NEW POSITION)

#### NOMINATIONS

Executive nominations received by the Senate October 6, 1992:

##### OFFICE OF PERSONNEL MANAGEMENT

DOUGLAS ALAN BROOK, OF VIRGINIA, TO BE DIRECTOR OF THE OFFICE OF PERSONNEL MANAGEMENT FOR A TERM OF 4 YEARS, VICE CONSTANCE BERRY NEWMAN, RESIGNED.

#### CONFIRMATIONS

Executive Nominations Confirmed by the Senate October 6, 1992:

##### 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. JOHN J. ALLEN, *xxx-xx-xx*, REGULAR AIR FORCE.

THE FOLLOWING OFFICER 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 brigadier general

COL. DONALD L. MCAULIFFE, *xxx-xx-xxxx*, AIR NATIONAL GUARD OF THE UNITED STATES.

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. DAVID L. YOUNG, *xxx-xx-xx*, REGULAR AIR FORCE.

THE FOLLOWING OFFICER 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 brigadier general

BRIG. GEN. WILLIAM P. BLAND, JR., *xxx-xx-xxxx*, AIR NATIONAL GUARD OF THE UNITED STATES.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF BRIGADIER GENERAL IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, UNITED STATES CODE, SECTIONS 593, 8218, 8373, AND 8374:

##### To be brigadier general

COL. DOUGLAS M. PADGETT, *xxx-xx-xxxx*, AIR NATIONAL GUARD OF THE UNITED STATES.

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. JIMMIE V. ADAMS, *xxx-xx-xx*, U.S. 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. JAMES P. MCCARTHY, *xxx-xx-xx*, 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. CHARLES G. BOYD, *xxx-xx-xx*, 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. ROBERT L. RUTHERFORD, *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. JAY W. KELLEY, *xxx-xx-xx*, 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. HENRY VICCELLIO, JR., *xxx-xx-xxxx*, U.S. AIR FORCE.

THE FOLLOWING NAMED 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

BRIG. GEN. TANDY K. BOZEMAN, *xxx-xx-xxxx*, AIR NATIONAL GUARD OF THE UNITED STATES.  
BRIG. GEN. STEPHEN P. CORTRIGHT, *xxx-xx-xxxx*, AIR NATIONAL GUARD OF THE UNITED STATES.  
BRIG. GEN. DENNIS B. HAGUE, *xxx-xx-xxxx*, AIR NATIONAL GUARD OF THE UNITED STATES.  
BRIG. GEN. E. GORDON STUMP, *xxx-xx-xx*, AIR NATIONAL GUARD OF THE UNITED STATES.

##### To be brigadier general

COL. CHARLES L. BLOUNT, *xxx-xx-xxxx*, AIR NATIONAL GUARD OF THE UNITED STATES.  
COL. STEWART R. BYRNE, *xxx-xx-xxxx*, AIR NATIONAL GUARD OF THE UNITED STATES.  
COL. HARRIS R. HENDERSON, *xxx-xx-xxxx*, AIR NATIONAL GUARD OF THE UNITED STATES.  
COL. JOHN S. HOFFMAN, *xxx-xx-xx*, AIR NATIONAL GUARD OF THE UNITED STATES.  
COL. DONALD E. JOY, JR., *xxx-xx-xxxx*, AIR NATIONAL GUARD OF THE UNITED STATES.  
COL. RONALD H. MORGAN, *xxx-xx-xxxx*, AIR NATIONAL GUARD OF THE UNITED STATES.  
COL. HARRY E. OWEN, JR., *xxx-xx-xxxx*, AIR NATIONAL GUARD OF THE UNITED STATES.  
COL. DANIEL H. PEMBERTON, *xxx-xx-xxxx*, AIR NATIONAL GUARD OF THE UNITED STATES.  
COL. KENNETH M. TAYLOR, JR., *xxx-xx-xx*, AIR NATIONAL GUARD OF THE UNITED STATES.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL ON THE RETIRED LIST UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

##### To be lieutenant general

LT. GEN. JAMES T. CALLAGHAN, *xxx-xx-xxxx*, U.S. AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

##### To be lieutenant general

LT. GEN. JOSEPH W. ASHY, *xxx-xx-xx*, U.S. AIR FORCE.

