SENATE—*Thursday, February 27, 1992*

(Legislative day of Thursday, January 30, 1992)

The Senate met at 9:45 a.m., on the expiration of the recess, and was called to order by the Honorable HARRIS WOFFORD, a Senator from the State of Pennsylvania.

PRAYER

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

Let us pray:

Is anything too hard for God?—Genesis 18:14.

Almighty God, this penetrating question, addressed to Father Abraham, answers itself. Nothing is too hard for God! The question is eminently relevant to our situation today, surrounded as we are by crises—local, national, and global—as the Senate debates and decides imponderable issues under the cloud of a national election, as constituents and special interests register their concerns and demands, as Senators, political parties and unnumbered caucuses struggle with controversy, help them hear this timely question as Abraham heard it: "Is anything too hard for God?"

Having heard it, enternal Father, give them grace to respond affirmatively to the question and to look to the God for whom nothing is impossible, to guide them through the labyrinth of issues confronting them. Let the light of truth illuminate them and lead them to equitable solutions.

In the name of Jesus, Light of the World—the Way, the Truth, and the Life. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC., February 27, 1992.

To the Senate:

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

ROBERT C. BYRD,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

Mr. MITCHELL. Mr. President, an inquiry to the Chair. Am I correct in my understanding that the Journal of the proceedings has been approved, and the time for the two leaders reserved for their use later in the day?

The ACTING PRESIDENT pro tempore. The majority leader is correct.

SCHEDULE

Mr. MITCHELL. Mr. President, for the information of Senators, an agreement was reached last night regarding the disposition of the then-pending matter and other matters. It is printed on page 2 of the Calendar of Business. In brief summary, it provides that when the Senate completes its morning business at 11:15 this morning, it will return to consideration of S. 479.

At that time, Senator SASSER will be recognized to make a budget point of order against the pending amendment, and the Senator from Arizona [Mr. MCCAIN] will then be recognized to make a motion to waive the Budget Act.

There will then be 2 hours and 10 minutes of debate on the motion to waive the Budget Act.

On the completion of that debate or the yielding back of some portion of that time, the Senate will vote on the motion to waive the Budget Act.

If the motion to waive the Budget Act carries—that is, if it prevails by 60 or more votes—then the remainder of the agreement will become inoperative. There will then be no further agreement. The amendment will be before the Senate, subject to second-degree amendment or such other action as is permitted under the rule.

If, however, the motion to waive the Budget Act does not prevail, that is, if it attains less than the required 60 votes, the agreement will then go into effect. There will then be a maximum of five other amendments, including the managers' technical amendment, all but two of those amendments having time agreements as indicated in the agreement.

Following disposition of this bill, pursuant to that agreement, the Senate will then proceed to the consideration of the nomination of Barbara Franklin to be Secretary of Commerce, and during the day there will also be a vote on a motion to invoke cloture on the motion to proceed to H.R. 1426, a bill to recognize the Lumbee Indian Tribe of North Carolina.

So, Mr. President, Senators should be prepared for at least one and, more likely, several votes throughout the day today.

Mr. President, I thank my colleagues, and I yield the floor.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 11:15 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

Mr. KOHL addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin [Mr. KOHL] is recognized.

Mr. KOHL. I thank the Chair.

(The remarks of Mr. KOHL, pertaining to the introduction of S. 2270 and S. 2271, are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

GUNS

Mr. KOHL. Mr. President, I have here an article entitled "In the Line of Fire: The Power and Prestige of a Gun." This article appeared on the front page of the Sunday February 2 edition of the Washington Post. This article examines a problem pervading our Nation's Capital—as well as many other communities—which is the frightening growth of gun-related violence in our cities and on our streets.

In the article, the Washington Post polled Lorton Prison inmates serving time on weapons charges. These inmates explained how easily they could obtain firearms in the District where, except for handguns bought before September 1976 and registered before February 1977, possession is illegal. They purchased their weapons on the black market and in States that do not require background checks of gun buyers.

Mr. President, the sad truth is that in 1991, 383 of the District's 489 murders were committed with guns. These statistics confirm the inmates' indifference to the value of their own lives and the lives of others. Of course, there is no panacea for this deadly problem. However, the Brady bill, which requires mandatory background checks and waiting periods for gun purchasers, is a small but important step toward keeping guns out of the hands of criminals and drug traffickers.

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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Mr. President, I ask unanimous consent that the Washington Post article "In the Line of Fire" be printed in the CONGRESSIONAL RECORD.

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

A CRAZED FASCINATION WITH GUNS

(By Sue Anne Pressley and Keith Harriston)

Richard Paul Vernon is 20 years old, with a chiseled face and cold, dark eyes. In the sixth grade, he managed to get his first gun. Now he belongs to the younger generation of inmates at the Lorton prison complex, a group recognized as the most brutal, the most quick-tempered and the most gun-crazy.

"I'm just a gun freak," Said Vernon, an inmate convicted of drug charges whose arsenal included the latest and most stylish of semiautomatic weapons. "When I had an Uzi, I was just waiting for somebody to [mess] with me."

Donnell Hunter, 21, used to rob people. It was so easy. All he had to do was show his gun and victims—well-dressed, well-educated people who normally might snub him—would cower and beg and cry like small children.

"They panicked," he said with a smile. "They'd beg me not to shoot them. They'd give me what I wanted. 'Just please, please don't shoot me.'"

Keith Corbett, 29, has been shot four times in 10 years. He pulls up a pants leg and reveals his "battle scars," two gunshot wounds on the shin, five on the knee. Corbett of course, always fired back; he preferred to use his 9mm semiautomatic, the weapon he called his "9."

"The drug game had started escalating. The money was coming twice as nice. You have to have a gun," he said. "It was just like American Express—you never leave home without it."

These are the followers of a deadly way of life, a culture of guns that has gripped parts of the Washington area for five years, claimed thousands of victims and terrorized a population. In the same way, sociologists say, they reflect what has long been an American fascination with firearms, but a fascination gone crazy. In a Washington Post poll and in interviews, these are men who compared shooting to sexual intercourse, said they competed with each other in the power of their weapons and calmly proclaimed that it's no big deal to aim a gun at another person and fire. They can justify death with a shrug: "It was either him or me."

With these men, words such as guilt, remorse and shame rarely figure into their stories, and many seem to have come to terms with the knowledge that they too could die an early and violent death. To them, the benefits of carrying a gun outweigh any drawbacks—gun possession, after all, can carry a maximum sentence of just one year, and "having a body under my belt," as one inmate put it, only enhances a man's reputation on the streets.

During a recent six-week period, 114 inmates at the District's Lorton prison complex who were serving time on a variety of gun-related charges took part in a Washington Post poll that sought to learn more about this culture of violence and guns. They included armed robbers, admitted drug dealers and Ricky Wages, 24, who "can't remember all the people I shot." How much of what they said was true, how much concealed, how much exaggerated is uncertain, but a clear image emerged of men who seem drawn repeatedly to this dangerous world.

In answers to 39 survey questions, and in comments made during less-structured interviews, these convicted felons often tried to compare themselves to characters in a romanticized version of the Wild West. But in reality, theirs is more of a gangsterlike existence, rife with vendettas, ambushes and shootouts—and with a updated twist. Now the criminals have high-tech weapons, whole arsenals, that can spray a street corner from the window of a car, win them a strange brand of outlaw respect and make taking another's life as quick and impersonal and unreal as it is in a movie.

"Times have changed. It's the easy way out," said Anthony Briscoe, 29, a convicted drug dealer. "You don't have to get a black eye, busted lip or knocked out. Now, it's the 9 millimeter, and I'm going to show you how to get knocked out and not ever get back up."

What emerged from these talks with prisoners was a sense of the brutal logic of the streets: Carry a gun and be ready to use it, or die. Eight of 10 said the main reason they possessed a gun was to protect themselves or to do business. But it is clear that guns these days are not just about drug turf or revenge. Now a gun can be a business tool, a power source, a pastime, an expression of style.

"Guns is like a fashion show," said Earle C. Woodrow, 21. "He's got a .32. He's got a .38. He's got a 9. Who's got the best, the prettiest? Everybody tries to outdo each other. If I've got a 9 with a 13-shot clip, somebody else'll get a 9 with an 18-shot clip. If I've got a nickle-plated 9, then they'll get a nickle-plated with a pearl handle."

In this context, the gun also has become something personal, a symbol of a terrible sort of power for a group that might not have felt very powerful in other facets of life. Prison officials have noted this influence with concern.

"Because of an inability to acquire power as we would normally understand it—through education, through love, through meaningful employment—it's 'pick up the gun,'" said Walter B. Ridley, director of the D.C. Department of Corrections. "There's also a whole lack of spiritual involvement that has allowed for an insensitivity to human life. You put them all together—the gun, the power, the insensitivity—and you have the violence."

Richard Paul Vernon got his first gun when he was 11—a .38-caliber revolver that he slipped out of his grandmother's house. There was no particular reason for the sixth-grader to be walking around armed. "It was just the thought of having a gun," he said. "I was just happy to have a . . . gun."

Earle C. Woodrow was 15 and dealing drugs when an older man approached him one day, pointed a .38 and relieved him of about $1,000. The experience was a turning point; after that, Woodrow always carried a gun—first, a .38 of his own, then a .45 semiautomatic, a submachine gun, a 9mm. Before long, he was carrying two guns, just in case someone else made the mistake of trying to rob him.

"I told myself nobody was going to do that again," said Woodrow, who recently was paroled on a drug-related conviction. "I was going to shoot them, or they could shoot me. I always had a problem with somebody trying to take something from me."

According to the poll, the median age at which the inmates managed to obtain a first gun was 16—a time when most teenagers are worried about getting a license to drive. More than half said that they initially sought out a gun simply because they wanted one and not for any specific reason. Keith Corbett, for example, was 17 when he and a couple of friends found a .32 and began taking it to parties. "It was all curiosity then," he said. "We felt like we had something that none of our friends had. That was the thing, to show off."

One by one, the inmates who participated in the poll took seats in straight-back chairs in various meeting rooms at Lorton and told stories of first guns and shootings, and lives of crime; how easy it was to get a handgun in a city that strictly bans them; how easy it was to shoot and kill with barely a regret. The inmates were selected randomly, and many of them declined to take part in the survey or did not want their names used. Their racial makeup reflected the population at Lorton, which is 97 percent black.

Court records show only an incomplete picture of the prisoners' deeds. But Inspector Phillip O'Donnell, who heads the D.C. police rapid deployment unit, said that although some of the inmates may have exaggerated their exploits to bolster their reputations, much of what they described reflects what his officers routinely confront on the streets.

"There're some neighborhoods that are pretty violent," O'Donnell said. "Everybody thinks they need a gun and will use it, especially the younger guys in their late teens and early twenties. It sure is scary."

The inmates talked about their crimes in a generally easy manner, some with a lingo that focused on "beefs," or disputes, and then getting "a burner," or gun, to settle the score. About half were high school dropouts, and about one in five had a ninth-grade education or less. But there were many who were articulate about their exploits, talking glibly about living the sort of lives that could end each day in violent death.

There was Roland Garris, 23, who enjoyed walking around with $10,000 in his pocket and the knowledge that he could take care of any enemy with his "street-sweeper," a semiautomatic shotgun, or his MAC-10, a semiautomatic pistol. There was James Tanner Jr., 25, whose nickname used to be the "Hit Man." There was Robert Muschette Jr., 22, who said he liked to have "a personal relationship" with his gun.

"I went to sleep with it. I went to the bathroom with it. When I called upon that gun for service, I didn't want it to let me down."

Again and again, they mentioned the same neighborhoods, where there are pockets known for their toughness—River Terrace in Northeast, Parklands in Southeast, Petworth in Northwest. There were guns stashed in bushes, they said. Guns tucked in shoes. Three in 10 said that all or most of their friends had guns when they were teenagers; more than half said that all or most of their friends had guns at the time they were last arrested. Some ventured that they also were influenced early on by tough-guy images from Hollywood. "I remember watching Charles Bronson blow people away," Muschette said, "and thinking, 'Wow.'"

Apparently, there also was always a deep-seated hunger for the trappings of success—the brand names, the possessions—and a willingness to do whatever was necessary to obtain them. Many of the inmates spoke of deliberately choosing an outlaw's life; a routine job was not considered an option.

"When I was small, when I was in school, there were things I wanted that my mother couldn't get me," Earle C. Woodrow said. "I like expensive things—tennis shoes, sweat suits, cars, jewelry, clothes. I like to dress. I wanted Nikes and my mother didn't get me Nikes. I wanted the name-brand stuff.

"They've got to give us jobs, you know. You can't even get McDonald's jobs any-

more. Leaves you nothing but to hustle, and things are expensive. Leather coats and nice things are expensive. They gotta give you a reason. Any time you can make $400 or $500 in an hour, you can't go back to $5 or $6.

"It's like the value system," he said. "I like the Gucci, the Fendi. Till the day I die, I've got to have that stuff."

The first person Ricky Wages shot, he says, he killed.

That night, Wages said, he watched an account of the crime on the 11 o'clock television news. "I had no remorse," he said. "I didn't lose no sleep. I don't think about it now. He was after me."

The truth about carrying a gun, the inmates said, is that the weapon then becomes so easy to use. "A gun promotes itself," said Tyrone M. Ward, 35. "If you got it, you think about using it. It brings thoughts to the mind."

Three out of four inmates said they had been shot or shot at, the poll showed, with the median age being 18. Seven of 10 admitted they had fired a gun at another person—here, the median age was 17—and more than half said they managed to inflict injury. Nearly everyone had a shooting story to tell.

Maurice Carlos Thompson, 21, had a story about the consequences of poor aim; Roland Garris about what happended when he pointed a loaded and cocked gun at police. Robert Muschette Jr. enjoyed "the sound effect" of his .38-caliber revolver. Ricky Wages liked to wear a black ski mask as he zeroed in on his victims.

Many of the inmates spoke in almost eager tones as they recounted their shooting stories. Shooting a gun was "exciting," they said. Shooting a gun was "fun." A gun made them feel "like John Wayne."

Anthony Briscoe said his street reputation was enhanced when he returned to his old life after serving a previous term for assault with intent to kill. The word on the street, he said, was that "If Tony has a gun, he will use it." James Tanner Jr. spoke almost fondly of his feelings of control when he had a gun in his hands. "There are very few people," he said, "who are really in control of something."

In Ricky Wages's case, the shooting reported on the television news was never solved by police, Wages said. "I got away with it." This is his version of what happened, and it supports what many of the inmates said about recent shooting incidents—that they have gone beyond issues related strictly to drug wars.

Wages said he learned from one of his friends that a man was planning to hunt him down, and rob and kill him. Wages didn't know the man, he said, but remembered seeing him at two District go-gos, the Black Hole on Georgia Avenue NW and Breeze's Metro Club on Bladensburg Road NE. With several friends, Wages went looking for his adversary and quickly found him on "a drug street" in the Parklands neighborhood of Southeast Washington. Wages pulled his ski mask over his face, he said, as he made his approach.

"I drove up in my 300-ZX and started shooting at him," he said. "I just shot him. I pointed my gun straight at his head." The man was killed, he said.

Another time, he said, he shot a man standing on a corner of 10th Street NE after the man had slapped a girl at Breeze's Metro Club and tried to take a drunken swing at Wages; the man was wounded, but survived. Yet another time, Wages said, he was shot at himself while walking into a Riverdale bowling alley by the brother of a girl-friend he had "beat up." Court records, however, show that Wages has never been charged in a shooting death, and he denies his guilt in the case of his one gun-related conviction—for shooting a man in the groin over a $75 drug debt.

"My favorite gun was the 9 millimeter," he said, describing the various firearms he liked to use. "It was better one-on-one. It would never lock on me. The Uzi would lock on me."

Maurice Thompson's story was a case of standing on the wrong street. On a July evening in 1990, he and four friends were on Benning Road SE when they noticed a Nissan Pathfinder coming their way. At first, they paid no attention. But suddenly, someone inside the vehicle opened fire on the crowd, and Thompson took a bullet in the chest, an injury that sent him to D.C. General Hospital for a week. "From that day on," he said, "I said I was going to buy me a gun to protect myself. . . . All I was just thinking about was, 'Get back.'"

Thompson later learned that the shooter had intended to hit someone else in the crowd. He might have let it go at that, except that he heard that the shooter "played a big guy," bragging to some friends that "I shot the dude Moe that be on Benning Road." When he got out of the hospital, Thompson paid a friend $150 for a .380 semiautomatic, tracked the man to the parking lot of a nightclub and opened fire. Apparently, no one was wounded.

"If he had come to me and said, 'That was my fault . . . . I didn't mean to hit you,' I might have said, 'Yeah,' and I might have said, 'No,'" Thompson, 21, said. But under the circumstances, he said, if he didn't retaliate, he'd be viewed as "a sucker."

Robert Muschette Jr., the inmate who aspired to "a personal relationship" with his guns, said he felt a foolishness of another sort the day he found himself bored and alone in his living room. He idly pulled his gun from his shoulder holster, took aim at his reflection in a nearby wall mirror and squeezed the trigger. To his surprise, he found that the gun had been loaded. A baseball-size hole shattered the glass where his reflection had been, and Muschette was shaken in a way that none of his other shooting exploits had touched him.

"I had actually shot myself in the head," said Muschette, who recently was paroled on a gun-related conviction. "I freaked. Afterwards, I didn't tote my gun around as much."

Guns long have been a criminal's option, but since the mid-1980s and the explosion of the crack cocaine trade, the gun culture has taken on a more urgent and deadly aspect. The inmates tell of making so much money, of being beset by so many trigger-happy rivals, that they were afraid not to have a gun.

"There were the Jamaicans, the New York boys and the Washington, D.C., boys," James Tanner Jr. said. "When you're in that business, everybody has a gun. That's the only way you'll be respected. It's like, 'Don't mess with him, he'll shoot you.'"

Ricky Wages said he sold cocaine all over the city in 1989 and made about $5,000 a week, money he lavished on his daughter and girlfriend, on the expensive clothing he liked, and on the 300-ZX that took him to at least one of his victims. His arsenal included a 9mm Glock, a .380 semiautomatic and a submachine gun. "I didn't feel tough when I carried a gun," he said. "I just felt safe."

These days, a simple .22-caliber is not enough. The rise of the high-powered semiautomatic weapons has given a new ease to dispensing death—a crowd can be sprayed from a car window, a shooter can shoot again and again—and has created a fresh rivalry among outlaws for the latest, most stylish weapons.

That times have changed is obvious; inmates laugh when asked if anyone on the streets engages in fistfights anymore. Virtually all the prisoners surveyed said that as teenagers growing up, it was more important for a man to be a good fistfighter than the owner of a gun. Now, that attitude is reversed—almost nine out of 10 vote for the gun.

"If you fight with your fists now, you might as well stay in the house or move away," Reggie Crawford, 38, said "Nowadays, if a kid doesn't like what you have on, he'll kill you. . . . Without that pistol, he's nobody, a puppy. With that pistol, he's a full-grown pit bull."

As the illegal drug trade has exploded in the District, so has the illegal gun market. Getting a handgun in a city with the strictest of gun-control laws has become a simple matter of putting out the word and waiting. Ray W. Matthews, a self-described drug dealer, remembers how easy it was to buy a .32 handgun on the street from a gun salesman who worked his neighborhood near Minnesota Avenue and East Capitol Street SE. "He just walked up to me and asked me," Matthews, 26, said "It cost $50. It was brand new. It was still in the box."

This recent combination—the drugs, the quick money, the high-powered weapons—has created a younger criminal who is more brutal and much more dangerous, many inmates said. Some of the older prisoners, convicted murderers themselves, spoke of this group with something akin to moral indignation.

"They look at life with no kind of values," Craven E. Kemp, 33, said. "I think the younger generation, they came into the drug scene different than we did. They work a little bit, make a little money, get a little authority.

"You get a 16-year-old out there who never had to work [hard in the drug trade] and he feels like everybody is lower than him because he's insecure. So he shoots his people to show he has the power. When I was selling, you never hurt the person out there selling for you. The worst you might do is fight them. But you wouldn't kill somebody over $300."

"When we were coming up," said Lawrence E. Griffin, 42, who is serving a sentence for felony murder, "we may have done wrong. But we tried to do right by the community. We were hustlers. These young people are rustlers. Now they will rob your grandmother."

A GALLERY OF GUNS

Interviews with Lorton inmates revealed a violent culture that often assigns social rank by the power of the gun a criminal carries. Over the past five years, revolvers—usually six-shot handguns in which pulling the trigger both cocks and fires—have been supplanted by semiautomatics—high-capacity weapons that fire, eject spent shells and reload as fast as the trigger can be squeezed. This results in a rapid stream of bullets in just a few seconds. And because the rounds are contained in a magazine, the weapon can be completely reloaded instantaneously.

Common handguns

.38 Special—Capacity: Six rounds. Comment: Once the standard firearm for most law enforcement agencies, revolvers do not eject spent shells and require longer time to reload.

.38 Taurus—Capacity: Five rounds. Comment: Short-barreled revolver with more angled grip; some models hold six rounds.

Colt .45—Capacity: Nine rounds. Comment: Semiautomatic pistol, often erroneously called a ".45 automatic"; some models have smaller capacity.

Widely used semiautomatics

9mm Glock—Capacity: 17 rounds. Comment: On average, can fire 17 shots in less than 10 seconds. Standard firearm used by D.C. Police. Some models hold 19 rounds.

.32 Pistol—Capacity: Six rounds. Comment: Very small, easily concealed handgun; weighs 22 oz. and barrel is just under three inches long.

Beretta—Caliber: .380. Capacity: 13 rounds. Comment: Compact, lightweight 23 ounces, handgun with high capacity, also capable of firing entire magazine in less than 10 seconds.

Assault-type weapons

Uzi Pistol—Caliber: 9 mm. Capacity: 20 rounds (larger magazines available). Comment: Although widely publicized, very few actual Uzi weapons are seized on D.C. streets. On the street, "Uzi" has come to be generally applied to any of several types of semiautomatic weapons with large capacities.

MAC 10—Caliber: .45 or 9 mm. Capacity: 20 to 30 rounds. Comment: Classified as a machine gun in U.S. because semiautomatic version was easily converted to fully automatic, meaning it would continue firing as long as the trigger was held down.

Streetsweeper—12-gauge shotgun. Capacity: 12 shells. Comment: A marriage of shotgun and a revolver, producing high firepower. For example, a no. 5 magnum load shell contains about 210 pellets, meaning that without stopping to reload, a shooter could spray a city block with at least 2,500 pellets.

Mr. KOHL. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from California [Mr. SEYMOUR].

TWENTY-THREE DAYS LEFT TO RESPOND

Mr. SEYMOUR. Mr. President, I rise today to remind this body that during the President's State of the Union speech, he challenged the U.S. Senate and the House of Representatives to move forward with an economic growth package. Throughout the year of 1991, I can recall in this body a lot of Bush bashing, bashing of certain business interests—just a lot of general bashing, nobody was doing anything about this recession we were in and a lot of finger pointing.

It reminds me, Mr. President—my wife, Judy, and I have six children. I recall once coming home—we had been away and the kids had been taking care of themselves. We walked into the House, and a window was broken. I said to the kids, "Who did that?" And each one of the kids said, "Not me, I wasn't even near there. I didn't do it." All the finger pointing. "It wasn't me."

So as we look at this recession and the U.S. Senate's inaction, it reminds me of those kids: "Not me; it is not my fault."

We have been pretty good at saying to the President "Show us leadership, show us a package." And he did in his State of the Union Address, a very specific package. He challenged us to this March 20 deadline. Now we have, not 25, not 24, but 23 days left to respond to that challenge. He has a specific proposal. What do we have? What have we done other than finger pointing for over a year? And now as we approach this deadline we still do not have a package.

I introduced a resolution, Mr. President, a couple weeks ago. It was a pretty simple idea. It said, Senators, if you do not come up with a package by March 20, you do not get paid.

Now, I have to admit that there was a dearth of cosponsors to join me in that resolution. But I do not believe the Senate has yet caught the sense of urgency, the sense of hurt, of the people who are unemployed in my State. Our jobless rate is now 8.1 percent. California has never hurt in a recession like they have with this one. In fact in 1991 we lost more than 600,000 jobs. That is more than the entire population of the State of Delaware.

So people are hurting out there. When you are unemployed, the unemployment rate for you is 100 percent. We have to do something. The something we ought to do ought to be based upon one simple question: Will it create jobs? Nothing fancy, no political pandering for handouts, enough of the middle-class tax cut, for example, that a family can go down and buy themselves an ice cream cone at Baskin-Robbins once a week. No pandering in the political year. Do something that creates jobs. This program does that.

I can tell you I was in the private sector in my own business when the first-time home-buyer tax credit was last used, and it not only put young people into housing, it created jobs. It created jobs. Every dollar spent in new construction is turned seven times in the economy. And so here is a package. And while we wait and wait and wait for the Senate to act, the clock keeps running.

Mr. President, the time for posturing and pointing fingers is over. The time for action is now. The people who are hurting so much out there deserve nothing less. I am not here to say it should be a Republican plan or a Democrat plan. It should be a plan, some kind of plan. At least get the ball out of our court and stop the finger pointing to others.

So I close, Mr. President, by suggesting to you that it is time for us to stop pointing fingers. Let us put the finger this way. It is our job to come up with a package. We have failed in that endeavor to this point.

I hope, sincerely I hope, Mr. President, that very soon now we will have a package on this floor to debate as we come closer and closer to the deadline of March 20.

I thank the Chair. I yield the remainder of my time.

The PRESIDING OFFICER (Mr. ROBB). Who seeks recognition? The Chair recognizes the Senator from Connecticut [Mr. LIEBERMAN].

Mr. LIEBERMAN. I thank the Chair.

FIRST ANNIVERSARY OF THE END OF THE GULF WAR

Mr. LIEBERMAN. Mr. President, as we prepare to mark the first anniversary of the end of the gulf war at midnight tonight, it is time to reflect on what the conflict meant for America, how it influenced our world, and what lies ahead for Iraq, the Middle East, and for us all.

Many people have naturally looked back from the vantage point of time and asked, "Was the war worth its cost? Was it, in other words, a just war?" Some, I am afraid in their review, have begun some revisionist history. They have begun to belittle the successes of Desert Storm, magnified its shortcomings, and decided it was wrong to go to war on January 16, 1991. But it is my view that those who claim the war was not worth waging are just as wrong as some who argued against the war before it began. Listen, if you would, to these arguments, outlined in an essay published in October 1990:

"War in the volatile region would disrupt world oil supplies and markets, and poison Western interests in the region." We now know that the war helped safeguard oil supplies, and stabilized prices. As long as Saddam Hussein held on to Kuwait, speculation kept oil prices outrageously and artificially high. Without the gulf war, Saddam would be calling the shots on oil, and our embargo of Iraq would pale in comparison to the stranglehold he would have exerted on the economy of the world. Our current recession would be a flatout depression were it not for the liberation of Kuwait and the defeat of Saddam Hussein 1 year ago.

Another prediction from that essay: "If there is war, your men won't be able to walk the streets of the Arab world safely for 200 years," warned a Palestinian intellectual in Baghdad. Mr. President, I can tell you, as someone who has been privileged to walk the streets in the Arab world since the end of the war, that prediction was absolutely wrong.

A third prediction: "Returning transport planes would turn military hangars from Georgia to California into charnel houses of flag-draped coffins." Thank God that prediction was more in error than any other. Our losses were lower than the most optimistic of projections, thanks to the excellence of our equipment, the genius of our military leaders, and most of all the courage and ability of our fighting men and women.

So, Mr. President, from my vantage point 1 year later, I cannot help but

look back on Desert Storm and feel pride in what we accomplished. America is stronger than ever. Iraq has lost much of its capacity to wage war. Kuwait is liberated. The gulf region is secure.

And the Arab nations and Israel are engaged in an historic dialog about peace—a dialog, despite its frustrations, that was hardly imaginable before the start of the gulf war.

On the eve of this first anniversary, I suggest that we should take time to say thank you once again to all the veterans of Desert Storm and to their families, as well, who gave such unbridled support from the homefront.

And we should say a quiet prayer for all those who fell in battle, who purchased with their blood a safer world for us all. Without their heroism, we could never have confronted this aggressive, evil power and conquered it as we did 1 year ago. There is little we can do to repay our debt to them. But we can, as Lincoln said, "be dedicated here to the unfinished work which they * * * have thus far so nobly advanced."

Mr. President, I look forward to returning to his Chamber tomorrow to discuss the unfinished work of the gulf war: ridding the world of the rest of Iraq's chemical, biological, nuclear, and ballistic missile capabilities, protecting the people of Iraq from widespread, horrific human rights abuses and, finally, eliminating the brutal leadership of Saddam Hussein himself.

There is much to be done to complete the tasks that remain before us. But as we prepare to forge on, let us pause on this anniversary of Desert Storm to be thankful for all the great and good work that it accomplished and that it has brought about for America and the world.

I thank the Chair and I yield the floor.

The PRESIDING OFFICER. Who seeks recognition? The Chair recognizes the Senator from New Mexico [Mr. DOMENICI].

Mr. DOMENICI. Mr. President, parliamentary inquiry. Do I have time?

The PRESIDING OFFICER. Under the previous order, the Senator is to be recognized for up to 30 minutes.

Mr. DOMENICI. I suggest the absence of a quorum for a moment or two.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DECONCINI. 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. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized under the previous order for up to 10 minutes.

Mr. DECONCINI. Mr. President, am I to speak under the order in morning business?

The PRESIDING OFFICER. The Senator is correct.

Mr. DECONCINI. I thank the Chair.

(The remarks of Mr. DECONCINI pertaining to the introduction of S. 2272 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

Mr. DOMENICI. I thank the Chair.

(The remarks of Mr. DOMENICI pertaining to the introduction of S. 2273 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DOMENICI. Mr. President, I told the Senate that we had three other lesser bills, and they were going to the Banking Committee.

How much time do I have remaining, Mr. President?

The PRESIDING OFFICER. The Senator has 10 minutes and 2 seconds remaining.

Mr. DOMENICI. I am going quickly on these, and I will then yield to my friend from California.

(The remarks of Mr. DOMENICI and Mr. SEYMOUR pertaining to the introduction of S. 2274, S. 2275, and S. 2276 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Chair recognizes the Senator from New Mexico [Mr. DOMENICI].

Mr. DOMENICI. Mr. President, might I ask a question of the Senator from Maine. How much time has the Senator under the order?

The PRESIDING OFFICER. The Chair informs the Senator from New Mexico the Senator from Maine controls 15 minutes under the previous order.

Mr. DOMENICI. I have a problem in that Senator MACK, who has worked diligently on the matter that I spoke to, would like to speak for 5 minutes and we do not have any additional time. Would it be possible that he could use 5 minutes out of the time of the Senator from Maine?

Mr. COHEN. I think I can accommodate the Senator.

Mr. DOMENICI. I thank the Senator very much.

Mr. COHEN. Mr. President, I yield the Senator 5 minutes.

Mr. MACK. I thank the Senator.

The PRESIDING OFFICER. Without objection the Senator from Florida is recognized for up to 5 minutes under time controlled by the Senator from Maine under the previous order.

Mr. MACK. I thank the Chair.

(The remarks of Mr. MACK pertaining to the introduction of S. 2274, S. 2275, and S. 2276 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Maine has 11 minutes and 10 seconds remaining on the time allocated under the previous order.

The Senator from Maine is recognized.

Mr. COHEN. I thank the Chair.

(The remarks of Mr. COHEN pertaining to the introduction of S. 2277 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Maine has 5 minutes and 4 seconds remaining.

Mr. COHEN. Mr. President, I yield the remainder of my time to the Senator from Alaska.

The PRESIDING OFFICER. Senator STEVENS is recognized for up to 5 minutes 35 seconds.

Mr. STEVENS. Thank you very much, Mr. President. I am indebted to the Senator for his courtesy.

TRIBUTE TO HILARY LINDH

Mr. STEVENS. Mr. President, I come to the floor today to tell the Senate that for the first time in my State's young history, an Olympic athlete has brought home to Alaska a medal from the winter Olympic games.

Along with Alaskans, and all Americans, I want to recognize Hilary Lindh of Juneau, who skiied to a silver medal victory in the women's downhill competition. She is one of only 11 Americans to have received a medal in the XVI Winter Olympiad.

Hilary joins the ranks of other Alaska pioneers who have provided Alaskans with the inspiration to help them not only to achieve but to excel in reaching their goals.

Through dedication to the ideals of good sportsmanship and hard work, Hilary has met challenges and overcome obstacles in order to reach the Olympic level and success.

Against tough competition, Hilary beat the odds and provided some thrilling moments for those who were able to watch her perform on the slopes of Val D'Isere, France.

I think all Alaskans feel a special sense of sharing in these accomplishments of Hilary Lindh. And those of us who have known her parents, Craig and Barbara Lindh, and her grandparents, Federal Judge Robert and Connie Boochever, and the late Axel and Jeanne Lindh, people who have helped nurture her interest and her talent and provided the love and support necessary for her success real, I really want to congratulate them, too.

Mr. President, I commend Hilary Lindh for the honor she has brought to our Nation and to our State and to her family through her triumph at the Olympic games. I hope her performance will be an inspiration to more young Americans to take on the task of training, of working hard and dedicating themselves to representing our country in these winter Olympic games. Thank you very much.

The PRESIDING OFFICER (Mr. AKAKA). The Senator from Arkansas

[Mr. PRYOR] is recognized for up to 15 minutes.

SDI CONTINUES TO ESCALATE: THE STAR WARS GRAVY TRAIN

Mr. PRYOR. Mr. President, this morning I would like to discuss a Government program that continues to escalate at a record-setting pace despite the job layoffs in the country, plant closings, and harsh economic times. I am speaking about SDI, the strategic defense initiative or, as it is popularly known, star wars.

Despite other cutbacks in overall defense spending and even cancellation of some programs, the Pentagon is asking the Congress for another $5.4 billion for star wars. This is a 30-percent increase, Mr. President, over last year and, remember, last year we gave this particular program a 40-percent increase over the previous year.

Why does this particular program continue to grow so rapidly? What exactly are its costs? What are its benefits? Mr. President, who are the people who are really benefiting from this enormous open money sack? In the coming weeks and months, Mr. President, I am going to be shining some light on some of the very darker corners of the star wars program.

I am going to, for example, review the overreliance on the contractors and the subcontractors. We are going to be looking at the Pentagon oversight, and especially the lack of oversight. We are going to be studying some conflicts of interest, Mr. President. We are also going to be talking about the role in star wars of the advisory committees. We are going to be looking at the involvement of something called the Defense Science Board and asking who makes up the Defense Science Board, what input do they have into the decisions on star wars and what do their particular economic interests have to do with those decisions?

Mr. President, who has set the star wars' goals? Who is auditing its spending? Who is monitoring its contracting and its contractors? At best, star wars is an unproven, but a very rich research program. At worst it is a typical effort by the Pentagon to keep its contractors busy and profitable.

One concern I have is that the ratio of qualified Government personnel to private contractors is totally out of balance with SDI. This raises real questions of accountability and control. For example, the office in charge of contracts at SDI, the SDI Organization, SDIO, has only 14 employees. These 14 people last year awarded $700 million in contracts. There is no way, Mr. President, that 14 people can adequately ensure that these hundreds of millions of dollars are spent according to all the Federal procurement regulations. Clearly, they cannot adequately coordinate or monitor these contracts nor the contractors.

Now we find that the contract office is forced to rely upon other contractors to assist in the evaluation and the selection of future contractors who are going to be awarded the contracts. Contractors and contractors and contractors. Layers and layers of contractors are helping to decide which other contractors get the jobs.

Let me, Mr. President, give another example of what happens when we create an invisible bureaucracy from contractors feeding from the open money sack. In one contract awarded in 1989, the contractors took 107 round trips from Washington, DC, to 20 other cities to perform management support. What was management support, Mr. President?

What were the destinations for some of these 107 round trips? Honolulu, London, Reno, Moscow, Orlando, San Francisco, San Diego, Los Angeles. The total cost to the taxpayers, a mere $166,000.

This was just a very, very small part of this contract and an infinitesimal amount of the daily travel which contractors say today is necessary to support SDI.

Mr. President, in June 1988, another contractor was busy. Where was this contractor going? Sunnyvale, CA. A nice place. Magna, UT. A very nice place. But this contractor took time out to avoid any future competition by writing his own sole-source justification to extend his own contract. That contractor is still today at work for SDI and he has no competition whatsoever for whatever role he cares to perform.

Another contractor, Mr. President, in December 1989 took time out after traveling to India to draft a report to Congress—not a Federal employee, but a private contractor—drafting a report to Congress that is required under law from one SDI division; the congressional descriptive summary for the fiscal year 1991 budget request; and the program management agreement for the Air Force, DOE, and SDIO. Yes, a private contractor, not a Department of Defense official, is helping to draft the request from Congress for the SDI budget.

Mr. President, on another contract awarded in July 1989 on a sole-source basis, no competition, the contractor proposed spending $56,761 on travel. The SDI officials thought this was too high. They entered into extensive negotiations and finally, after several days of negotiation, they achieved a reduction in this $56,761 travel program. They reduced it by $36 in the travel budget. Included in this travel were trips of six contractor employees to Sweden. These trips to Sweden, including hotels and meals amounted to $23,000. So much for meals on wheels, Mr. President.

Mr. President, unfortunately, this is only the tip of the iceberg. While this travel by contractors accounts for several millions of dollars each year, I think it is a good indication that the star wars budget is not being driven by research funding but it is being driven, Mr. President, by the typical DOD desire to keep its contractors busy and rich.

Mr. President, SDI is one of the most complex systems ever to be dreamed up by DOD. Despite the efforts by leading researchers and scientists, DOD is still uncertain as to the final design of SDI. SDI is far from ready for realistic testing and does not deserve the rapid growth in its budget, certainly not at a time when other critical services go begging and citizens of our country are overtaxed.

In summary, Mr. President, I believe that rushing to spend this amount of money in any way we can on star wars is a bad idea. This will only lead to more of the kind of contractor waste and abuse of tax dollars that I have mentioned earlier.

In the coming weeks, Mr. President, I am going to review SDI and ask some very basic and I think some very revealing questions. Where has all the money gone, Mr. President, thus far that we have appropriated for SDI? Who controls the SDI purse strings? Who decides which contractor ultimately gets the money? Who else do star wars contractors work for? Where are the other conflicts of interest in this open money sack?

Finally, Mr. President, the bottom line question: Who is really getting a ride today on the great star wars gravy train?

Mr. President, I thank the Chair for recognizing me and I yield the floor.

IRRESPONSIBLE CONGRESS? HERE'S TODAY'S BOXSCORE

Mr. HELMS. Mr. President, the Federal debt run by Congress stood at $3,825,891,293,066.80, as of the close of business on Tuesday, February 25, 1992.

As anybody familiar with the U.S. Constitution knows, no President can spend a dime that has not first been authorized and appropriated by the Congress of the United States.

During the past fiscal year, it cost the American taxpayers $286,022,000,000 just to pay the interest on spending approved by Congress—over and above what the Federal Government collected in taxes and other income. Averaged out, this amounts to $5.5 billion every week.

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?

ROBERTO D'AUBUISSON

Mr. HELMS. Mr. President, a favorite sport of the Washington Post is dancing on the graves of people whom

the newspaper has gleefully maligned with false and unsubstantiated charges. So the Washington Post's venomous journalism was no surprise last week when the news of Roberto D'Aubuisson's death reached Washington. The spleen of the Washington Post was vented again.

True enough, Roberto D'Aubuisson was not popular with the leftwing press, nor with ultraliberal politicians and U.S. diplomats whose careers are pockmarked with distortions of fact, and compromises with Communists and communism. I remember a hearing conducted by the Senate Foreign Relations Committee during which a former United States Ambassador to El Salvador was publicly exposed for his falsehoods. Needless to say, the Ambassador had leveled unconscionable and repeated misrepresentations against Roberto D'Aubuisson.

I mention all of this to emphasize that Mr. D'Aubuisson was enormously popular and highly respected by the people of his country. His funeral this past Saturday was attended by a multitude of Salvadorans who came to pay their respects to a leader whose life was claimed by cancer on February 20.

Mr. President, the Washington Post's obituary was a strange, mean-spirited review of the prejudices and contrived misrepresentations by newspapers and other D'Aubuisson critics. Predictably the newspaper chose to include quotes attributed to me which, of course, I never made. But that is journalism as practiced by the Washington Post.

Roberto D'Aubuisson will nevertheless be remembered for his key role in moving El Salvador away from the socialism that had so pulverized the economy and the stability of El Salvador. Roberto believed in a free market economy and, thanks to him and President Cristiani, the Salvadoran economy is now beginning to thrive again.

Mr. D'Aubuisson was a fighter, an army major who led his country in its fight against communism. But he was also a man who used constructive principles to serve the best interests of his country.

Today, there is growing recognition of Roberto's role in bringing peace to El Salvador. Rank and file ARENA members stuck with President Cristiani throughout the negotiations with the Communist FMLN clearly because the President had Roberto's support.

President Cristiani eloquently described Roberto D'Aubuisson's contribution to El Salvador after the signing of the recent peace accords. He said that Roberto was "one of the fundamental people in seeing to it that we are now enjoying democracy. * * *" The President added that "an enormous part of the population loves—D'Aubuisson—a lot and listens to him and respects his points of view."

Mr. President, on at least three occasions I formally requested two U.S. Secretaries of State and a Director of the CIA to provide me with credible evidence that the vicious charges against Roberto D'Aubuisson were accurate. All three acknowledged that no such evidence exists.

Yet the falsehoods and misrepresentations continued—and were ghoulishly included in reports of the death of Roberto D'Aubuisson. The people of El Salvador knew Roberto D'Aubuisson. His critics did not. He may have been a convenient target for unconscionable attacks—but the people of El Salvador knew better. They turned out in droves this past Saturday to honor a man whom they respected and trusted, and who had served them and their country faithfully and well.

THE 100TH ANNIVERSARY OF A. RIFKIN CO.

Mr. SPECTER. Mr. President, today I am pleased to call to the attention of my colleagues the exemplary achievements of A. Rifkin Co., a Pennsylvania manufacturer now celebrating its 100th year of operations. Since 1892, the Rifkin family and their company have served as shining examples of the wonders of the American dream.

Like my family, the Rifkin family fled the oppression of czarist Russia in 1891 for opportunities in the United States. Soon thereafter, they settled in Wilkes-Barre, PA. In 1892, the family founded A. Rifkin & Co. and began the manufacture of clothing for farmers, factory workers, and miners. The company also sold wholesale dry goods.

In the years that it manufactured and sold work clothing, the company boasted as its customers the major food, gasoline service station, and chemical companies in the area surrounding Wilkes-Barre. The products of A. Rifkin & Co. quickly became familiar throughout Pennsylvania.

Later, in the unusual circumstances surrounding the banking industry during the Great Depression, there emerged significant demand for night deposit bags. At the request of a nearby bank, during the 1930's, A. Rifkin & Co. began manufacture of the product which is now the basis of its operation: the locking zipper bag.

Since 1965 called A. Rifkin Co., the company founded by a small group of enterprising Russian immigrants currently employs 220 people in Wilkes-Barre, has a sales force of nearly 50 nationwide, and supplies some 30,000 customers.

The success of the Rifkin family and their company is worthy of commendation. In that regard, I wish to extend my heartiest congratulations to A. Rifkin Co. on the occasion of its 100th anniversary with the hope that the company will enjoy the same success in the next 100 years that it did during the past 100 years.