##### ARMY

THE FOLLOWING NAMED OFFICERS FOR PROMOTION IN THE REGULAR ARMY OF THE UNITED STATES TO THE

GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 611(A) AND 624:

To be permanent major general

- BRIG. GEN. ROBERT B. ROSENKRANZ
BRIG. GEN. LARRY G. LEHOWICZ
BRIG. GEN. ROBERT A. GOODBARY
BRIG. GEN. ROBERT T. HOWARD
BRIG. GEN. OTTO J. GUENTHER
BRIG. GEN. PAT M. STEVENS, IV
BRIG. GEN. MICHAEL S. DAVISON, JR.
BRIG. GEN. RICHARD W. TRAGEMANN
BRIG. GEN. FRANK L. MILLER, JR.
BRIG. GEN. JOSUE ROBLES, JR.
BRIG. GEN. JARRETT J. ROBERTSON

To be permanent major general

- BRIG. GEN. JOSEPH W. KINZER
BRIG. GEN. JOHN S. COWINGS
BRIG. GEN. WILLIAM M. STEEL
BRIG. GEN. DAVID J. KELLEY
BRIG. GEN. THOMAS F. SIKORA
BRIG. GEN. FREDRIC H. LEIGH
BRIG. GEN. FRANK F. HENDERSON
BRIG. GEN. DAVID E. WHITE
BRIG. GEN. RAY E MCCOY
BRIG. GEN. KENNETH W. SIMPSON
BRIG. GEN. THOMAS H. NEEDHAM
BRIG. GEN. JOHN C. THOMPSON
BRIG. GEN. RONALD E. ADAMS
BRIG. GEN. HARLEY C. DAVIS
BRIG. GEN. ROBERT K. GUEST
BRIG. GEN. STANLEY G. GENEGA
BRIG. GEN. JOHN M. PICKLER

THE FOLLOWING-NAMED MEDICAL CORPS OFFICER FOR APPOINTMENT IN THE REGULAR ARMY OF THE UNITED STATES TO THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 611(A) AND 624(C):

To be permanent major general

- BRIG. GEN. RONALD R. BLANCK, U.S. ARMY.

THE FOLLOWING-NAMED MEDICAL SERVICE CORPS OFFICER FOR APPOINTMENT IN THE REGULAR ARMY OF THE UNITED STATES TO THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 611(A) AND 624(C):

To be permanent brigadier general

- COL. JEROME V. FOST, U.S. ARMY.

ARMY

THE U.S. ARMY NATIONAL GUARD OFFICER NAMED HEREIN FOR APPOINTMENT IN THE RESERVE OF THE ARMY OF THE UNITED STATES IN THE GRADE INDICATED BELOW, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 593(A), 3971 AND 3984:

To be major general

- BRIG. GEN. RICHARD C. ALEXANDER
BRIG. GEN. JAMES A. BARNEY, JR.
BRIG. GEN. DONALD W. LYNN
BRIG. GEN. WILLIAM MIRANDA-MARIN
BRIG. GEN. JOSEPH F. PERUGINO

To be brigadier general

- COL. CECIL L. DORTEN
COL. TERRY L. HOLDEN
COL. JOHN S. MARTIN
COL. JOHN C. BRIDGES
COL. ROSS S. FORTIER
COL. EDMUND J. GIERING, III
COL. JAMES S. KESSLER
COL. BENTON D. MURDOCK
COL. CECIL L. PEARCE
COL. EDWIN W. SMITH
COL. WALTER J. WHITEHEAD
COL. THOMAS C. CARROLL

THE FOLLOWING NAMED OFFICERS FOR PROMOTION IN THE REGULAR ARMY OF THE UNITED STATES TO THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 611(A) AND 624:

To be permanent brigadier general

- COL. JAMES F. HENNESSEE
COL. STANLEY F. CERRIE
COL. FREDDY E. MCFARREN
COL. GEORGE H. HARMMEYER
COL. JOHN F. MICHITSCH
COL. STUART W. GERALD
COL. LON E. MAGGART
COL. LARRY G. SMITH
COL. JERRY L. LAWS
COL. JOHN W. SMITH
COL. HENRY T. GLISSON
COL. MILTON HUNTER
COL. THOMAS N. BURNETTE, JR.
COL. DAVID H. OHLE
COL. JAMES T. HILL
COL. GREG L. GILE
COL. JAMES C. RILEY
COL. RANDALL L. RIGBY, JR.
COL. MARIO F. MONTERO, JR.
COL. TIMOTHY J. MAUDE
COL. JOHN E. WALSH
COL. DANIEL J. PETROSKY
COL. MICHAEL B. SHERFIELD
COL. JAMES C. KING

- COL. JOSEPH G. GARRETT, III
COL. LEROY R. GOFF, III
COL. MICHAEL A. CANAVAN
COL. DAVID R. GUST
COL. RONALD F. ROKOSZ
COL. DANIEL G. BROWN
COL. LEO J. BAXTER
COL. WILLIAM P. TANGNEY
COL. CHARLES S. MAHAN, JR.
COL. BURT S. TACKABERRY
COL. JOHN J. MAHER, III
COL. LEON J. LAPORTE
COL. CLAUDIA J. KENNEDY
COL. STEPHEN T. RIPPE

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) WALTER JACKSON DAVIS, JR.
U.S. NAVY.

AEROSPACE ENGINEERING DUTY OFFICER

To be rear admiral

- REAR ADM. (LH) ROBERT GLEN HARRISON
U.S. NAVY.

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. JAMES D. WILLIAMS, U.S. NAVY

THE FOLLOWING NAMED REAR ADMIRAL (LOWER HALF) IN THE CIVIL ENGINEER CORPS OF THE 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:

CIVIL ENGINEER CORPS

To be rear admiral

- REAR ADM. (LH) PATRICK WILLIAM DRENNON
U.S. NAVY.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF VICE ADMIRAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

- REAR ADM. (SELECTEE) DOUGLAS J. KATZ, 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. RICHARD C. MACK, 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. DAVID M. BENNETT, U.S. NAVY

IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING BRUCE A. BROWN, AND ENDING MARC G. WILSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 9, 1992.

AIR FORCE NOMINATIONS BEGINNING MAJOR ROBERT K. BALDWIN, AND ENDING MAJOR LORAYNE M. WHITEHEAD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 9, 1992.

AIR FORCE NOMINATIONS BEGINNING DONALD E. ABSTON, AND ENDING ROGER B. MCGRATH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 9, 1992.

AIR FORCE NOMINATIONS BEGINNING BARBARA E. ALLMART, AND ENDING MATTHEW E. ZUBER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 10, 1992.

AIR FORCE NOMINATIONS BEGINNING WILLIAM AGRELLA, AND ENDING MANFRIED K. ZEITHAMMEL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 10, 1992.

AIR FORCE NOMINATIONS BEGINNING WALTER K. KANEAKUA, AND ENDING GREGORY H. BLAKE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 25, 1992.

AIR FORCE NOMINATIONS BEGINNING MAJOR JOSEPH AMARA, AND ENDING MAJOR MICHAEL D. MILLER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 25, 1992.

IN THE ARMY

ARMY NOMINATION OF LT. COL. DAVID C. ARNEY, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JULY 1, 1992.

ARMY NOMINATIONS BEGINNING CLARK H. BABL, AND ENDING STEPHEN B. KING, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 9, 1992.

ARMY NOMINATIONS BEGINNING DAVID A. BOOTHE, AND ENDING 697X, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 9, 1992.

ARMY NOMINATIONS BEGINNING PATRICK J. BERGER, AND ENDING JOHN C. SCHOONOVER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 9, 1992.

ARMY NOMINATIONS BEGINNING DOUGLAS C. ANDREWS, AND ENDING \* JULIA A. MORGAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 9, 1992.

ARMY NOMINATIONS BEGINNING ALBERT L. FRAZIER, AND ENDING QUENTIN A. HUMBERD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 9, 1992.