TRIBUTE TO DONALD INGWERSON

Mr. McCONNELL. Mr. President, I rise today to honor a great American from the Commonwealth of Kentucky, Donald Ingwerson. Mr. Ingwerson was recently named National Superintendent of the Year by the annual convention of the American Association of School Administrators. This is no small honor Mr. President. Superintendents from 49 States and several other countries were considered for this prestigious award.

Donald Ingwerson has been the leader of the State's largest school district for 11 years. He has successfully led Jefferson County through many tough times, including recently steering the district through the landmark Kentucky Education Reform Act. Among the innovations Mr. Ingwerson has brought to his position are the nongraded primary program; tougher academic standards for student athletes; take-home computers; magnet schools; extended school services; a regional drug-abuse center; and participatory management for teachers.

With contributions such as these, it is obvious Mr. President that Donald Ingwerson is a wonderful choice for this particular honor. Candidates were evaluated using various criteria: creativity in meeting students' needs; a commitment to upgrading administrative skills; good communications skills; and knowledge of and involvement in community and national activities. Mr. Ingwerson serves as a marvelous example not only to the city of Louisville but to the entire education community.

I believe that Mr. Ingwerson says it best when he describes his personal philosophy of education:

> Every child can learn * * * I guess what I'm really trying to do with my philosophies is to eliminate the excuses. I'm trying to help everyone understand that failure to learn is unacceptable, that Louisville is a community of learners, and that each of us has a responsibility to expect the best of others and then help them achieve it.

Mr. President, those thoughtful words demonstrate a vision which is unfortunately unique in our society.

I ask all of my colleagues to join me in offering congratulations to a man who has dedicated his life to furthering the educational possibilities of our Nation's young people.

Mr. President, I ask that the following article which appeared in the Louisville Courier Journal be inserted into the RECORD.

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

[From the Louisville Courier, Feb. 22, 1992]

INGWERSON IS SUPERINTENDENT OF THE YEAR

(By Holly Holland)

Donald Ingwerson, superintendent of Jefferson County's public schools, yesterday was named national Superintendent of the Year at the annual convention of the Amer-

ican Association of School Administrators in San Diego.

Ingwerson, now in his 11th year as head of the state's largest school district, said he told the audience at the awards ceremony that he felt as though he'd won the Kentucky Derby.

"This is such a special occasion and I really wanted the people to know how it felt," he said in a telephone interview from San Diego, adding that he considers the honor the highlight of his career.

"This is an award for Louisville. I just happen to be the vehicle. . . . I just think it's a recognition on the part of the nation that many of the things in Louisville are good."

In addition to the award, Ingwerson received a gold medallion and a $2,000 U.S. Savings Bond. A $10,000 scholarship will be presented in Ingwerson's name to a student at the high school Ingwerson attended in Bern, Kan.

Ingwerson's award "speaks well for our entire state," said school board member Allen Rose, who nominated him. "To go through the education reform that we have in this state and now to have the best superintendent in the country sends a message that we can do things in Kentucky."

Ingwerson was chosen from among school administrators representing 49 states and several overseas schools. Other finalists were Robert Henley, of Independence, Mo.; Jean McGrew, of Glenview, Ill.; and Karen Woodward, of Anderson, S.C.

Gary Marx, the association's senior associate executive director, said the panel of judges—representing business, government and education—are anonymous and do not offer public comments about their choices. Candidates were evaluated using four criteria: creativity in meeting students' needs; good communication skills; a commitment to upgrading administrative skills, and knowledge of and involvement in community and national activities.

This is the fifth year of the competition.

Marx said the judges based their decision on personal interviews of the four finalists and materials submitted with their applications. They did not consider current education issues in the community or accept comments from the public.

That policy angered some local residents who wrote to the association to criticize Ingwerson's handling of a divisive student-assignment plan that the school board approved on Dec. 19. Ingwerson and the school board have said that the plan, which calls for voluntary integration, was necessary to ensure compliance with the Kentucky Education Reform Act. Critics believe it will lead to re-segregation.

"To think that there isn't some group out there with no more response to public concern and outcry than that . . . it's no wonder people are cynical," said Judy Munro-Leighton, a Brown School parent who wrote to the association in December.

"If they couldn't find a better person than him, they shouldn't have bothered."

Jim Hill, an assistant professor of political science at the University of Louisville, who wrote to the association earlier this month, said he had hoped for a different outcome.

"What really disturbs me is that a system that was once regarded as the best example of desegregation in the country, to see it in turmoil and pain and to award the person who inflicted that pain . . . is just an outrage," he said.

But school board, chairman Laken Cosby said the body of Ingwerson's work is what should have been considered, not his involvement in one controversial event.

"I think Don, over the past nine or 10 years, has really brought stability to this school district," Cosby said. "Now I realize that there have been problems recently related to school desegregation and busing, and that there are people who disagree with his stance in that area. . . . But I think that the majority of people in the community will support the plan once it's explained to them.

"This issue of school desegregation and busing would create problems anywhere in the country. And so you cannot make a judgment of whether he is the best superintendent based on the recent controversy we've had on school desegregation."

Ingwerson, 58, came to Louisville in 1981 from the Orange (Calif.) Unified School District. Innovations that he has brought to the Jefferson County Public Schools include the non-graded primary program; together academic standards for student athletes; take-home computers; magnet schools; extended school services; a regional drug-abuse center; and participatory management for teachers.

In his application, Ingwerson wrote that "my personal philosophy of education has been a simple one: Every child can learn . . . I guess what I'm really trying to do with my philosophy is to eliminate the excuses. I'm trying to help everyone understand that failure to learn is unacceptable, that Louisville is a community of learners, and that each of us has a responsibility to expect the best of others and then help them achieve it.

". . . It's one thing to have 92,000 students, but quite another to take care of them one-by-one, and it's the one-by-one we need to be about in education."

REINVENTING GOVERNMENT

Mr. ROTH. Mr. President. I would like to take this opportunity to bring to the attention of my colleagues a fascinating new book that is generating a great deal of interest in the press and in public policy circles.

The book is "Reinventing Government," by David Osborne and Ted Gaebler. The underlying premise of this book is one I have addressed here previously. It is that the American people are extremely frustrated with the way Government in this country operates.

They do not want more Government, but they do want better Government. They do not really believe that the choice is less service or more taxes, because they do not believe that they are yet receiving full value for the taxes they already pay. And the American public is right, as both I and the authors of this new book agree.

Authors Osborne and Gaebler propose to tackle this problem by squarely addressing its root causes. They derive their understanding of the problem by first examining successful examples of efficient, effective Government action across this country.

It was by studying the common threads running through those successes that they were able to understand the true nature of the problem, and the proper remedies. And interestingly, several of their most important recommendations are addressed in legislation I introduced a year ago—S. 20, the Federal Program Performance Standards and Goals Act.

The fundamental problem is that Government does not focus on results. As the authors point out, we create programs to address problems, but our attention is fixated on inputs and process. Congress debates how much to spend on a program, and it tightly regulates how that money will be spent. It imposes a dense thicket of bureaucratic controls that stifle any effort at programmatic innovation or flexibility. Congress does all of this in the name of accountability, but it ignores the one aspect of accountability our citizens most care about—results. What is the program actually supposed to accomplish? What outcomes is it achieving? Is the agency really responsive to public needs and expectations?

In becoming results-oriented, government organizations should transform themselves from being rule-driven, to being mission-driven. The authors quote Gen. George S. Patton as advising, "Never tell people how to do things. Tell them what you want them to achieve and they will surprise you with their ingenuity." And as the authors themselves emphasize, "Clarity of mission may be the single most important asset for a government organization." By more precisely defining an agency's mission, we can trim much of the procedural redtape that strangles innovation and responsiveness. Accountability for the tax dollar remains, but the emphasis is shifted from how it is spent, to what it accomplishes.

This new attention to mission and results also means seeing the public as customers. Customer satisfaction, then, becomes one of a program's most important goals. This can mean actually surveying and reporting citizen-customer satisfaction levels with program services. It can also mean using Government vouchers to choose a preferred service delivery entity. As the authors have characterized it, it is the difference between the GI bill's education voucher approach and the VA hospital approach. I think there is little doubt which approach has generated the more satisfied customers.

These reforms, in turn, lead to another lesson—the need to inject competition into service delivery.

The book makes the point that it is competition that makes any organization—public or private—efficient and responsive. A private business that has a monopoly will be less efficient than a Government program that faces stiff competition. There are a number of ways Government programs can be sharpened through competitive pressures, and the book cites several examples.

The book goes on to advocate a variety of other reforms, all aimed at making Government more efficient and effective in achieving the results that

the taxpayers have a right to expect. Governmental decisionmaking can be decentralized, and thereby make quicker and more responsive, when organizations are held accountable for results. Federal grants programs should instill more results-oriented competition. When programs can retain a reasonable portion of the funds they save or generate, managers become much more innovative and entrepreneurial. Government is most effective when it steers, rather than rows, by creating market-oriented incentives to achieve specific goals. And there are ways to reform the governmental decisionmaking process so that the long-term results of today's decisions are considered.

In his recent column about this book, Washington Post columnist David Broder wrote:

> It is my strong hunch that "Reinventing Government" is going to be a landmark in the debate on the future of public policy.

Already, the Joint Economic Committee has scheduled a hearing for March 5 on the ideas and reforms advocated by the book's authors. Those ideas are neither liberal nor conservative. They address how Government should operate, not what it should do. And in that regard, the book speaks to the fundamental frustration the American people feel toward the Federal Government—something the Congress has too long ignored.

ECONOMIC CONVERSION

Mr. KENNEDY. Mr. President, as we downsize our defense program to meet the changing needs of the 1990's, it is essential that we structure an economic conversion program that serves to stimulate economic growth while providing necessary transition assistance to the discharged military personnel, displaced defense workers, and impacted communities and companies. On February 21, Senator PELL and I held a press conference to release a new OTA report on the issue, entitled: "After the Cold War: Living With Lower Defense Spending." This report provides an excellent analysis of the problems and opportunities involved in economic conversion, and sets forth a wide range of policy options for congressional consideration. I commend it to the attention of all Members of Congress. I also wish to call attention to a stimulating article on the subject by Senator PELL, entitled: "Diversification Is the Real Solution." I ask unanimous consent that this article from the Providence Sunday Journal be printed in the RECORD.

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

[From the Providence Sunday Journal, Feb. 16, 1992]

DIVERSIFICATION IS THE REAL SOLUTION

(By Claiborne Pell)

President Bush's proposed cancellation of the Seawolf submarine brings home all too painfully Rhode Island's dependence on defense industries. It also demonstrates the risks of exposing a major sector of the state's economy to the dictates of a corporate policy that may not accord high priority to Rhode Island interests.

The Electric Boat Division of General Dynamics Corporation, builder of the Seawolf, employs some 7,000 Rhode Islanders—4,000 at Quonset Point and 3,000 at Groton. Together, they account for about two percent of the Rhode Island work force and make Electric Boat the state's largest private employer.

For several years I have been trying to alert the management of General Dynamics to the fact that the world was bound to change and that they should start planning for a future in which there would be a decreased demand for submarines. In part, this was based on my long-standing conviction that the communist world was bound to fall of its own ineptitude.

That conviction gathered strength as the 1980s merged into the era of perestroika in what was then called the Soviet Union. It seemed increasingly clear to me that there was a real possibility of substantial worldwide force reductions and that these would almost certainly result in cutbacks at Electric Boat.

In July 1989, I conveyed these thoughts to the then-chairman of General Dynamics, Stanley Pace. Why couldn't General Dynamics establish a modest planning program to anticipate the cutbacks, I asked. Why not start then to manufacture commercial products to assure that a facility like Electric Boat could stay in business. While Mr. Pace was not hostile to the idea, his response was not very positive. The problem was, he said, that General Dynamics was an expert at building weapons and accustomed to doing business with just one customer—the US government—and that it would have to revamp its corporate philosophy and rebuild its corporate structure if it were going to complete in commercial markets.

I introduced the Defense Diversification and Adjustment Act in February 1990, one provision of which echoed the suggestion I gave to Mr. Pace. That was a requirement that defense contractors set aside a modest portion of revenues to support planning for diversification. While that section of the bill was not enacted, other provisions were, providing $200 million in adjustment assistance for displaced workers and communities impacted by shutdowns. I am very pleased that those funds are now available to help workers facing layoffs.

It had been my hope when I introduced that legislation that we would never get to the position that we now find ourselves in, and that General Dynamics, with or without government prodding, would plan for a diversified future. With the accession of William A. Anders to the chairmanship of General Dynamics last year, many of us hoped that a new era and a more flexible philosophy might be at hand. However, last Oct. 30, in a speech to a conference of defense industrialists, Mr. Anders laid out a General Dynamics strategy for survival in the new era that rejected diversification. The policy did not bode well for Electric Boat than; without the Seawolf, it bodes worse.

The bottom line for General Dynamics' corporate survival, Mr. Anders declared, is to assure a good return to the stockholders. But to assure a good return to stockholders at a time of declining markets and excess production capacity, he said, the corporation must be prepared to take drastic steps, including "rightsizing," the industry's buzzword for shrinkage and trimming the business down to fit the market. This can even include divestiture of whole divisions of the corporation, as in the case of General Dynamics' sale of Cessna, a manufacturer of commercial aircraft, to Textron.

General Dynamics also considered diversification, Mr. Anders said, both in terms of shifting to non-defense production within existing divisions of the corporation, or acquiring new non-defense subsidiaries. But after a brief review, he said, the corporation rejected both, deciding it should "focus on what we know best, our core defense competencies."

Mr. Anders is an able businessman, a former Rhode Island resident and Textron executive, whose distinguished career also included services as an astronaut and US Ambassador to Norway. I acknowledge that his policy may make sense from his vantage point. If the defense industrial base is to be preserved, the corporation must survive and it will need to be very lean in order to continue to attract investors.

But having granted that point, I must say that a ledger book strategy for survival does not reflect any sense of public responsibility, which in the circumstances the taxpayers have a right to expect. This, after all, is a corporation whose net sales totaled nearly $75 billion in government business during the last decade alone and whose executives and stockholder prospered in the process.

Now that their fortunes have changed, it seems terribly incongruous that their strategy for survival is cast solely in terms of keeping the stockholders happy. Nowhere in Mr. Anders' address was there any mention of an obligation to the thousands of people whose jobs are at stake or to the communities whose economic survival is on the line.

I am very pleased to note that the management of the Electric Boat Division now appears to be moving on its own volition in another direction, and only hope that their efforts won't be too little or too late. Roger E. Tetrault, general manager of Electric Boat, has expressed to me what sounds like a far more flexible view of diversification than that suggested by the parent corporation's survival strategy.

In testimony before the House Armed Services Committee field hearing in Newport in December, Mr. Tetrault declared: "Electric Boat is constantly monitoring the environment for new business opportunities including commercial diversification."

But he makes clear there are limitations. Diversification can be helpful in taking up slack, he says, but it cannot be counted on to substitute for the main mission of Electric Boat, which is to build submarines.

He also warns that diversification does not yield immediate results, since it may take three or four years before there can be any impact from a new product line. And he reminds us that because Electric Boat is a high-technology, high-quality and high-cost producer, it is apt to be limited to diversifying to these high standards. "We can make plowshares, but they will be expensive plowshares," he states.

Notwithstanding the caveats, Electric Boat has already had some success. Last fall, the division won a multi-million-dollar contract to construct large-scale components

for a new waste-treatment and -disposal system being built for Boston Harbor. Regrettably, however, the fabrication work is being done at EB's South Carolina plant, although the engineering work is being done at Groton. But the contract award was a significant breakthrough, I believe, considering the degree to which it departs from the pervasive philosophy of General Dynamics.

There are other non-defense prospects for using Electric Boat's unique capability for modular construction of large components of high-technology equipment. One intriguing possibility is the construction of electrical generating plants that use energy resulting from thermal differences in deep seawater. Another, still in the speculative stage, is participation in a national consortium to construct a huge new cruise ship, called Phoenix World City, which is the brainchild of Norwegian shipping magnate Knut Ulstien Kloster.

There are some additional steps that the Navy could take to throw business to Electric Boat. One would be to shift submarine overhaul work out of government shipyards presently run by the Navy and divert it to EB. Another, which I find most intriguing, would be to rebuild the Trident submarine fleet to launch conventional weapons instead of nuclear warheads.

Realistically, however, we must face the fact that there is no certainty that any of these prospective ventures can kick in enough vigor to be of much help, given the time constraints now imposed by the Bush administration's budget. While everyone seems to concede that the Seawolf as a long-term program is indeed terminated, the question remains as to whether the second and third Seawolves, already funded by Congress, will be rescinded, as the President recommends.

If Congress does not concur in that recommendation, and Electric Boat bids successfully on both boats, the third Seawolf probably would be ready for delivery in 1998, when the next generation of submarines, designated the Centurions, is expected to go into production. But even under this scenario, work at Quonset Point, which handles the initial phases of construction, could dry up in 1995, unless supplemental work has been found.

If Congress sustains the President's recommendation to rescind the two Seawolfs—a step which I and my colleagues from Rhode Island and Connecticut will be opposing with all the force we can muster—Electric Boat faces a desperate future, no matter how much non-defense work has been found.

Under this worst scenario, work at Quonset Point will dry up by early 1993, and shrinkage of the workforce will be accelerated as the single Seawolf and the last of the Tridents are assembled at Groton for delivery in 1996–97. By that time, as my colleague Senator Chafee has suggested, the work force will have been reduced to "somebody painting numbers on the hulls."

We can only surmise whether an earlier commitment to diversification could have led to a different outcome.

A TRIBUTE TO SENATOR S.I. HAYAKAWA

Mr. STEVENS. Mr. President, it is with great personal regret that I announce to the Senate that my dear friend, Sam Hayakawa, former Senator from California, former president of California University, has passed away. He served with great distinction, I feel, in the Senate. And at a time of great personal loss in my life, Sam Hayakawa took it upon himself to spend night after night after night with me. I will miss my dear friend, and as I said, it is with regret that I make this announcement to the Senate.

I ask unanimous consent that a portion of the news report concerning the passing of our former colleague be printed in the RECORD. I do admit that I have deleted those portions of the report which were not complimentary to my late good friend, and included only the positive ones.

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

FORMER SENATOR, COLLEGE PRESIDENT S.I. HAYAKAWA DIES AT 85

GREENBRAE, CA.—S.I. Hayakawa, the soft-spoken semantics professor whose dramatic 1968 confrontation with student protesters launched a political career that took him to the U.S. Senate, died Thursday, a hospital spokeswoman said. He was 85.

Marin General Hospital spokeswoman Andrea Kloh said he died about 1 a.m. He had been hospitalized with bronchitis, but she did not have the exact cause of death.

Hayakawa, who lived in nearby Mill Valley, was an internationally known semanticist for nearly three decades.

But his name leaped into the headlines in December 1968 when, on his first day as acting president of San Francisco State College, he scrambled onto a sound truck brought on campus in violation of his rules and yanked the wires from two rooftop speakers to temporarily silence leaders of a student strike.

Newspaper and television photographs of that scene transformed the owlish 5-foot-3 professor with the trademark tam-o'-shanter into a national celebrity. Though a lifelong Democrat, he became a folk hero among conservative critics of the student protests that were sweeping the nation's campuses in the late 1960s.

He retired as president of the college, renamed San Francisco State University, in 1973 and attempted to run for the U.S. Senate the following year.

In recent years, Hayakawa has been active in pushing to make English the official state language and eliminate bilingual education, saying that learning to speak good English is "the most rapid way of getting out of the ghetto."

Samuel Ichiye Hayakawa was born July 18, 1906, in Vancouver, British Columbia. He was educated at the University of Manitoba and McGill University, both in Canada, then received his Ph.D. at the University of Wisconsin in 1935.

He taught at several schools, including the University of Chicago, before coming to San Francisco State in 1955.

Among his books were "Language in Action," 1941; "Language in Thought and Action," 1947; and "Our Language and Our World," 1959.

Mr. HOLLINGS. Mr. President, on this side of the aisle, Sam Hayakawa had the highest deal of respect. I remember his diligent leadership with respect to the English language, and many, many other things. He was quite an erudite scholar in his own right, heading up the university on the west coast.

I worked with him closely. I had not heard he had been ill in any fashion. I am sorry, and join in the sympathy extended to his family and colleagues.

MAMIE AND IKE

Mr. STEVENS. Mr. President, as many of my colleagues know, I take issue with the idea of revisionist history. It is not truly history if it is based on popular perceptions and attitudes rather than what actually happened.

Equally as appalling is the idea of changing or revising history based on little or no factual information. It is unfortunate that sometimes a change in a historical story begins to be accepted as fact, to the detriment of those involved. In a February 14 article in the Wall Street Journal, my friend, Bill Ewald, illustrates how one unproven statement made 30 years ago is still trying to become part of history, even though there is nothing to substantiate it.

The story concerns President Dwight D. Eisenhower. While Eisenhower has the respect of all Americans as a great general as well as President, he holds a special place in Bill's heart. Bill was a member of Eisenhower's White House staff and later authored a book about the Presidential years.

Bill's Wall Street Journal article refutes the allegations that General Eisenhower asked his boss, Gen. George C. Marshall, for permission to divorce his wife, Mamie Doud Eisenhower. Researchers have never found proof of that purported request. But it makes a good story for those looking for a bit of scandal or gossip.

It is a popular pastime these days to dredge up—or make up—information about the personal lives of people in the public eye. Such information, or misinformation, sells supermarket tabloids and attempts to weaken the credibility of political candidates and others.

The 30-year-old allegation about General Eisenhower belongs in the same category as the tabloid headlines.

Mr. President, I ask unanimous consent that Bill Ewald's article setting aside the misinformation about a great general and President 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, Feb. 14, 1992]

MAMIE AND IKE, TOGETHER AGAIN

(By William Bragg Ewald, Jr.)

In the early 1960s, Harry Truman told his biographer Merle Miller that Gen. Dwight Eisenhower had written his superior, Gen. George C. Marshall, immediately after the war in Europe to ask permission to divorce his wife, Mamie, and marry his British secretary and driver, Kay Summersby. And, Truman went on, Gen. Marshall exploded: If Ike should try such a thing, Gen. Marshall

would "bust him out of the Army" and make the rest of his life "a living hell."

For researchers everywhere, after the Truman blast became public in the early 1970s, it became a question whether Truman, in his old age, made up the story or whether there was a smoking gun. Everyone, myself included—especially myself, since I had worked on the Eisenhower memoirs from 1961 to 1964—combed both archives and memories to find the letter. While we didn't find the letter, we did find a letter from Gen. Eisenhower to Gen. Marshall that is quite revealing, especially given the current presidential campaign.

The letter, written from Germany and dated June 4, 1945, reads: "Now that the time is approaching for my arrival in the United States I want to discuss with you one subject in which I must confess that my own conviction is somewhat colored by personal desire. It involves the possibility of enunciating some policy whereby certain personnel in the occupation forces could bring their wives to this country. What I have in mind is something about as follows. . . .

"In the event that no policy of any kind could be approved by the War Department at this time, the personal question would become whether this whole Command, or public opinion, would resent my arranging to bring my own wife here. This is something that of course I cannot fully determine, but my real feeling is that most people would understand that after three years continued separation at my age, and with no opportunity to engage, except on extraordinary occasions, in normal social activities, they would be sympathetic about the matter."

It is unthinkable that Ike could have written a (never-substantiated) letter purportedly asking Gen. Marshall for permission to divorce Mamie at virtually the same time he was almost pleading for Mamie's presence in Europe.

Those who worked for Eisenhower are unanimous in praising his integrity. He tried to do the right thing, and he did this in his marriage as in other aspects of his life. His letter to Gen. Marshall proves this.

If Eisenhower ever saw Kay Summersby as a threat to his marriage—and absolutely no one except Ike himself could have answered that question—the record shows that he responded as those who knew him would have expected. He asked that his wife, Mamie, be sent to his side.

Eisenhower had huge and impressive hands. This has been observed by many people. I will never forget a visit my wife, Mary, and I paid to the Eisenhowers' Gettysburg farm shortly after Ike's death. Mrs. Eisenhower was a woman of great charm. She adored the general with the most selfless devotion and almost childlike enthusiasm. After we had talked with her about her bereavement, as we were about to leave, she turned from her sorrow to contemplate the stairwell. "I never see the bannister," she said, "without seeing Ike's hand resting on it."

For couples everywhere, one of life's greatest accomplishments is a long-enduring, mutually supportive, loving and happy marriage. The Eisenhowers had such a relationship. It is a good lesson for Valentine's Day.

TRIBUTE TO GUTHRIE J. SMITH

Mr. HEFLIN. Mr. President, it is with great pride that I bring to the attention of my colleagues the career accomplishments of an outstanding public servant from Alabama, my friend Guthrie J. Smith, long-time mayor of the city of Fayette. He has held elective office in Fayette for 44 consecutive years, during which he has proven instrumental in promoting the thriving business community that exists there today.

Mayor Smith's tenure as an elected official is the longest service of any active city official in the State of Alabama. He became the dean of Alabama mayors in 1988, when he was elected to an eighth term. He was elected president of the Alabama League of Municipalities in 1965, and has served as a member of the executive committee of the Alabama League of Municipalities and a member of the Small Cities Council of the National League of Cities. Mayor Smith currently serves as a member of numerous committees of the Alabama League of Municipalities, the National League of Cities, and the Sunbelt Conference.

In 1936, Guthrie Smith made a seminal study of the development of Alabama's tax system and used this study as the basis for his master's degree thesis. He was elected president of the Birmingham-Southern College student body, and was a member of Omicron Delta Kappa, Kappa Phi Kappa, and Pi Gamma Mu national honor societies. Smith was awarded a graduate fellowship to the department of economics at the University of Virginia and served as president of Pi Kappa Alpha social fraternity.

Guthrie Smith has used his extensive academic and business experiences to enable Fayette County and the city of Fayette to prosper. In the past 14 years, industry in Fayette has spent over $88 million on improvements to existing industry. Since 1948, the city's assets have grown to over $15 million. The city of Fayette has constructed a 350-acre industrial park, a 100-acre recreation facility, aptly named Guthrie J. Smith Park, the Fayette Civic Station, and a $2 million sewer treatment expansion project. All improvements made since 1978 are fully paid for. Federal and State grants received have totaled over $5,500,000 since then. The mayor played a key role in bringing such industries to Fayette as Simon and Mogilner, Sterilon Industries, HPI, Arvin Industries, Quality Tooling, and American Olean Tile Co.

Guthrie Smith distinguished himself in military service to his country during World War II. He was selected for the Counter Intelligence Corps and was awarded a battlefield commission in Europe in 1944. Since then, Mayor Smith has served as a public speaker for meetings, conferences, and banquets throughout Alabama and the rest of the South. He is widely recognized as an articulate spokesman for good city government, civic duty, and industrial development.

Among Mayor Smith's numerous awards and honors are his membership in the Alabama Senior Citizens Hall of Fame and the Faith and Patriotism Society Award. He and his family have lived in Fayette since his honorable discharge from the service, where he has served in many leadership roles in the First United Methodist Church. His dedication, loyalty, and devotion to family, church, and community have served as inspirations to the people of Fayette.

In these trying times of economic woes and severe budgetary constraints, we in the Federal arena can look to Mayor Guthrie Smith's leadership as an example of what government and business can accomplish when working together for the good of a community. If, as former House Speaker Thomas P. "Tip" O'Neil said, "all politics is local," then we can say that the relationship between Fayette and its growing business community, the crowning achievement of Mayor Smith, is politics at its best. I congratulate him on his many years of service to his community, State, and country.

I ask unanimous consent that an article on Mayor Smith's 1936 master's thesis be printed in the RECORD following my remarks.

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

[From the Alabama Municipal Journal, November 1988]

MAYOR'S THESIS ADDED TO PERMANENT COLLECTION

A thesis written in 1936 by Mayor Guthrie Smith of Fayette has been added to the permanent collection of historical works in the office of the State Commissioner of Revenue. James Sizemore, State Revenue Commissioner, asked for a copy of the thesis after Mayor Smith mentioned to Mr. Sizemore that they seemed to share many of the same views on tax reform in the state. In brief ceremonies, Mr. Sizemore placed the bound copy of the thesis with the Department's permanent collection of documents on fiscal policy. Mr. Sizemore noted that Mayor Smith's thesis contains many facts that still hold true today.

"Trends in the Tax System of Alabama," was written by Mayor Smith to fulfill requirements for a master's degree at the University of Virginia. The book traces the history of the tax structure in Alabama from 1819 to 1936.

"And as young college people do, I made some recommendations," Mayor Smith said.

"The way of securing revenue is topsy turvey," he noted. "There is no planned system of taxation in this state—there wasn't back then. The state has always been heavily dependent on the sales tax which is regressive."

Mayor Smith also noted that Alabama has been "behind the times on ad valorem taxes" pointing out how Eastern states have always put more emphasis on property taxes than Southern states. Mayor Smith says this fact can be attributed to economic forces which came into play during and after the Civil War.

Earmarking of funds is another problem Alabama has historically had with the tax system, according to Mayor Smith. "Earmarking was a major fault even then. Ear-

marking ties the legislature's hands. Whether a particular area [of state government] needed revenues or not, they got the funds anyway."

Mayor Smith is a 1931 graduate of Birmingham Southern College and attended the University of Virginia on a fellowship. After successfully completing the requirements for the master's degree in economics, Mayor Smith worked as an underwriter with the Travelers Insurance Company in Washington, DC. He served in counterintelligence in the European Theatre during World War II and he received a battlefield commission in 1944.

In 1948, he was elected to the Fayette City Council and served until 1955 when he was appointed by the council to fill the unexpired term of the mayor. After 40 years of continuous municipal service, Mayor Smith was recently reelected by his constituents to serve another term.

Mayor Smith is the senior Past President of the Alabama League of Municipalities and currently serves on the League's Executive Committee. He has also distinguished himself in various capacities with the National League of Cities, serving as a member of the Small Cities Advisory Council and as a member of the Finance, Administration and Intergovernmental Relations Committee.

In a March, 1937 review of Mayor Smith's thesis in the Montgomery Advertiser, Judge Walter B. Jones said that he did not "recall any single book or writing in Alabama that contains within its covers as much valuable information as to our tax system and explanation of how it works than Mr. Smith's thesis. He discusses all the fundamental problems of taxation in Alabama, and the constitutional limitations upon the legislature, the wise use made of permanent and continuing appropriations, the non-uniformity in the administration of county tax affairs in our sixty-seven counties, and the habit of every legislature to add to the list of property changes exempt from taxation."

Judge Jones added in the same review that "(a) thesis such as Mr. Smith's should not remain practically unknown in the library of a great university in a sister state. The thesis is worthy of preservation in book form."

Fifty-two years later, the thesis is now in book form.

SPACE STATION FREEDOM REPORT BY GAO

Mr. GARN. Mr. President, earlier today I was informed that the General Accounting Office was issuing a report on the NASA budget, prepared at the request of some of our colleagues, which calls into question the funding needs of the space station Freedom. I asked my staff to review this report, examine the facts uncovered by the GAO, and to examine the analysis employed by that agency.

My staff responded by giving me a copy of this report and said: "What facts, and what analysis?"

Mr. President, I am appalled by this 2-page letter which is not only verbose, rambling, and repetitive, but states a conclusion that "NASA is overcommitted relative to likely resources" on the basis of pure speculation and predictions of what the Congress might do in future years with the Federal budget. This isn't even an opinion based on accounting principles, or the conclusions of any investigation: GAO now has gotten in crystal ball gazing. Frankly, I'd stick with my ouijaboard and tarot cards, they're probably as accurate, and sure doesn't cost the $487 million that the GAO wants to stay in this type of business.

Mr. President, our Nation is confronting critical choices and must address serious program requirements if we are to maintain our leadership in space and in other high-technology areas. The budgetary pressures and constraints on domestic discretionary spending are both real and daunting. But that is what Senators and Congressmen are elected to do, to carefully evaluate program needs, and then make such choices and decisions based on the merits of issues before us. I submit that it is of little benefit for GAO to predict how this process will come out, since indeed, it is the Congress, though our own actions, which will determine the future for NASA programs and our Nation.

Mr. President, I ask unanimous consent that this GAO report be printed in the RECORD at this point.

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

GENERAL ACCOUNTING OFFICE,
Washington, DC, February 19, 1992.

Hon. ALBERT GORE, Jr.,
Chairman, Subcommittee on Science, Technology and Space, Committee on Commerce, Science and Transportation, U.S. Senate.

Hon. RICHARD J. DURBIN,
Chairman, Task Force on Defense, Foreign Policy, and Space Committee on the Budget House of Representatives.

To assist in your preparation for an accelerated budget resolution, schedule, we are providing information from our ongoing review of the National Aeronautics and Space Administration's (NASA) 5-year program plans.

NASA is overcommitted relative to likely resources—in short, it is chasing too much program with too few dollars. We estimate that if the current federal budget allocation for domestic discretionary spending continues to be constrained, NASA program plans will have to be reduced $13 billion to $21 billion through fiscal year 1997.

As you know, caps mandated by the 1990 budget summit agreement allow domestic discretionary spending to grow by only the rate of inflation for this next several years. Further, congressional appropriators are restricted to their 602(b) allocation of domestic discretionary funding for the Departments of Veterans Affairs, Housing and Urban Development, and Independent Agencies. This restriction may not allow inflation-sized increases for NASA. NASA's funding will depend on the actual size of the allocation and the needs of other agencies. For example, Congress was able to provide only a 3-percent increase to NASA for fiscal year 1992. Projecting from the fiscal year 1992-enacted NASA budget of $14.3 billion, the Congressional Budget Office (CBO) estimates that full inflation increases would provide a 1993–97 funding baseline totaling $79.5 billion. Flat budgets would provide $71.5 billion.

For fiscal year 1992, the administration proposed a 13-percent increase for NASA over its 1991 funding level (from $13.9 billion to $15.7 billion) and a total 1992–96 program of $91.5 billion. Congress, in turn, approved only a 3-percent increase for fiscal year 1992 over 1991 (from $13.9 billion to $14.3 billion) and directed NASA to plan for a 3- to 5-percent growth rate (including inflation) in the near future. The President's fiscal year 1993 NASA budget submission complied with this guidance, proposing about a 5-percent increase (from 14.3 billion to $15 billion). Unfortunately, the President's fiscal year 1993 budget submission omitted the out-year funding profiles that would reflect the future implications of the request or any view of proposed progress in further limiting out-year funding requirements.

Preliminary NASA planning estimates show continued growth in agency programs, with a fiscal year 1993–97 funding estimate of $92.4 billion. These planning estimates will serve as the baseline from which NASA will formulate the fiscal year 1994 and subsequent year budgets. However, the $92.4 billion estimate exceeds level budget estimates by about $21 billion and the CBO baseline by about $13 billion. We believe this figure indicates overly optimistic planning, given the present outlook for NASA funding. We also believe that it tends to obscure civil space priorities and delay tough decisions and trade-offs. The failure to bring the civil aeronautics and space program within fiscal realities may perpetuate the instability of NASA's programs, invite cost growth, and risk the erosion of public confidence. Further, the omission of out-year funding profiles in the President's budget makes it difficult for Congress to understand the future implications of its current budget decisions. The enclosure compares NASA's funding projections for fiscal years 1993 through 1997 with flat budgets and the CBO baseline.

We are continuing our review of NASA's 5-year program plan, as you requested, and will keep you advised on the progress of this work.

MARK E. GEBICKE,
Director, NASA Issues.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

May I advise the Senator that under the previous order, we were to close morning business at 11:15.

Mr. D'AMATO. Mr. President, I ask unanimous consent that I be permitted to speak as if in morning business for no longer than 5 minutes.

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. Is there objection?

Mr. SASSER. Mr. President, reserving the right to object, and I will not object, I want to serve notice on my colleagues that I will object to any further reopening this morning of morning business. There is an order I think pending to raise a point of order at 11:15. I want to accommodate my friend from New York, but beyond that I will be compelled to object.

The PRESIDING OFFICER. Without objection, the Senator from New York will be recognized for 5 minutes.

Mr. D'AMATO. Mr. President, I thank my distinguished colleague from Tennessee for being so gracious, and I thank the Chair.

WHY NO BANK CREDIT

Mr. D'AMATO. Mr. President, for some time now, the Congress of the United States, more importantly, the American people, have been saying how is it, why is it, that we cannot get credit from banks? Mr. President, I am talking about creditworthy people, people who have ongoing businesses, that are making profits, that are having loans called in.

So we set about finding out how we can reduce interest rates. Indeed, interest rates have been coming down. Banks today pay, in some cases, less than 4 percent—on savings deposits. Certificates of deposit, the banks' cost of money, has been brought to an all-time low as a result of many factors in the monetary policy. We reduced their reserve requirements, and their capital requirements in certain cases as it relates to loans that they put out. We have cut the discount rates again to give them a greater spread.

As they say, it has not borne fruit. The private sector has not benefited. Real estate loans, forget about it; even on apartment houses that are newly constructed and leased, even on commercial projects that are leased, it is impossible to get mortgages today. Oh, yes, there has been some benefit by the refinancing of those single-family homeowners where the mortgage rates have come down and so they refinance. There has been some impact. But not the kind there should be.

Mr. President, yesterday, I came across information, at a hearing in the Appropriations Committee about this very issue. I had the pleasure of hearing the testimony of a distinguished professor, Dr. Roger Brinner, who pointed out why the Federal Reserve policy and the policy of the U.S. Treasury is not working. While we are bringing down interest costs, the banks are making unprecedented profits and they are not making loans to the American people. We have an obligation to do something about that.

I have to tell you that the Secretary of the Treasury has been remiss, and that Alan Greenspan has been remiss. They are acting in a way which is not consistent with the tragedy that is in America today, the deep problem of not permitting credit to flow. And we are not going to have an economic recovery unless the banks begin to make the loans.

Why are they not making loans? I will tell you why. Because, Mr. President, they are able to go out and purchase long bonds, U.S. bonds that we sell for 30 years, which have incredibly disproportionate interest returns and yields to them, yields of 7½ percent. As long as the Treasury continues to sell 30-year bonds in this market, it will attract all of the capital of these banks. Why should banks risk money in the private sector and maybe get a return of 8 percent, 8½ percent, and have to set aside capital to back that up when they don't have to set-aside any capital and get a 7½-percent return?

Mr. President, we have the ability to correct this injustice. I say that the Treasury and the Federal Reserve policy has been one which has enriched the banks and has done very little to open the credit gates for America, for the business community, for the small investor who needs that capital so that he can expand his or her business, to those who need to finance that real estate project which is not speculative.

I have shown that there is a disproportionate yield as it relates to the 3-month bill and the spread is growing. It is larger today than at any time in history. If you are a banker, why would you invest in anything that had risk when you could get as high a yield, by buying bonds and not to have to set-aside capital requirements?

Now, what is the answer? The answer is simple. The answer is that the Treasury should not put out the 30-year bond, and should go to short-term bonds as Professor Brinner and others have said.

I ask unanimous consent that a Wall Street Journal, January 6, 1992, article by Constance Mitchell and David Wessel be printed in the RECORD, along with an article from Business Week, November 25, 1991, which says: "While acting forcefully to lower rates, Washington could also get banks lending again" if they were to stop this practice of purchasing long-term bonds.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Jan. 6, 1992]

WILL 30-YEAR T-BOND BECOME EXTINCT SPECIES?

(By Constance Mitchell and David Wessel)

Can the government really save taxpayers money and at the same time stimulate business activity by curbing sales of 30-year Treasury bonds?

In Washington and on Wall Street, government officials, economists and bond dealers are hotly debating the pros and cons of a move to eliminate—or at least sharply reduce—sales of long-term Treasury bonds.

What's behind the debate is the unprecedented gap between long-term and short-term interest rates at a time when the economy is slumping. Short-term rates have plunged; long-term rates haven't.

"It's foolish for the government to issue long-term bonds" at rates that are as much as 3½ percentage points higher than it costs the Treasury to sell short-term securities, says James Tobin, Nobel laureate economics professor at Yale University and a former economic adviser to President John F. Kennedy. His advice: stop selling 30-year bonds, at least until the economy is back on track and the spread between long-term and short-term interest rates has narrowed.

MISGUIDED SHIFT?

But on Wall Street, Robert Giordano, economist at Goldman, Sachs & Co., warns that abandoning sales of 30-year bonds would be "misguided." He says the Treasury "is about to get railroaded" into curtailing or eliminating the long bond "on dubious grounds."

The idea of curtailing sales of 30-year Treasury bonds surfaced more than a month ago when Treasury Secretary Nicholas Brady told Congress that the Treasury is "taking a look at" the amount of long-term bonds it sells, adding that "the question really is how much effect would you have on this huge market if you shifted your emphasis."

In the past two weeks, officials in Washington say the Treasury has grown increasingly serious about curtailing, though not eliminating, sales of 10-year and 30-year bonds, both to save the taxpayers' money and to nudge down long-term interest rates. It is being pressed to curb 30-year bond sales by members of Congress and academic economists who say the government should take every opportunity available to save borrowing costs. The Treasury is likely to make a decision before February's quarterly refunding of the federal debt, when the government is slated to sell more than $37 billion of Treasury notes and bonds.

SLOWLY FALLING YIELD

Since the Treasury began selling 30-year bonds in the early 1960s, the Treasury's long-term bond has become the most-actively traded security in the world. It's considered the bellwether security for the entire bond market; its yield is used as a benchmark from which yields on other long-term securities are determined by the market. Because the long bond, as it is known on Wall Street, is far more volatile than other fixed-income securities—its price moves further up or down with swings in interest rates—it is a favorite for speculators who like to make big bets on interest rate changes.

But economists and the Bush Administration are frustrated at how slowly yields on 30-year Treasury bonds have fallen, even though the Federal Reserve has been aggressively pushing down short-term interest rates. In the past 12 months, for example, the Fed has driven down the federal funds rate, which banks charge each other for overnight loans, to 4 percent from 7 percent. In response, yields on three-month Treasury bills have fallen 2.7 percentage points to just under 4 percent.

But yields on the 30-year Treasury bond have fallen just three-quarters of a percentage point to about 7.5 percent. In fact, the gap between yields on short-term and long-term securities is now the widest it has even been. Part of the problem is that long-term bonds reflect investors' inflation expectations. Long-term rates in turn directly influence mortgage rates and corporate borrowing costs.

Proponents of paring back sales of 30-year bonds argue that reducing the supply of long-term bonds would give them a scarcity value, causing their yield to decline and their price to rise.

Burton Malkiel, a Princeton University economist and a student of markets and interest rates, suggests that a substantial move by the Treasury to curb its sale of 30-year bonds could reduce long-term interest rates by as much as one-half a percentage point.

And since institutional investors are showing strong demand for short-term and intermediate-term Treasurys, the shift probably would not cause shorter-term rates to rise very much, says Maria Ramirez, president of Maria Ramirez Capital Consultants Inc. Ms. Ramirez adds that eliminating the 30-year bond would make U.S. debt management comparable to other major countries, where bonds with maturities longer than 10 years are rare.

Mr. Malkiel, like many others, believes that reducing sales of 30-year bonds might

help stimulate economic activity, cutting long-term rates and thus allowing corporations and consumers to replace high-interest-rate debt with lower-rate debt. With lower debt service, consumers and corporations would have more to spend on goods and services. "It's the long rate that is important in terms of mortgage financing," he explains. "I am absolutely convinced if there were 7% mortgage rates, you'd get quite a pop in home sales. You might even see some residential construction."