ARMY NOMINATIONS BEGINNING DAVE ARNOT, AND ENDING JANE A. YAWS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 9, 1992.

ARMY NOMINATIONS BEGINNING GARY K. ABE, AND ENDING 9780X, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 9, 1992.

ARMY NOMINATIONS BEGINNING JEFFREY M. ABEL, AND ENDING ROBYN D. TIBBITTS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 9, 1992.

ARMY NOMINATIONS BEGINNING FRIEBE B. ABOLEY, AND ENDING JOHN H. SUDDUTH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 10, 1992.

ARMY NOMINATIONS BEGINNING GINO L. VENTRESCA, AND ENDING JEFFREY M. REINES, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 30, 1992.

ARMY NOMINATIONS BEGINNING PANDOR ANGELISANTI, AND ENDING CARL D. HUMBARGER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 30, 1992.

IN THE FOREIGN SERVICE

FOREIGN SERVICE NOMINATIONS BEGINNING DAVID N. MERRILL, AND ENDING THEODORA WOOD-STERVINO, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 23, 1992.

FOREIGN SERVICE NOMINATIONS BEGINNING MARY A. RYAN, AND ENDING JOHN C. TRIPLETT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 23, 1992.

FOREIGN SERVICE NOMINATIONS BEGINNING DAVID MICHAEL SPRAGUE, AND ENDING JOHN M. O'KEEFE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 23, 1992.

IN THE MARINE CORPS

MARINE CORPS NOMINATIONS BEGINNING DONALD L. DAVIS, AND ENDING JEFFREY L. HULL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 22, 1992.

MARINE CORPS NOMINATIONS BEGINNING TERRY G. STEVENS, AND ENDING EDWARD J. ZELCZAK, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MARCH 24, 1992.

MARINE CORPS NOMINATIONS BEGINNING GREGORY D. BATES, AND ENDING WILLIAM H. THOMAS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF APRIL 28, 1992.

MARINE CORPS NOMINATIONS BEGINNING DONALD R. GIBBS, AND ENDING PHILLIP W. WOODY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 4, 1992.

MARINE CORPS NOMINATIONS BEGINNING PEDER A. ANDERSON, AND ENDING THOMAS W. SHREEVE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 11, 1992.

MARINE CORPS NOMINATIONS BEGINNING FRANCIS P. AHEARN, JR., AND ENDING BENJAMIN K. YOSHIOKA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF AUGUST 4, 1992.

MARINE CORPS NOMINATIONS BEGINNING GARY D. ANDERSON, AND ENDING JOHN M. ZAJAC, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 23, 1992.

IN THE NAVY

NAVY NOMINATIONS BEGINNING FREDERICK B. BEACHAM, JR., AND ENDING ALAN RICHARD PAGNOTTA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE

AND APPEARED IN THE CONGRESSIONAL RECORD OF MARCH 10, 1992.

NAVY NOMINATION OF GARY MICHAEL HALL, WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MARCH 18, 1992.

NAVY NOMINATIONS BEGINNING RICKEY LYNN DUBBERLY, AND ENDING MICHAEL D. PIND, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF APRIL 28, 1992.

NAVY NOMINATIONS BEGINNING CARL H. ABELEIN, AND ENDING JAMES CLAYTON JOHNSON, WHICH NOMINA-

TIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 2, 1992.

NAVY NOMINATIONS BEGINNING RISE LAVONNE BARKHOFF, AND ENDING ARTHUR EUGENE WICKERHAM, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 30, 1992.

NAVY NOMINATIONS BEGINNING MARK F. ABEL, AND ENDING REYNOLD ANTHON SEFTON, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER, 1992.

NAVY NOMINATIONS BEGINNING GLEN CHARLES ACKERMANN, AND ENDING JOHN EDWARD ZARBOCK,

WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 30, 1992.

NAVY NOMINATIONS BEGINNING JOEL MICHAEL ALCOFF, AND ENDING ISAAC RAY WILLIAMSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 30, 1992.

NAVY NOMINATIONS BEGINNING BRADLEY MCINT ANDERSON, AND ENDING RANDELL LEE VANBUREN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 30, 1992.

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