Lacy Hunt, chief economist at Carroll McEntee & McGinley Inc., a bond dealer in New York, says that financing the budget deficit by having the government sell fewer long-term bonds and shifting Treasury sales to shorter-term securities could save taxpayers billions a year in financing costs.

Based on the Treasury's recent sales of 12 billion in long-term bonds each quarter, the Treasury should be offering about $50 billion of new 30-year bonds over the next 12 months. At current rates, those 30-year bonds would carry a 7.5% coupon.

Mr. Hunt estimates that if the Treasury instead halted its sales of 30-year bonds and took up the slack of 30-year bonds and took up the slack by selling more securities ranging from thee-month bills to five-year notes-at an average interest rate of 5%-the Treasury could save $1.25 billion in interest payments in the first year. If the Treasury merely halved its 30-year bond issuance to $25 billion a year, taxpayers would save $625 million in the first year.

Mr. Hunt also recommends that the Fed simultaneously shift a portion of its $260 billion investment portfolio of U.S. Treasury securities form short-term bills to long-term bonds, while continuing to use monetary policy to keep short-term interest rates from rising. The Fed's increased purchases of long-term Treasury bonds would help drive down long-term interest rates, he says.

But opponents of the idea of eliminating 30-year bonds doubt that the Treasury would achieve its objectives. In a 15-page research report, Mr. Giordano of Goldman Sachs said that a shift away from long-term bonds is "unlikely to lower long-term interest rates appreciably, save the government much, if any, money or help the private sector." Goldman is one of the biggest government bond dealers on Wall Street. Many dealers oppose a curb on 30-year bonds, which they say would increase uncertainty about the Treasury's borrowing plans and, perhaps, reduce dealers' profits.

Among other things, Mr. Giordano notes that past efforts by the Treasury to influence interest rates by manipulating the supply of bonds failed. He notes that the last time in Treasury stopped selling long-term bonds, in 1967-72, the shape of the yield curve, or gap between long and short-term rates, "was only marginally flatter than in other periods."

At the time, the Treasury, by law, couldn't sell securities with a coupon higher than 4¼%. Since market rates were higher than that, the Treasury essentially was shut out of the long-bond market.

In the early 1960s, during the Kennedy Administration, the Fed tried to influence rates in an experiment that came to be called "Operation Twist." At the time, the U.S. economy looked soft, which argued for lower interest rates. But a high balance of payments deficit was putting pressure on the dollar; higher rates would help prop up the U.S. currency. In an effort to bring down long-term rates while nudging up short-term rates, producing a "twist" in the yield curve, the Fed purchased long-term notes and bonds and sold bills. Many viewed the plan as unsuccessful.

Other economists at Goldman Sachs argue that the Treasury should sell more 30-year bonds to take advantage of long-term interest rates they consider low by historical measures. They believe long-term yields won't fall much lower.

S.G. Warburg & Co., another primary dealer of government securities, also is against the idea of limiting sales of 30-year bonds. "We don't recommend it," says Lawrence Leuzzi, head of the firm's government securities group. "I don't believe that public debt management policies that reign over $3 trillion on debt should be based on interest-rate speculation."

Mr. Leuzzi says the Treasury's argument is flawed partly because the supply is just one of several reasons yields on the long-term bonds are relatively high. "I believe that more important that supply, they are a function of inflation expectations and global credit demand," he says. These are issues, he says, that can't be fixed by shifting supply.

YIELD COMPARISONS

[In percent]

	1/3	1/2	52 week High	52 week Low
Corp.-Govt. Master	6.62	6.58	8.30	6.53
Treasury:				
1 to 10 years	5.56	5.47	7.61	5.47
10 plus years	7.53	7.45	8.69	7.45
Agencies:				
1 to 10 years	6.19	6.17	7.93	6.16
10 plus years	7.86	7.81	8.92	7.81
Corporate:				
1 to 10 years:				
High Qlty	7.19	7.15	8.96	7.10
Med Qlty	7.77	7.74	10.01	7.71
10 plus years:				
High Qlty	8.34	8.34	9.55	8.34
Med Qlty	8.83	8.80	10.19	8.80
Yankee bonds[1]	7.87	7.85	9.39	7.79
Current-coupon mortgages:				
GNMA 7.50 percent	7.49	7.48	9.10	7.49
FNMA 7.50 percent	7.56	7.59	9.58	7.56
FHLMC 7.50 percent	7.43	7.45	9.37	7.43
High-yield corporates	13.08	13.11	18.26	12.80
New tax-exempts:				
10-yr G.O. (AA)	5.80	5.70	6.55	5.70
20-yr G.O. (AA)	6.40	6.40	7.10	6.40
30-yr revenue (A)	6.65	6.68	7.55	6.65

[1] Dollar-denominated, SEC-registered bonds for foreign issuers sold in the United States.

Note.—High quality rated AAA–AA; medium quality A–BBB/Baa; high yield, BB/Ba–C.

Source: Based on Merrill Lynch Bond indexes, priced as of midafternoon Eastern time.

[From Business Week, Nov. 25, 1991]

A SPARK FROM TREASURY COULD FIRE UP THE ECONOMY

(By Karen Pennar and Christopher Farrell)

It's a tired refrain we keep hearing from Washington: The economic recovery is being held hostage to politics and a yawning budget deficit. To apply defense savings elsewhere in the economy, last year's budget agreement would have to be reopened. To enact tax cuts, offsetting savings would have to be found. But is policy really so paralyzed? Perhaps not.

Without even entertaining congressional debate, there are some things that the U.S. Treasury and banking regulators could try to get the economy moving.

First, the government could shorten the maturity of its debt. Inflation has come down under 4%, and short-term interest rates are at their lowest levels in 15 years. Today, three- and six-month Treasury bills are yielding less than 5%, and five-year notes are paying 6.63%. The 30-year long bond, meanwhile, is yielding around 7.9%. That reflects an inflation premium paid investors because they fear inflation will rise.

SPENDING BOOM

The Treasury should tell the world that it believes prices will remain stable by announcing that it will issue mostly short- and medium-term debt, and sticking to that. What would happen? Long-term rates would fall, providing needed stimulus, and the interest bill on future debt would shrink. "Long bonds would go to 7% almost overnight," says William H. Gross, managing director at Pacific Investment Management Co., which manages $35 billion in bonds. "It would be a shot heard around the world."

Joseph Rosenberg, chief investment officer of Loews Corp. in New York, suggests that Treasury substitute four- to five-year notes for 30-year bonds at its quarterly refundings, thereby saving taxpayers at least $500 million in interest costs annually. Rosenberg, who urged the Treasury to take such a step in a recent article in *The Washington Post*, says the "real beneficiary of all this would be the U.S. economy." Lower long-term rates would unleash a rush of mortgage lending and a capital-spending boom.

The Treasury's action could be reinforced by the Federal Reserve Board, which could instruct its traders in New York to buy up the highest-yielding, longest-dated bonds in the course of their market dealings. "I think it would be a wonderful step," says economist James K. Galbraith of the University of Texas at Austin. "Keynes says about the most useful thing a central bank can do in a recessionary environment is purchase long-term debt."

While acting forcefully to lower rates, Washington could also get banks lending again. Profit-pinched banks have been loath to pass lower rates on to their customers. At the same time, banks are so busy writing off mistakes of the 1980s that they are unwilling to risk making new ones. Finally, regulators have pressured banks to build up capital and be cautious.

One quick, painless, and not very costly way to boost bank profits would be for the government to pay interest on more than $20 billion in idle reserves that banks keep to back up deposits. David D. Hale, chief economist at Kemper Securities Group Inc. in Chicago, says that if banks were paid the current T-bill yield on reserves, it would boost their profits by more than $1 billion. If they were paid interest on reserves, he argues, banks wouldn't feel compelled to earn profits by keeping their prime lending rate so high.

Interest on reserves might help, says Albert M. Wojnilower, senior, adviser at First Boston Corp., but there are plenty of banks that are already profitable. Instead, he argues, banking regulators should impose broad growth targets for bank loans and other assets and ensure that banks meet those targets. "Banking is like a utility," he says. "You expect an electric company to generate electricity."

LOUD AND CLEAR

These ideas aren't entirely new, and they've had a mixed reception in the past. The U.S. Treasury, which sold $1.5 trillion in securities last year, has long held to the view that the smooth functioning of the government securities market requires that investors be able to choose from a predictable and broad spectrum of maturities. Some Reagan Administration officials floated the idea of shortening debt maturities in 1981, but they got nowhere. In the early 1960s, the Fed tried to bring long rates down by buying up long bonds in the open market, with limited impact. And even the force of law, embodied in the Community Reinvestment Act, hasn't prevented bankers from discovering ways to cut off some borrowers.

There are no guarantees that what investors and lenders fear—a return of inflation and a new cycle of bad loans—won't come to pass. Periodic spikes in prices, such as October's 0.7% jump in producer prices, only fan such worries. But there is a better chance of success if the government commits itself to low inflation and low interest rates with a policy that is loud, clear, and sustained. The aim is to change expectations and thereby boost confidence, spending, and borrowing. It won't happen overnight, and it won't happen if the government says one thing and does another. But inaction won't get the economy off dead center. These relatively easy measures just might.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. D'AMATO. Mr. President, I thank the Senator for having made available 5 minutes. I am going to continue to pursue this matter. It is important in order to get credit to America which desperately needs it. I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

NATIONAL COOPERATIVE RESEARCH ACT EXTENSION

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 479, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 479) to encourage innovation and productivity, stimulate trade, and promote the competitiveness and technological and leadership of the United States.

The Senate resumed consideration of the bill.

Pending:

McCain amendment No. 1698, to grant legislative line item veto rescission authority to the President of the United States to reduce the Federal budget deficit.

The PRESIDING OFFICER. Under the previous order, the Senator from Tennessee is recognized.

Mr. SASSER. I thank the Chair.

Mr. President, I rise this morning to raise a point of order against the pending amendment because it violates section 306 of the Congressional Budget Act of 1974.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. I move to waive section 306 of the Budget Act and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The yeas and nays were ordered.

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. SASSER. Mr. President, I yield myself such time as I might consume.

Throughout Eastern Europe, indeed, much of the world——

Mr. McCAIN. Could I interrupt and ask for a parliamentary inquiry as to the provision of time under the unanimous-consent agreement? I appreciate the indulgence of my friend.

The PRESIDING OFFICER. Under the previous order, the time is 2 hours, equally divided.

Mr. McCAIN. Between myself and the distinguished President pro tempore?

The PRESIDING OFFICER. The Senator from Arizona and the majority manager of the bill.

Mr. McCAIN. Under the rules, I believe that the President pro tempore should be allowing time to Senators.

Mr. SASSER. Mr. President, parliamentary inquiry. I was under the impression under the previous order I would be controlling time on our side for those seeking to sustain the point of order.

The PRESIDING OFFICER. The order provides division of time under the usual form. The Senator making the motion, and the majority manager controls the time.

Mr. SASSER. I thank the Chair.

Mr. McCAIN. In other words, 2 hours, equally divided, between the maker——

The PRESIDING OFFICER. Two hours, equally divided.

The Chair would inquire whether the majority manager——

Mr. BYRD. Mr. President, I ask unanimous consent that the time be equally divided between Mr. McCAIN and Mr. SASSER.

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

Mr. McCAIN. I thank the Chair.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. SASSER. Thank you.

Mr. President, I yield myself such time as I might use.

Throughout Eastern Europe and, indeed, much of the world, people are struggling and fighting for democracy. They are struggling and have struggled to throw off the yoke of totalitarianism. In this time, when people are seizing back the rights of representative government, all-powerful rulers, it is ironic, indeed, that Members of this body are seeking to give away the powers of this Congress, powers for which our forefathers fought and died, powers that are given to us under the Constitution, powers that are transmitted to us through that Constitution by the voters of this country.

The amendment before us seeks to make a fundamental shift in power from the Congress to the Chief Executive, to the Presidency.

The amendment seeks to change what happens if no one acts after the President sends Congress a rescission proposal under current law. The rescission dies after 45 days and the appropriated funds become available.

Under the amendment that is offered here today, the rescission would take effect unless—unless—the Congress stopped it within 20 days.

Under the amendment being offered here today, in order to prevent a rescission from taking effect, Congress would have to adopt and the President sign a joint resolution disapproving the rescission.

The sponsors of the amendment claimed that Congress could restore the funds with a majority vote. But, Mr. President, that begs the question. Since the President, would have just sent up the rescission he would be very unlikely to sign a joint resolution of disapproval—he would more likely veto it, and Congress would thus need a two-thirds vote of both Houses to pass the resolution without the President's signature.

It would reduce this body and our colleagues on the House side, the elected Representatives of the people, to no more than rubber stamps to the Chief Executive on matters dealing with the purse.

As the President pro tempore of the Senate warned so eloquently yesterday, the amendment before us today has very dire constitutional implications. The amendment seeks to give the President the functional equivalent of a line-item veto without having to pass a constitutional amendment, enhancing the President's veto power. This is a back-door approach, Mr. President, to amend the Constitution of the United States that has served this country so well for over two centuries, that has given us a constitutional government that is the envy of the world and that peoples all over the globe now are struggling to emulate.

The distinguished President pro tempore of the Senate has made this point so ably that I shall not belabor it here today.

Mr. President, the amendment conflicts with the constitutional principles of separation of powers. Giving the President this power would yield additional legislative powers to an already powerful executive. The President would be able to direct the writing of legislation under the threat of rescission any time he has 34 Senators on his side.

The amendment would also threaten the constitutional principle that the power of the purse—one of the few checks and balances Congress has on the Presidency short of impeachment—is vested with the Congress. The power of the purse is the power that legislatures in the English-speaking world have jealously guarded for centuries and generations, as the President pro tempore as effectively detailed yesterday.

It is a well-known fact that political power follows the power of the purse.

As a practical matter, the procedure that is being offered today would not balance the budget. After accounting for expenditures required by law, such as interest on the national debt and entitlements, so-called mandatory pay-

ments, the remaining discretionary expenditures subject to rescission amount to a very small portion of the overall budget. The proposal would apply to appropriations bills and not to authorization measures, not to revenue proposals.

The administration itself has consistently made the case that the appropriated portion of the budget is not the cause of our deficit problem.

The matter in the pending amendment, I might say parenthetically, Mr. President, is clearly within the jurisdiction of the Budget Committee pursuant to the standing order on the referral of the budget-related legislation. The Budget Committee has not reported either the pending bill or the pending amendment.

Under section 306 of the Congressional Budget Act, a point of order lies against legislation dealing with matters within the Budget Committee's jurisdiction if the Budget Committee has not reported it out. Under section 904(c) of that act, the votes of 60 Senators will be necessary to waive that point of order, as my colleagues know.

This is not the first time this matter has come before the U.S. Senate. The Senate has spoken on this amendment before, twice in the last 3 years to be precise. The Senate has wisely rejected attempts to waive the Budget Act for amendments that are nearly identical to that one before us today.

On November 9, 1989, the Senate voted 51 to 40 against waiving the Budget Act for a Coats amendment to enhance the President's powers of rescission. In other words, the proponents of the amendment fell 20 votes short of what they needed to consider the amendment under the rules.

Again, on June 6, 1990, the Senate voted 50 to 43 to reject a motion to waive the Budget Act for a McCain amendment identical in substance to the earlier Coats amendment. That day, the proponents fell 17 votes short of what they needed under the rules.

The proponents of the amendment make no secret of the fact that they are merely attempting to press the President into exercising a line-item veto, without a change in the Constitution and without a change in the law.

Mr. President, such a move by the President of this country would be a naked power grab of the most blatant kind. Such a move would fly in the face of the plain language of the Constitution. As the distinguished President pro tempore so ably explained yesterday, the history of the Federal Convention of 1787 very plainly demonstrates that the Founders did not intend to give the President such power.

Those who argue that the President already has a line-item veto point to article I, section 7, clause 3 of the Constitution, which states:

> Every Order, Resolution, or Vote to which the Concurrence of the Senate and House Of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill.

Advocates of the President's inherent line-item veto power argue that this clause allows the President to veto parts of bills because it provides power for the President to veto votes.

This position runs contrary to the history of the provision in the Federal Convention of 1787. The clause was added on August 15 and 16, 1787. At the close of debate on August 15, 1787, James Madison noted that the reference to bills in what would become the second clause of section 7 might create a loophole for resolutions. According to Madison's notes of debate at the Convention:

> Mr. Madison, observing that if the negative of the President was confined to bills; it would be evaded by acts under the form and name of Resolutions, votes et cetera, proposed that "or resolve" should be added after "bill" in the beginning of section 13, with an exception as to votes of adjournment et cetera—after a short and rather confused conversation on the subject, the question was put and rejected, the States being as follows,
>
> New Hampshire no. Massachusetts aye. Connecticut no. New Jersey no. Pennsylvania no. Delaware aye. Maryland no. Virginia no. North Carolina aye. South Carolina no. Georgia no.

Edmund Randolph proposed a revision of the proposed language the next day. Madison's notes recount:

> Mr. Randolph having thrown into a new form the motion, putting votes, Resolutions et cetera, on a footing with Bills, renewed it as follows "Every order resolution or vote, to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment and in the cases hereinafter mention) shall be presented to the President for his revision; and before the same shall have force shall be approved by him, or being disapproved by him shall be repassed by the Senate and House of Representatives according to the rules and limitations prescribed in the case of a Bill."
>
> Mr. Sherman thought it unnecessary, except as to votes taking money out of the Treasury which might be provided for in another place.
>
> On [the] Question as moved by Mr. Randolph
>
> New Hampshire aye. Massachusetts: not present, Connecticut aye. New Jersey no. Pennsylvania aye. Delaware aye. Maryland aye. Virginia aye. North Carolina aye. South Carolina aye. Georgia aye.
>
> The Amendment was made a Section 14 of Article VI.

The history of the constitutional provision cited by the advocates of the President's inherent line-item veto power thus shows that the Framers meant merely to ensure that joint resolutions and other legislative vehicles—not strictly bills—would be constrained by the same requirements as bills.

Many of the Framers who participated in the 1787 Convention went on to serve in the first Congress, which sent the President as its first appropriations bill an omnibus appropriations bill to fund all of the Government. Similarly, had James Madison believed that the language he called for at the Convention empowered the President to exercise a line-item veto, then surely he would have exercised it himself when he was President.

In sum, Mr. President, the President has no authority to exercise a line-item veto. If he does so in the face of the plain constitutional language to the contrary, he will engender a constitutional crisis of the first order.

Mr. President, in conclusion, I simply state that a point of order plainly lies against the amendment pending before us today under section 306 of the Congressional Budget Act of 1974. I urge all Senators to vote against waiver of that point of order.

Mr. President, I also designate the President pro tempore to control such time as I might have remaining under my control under the unanimous-consent request.

I urge all Senators to reject the motion to waive the Budget Act for the pending amendment.

Mr. BYRD. If the Senator will yield, Mr. President, I thank the distinguished Senator for his statement, I thank him for the position he has taken consistently, and I thank him for yielding the time.

The distinguished Senator indicated that, under the amendment the thrust would be directed toward the appropriations committees and appropriation bills.

May I say to the distinguished Senator that I have an amendment which, if the waiver is granted, I will offer to the amendment by Mr. MCCAIN. My amendment will put the authorizing committees, as well, under the tent, so that if there is going to be a line-item veto, it will not be just directed toward appropriations alone but it will be directed toward authorizing bills, as well. It will be across the board.

Mr. SASSER. I thank the distinguished Senator for that explanation. I agree with him. I do not expect this amendment to be successful. I expect this amendment to be soundly defeated, as have amendments similar to it on prior occasions. And I am sure that after our colleagues listened yesterday to the very extensive and exhaustive and, I might say, eloquent explanation made by the distinguished President pro tempore in opposition to this amendment, I expect that this amendment today will be defeated as soundly, if not more so, than those that have preceded it in prior years.

The distinguished President pro tempore, I think, raises a very valid point here. The proponents of this amendment are advancing under the guise of

seeking to reduce the Federal budget deficit. The problem that we encounter here is that this amendment would really impact only on the appropriated accounts, and a cursory review of the history of the Federal budget over the past 30 years would indicate very quickly that the problem is not the appropriated accounts. The massive growth in the Federal spending has occurred in the so-called mandatory accounts, the so-called entitlement areas and, of course, they would not be impacted at all by the amendment offered by the distinguished Senator from Arizona.

Also, it would not impact on the problem of the interest on the debt. That has become the fastest growing component of the Federal budget, I am sorry to say.

So what we are being asked to do here in the final analysis is really to do damage to a well-established constitutional principle that springs from Anglo-American history, that is time-proven, and that has been proven by over 200 years of experience in this country, and proven by many centuries of experience by our friends across the Atlantic in the British Isles.

There was an old saying that was popular around here a few years ago that went something like this, and in the vernacular it was: "If it ain't broke, don't fix it." And this budget process of ours is not broken to the point that it needs this sort of Rube Goldberg, jury-rig fix which, in my view, would make matters only worse and give the people of this country even less control over their own affairs than they have at the present.

Mr. President, I am going to yield the floor at this time and, as I said earlier, the distinguished President pro tempore will control the remainder of the time.

The PRESIDING OFFICER. Who yields time?

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I cannot help but comment on the statement of my distinguished friend from Tennessee that the budget process is not broken sufficiently. Anyone who looks at our $4 trillion debt and thinks that the system is not broken, I suggest might take another look. And that view is certainly not shared by the overwhelming majority of the American people who, for generations to come, will have to shoulder the burden of this broken budget process.

I would like to yield as much time as he may consume to the Senator from Indiana.

Mr. COATS. Mr. President, I thank the Senator from Arizona for yielding time. I also will save most of my remarks for closing.

Let me take this particular opportunity to just explain to our colleagues exactly what it is we are looking at here, because I think there are some misconceptions within the Chamber and among certain Members as to what this bill actually does, and what it does not.

It does not gut the ability of Congress to control the power of the purse. It does not take away our ability to exercise spending authority, to make decisions about how we ought to spend the taxpayers dollar.

What it does is attempt to right an imbalance that in this Senator's opinion was created in the 1974 Budget Act, which in response to an exercise of impoundment which was exercised by then President Nixon in an attempt to control what he felt was excessive Federal spending, the Congress enacted a provision which was designed to restore, in Congress' view, some balance between the legislative branch and the executive branch.

But what we have seen since 1974 is the creation of a significant imbalance. Because in attempting to restore a so-called balance, we took away from the executive branch a power that it had exercised for nearly 200 years under our Constitution. In doing so, what we found is that the Congress tipped the scales dramatically in its own favor and literally wrote the executive branch out of the ball game.

Because what happens now is that legislation is sent to the President on a take-it-or-leave-it basis, an all-or-nothing basis. Massive appropriations bills, appropriating hundreds of billions of dollars, are laid on the President's desk and the President has no authority whatsoever to look at that legislation and say: I like 85 percent of it; I like 95 percent of it; I like 99.9 percent of it; I just am not willing to accept what I think is a totally unnecessary line item of spending that was clearly attached for the benefit of a few, or perhaps even one Member of Congress because they happen to be in a position to attach that.

There was no hearing, no debate, no separate public discourse or Senate discourse on the item, and no accountability, no vote; simply an item stuck in to benefit a small purpose. That is not what the Federal Government is about, and that is not what I think it should be about.

I think the misconception comes at this point, because I think Members think, well, if we give the President authority under the McCain-Coats legislation, then the President will simply line that item out, and that is the end of it, and the Senate and the House—the Congress—will have no recourse. That is not true.

That is not what the legislation propounds. The legislation simply attempts to restore a balance wherein the Congress can send the President anything they want, and the President can look at this and simply say: I will take all of it except A, B, and C.

And the President then sends back in a message to Congress those items that he does not think appropriate, and the Congress then can overturn the President's decision by simply voting a resolution of disapproval. And in doing so, it can restore that item that it had attached to that bill in the first place.

Now, of course, the President has veto power over that, like he has veto power over anything else that we send him. What will this do? It simply will force Congress to justify its spending; it will force Congress to debate and to put light on its spending; it will force Members to come to the floor or to the committees, or whatever, and simply say: I think this is a priority; let me tell you the merits of this particular project.

If he can convince, or she can convince, 50 of his or her colleagues, then that item will be restored.

So it creates a balance that was lost in 1974. It creates a new balance of equity between the two branches. It does not deny any Member of Congress the right to attach anything he wants to any bill that he wants.

I suspect that what will happen is that, knowing that the Executive has the ability to line-item, Members will be a little more careful about which items they ask to be attached to bills. And they will select those items they deem justifiable in the eyes of their colleagues, justifiable in the eyes of their constituents, justifiable in the eyes of the American people, because they know there might be some light shed on that particular item.

Annually, this body goes through public embarrassment as the media and the American public hold us up to ridicule for items that are attached to bills that have no relationship to that appropriation whatsoever, that are obviously self-serving. It becomes the butt of jokes on late-night talk shows, and it denigrates this institution.

If we cannot enact a simple procedure whereby we exercise some restoration of balance and restraint on the way in which we spend taxpayers' money, particularly at a time when we are running an annual deficit of $300-and-some billion—and some say more, depending on how you account for some items—and our national debt is approaching $4 trillion; if we cannot exercise some element of restraint, then I think this institution is incapable of dealing with some of the bigger questions that admittedly have to be answered.

Senator McCAIN and I have never intimated or claimed that this legislative line-item veto will solve all of our deficit problems. It will not solve all of our deficit problems. It only affects a certain portion of spending. It does not do anything to entitlement spending or mandatory programs.

It is not an insignificant amount. GAO has estimated that in the 5-year

period in the mid-eighties, had the President had this authority, we would have saved $70 billion. That is not an insignificant amount.

Will that balance the budget? No. Will that eliminate our national debt? No. But it is a start. It is a step in the right direction; it is a first step. If we cannot take the first step, how can we take bigger steps? At some point, this institution is going to have to face up to the music; they are going to have to look at that debt. They are going to have to stand and face future generations and explain why it is that we are saddling them with so much debt.

We do not have the political will or the political courage to do this as an institution right now. But I hope that we will at least have the political courage and the will to take a small step in restoring what I believe in some equity to the process. It is almost as if we are addicted to spending, and we need something to save us from ourselves.

So the legislation that is before us, S. 196, which I introduced on January 3, 1991, along with Senator MCCAIN and nearly 30 of our colleagues here in the Senate, the Legislative Line-Item Veto Act of 1991, requires that the President determine that his rescission that he sends forward will help balance the budget, reduce the Federal deficit, or reduce the public debt, and will not impair any essential Government functions. Do not let anyone be laboring under the misconception that this is going to impair an essential Government function, because the President specifically has to certify before he sends his rescission that it does not do so, and that the rescission will not harm the national interest.

It is a pretty rigid test. It does not mean the President can willy-nilly take out some of the important programs we feel are essential to the operation of this Nation and the functioning of this Government. Do not let anybody come down to the well of this House and vote, thinking that this is going to take out Social Security; this is going to take out needed veterans' benefits; this is going to deny poor, indigent women and others needed Government benefits. That will not be the case under this.

We know what this will do. This will stop the pork barrel that has been held up to ridicule every year in the media and among the public; that is the butt of talk show jokes that ridicule and denigrate this very institution.

That is what we are after.

There is a procedure set out, a reasonable procedure, that will ensure that this institution, this body, will responsibly handle the request in an expedited period of time.

There are procedures set out that will ensure that we do not play the usual games in maneuvering the legislation so that we do not have an up-or-down vote on the very item in question; so that the amendments are not procedurally fuzzed up so that the public does not know what we are doing. There are expedited procedures so we do not tie up this Senate on items that some might consider trivial in endless hours of debate.

It is a bill that was forged with tough, hard negotiations between Members of this body who have been active on this issue for a considerable period of time, who each had their own ideas about how we might begin to fashion some reasonable response to a public clamoring that we do something about excess spending in this body.

We gathered together in a number of sessions, and we hammered out a proposal; we ran it by constitutional experts and others; we sought the very best advice that we could get. And we came up with S. 196.

And that is the issue that we are voting on here today. That is the issue that Members need to be aware of, the procedures that are set out here and the fact that this is not an egregious usurpation of legislative authority. It is simply a restoration of equity and balance, and frankly, it is a way to save us from ourselves.

It is embarrassing to me. It is embarrassing to my constituents. It is embarrassing to the American public how we spend their tax dollars and at the same time go back and tell them we are in dire straits, that the national debt and the deficit prevent us from passing programs that many think are needed, that address very real concerns of this country.

But, no, we do not have the funds to be able to do that. And yet we have the funds to fund a whole list of items that GAO said totals in the billions of dollars. We have the ability to do that. The public looks at those and says, "That is the most self-serving piece of legislation I have ever seen. What does that do for the national interest? What does that do for national priorities? What does that do for future generations in terms of their ability to pay back this national debt?"

If we cannot take this small step today, then I do not know what larger steps we will ever be able to take. So I am urging my colleagues to carefully look at this legislation, see it for what it is, and come down here and have the courage to take that first step toward fiscal responsibility.

Mr. President, I thank the Senator from Arizona. As I said yesterday, he has been a tireless crusader for this cause. He has encouraged me when I thought maybe we do not need to go ahead, because each time we bring it up we just cannot seem to muster the necessary majority. He has said, no, we need to stay on this, we need to keep going, we need to keep making the point because at some point the American people will become so outraged over our inability to get any kind of control or fiscal sanity in this situation that they will demand that their Senators come down and support this effort. So let us keep going.

I appreciate the incentives and bucking up that he has given me to keep my eyes focused on the goal, keep focused on the problem, and keep pursuing this effort. And I thank him for his invaluable help and his persistence. It has been a joy to team up with him on this. I think we can assure our colleagues that we are going to keep talking about this, keep raising this question until this body and the American public insists that it face up to its responsibilities in a responsible way.

Mr. President, I thank the Senator for the time. I am hoping to reserve some for final argument before we vote.

The PRESIDING OFFICER. Who yield time?

Mr. MCCAIN. Mr. President, I yield 5 minutes to the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized for 5 minutes.

Mr. SMITH. I thank the Senator from Arizona for yielding.

I want to commend him and Senator COATS for their leadership on this very important issue. The line-item veto is something that the American people support. It is something that is necessary to move this budget process off center and away from a $4 trillion national debt, which we now have at our disposal, which our children now are going to be forced to pay for and their children as well; as a matter of fact, probably their grandchildren and the grandchildren beyond that before this $4 trillion debt is paid off.

This is only one small way to deal with it. The process is broken as Senator MCCAIN commented a few minutes ago in response to Senator SASSER, the process is very much broken. The American people know that it is broken, and the line-item veto is one way to deal with it.

It was said on the floor yesterday that some of us who are out here in favor of a line-item veto would not support that veto were we to have a Democrat in the White House. Let me go on the record as saying I support it if there is a Democrat in the White House. I hope that does not happen in the near future, but, if there is a Democrat in the White House, I will still support the line-item veto because the President ought to have that authority because he can make decisions that the Congress apparently does not have the courage to make in terms of budgetary matters.

What this amendment will do, the amendment of Senator MCCAIN and Senator COATS, will, frankly, make the Congress do one very simple thing: vote in the light of day on many of the projects that we are so intent on fund-

ing with borrowed money. We are going to have to be held accountable. That is the issue.

If there were a rollcall vote, would we spend $1.7 million for a facility to study how to genetically alter africanized honey bees to make them less aggressive? Would we spend $1.7 million on that if there were a vote? I do not think so. The line-item veto, even with a Democratic President, I think, would line that out.

If there were a rollcall vote, Mr. President, would we spend $225,000 to build an onion storage facility at the University of Georgia? I do not think so.

If there were a rollcall vote, would we spend $1 million to refurbish a sports stadium in New Orleans?

And if there were a rollcall vote, would we spend $5 million on a parliament building in the Solomon Islands?

How about $25,000 to study the location for a new House of Representatives gymnasium? Mr. President, would we spend $25,000 for that if there were a rollcall vote?

All of these items and many more like them, hundreds of millions of dollars more like them, would be lined out by any President of the United States, but they will not be lined out by this Congress.

It is morally wrong, as Senator MCCAIN said yesterday, to tell a veteran or a person on Medicare or a child that needs a vaccination that we cannot find money for that when projects like this are being funded every year in this Congress. It is morally wrong. How do we tell 17,000 workers that are going to be laid off at General Motors that their Government appropriated $140,000 for swine research in Minnesota? That is what we are doing.

This Nation is in debt. Every child born as we speak right now is $13,000 in debt. My advice to all of the American people to pay your debt today because it is going up. It is going to be more than $13,000 by the time the debate on this matter is finished. A family in New Hampshire unable to make ends meet, or in Arizona or Indiana or West Virginia does not need to go out all night on a spending spree, and neither should their Government.

Yesterday Senators listened to a very detailed and exhaustive argument against the line-item veto. Senators should be aware that this amendment would in no way amend the Constitution of the United States nor be in direct conflict with the Constitution of the United States. All arguments against the line-item veto amendment in the Constitution are null and void. This amendment is not about that issue at all. I could go out and argue against tax increases until I am blue in the face, but if the body is not debating a tax increase, then the discussion would be pointless. Similarly, the argument we have heard against amending the Constitution are also groundless. This debate is about enhanced rescission power. Every year the President sends a list of recommended rescissions to the Congress, and every year the vast majority of those rescissions are totally ignored by the Congress. The McCain-Coats amendment would simply allow those rescissions to take effect.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SMITH. Mr. President, I ask unanimous consent for 2 additional minutes.

Mr. MCCAIN. I yield 2 additional minutes to the Speaker.

The PRESIDING OFFICER. The Senator from New Hampshire has 2 additional minutes.

Mr. SMITH. I thank the Senator from Arizona.

It is no more complicated than that. Yet we were told that many of the pork items commonly mentioned were not line items at all; they are simply in committee reports that are nonbinding. And that is the truth. If that is the case, what is all the opposition about? The fact is, every year there are dozens of lime items that could be rescinded.

This Senator will state right now that I will support this proposal for the line-item veto, and I might add I would support that if the distinguished chairman of the Appropriations Committee were President of the United States. I would trust him to have the line-item veto. I think it is important that the line-item veto be there for the President, and if it is, I think we can get a handle on this wasteful spending. It is a small start, but it is a small start and a big start at the same time. It might be one small step for the Senate, but it is a big step, a giant step, for the people of the United States of America.

I thank Senator MCCAIN for his leadership on this issue and appreciate the opportunity to be able to speak in favor of his amendment.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. I thank the Senator from New Hampshire for his years of effort on behalf of fiscal sanity and I am grateful for his remarks. I think they contribute enormously to this debate.

Mr. President, it is my understanding under the unanimous-consent agreement that Senator DECONCINI was allowed 10 minutes. I see he is here. I think it is appropriate, if he cares to, that he proceed at this time. I also, if I could, would ask the distinguished chairman of Appropriations Committee, I think it is appropriate that he, obviously, speak last in this debate. I am more than eager for him to do so.

I wonder how much time he would need at the end so we could possibly balance it out. Would 10 minutes be agreeable? Or would he care to discuss that?

Mr. BYRD. Mr. President, I think 10 minutes would be ample for me at the end.

Mr. MCCAIN. Yes, sir.

Mr. BYRD. I am prepared to go somewhat longer and I hope I will be able to do so, but 10 minutes at the end will be fine.

Mr. MCCAIN. I thank the distinguished chairman and I will try to balance the time so there is 10 minutes available at the end for summary. I thank the Chair.

Mr. DECONCINI. Does the Senator yield the floor?

Mr. MCCAIN. I yield.

The PRESIDING OFFICER. Senator DECONCINI is recognized.

Mr. DECONCINI. Mr. President, I thank my colleague, Senator MCCAIN, for yielding the floor.

Under the order I understand I do have 10 minutes.

The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

Mr. DECONCINI. I am sorry to have to rise in opposition to my colleague's efforts, to impose a constitutional change through statutory procedures. As the distinguished President pro tempore has pointed out on a number of occasions—and certainly last evening was a remarkable statement of why we have the system we have and how important it is to us—it is really important to look at the practical aspects of the so-called line-item veto.

We all like to think how great that is. Just give it to a President and let him strike everything he wants. After all, 40-some Governors have it and look how wonderful their States are.

Look how wonderful their States are and you will see a lot of problems in their States. You will see legislators and you will see former Governors—as the former Governor of Oregon, Senator HATFIELD pointed out very clearly. Some 26 years ago, I believe, when he was Governor—what did they do? They padded their budgets, exactly what they do in the State of Arizona.

Democrats and Republicans will tell you just pad it and put extra stuff in there so we are just playing a game here.

The important thing is, in my judgment, that in representing your State you have to determine what you are going to do for your constituents. Let me just give an example so nobody is under any pretense that this is partisan, Democratic or Republican.

When Jimmy Carter was elected President in 1976 and took office in 1977, what did that nice man do? He was indeed a very nice man and good President, with the exception of this particular area of great concern to me. He immediately came up with a hit list of water projects, 18 of them. One of them happened to be the Central Arizona project, which is our lifeblood. Thanks to the distinguished chairman of the Interior Committee—and Appro-

priations Committee—and others around here, they have felt that the commitment made by Carl Hayden and Barry Goldwater should be maintained. And during the Carter administration and the Reagan administration, there were attempts to completely cut that project out and every year the Congress insisted on full funding of that project.

Had a line-item veto been in place, Jimmy Carter would have struck that project along with 17 others.

When President Reagan submitted his budget, in the early eighties, it called for a reduction and actually an elimination of the cost-of-living increase for Social Security. Guess who saved that for the Social Security recipients? The Congress of the United States; Democrats and Republicans said no. We put it back in.

If you had the true line-item veto that included entitlements, the President would have struck that. Then we would have had to override a veto.

That is really what this is in this process here today. This legislation sets up a veto fight, though it is a 20-day time period and then another 20-day time period to adopt it by a majority, then the President vetoes it and it comes back and Congress has to have a two-thirds vote to override.

So, look, for example, at the Barry Goldwater Science Center at Arizona State University. It was an appropriation that the Senate decided was important, and the House went along with, in honor of Barry Goldwater and to improve education in engineering for the people in my State, and for anybody else who comes to the State of Arizona. We invested taxpayers' dollars to get better engineers.

President Reagan, in the White House, and the OMB, said that it was a bad project. It was even listed as a "pork barrel" project. That building is up now, students are going there, they are learning about engineering and they are contributing to our society. With a line-item veto that project would have been wiped out.

There are a host of these different kinds of projects. In the veterans area, veterans job-training programs. Who has increased and maintained them every year? It has been the Congress. And who has been opposed to it? It has been the administrations, including Democratic administrations. That would certainly be a candidate for line-item veto.

Agent Orange. The Bush administration opposed the increase of specific moneys added to the medical care account for treatment of the victims exposed to agent orange from the Vietnam war. Congress put it in. The administration opposed it, but they did not have the line-item veto.

If they really are opposed to something, all they really have to do is veto the bill. We know that so well, in this body, with 24 of 25 veto messages from the President who occupies the White House now. Not one of his veto messages has been overridden.

The Office of National Drug Control Policy, is a program near and dear to me. For the last several years the Congress, over the objections of OMB, has funded moneys out of the Office of National Drug Control Policy for State and local governments; $32 million last year. We decided that we should fund this for high-drug-intensity areas. There are five of them.

One of them happens to be the Southwest, which includes the States of Arizona, California, Texas, and New Mexico. And that little bit of money goes to local law enforcement to work with the Federal law enforcement. For reasons I do not know, the drug czar, OMB, and the White House, each say no. If there was a line-item veto that would have been struck and we would not have had that.

The drug czar special forfeiture fund is another one. It provided 75 new border patrol agents and $10 million for residential drug treatment. This was something that had not been proposed by the administration and, in fact, they said in their testimony they could not afford it. It was not a bad idea. They could not afford it.

Had that $10 million not been there, drug addicted women with children would not be living together in treatment centers today in Tucson, AZ. That is the reality of it. The counternarcotics R&D—$20 million the administration said we do not need to spend—would have been line-item vetoed. Additional IRS agents to go after drug dealers for a grant total of $6 million.

United States-Mexican border facility, $200 million this Congress has put in to improve the construction account and build improvements of border facilities. The administration opposed it. OMB testified in my subcommittee that we should not have these because they are not on a priority list. And we said no, they are on a priority list and we are going to do them. And they are under construction right today. Line-item veto would have wiped them out.

That new port of entry being built in Nogales, AZ, and Douglas, AZ, would not have been there if the line-item veto was in.

Native American construction programs: The Bush and Reagan administrations have consistently provided zero funding for a number of important programs for Indian country. Congress consistently funded—and my dear friend, and I am deeply obligated to him for his willingness to consider these projects on a one-by-one basis as they come up in the Interior Appropriations Committee—has continuously funded hospital construction for Indians, when the administration has zeroed them out.

The BIA elementary school construction program again zeroed out by the administration and Congress funded it.

Impact aid—where the administration sought to eliminate impact aid part B. We happen to be a State that has 70 percent of our State owned by the Federal Government, including Indian lands, we get a little bit of assistance on that impact aid for those students. The administration says, no; Congress funds it.

These are the kind of things that would be cut by a line-item veto. Do not let anybody kid you.

Community service block grants, again something the administration has consistently not funded. We have felt it is important. We have funded it.

The food banks, the rural housing, services to migrant workers, poverty fighting programs, the list goes on and on all part of community services block grants.

The Turquoise Trail, is an outstanding project that was put in by my colleague from Arizona to bring transportation and economic development; it was on the hit list of the administration to be wiped out.

Let us talk about a program that is not in Arizona for just a minute. How about Amtrak? We like Amtrak in Arizona but it only comes once in a while and it is not so crucial to us as it is to the Northeast. But there are a lot of Republican and Democratic Senators that Amtrak is absolutely fundamental to their economic development. New York is a good example. They have to have Amtrak and those Senators add money to the budget. And this Senator adds his vote for that money when the administration calls for zeroing it out. That would be a target of any line-item veto.

It goes on and on, Mr. President.

James Kilpatrick, a staunch conservative, states that a line-item veto would give "more power than Presidents ought to have."

President Taft, a Republican, said that remedies such as those suggested here are "A temptation to its sinister use by a President eager for continued political success."

How many people want the OMB Director to call them and say, "Senator, you know we have a base in your State that is threatening to be closed, and I'm sure looking at it as favorable as I can. By the way, Senator, I need your vote on the Clarence Thomas nomination, or the Robert Bork nomination, or the John Tower nomination." Do not let anybody be fooled, Democrat or Republican, you give that kind of power to the President and they are not babes in the woods. They are going to use it, and use it to get what they want. And they are going to take the heart out of our capabilities to represent our constituents.

The PRESIDING OFFICER. Who yields time? The Senator from Arizona.

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

Mr. President, I would like to begin by thanking the many groups who made this effort possible. These groups include Citizens Against Government Waste and its 450,000 members, the National Taxpayers Union and its 200,000 members, the United States Business and Industrial Council and its 1,500 members, Citizens for a Second Economy and its 250,000 members, and the Coalition for Fiscal Restraint, known as CoFIRE, and 83 of its member businesses and organization. Their hard work and dedication has made this effort possible and has offered encouragement to me and Senator COATS, and letters by the hundreds of thousands have poured into this body in support of fiscal sanity.

I also thank the President pro tempore for his outstanding scholarship outlining our Anglo-American political heritage. I comment his statement to all of our Members to read as a very profound and scholarly document and one of the continuing contributions that he makes to the knowledge and information for not only Members of this body but all Americans.

But we are not here to debate Anglo-American history. What we are talking about, Mr. President, is what has happened to out Federal budget since 1960.

Let me say it again. In 1960, the Federal debt held by the public was $236.8 billion. In 1970, it was $283.2 billion. In 1980, it was $709.3 billion. In 1990, it was $2.4 trillion, and it is expected to surpass $4 trillion within the next year.

Mr. President, the system is broken. It has to be fixed. What are we doing to our children and our children's children by amassing a $4 trillion debt?

I think it is interesting to look at those numbers and see what happened around 1974 because what this is all about is not a change in the Constitution. It is clearly a revision of the 1974 Budget Control and Impoundment Act which up to that point the President of the United States had exactly the authority that we are trying to give him with this bill.

Last night the President pro tempore made a few interesting comments, many interesting comments about those who support the line-item veto. He stated, and I quote, "The average citizen who is concerned about spiraling budget deficits cannot be expected to understand the intricacies of appropriations bills." He also stated, "Or they are just engaging in demagoguery by using the item veto to avoid tough political decisions and knowingly playing upon the ignorance of honest souls who are uniformed concerning the complexities of the appropriations and budget process."

Mr. President, I wonder if that applies to three of the Democratic Presidential candidates who have all announced their support of the line-item veto.

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

Mr. McCAIN. Yes.

Mr. BYRD. It does.

Mr. McCAIN. Pardon me?

Mr. BYRD. It does. I so stated yesterday, including the present President in the White House and his predecessor.

Mr. McCAIN. I thank the Senator for filling me in on that, particularly since we have letters that I know the distinguished chairman has heard me quote. Senator Paul Tsongas, a Democratic candidate for President supports the line-item veto. He believes that it is an effective way of reducing waste in Government. I remind my colleagues that Senator Tsongas was a Member of this body for some time.

Governor Clinton: "I strongly support the line-item veto because I think it is one of the most powerful weapons we could use in our fight against out of control deficit spending."

And we also know that Gov. Jerry Brown, a former Governor of the State of California, strongly supports the line-item veto.

I do not believe that they are engaging in demagoguery and I do not believe they are ignorant or uninformed. I think they are informed, and I think as Presidents of the United States, the job that they are seeking, they would feel great comfort in having the ability to bring the out of control spending under control.

Mr. President, the average citizen, in my view, is not ignorant nor uniformed. The average citizen knows when his or her pocket has been picked. The American public supports line-item veto because they are well informed about the intricacies of runaway spending, out of control deficits, and ever-increasing tax burdens. The American public knows the score.

Mr. President, they are being informed on a regular basis with publications such as one recently published called the "Congressional Pig Book Summary." I am embarrassed by that document. I think all of us should be because many of the items that are listed there are clearly not necessary.

As my friend from Indiana mentioned, we are now the butt of jokes on late night talk shows. I resent that, too. I think the body deserves better, and we can deserve better, and will receive better if we enact some kind of fiscal sanity. The American public may not be well versed in the intricacies of Anglo-American history but they know full well the Earl of Kent's court would never have proposed a study of cow flatulence.

I again want to thank the President pro tempore for his eloquent discourse on our Anglo-American history, but as I mentioned, we are not here to debate ancient Anglo-American history. Senator COATS and I are here to solve a problem that affects every American today. Our effort is not, as the chairman of the Appropriations Committee characterized, quack medicine or snake oil. I believe it is an effort to reform a system that is broken.

I will again bring to the attention of the Senate $3.7 trillion of public debt as irrefutable evidence of that. The constitutional criticisms of the amendment are unfounded. As I mentioned before, we are not amending the Constitution, we are amending the 1974 Budget Control and Impoundment Act. I would have liked for us to have simply an up-or-down vote on the issue rather than it be subject to the Budget Act, but obviously that is within the rules of the Senate.

Mr. President, we are not capable of following a simple law which says, and this is our law: "No funds may be appropriated for any fiscal year or for the use of any armed force or obligated or expended for procurement R&D," et cetera, "unless funds, therefore, have been specifically authorized by law."

Mr. President, last year we added $6.3 billion of unauthorized spending to the Defense appropriations bill which for the first time cause me to vote against the Defense appropriations bill. Mr. President, the reason why I did so is because we spent money like $10 million on a small college in Pennsylvania to study the effects of stress on the military which was over one-third of that college's budget; and at the same time the very, very same time we are telling tens of thousands of dedicated young men and women who joined the military for a career on a voluntary basis that we cannot afford to keep them, so they have to leave.

Mr. President, $6.3 billion would pay for the personnel and operating costs of 195,000 enlisted personnel in the Air Force for 1 year. Or it would pay for the operating costs of up to 16 carrier battle groups for 1 year. Or it would pay for the operating costs of eight to nine fully armored Army divisions. Or it would pay for the operating costs of 14 to 15 light infantry divisions for 1 year. Or it would pay for the total operation of the soon to be closed Williams Air Force Base in Arizona for 50 years.

I resent again what we are doing to these young people, many of them minorities in our society, who sought a military career as a way to better themselves in our society and we are telling them we cannot afford to keep them.

Mr. President, this is a chance for Congress to change the score. This is a chance for Congress to succeed where it has failed over and over again. And here is a chance for substantive reform, reform that 600 years in the future may cite as a major improvement in our republican system of government.

Let me remind you that in modern economic history, every time Government spending exceeds roughly 19 percent of GNP, we have found ourselves

in recession. Now Government spending consumes 24 to 25 percent of our gross national product. We have to give Americans a fighting chance and we have to eliminate the wasteful and unnecessary spending.

Let me quote, Mr. President, and I will not take too much longer, from the preamble to the U.S. Constitution. It states:

We the People of the United States, in Order to form a more perfect Union, establish justice, insure domestic tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

To secure the blessings of liberty to ourselves and our posterity. The Congress over the last 30 years has failed in its constitutional obligation to secure the blessings of liberty for posterity.

This debate is not about ancient history. This debate is about the future of our children. I ask my colleagues to consider the future of their children and the future of our country and vote to waive this point of order so that we will not lay this unconscionable burden which is now $13,000 for every man, woman, and child in America and enact the line-item veto.

Finally, Mr. President, let me say I do not expect to win this vote. We are able to count. We may do better than some people think because the heat is on. But I do not expect to win this vote. I believe that there is a great opportunity here, and I have some optimism that the President of the United States, following this failure again, would go ahead and exercise the line-item veto on some item and then take it to the courts and to the American people.

There is no doubt every poll shows that well over 70 percent of the American people support the line-item veto. Every one of them that I know is fed up with the wasteful and inefficient spending practices of our present budget process.

I hope that the President will veto it. I believe he will, and then we will allow the courts and the people of the United States a decision in this process. I have some confidence that it may come out in the proper direction. If it does not, I do not see how we are worse off than we are today.

Mr. President, I want to thank again the President pro tempore of the Senate for all his courtesy and his eloquent depiction of his view of this debate, and I want to thank all my colleagues for their support.

Mr. President, I ask unanimous consent to add Senator GRASSLEY as a cosponsor.

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

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

The PRESIDING OFFICER. Who yields time?

Mr. MCCAIN. I yield 5 minutes to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. MCCAIN. Mr. President, may I ask the time remaining on both sides?

The PRESIDING OFFICER. The Senator from Arizona controls 24 minutes and 40 seconds, the Senator from West Virginia controls 41 minutes and 37 seconds.

Mr. MCCAIN. I yield 7 minutes to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 7 minutes.

Mr. BROWN. I thank the Chair.

I rise in strong support of the line-item veto. I want to express my gratitude to the distinguished Senator from Arizona for his leadership on this issue as well as his great efforts to bring this issue to fruition.

I also want to acknowledge the heavy burden and the strong work of the distinguished Senator from West Virginia. The distinguished Senator from West Virginia is in a tough spot. He is faced every day with requests from Members of this body for appropriations. He is faced with the tough job of trying to sort those out and set priorities.

I believe that this measure makes sense. I believe the line-item veto is an important change that must take place. I think one may well reasonably ask, why change the system? The distinguished Senator from West Virginia has made an eloquent plea against change in this regard.

I must say, Mr. President, I believe the facts are quite clear that this Nation has to change. We can no longer afford to go on as we have. Whether Democrat or Republican or liberal or conservative, every American has to be concerned about the fact that the biggest part of our budget today is not defense, not welfare, not assistance but interest on the national debt.

Americans are required to work longer and harder simply to pay interest on past debts than at any time in our history. That is a tragedy. It is a tragedy for Americans, not only working men and women in this country, but a tragedy for our children and grandchildren who inherit an enormous debt that overhangs our country.

We need change. This Nation, if it is to survive, needs a change. The fact is we consume most savings that cap the formation of public deficits instead of being willing and able to reinvest it in our future and the future of our children. There is no question that we have to change the way we budget because it will consume our future if we do not.

Much has been said in this debate about the heritage we have and of which we are all so proud. But, Mr. President, I believe if there is one message, if there is one thought, if there is one common thread that underlies our proud heritage of government and our Anglo-Saxon heritage from Great Britain, the British Parliament, that has followed us down though this Constitution, it is this: Americans have been suspicious of concentrations of power. We did not like it when King George ruled us. The one common thread we set up when we established this Constitution was to divide power, to make sure someone could not abuse power. Power corrupts. Absolute power corrupts absolutely. What we have seen is an overconcentration of power in the appropriations process, and this begins to break it up. It is in the very spirit of the American tradition.

Third, Mr. President, I thing it is important to examine what happens in our society with insider trading. Insider trading in the stock market puts people in jail. But what does it do with regard to appropriations? The simple fact is that many of the items for which this country appropriates money have not seen the light of day, have not been authorized, have had no hearings, are not subject to competitive bid. What we are suggesting with the line-item veto is that we end the practice of insider trading in Congress. This allows items that have not had hearings, have not been open to the light of day to be itemized and brought out and provide a separate vote.

That light of day is what we are talking about. We are talking about giving people the opportunity, the chance to take a careful look at what is passed. We are all aware of the process. We are all aware that things get rolled into large bills. It becomes very difficult to get a separate vote on them or to take them out.

This line-item veto means one thing—not an advantage to Democrats or Republicans because it is nonpartisan both in the support it has and the impact it will have. It means better and more efficient use of the taxpayers' dollars. It means an end to insider trading. It means an opportunity to bring to the light of day how we spend our money, and ultimately it means a break for the hardworking men and women of this country who will have an opportunity to at least have a fair shake when appropriations of their money are made—at least have an opportunity to have a hearing, at least have an opportunity to make a comment.

We ought to end the insider trading. We ought to follow our concern about having limited Government. We ought to change the devastating path that we are on with regard to deficit spending.

Mr. President, I intend to vote for the line-item veto and continue to work for it. I believe before this decade is out, we will see a constitutional amendment for a line-item veto pass, not only because it is the right thing to do but because it is essential if America is to have the future we all want for our children and grandchildren.

I yield back the remainder of my time.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. COATS. Mr. President, I wonder if I can inquire how much time remains on each side?

The PRESIDING OFFICER. The Senator controls 18 minutes and 50 seconds; 41 minutes and 37 seconds on the other side.

Mr. SPECTER. I would request 5 minutes and may not use all of it.

Mr. COATS. The Senator is speaking on behalf of the amendment?

Mr. SPECTER. Absolutely.

Mr. COATS. That is what I assumed. I have a number of requests, and Senator MCCAIN controls the time. I do not see him on the floor. I wonder if the Senator could take 3 minutes and then perhaps I can track Senator MCCAIN down and see what other requests he has.

Mr. SPECTER. I would be glad to start there.

Mr. COATS. Mr. President, I yield 3 minutes to the Senator from Pennsylvania.

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

Mr. SPECTER. Mr. President, I support the line-item veto because I strongly believe that the deficits which are being incurred are a national scandal. We are living on a credit card and are imposing these burdens on future generations, and, simply stated, it is categorically wrong.

I happily supported and voted twice on this floor for constitutional amendments for a balanced budget, have supported a line-item veto in previous votes, and have sponsored and supported constitutional amendments for a line-item veto.

These are difficult matters to implement but I believe it is urgent that we do so. In my legal opinion, Mr. President, there is a constitutional basis for the President to exercise the line-item veto without a constitutional amendment. I think he has the authority to do that at the present time.

I have been on the Appropriations Committee for my entire tenure in the Senate. I believe that it is appropriate for the President to exercise a line-item veto, and then to bring it back to the Congress. I would favor an approach which would allow the Congress to override the line-item veto by the simple majority. But there is no reason ultimately why expenditure items in these complicated budgets should not be submitted to the light of day.

I know that structure is not contained in this bill, but we are exploring this subject. I have no illusions as to the passage of this amendment at the present time, but this is an ongoing effort to bring some responsibility into our budgeting process.

I recall very well President Reagan's speech where he had a continuing resolution on the agenda which had been presented to him; it was in the 1988 State of the Union speech. He had the bill precariously positioned on the edge of the podium, I think for dramatic effect, wondering whether it is was going to fall off.

The next year the Appropriations Committee did appropriate separately on 13 bills, which is the minimum that the Congress can do. But beyond that, it is entirely fair and appropriate that the Chief Executive of the United States, the President, shall have the authority to strike a given item, just as the Governors in more than 40 States have that authority, and then in the light of day let it come back to the Congress, let it come back to the Senate, let the Senators who are the proponents thereof stand on this floor and justify this expenditure in the light of a national deficit which approaches $4 trillion.

I prize the independence of the Senate and I prize the separation of powers. I was unwilling to give a commission the authority to decide which military bases were to be closed.

I opposed fast track, and I am a zealous guardian of the constitutional prerogatives of the Senators in terms of independence of the Senate. But when it comes to the expenditures which have been authorized and appropriated by the Congress, we have gone too far. It is more than enough is enough. If they are justified, we can bring them back to the floor and authorize the expenditures. But I very strongly support the concept of the line-item veto and urge my colleagues to express the same sentiment on the forthcoming vote.

I thank my colleague from Indiana for yielding the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I ask the Chair to inform me when I have only 15 minutes left.

The PRESIDING OFFICER. The Chair will so inform the Senator.

Mr. BYRD. Mr. President, the Policraticus of John of Salisbury, completed in 1159, we are told, "is the earliest elaborate mediaeval treatise on politics." In it, we find a reference to the House of Caesar and an account of the means by which each in this line of Roman rulers came to his end. Julius, as we know, was done to death at the hands of Brutus, Cassius, and others as they gathered on the Ides of March where the Senate was meeting. When Caesar saw those about him with their daggers drawn, he veiled his head with his toga and drew down its folds over his eyes that he might fall the more honorably.

Nero, the sixth in line from Julius, after he had heard that the Senate had condemned him to death, begged that someone would give him courage to die by dying with him as an example. When he perceived the horsemen drawing near, he upbraided his own cowardice by saying, "I die shamefully." So saying, he drove the steel into his own throat and thus, says John of Salisbury, came to an end the whole House of the Caesars.

Here, now, we see the proposal before us, the legislative branch being offered the dagger by which, with its own hands, it may drive the steel into its own throat and thus die shamefully.

I say to Senators, beware of the hemlock. Let us pause and reflect for awhile lest the "People's Branch" suffer a self-inflicted wound that would go to the heart of the constitutional system of checks and balances. I am talking about the power over the purse, a power vested by the Constitution in the legislative branch.

Let the Constitution speak:

> Art. I, Sec. 1: All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.
>
> Article I, Sec. 8: The Congress shall have Power to lay and collect Taxes * * * to pay the Debts and provide for the common Defense and general Welfare of the United States. * * *
>
> Article I, Sec. 9: No Money shall be drawn from the Treasury, but in consequence of Appropriations made by Law.

This is the power over the purse. And it is a power not vested in the Executive; it is a power vested by the Constitution in the legislative branch, and only in the legislative branch. Only in the legislative branch.

Read the Constitution, those who have not read it lately. Read the Constitution and dispute with the Framers of the Constitution as to where the power of the purse was reposited, is reposited, and will be reposited as long as that Constitution endures.

We Senators—100 in number, like the original Roman Senate, which had 100 Senators—are members of the legislative branch. And each of us swore a solemn oath upon entering this body to support and defend the Constitution of the United States against all enemies, foreign and domestic, "so help me God"—the Constitution of the United States which, under article I, invests the legislative branch with the power over the purse.

That oath, which we all took—and which some of us have taken many times, each time upon reentering this office—is set forth in rule III of the "Standing Rules of the Senate." Perhaps we ought to read that oath again from time to time.

Now, if all legislative power is vested in the legislative branch—which it is—then only the legislative branch can make the laws.

If no money shall be drawn from the Treasury but in consequence of appropriations made by law, and only the legislative branch can make the law,

then it surely follows, as night follows day, that only the legislative branch can appropriate moneys.

The power to raise and appropriate money is the "power over the purse." To raise money and to appropriate money can only be done by law, and since only the Congress, under the Constitution, can make the law, then only Congress has the power over the purse. That power flows specifically and directly from the Constitution to the legislative branch.

If each of us has sworn an oath before God and man to "support and defend" the Constitution of the United States, then how can any one of us seriously propose to disregard and undermine that Constitution by attempting to shift that power over the purse away from the legislative branch to the other end of Pennsylvania Avenue, where the Chief Executive has his office?

In the first place, I submit that it is not within our power to do it, under the Constitution as now written. The people have that power, because only the people can amend the Constitution.

In the second place, we, as members of the legislative branch, should oppose any proposal—any proposal—to shift the power over the purse from the legislative to the executive. Why? Because it would radically unbalance the delicate system of checks and balances that are the very heart—the very heart—of our republican form of Government.

How important is the power over the purse in our system of checks and balances? James Madison—not Robert C. Byrd; James Madison—is universally regarded as the Father of the Constitution. Let him be heard on the question; let James Madison be heard. Friends, Senators, countrymen, lend James Madison your ears:

> This power over the purse may, in fact, be the most compleat and effectual weapon with which any Constitution, can arm the immediate representatives of the people for obtaining a redress of every grievance and for carrying into effect every just and salutary measure. (Federalist number 58.)

Madison was reflecting the wisdom of the Framers of the Constitution, who vested the power over the purse in the legislative branch, where it has reposed for over 200 years. And now there are those among us who would appear to say: "We are wiser than the Framers of the Constitution. The power over the purse should be shifted from the legislative branch to the Executive by giving the President a line-item veto."

To this I can only say, "Forgive them, Lord, they know not what they do."

The 55 delegates who composed the Federal Convention had themselves been British subjects prior to the Revolution. Alexander Hamilton and Robert Morris were born English subjects; the father of Franklin was an English immigrant; and James Wilson—one of the most farsighted men in the whole Convention—was born near St. Andrew's, Scotland. They were very well versed in the development of the unwritten English Constitution, and were thoroughly conversant with the story of sacrifice by Englishmen long before their own time in the struggle to establish representative government.

The Framers knew that the power over the purse had been securely vested in the British Parliament only after 500 years of contest and strife, and that the price had been paid in blood that had flowed, often from the point of the sword.

They knew—if we do not know—that "the cornerstone of English liberty"—the Magna Carta—had been signed by a reluctant King John at Runnymeade on June 15, 1215. They knew that among the 63 clauses of that charter was one that prohibited the levying of taxes without the consent of the prelates and greater barons.

The Framers of the Constitution knew that King Edward I had been forced to accept the "Confirmation of the Charters" in November 1297, the sixth clause of which prohibited the levying of taxes "but by the common assent of the realm," making it henceforth necessary that representatives of the middle class—the middle class, which we hear so much about these days—be summoned to all Parliaments.

This was a fact of great importance in that the control of the purse was to provide a power which Parliament would frequently use to force Kings to grant concessions. Edward II reigned from 1307 to 1327, and on two occasions during his reign, the representatives in Commons seized the chance to demand a redress of grievances before they granted taxes on personal property.

I wish that some of us who live in Fairfax County could do the same with those who continue to raise the taxes on our property, and that we could demand a redress of grievances before the county supervisors grant an increase in taxes on real property.

Edward III ruled from 1327 to 1377, 50 years. In his day it was becoming customary to place conditions on money grants, so that to obtain funds from Parliament, the King had to agree to the attached conditions. Parliament often insisted that the money granted would be spent only for specific purposes. So here, over 400 years before the Constitutional Convention met in Philadelphia, was the beginning of the modern system of appropriations.

Our constitutional Framers were not unaware of these lessons of history. And I wish that we politicians, like our constitutional Framers, were more aware of the lessons of history.

They knew that by the time of Henry IV, who ruled from 1399 to 1413, the custom had developed that the raising of revenues should originate in the House of Commons. Henry had failed in 1407 when he tried to proceed with a money grant first through the House of Lords. The Commons refused to accept this derogation of their liberties.

Madison and the other Framers knew of the Petition of Rights, to which Charles I had been forced to assent in 1628 before Parliament would vote the funds that he needed. Charles had attempted to raise money through a forced loan in 1627, which, in effect, was taxation without parliamentary sanction. The Petition of Rights asked, among other things, that no man should be compelled to make or yield any gift, loan, benevolence, or tax without common consent by act of Parliament.

Charles consented but he had no intention of carrying out his part of the agreement. After the funds had been appropriated, he continued his autocratic rule. Parliament passed a bill which took control of the military forces out of the King's hands and gave Parliament the power to appoint all militia commanders. When Charles refused to sign the bill, Parliament made it into an ordinance. Charles issued a royal proclamation ordering the people to disobey the ordinance of Parliament. On the same day, May 27, 1642, both houses of Parliament declared that their ordinance must be obeyed. On August 22, 1642, Charles raised the royal standard on the summer green near Nottingham. The civil war had begun. But Parliament controlled the purse strings and created the New Model Army, the first national standing army which, under the leadership of Fairfax and Cromwell, defeated Charles' main army in June 1645.

On January 6, 1649, the House of Commons passed, on their own authority, an "act" creating a High Court of Justice for the trying of Charles Stuart, King of England, for treason and other crimes. The court found the King guilty; declared him a tyrant, traitor, and public enemy of the good people of the nation; and ordered that he be "put to death by the severing of his head from his body." On January 30, 1649, Charles I was executed in front of his palace at Whitehall.

Following the period of the Commonwealth and the Protectorate, came the restoration with Charles II ruling from 1660 to 1685. Then followed the arbitrary rule of James II, who, in 1688, was forced to flee in December to France where he found refuge at the court of Louis XIV and never saw England again. Whig and Tory leaders invited William of Orange and Mary, the daughter of James II, to become joint rulers of England. The throne was declared vacant, and in 1689 William III and Mary were declared joint sovereigns, but only after they had agreed to accept a Declaration of Rights prepared by Parliament. This document was followed by a Bill of

Rights adopted by Parliament in December 1689, which limited the powers of the King of England in certain ways, among which was no levying of taxes except by act of Parliament. The crown rested on Parliamentary title and the supremacy of Parliament was at last assured.

The men who sat at the Constitutional Convention in 1787 knew full well that from the moment when the sole right of the Parliament to tax the nation was established by the English Bill of Rights, and when the practice was settled of voting only annual appropriations to the crown, Parliament became the chief power in the kingdom. It was impossible permanently for the king to suspend the sessions of Parliament, or to offer serious opposition to its will, when either course must end in leaving the government without money, breaking up the military and naval forces, and rendering the public service impossible.

The power over the purse was the basic guarantee undergirding the rights and liberties of Englishmen, and the long and painful history of the unwritten Constitution of the Motherland was a guiding light to the Philadelphia convention members as they prepared a written Constitution for the American republic.

With the experience of seven hundred years as a lamp unto our feet, let us not cavalierly cast aside the lessons of the past by lending voice or vote to a massive shift of power from the legislative to the executive, which would be the pernicious result of a line item veto. Byron said it best: "A thousand years scarce serve to form a state; an hour may lay it in the dust."

Mr. President, to concede to the Executive the authority to excise from appropriation bills line items, either by specific vetoes or by specific rescissions, would be an event of far-reaching consequences. The system of checks and balances established by the Constitution would be seriously altered and impaired. The Executive would be greatly strengthened while the legislative branch would be correspondingly weakened.

The influence of the President in the governmental system has already exceeded the fondest hopes of men like Hamilton, who desired a powerful Executive. Two factors have especially contributed to this phenomenon, both of which were unforeseen by the Constitution's framers: (1) the emergence and growth of political parties and party patronage, with the President as titular head of his own party; and (2) the expansion of the means of communication through the advent of television and radio and the ready access to these media by the President, enabling him, from his "bully pulpit," to go over the heads of the Congress and appeal directly to the people. A power to veto or rescind items, provisions, and sections of appropriation bills would enable a President to control Congress.

How much time remains, Mr. President?

The PRESIDING OFFICER. The Senator has 15 minutes and 18 seconds remaining.

Mr. BYRD. I thank the Chair.

Benjamin Franklin at the Convention signaled the danger of an absolute veto when he said—now this is Benjamin Franklin from Pennsylvania—"No good law whatever could be passed without a private bargain with him." Franklin was referring to the governor of Pennsylvania, but the observation on the absolute veto would apply with equal force to a line-item veto power vesting in the President.

Individual members of the Senate and House would be forced to bargain with the President in order to obtain local appropriations. Log-rolling in Congress would be shifted to the oval office, and "pork" would be the main course on the White House menu during all seasons, with the American people paying the cost in more ways than one. Two of the constitutionally conferred powers which help to make the Senate the unique body that it is—the treaty power and the confirmation power—could be greatly compromised, thus vitiating the checks and balances ensured by these powers. For a Senator to exercise his own conscience and reflect the views of his own constituents on a given treaty or nomination could risk the loss of appropriations for roads, education, public housing, flood prevention, or health research facilities in his own state. To argue that the president would not use such a "big stick" on Members of Congress, is to ignore political reality. The President would be assured of dominance over a subservient Congress, a circumstance which, to the Founding Fathers, who, while possessing a profound conviction that the powers conferred on Congress were powers to be most carefully circumscribed, would have been anathema.

Presidents Grant, Reagan, Bush, and others have advocated a line-item veto, but President Taft expressed an opposing view: "The veto power does not include the right to veto a part of a bill. * * * I think the power to veto items in an appropriate bill might give too much power to the President over congressmen."

Those were the words of President Taft.

Those who advocate a line-item veto cite the fact that 43 of the States have it. That is perhaps one of the weakest arguments of all in support of this amendment. Such an analogy is not compelling. It is interesting but it is not relevant. It is a valid argument only if we are willing for Congress to have its influence reduced to the status of a State legislature and give up its primary responsibility for spending policies.

The principle of separation of powers is more sharply drawn at the national level than at the State level. State constitutions and State governments deal with local problems or, at the most, problems common to the immediate region. Here, we are dealing with the Federal Constitution, a Constitution which binds together 50 States and the District of Columbia in a common bond and as a Republic based on a system of separation of powers distributed among three equal branches acting under checks and balances that operate, each against and with the other. The Government of the Nation must decide and implement policy, not for just a single State but, rather, for 50 States and territories. Congress, unlike a State legislature, must provide for the common defense and general welfare of the United States; wrestle with international policies affecting trade, commerce, immigration, alliances, treaties, and finance; raise and support armies and maintain a navy; establish post offices and national highways; and formulate fiscal and monetary policy that will keep the economy strong and interest rates stable. Only the Federal Government has the power to affect our relationship with what was the Soviet Union or to send men and planes to Saudi Arabia to protect that country against an invasion by Saddam Hussein's army. Only the Federal Government has the capacity to defend the Nation against hostile navies. Only the Federal legislature has the power to regulate commerce with foreign nations, establish a National Interstate Highway System, and provide for the general welfare of the United States.

The Governors, in their convention, have asked that the President be given the line-item veto, the same power that 43 Governors have. What utter folly. You would think they would have read the Constitution at least once in their lives and that they would have taken the time to study some little bit of history and, if not that, at least that they simply use common sense. Yet, they are the first to stand in line for their checks from the Federal Government which they use to balance their State budgets.

Moreover, most State legislatures meet for only brief periods during a year or every 2 years and lack the budget, oversight, and policymaking tools that are more within the realm of the executive. Under such circumstances, the responsibility is more upon the executive to do the budget paring—which burden, incidentally, is made easier, as I have indicated, by the flow of Federal moneys into the State, siphoned through the congressional pipeline that runs from Washington.

Mr. President, a study of the discussions involving the veto power which took place at the Constitutional Convention will find no mention whatsoever of a line-item veto, nor was there

any reference to such in any of the Federalist papers written by Madison, Hamilton, and Jay, explaining the Constitution and advocating its ratification by the States. The convention debates on the veto revolved mostly around the issues of whether it should be an absolute or qualified negative; whether the votes necessary to override should be two-thirds or three-fourths of both Houses; and whether the negative should be vested in the executive alone or jointly, as, for example, in the executive and the judiciary. As Hamilton later explains in the Federalist No. 73:

> The primary inducement to conferring the power in question upon the executive is to enable him to defend himself; the secondary one is to increase the chances in favor of the community, against the passing of bad laws, through haste, inadvertence, or design.

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

The PRESIDING OFFICER (Mr. PRYOR). Seven and a half minutes remain.

Mr. BYRD. Mr. President, the Framers, in their wisdom, decided against giving to the Executive an absolute veto. Yet, a line-item veto would essentially amount to an absolute veto. Only in rare instances has Congress overridden the President's veto, even when he has chosen to veto a bill of general interest to the country at large. To expect two-thirds of both Houses to override a veto of appropriation items of interest only to a few States is quite unrealistic. Additionally, on many occasions, provisions are included in legislation which, if they stood alone, would be vetoed, but, because they are part of a bill containing other provisions that the President wants, he declines to exercise the veto power. Yet, the bill, stripped of the provisions objectionable to the President, would no longer be what the Congress intended or envisioned when it voted to give its approval. The altered bill, which then the President would sign, would become a law different from the legislation which Congress passed. To thus place in one man's hands the power to revise and amend a bill or resolution by striking language therefrom, would be to make the President a super legislator. Clothing a President with such legislative power would be counter to the letter and the spirit of article I, section 1, of the Constitution, which vests all legislative powers in the Congress. The Framers clearly intended that the President's choice be limited either to a veto of the whole bill or to letting it become law.

Now I turn briefly to the politics of the so-called line-item veto. I say "so-called" because there is much disagreement as to what is meant by the word "item" when it is used in this context. The proposal for a line-item veto is not something new; it has been around for a long time—long before Mr. Bush, long before Mr. Reagan, who was perhaps its most passionate devotee among the Presidents, came to town. The item veto came into being during the Civil War, first in the provisional constitution of the Confederate States of America. It was then adopted by Georgia in 1865 and by Texas in 1866. Following the Civil War, almost every new State admitted to the Union adopted the item veto, and most of the older ones did likewise. As the States adopted the line-item veto, the agitation for engrafting such a veto onto the Federal Constitution has increased, and it has thus been a matter of debate, beginning with the advocacy by President Grant, down to the present time.

Many who support the line-item veto are well-intentioned people who see it as an elixer for the disease of bloated Federal deficits. Others who have not taken the time for serious thought and study of the matter simply think it is a good idea. Still others, who ought to know better, advance it as a panacea for deficit paring when, in reality, they are playing the demagog by attempting to shift to the President a responsibility which is theirs, as members of the legislative branch, but which they lack both the will and the courage to carry out. The proposal for a line-item veto at the national level has its appeal. And it is understandable that it would rank high in the polls. But the average American, who must concern himself with raising a family, with holding a job, or with seeking a job and standing in the unemployment line, or advancing himself in his job, and putting the daily bread on the table, has neither the time nor the inclination perhaps to examine and sift through the crosscurrents of history and arcane political theory in order to fully familiarize himself with the pros and cons of the line-item veto debate.

I do not think we should expect him to do all of that, when I am sure most Senators themselves have never taken the time to do it. It thus becomes our responsibility, as Members of the Senate and House, to do what we can to inform the Nation of the impracticality and the unwisdom of such a proposal as a line-item veto. Madison's words, as contained in the Federalist No. 63, are most worthy of repeating here.

Listen to Madison. Listen to his words as they roll across the centuries down to us:

> There are particular moments in public affairs when the people, stimulated by some irregular passion * * * or misled by the artful misrepresentations of interested men, may call for measures which they themselves will afterwards be the most ready to lament and condemn * * * in these critical moments, how salutary will be the interference of some temperate and respectable body of citizens, in order to * * * suspend the blow meditated by the people against themselves, until reason, justice and truth can regain their authority over the public mind? What bitter anguish would not the people of Athens have often escaped if their government had contained so provident a safeguard against the tyranny of their own passions? Popular liberty might then have escaped the indelible reproach of decreeing to the same citizens, the hemlock on one day, and statues on the next.

Mr. President, Madison was illustrating the utility of a Senate in the establishment of a due sense of national character. And, in so doing, he was providing the measure of our duty as Senators to the States and to the people.

Let us, then, do our duty, forgetting not that the power over the purse, in Madison's words, is "the most compleat and effectual weapon with which any constitution can arm the immediate representatives of the people, for obtaining a redress of every grievance, and for carrying into effect every just and salutary measure."

Mr. McCAIN. Mr. President, may I ask the question how much time remains on both sides?

The PRESIDING OFFICER. The Senator from Arizona has 14 minutes and 35 seconds.

Mr. McCAIN. On the other side?

The PRESIDING OFFICER. Seven seconds remain on the other side.

Mr. McCAIN. I yield 3 minutes to the Senator from Idaho [Mr. CRAIG].

Mr. BYRD. Mr. President, would it be agreeable to ask consent for some additional time on both sides?

Mr. McCAIN. I will be glad to.

Mr. BYRD. I would like 10 minutes in closing. I am willing to have the other side have an additional 10 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. I make that request.

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

Mr. McCAIN. I yield 5 minutes to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, I thank my colleague from Arizona for yielding on an issue of utmost importance to this body.

For a good number of years the Nation as a whole has spoken out to the fiscal irresponsibility, or I should say the lack of fiscal discipline that the Congress of the United States has demonstrated for a good number of years. They have in their wisdom asked for a variety of choices to legislative approaches or to constitutional change that might reinstate a discipline long forgotten.

A line-item veto in the form of a constitutional amendment was proposed. It has been proposed and remains very popular in the minds of many citizens. But today my colleagues from Arizona and Indiana have introduced a legislative approach, one that I think is worthy of the consideration of this body in absence of our willingness or our ability to produce a constitutional amendment.

Most assuredly, it will not be as long lasting, at least in first blush. But it gives the Congress of the United States an opportunity to work much more closely with the executive branch in dealing with budgetary problems.

For a long time I have laughed, sometimes quietly—most times quietly—over the fact that legislators find it very easy to blame an Executive for the woes of our budget; for the deficit spending that has gone on progressively here for 25 to 30 years, when in fact article I, section 1 as my colleague from West Virginia just mentioned, really gives no budgetary responsibility to the executive. We only find it, since the budget acts of the midseventies, opportunistic to argue that in fact budget deficits are the responsibility or the lack of foresight on the part of the executive. It is simply not true by law or by Constitution.

But I do believe it is now time to allow those kinds of legislative efforts that will not stand alone to be judged openly, instead of tucked neatly away for the service of one's individual interest and, oftentimes, one's individual State.

My State has been a recipient of that kind legislation over the years and my citizens on occasion have been pleased with it but I think when given recognition of the fact that the historic clock of Government is now ticking more loudly than ever before, as it relates to a time when interest on debt in this country will be the second-largest item in the budget that we will have to deal with, that the citizens of this country will wipe clean from Government those who have refused to stand for fiscal responsibility and will replace them with citizens who believe in that kind of responsibility and will vote accordingly with what they have pledged on the campaign trail.

A time for an approach to change is at hand and I believe the approach today that is offered in the legislative line-item veto is but a small, though important, measure in providing greater checks and balances to the lack of fiscal discipline that this body and the other one have so continually demonstrated over the years. Clearly, an up-or-down vote—let the citizens judge because I do believe it is workable. I think we can decide individually and collectively, issue by issue, if necessary, how the budget ought to be treated. My guess is that within a reasonably short time, the budget process will learn to reconfigurate itself and craft in a way legislative appropriations that will be more palatable and more acceptable to the general public toward a more balanced budget, toward more fiscal responsibility. Those are the issues that are at hand.

Our Constitution is a tough document to change, as well it should be. But I think our citizens speak out today more loudly than they ever have. They are unhappy, and they have reason to be unhappy. They watch this Congress spend this Nation toward bankruptcy, oh, all in the name of something good, but absolutely with no care of fiscal responsibility.

Today, this amendment offers up a small modicum of an approach toward just that, allowing us to divide up, to separate, and for our President to become or the executive branch to become a greater participant in the business of budgeting for our Government and for the citizens of this country.

I strongly support this legislative effort, this amendment. I think it is appropriately placed, and I would certainly hope that a majority of the U.S. Senate could stand in support of a legislative line-item veto.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. I yield 5 minutes to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming is recognized for 5 minutes.

Mr. SIMPSON. I thank my colleague from Arizona, Mr. President, and I admire him greatly for pursuing something he deeply believes in, and that is his strength. When Senator JOHN MCCAIN is on an issue, he gives it his absolute fullest vigor and enthusiasm and intellect and brings all of those to the cause. I commend, too, my colleague from Indiana, Senator COATS, for his tireless work on this issue, and for his cogent arguments today.

Obviously, we have had a very compelling debate. I do support the line-item veto authority. It has been said again and again that 43 Governors have it, that 43 States have recognized that line-item veto authority is essential in maintaining a balanced budget. A very good friend of mine, a Democrat from Wyoming, Ed Herschler, Governor for 12 years, used it vigorously and in most cases quite appropriately.

I know better than to debate historical issues with the distinguished chair of the Appropriations Committee, our remarkable and respected colleague, the President pro tempore. One word, "respect," would summarize his service to the country.

I have listened with great interest to the historical facts surrounding this issue, and I just wanted to add one further one that I think is most interesting. We should remember that the veto authority of the Presidency has never at any point been set in stone as having a particular form.

My colleagues well know—and Senator BYRD spoke of it, he spoke of President Washington, but I am sure my colleagues know—President Washington sought to avoid having to veto legislation at all costs. It was his view that it was an emergency measure to be used only in dire circumstances. Indeed, the Presidents which followed Washington seemed to adhere to a view that the veto could only be applied on constitutional grounds. Simply vetoing a bill because the Chief Executive disagreed with it was considered to be of dubious constitutionality and maybe a little in bad taste, too. But it was Andrew Jackson in his vetoing of the rechartering of the bank of the United States who established the principle the President could merely, because he disliked the piece of legislation, refuse to sign it.

The exact nature of the veto power of the President has never been beyond dispute. No one can say with absolute certainty just what authority of that type the Constitution granted to the President. When Abraham Lincoln employed a pocket veto during his tenure, he was widely criticized for a usurpation of authority.

So these uses of the veto power were at one time considered unthinkable. And now we see them as no way inconsistent with constitutional veto authority.

We do hear all the time around here, "Why do you people not get serious about balancing the budget?" We hear a lot of talk about how deficits have skyrocketed during the last decade.

One would think that the President alone has been voting on budgets during all of that time and just taking us to doomsday. He has not been. In fact, he has no say.

In my time here, I have seen enough where his budget comes up here and the first thing that is often said, at least in the other body, is "dead on arrival." They add 20 percent to it over there, try to get us to take off 10, and we play that game and the American public apparently swallowed it.

So the President does have no say under current practice as to the particulars which are contained in appropriations bills. There is a choice of two options: either sign it or veto it. If he want to keep funding the many necessary tasks of Government, he has to now swallow—or better yet, gag on—every pork barrel project which Congress chooses to include.

There are a lot of people who say this is a time of fiscal crisis and we need to take meaningful and drastic action to reduce the budget deficit. This is said at the same time as we all in this Senate, every single one of us, work like dogs to include our own favorite spending projects in the appropriations bills and to ship them down to the White House for signature.

It seems that many want to blame the President for the soaring deficit. I have heard some thrilling debate on that in the last days—and I have seen many charts. But they recoil at the thought of his having the means to do one single thing about it.

So I ask my colleagues, is that not curious? If this is truly the man, the

evil man, the man at 1600 Pennsylvania Avenue who is totally responsible for this runaway spending activity in our country's budget, what on Earth then is to be feared by giving him line-item veto authority? What is the fear?

So I suggest that the reaction of this Senate to the Presidents having line-item veto authority is proof that that authority is really something to be feared—plain f-e-a-r—around here; that the man in the Oval Office is not indifferent and he would use that line-item veto to attack many of our favorite projects. I think it is time to call the bluff.

We have a national debt of $4.145 trillion—$4.145 trillion—and a budget for 1 year of $1.5 trillion, and a deficit of $365 billion, or pick your number, and that is the result of the current practice that the President must swallow congressional spending whole, or not at all. Surely, our Government will not work less effectively if there were a middle road for the President—and therefore the budget—to take.

I thank Senator McCAIN, and encourage him in his effort.

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

Mr. McCAIN. I yield myself 7 minutes.

Mr. President, I thank my friend from Wyoming for his kind words and, more important, for his eloquent statement on behalf of this very important issue.

I also again would like to express my appreciation to my friend from Indiana. I believe we are now in our 10th year of waging this battle together. I must say things look a lot better now than they did 10 years ago. I say that with mixed emotions because the urgency of this issue is dramatically exacerbated by the incredible deficit that is now burdening the American people that my friend from Wyoming just referred to.

Mr. President, I ask unanimous consent that letters from the Citizens Against Government Waste, Citizens for a Sound Economy, the United States Business and Industrial Council, National Taxpayers Union, International Mass Retail Association, and Cofire, [Coalition for Fiscal Restraint], be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

COUNCIL FOR CITIZENS
AGAINST GOVERNMENT WASTE,
Washington, DC, February 24, 1992.

Hon. JOHN MCCAIN,
U.S. Senate, Senate Russell Office Building, Washington, DC.

DEAR SENATOR MCCAIN: On behalf of the Council for Citizens Against Government Waste (CCAGW), I am writing to express our support for the legislative line item veto act, which you and Senator Coats plan to offer in the near future. We salute your leadership on this important issue, as well as your protest against unauthorized defense spending.

CCAGW has long supported your legislation to give the President the same authority which 43 governors now exercise. The line item veto is an essential tool to enable the President to control the spending machine in Washington.

The legislative line item veto would lead to the elimination of egregious pork barrel spending as revealed in CCAGW's 1992 Pig Book, with 59 items worth $372 million. In addition, it would help attack the more than 850 items of pork worth $8 billion which CCAGW uncovered in the 1992 appropriations bills.

With a federal deficit expected to reach an unprecedented $400 billion next year, the line item veto could not be more timely.

Senator McCain, the 450,000 members of CCAGW fully endorse your valiant fight to eliminate government waste. Your continued efforts to put this nation's fiscal house in order demonstrate that you are a true friend to American taxpayers.

Sincerely,

THOMAS A. SCHATZ,
Acting President.

FEBRUARY 24, 1992.

Senator JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: On behalf of our 250,000 members, Citizens for a Sound Economy (CSE) thanks for your leadership in adopting the line-item veto. As you know, CSE will use this "KEY VOTE" to calculate eligibility for our annual Jefferson Award program and will report each senator's veto on your amendment to CSE members in their respective states.

This budget process reform has very broad support. In fact, the top four presidential candidates in New Hampshire—George Bush, Pat Buchanan, Paul Tsongas, and Bill Clinton—all support the line-item veto. As you know from your constituent mail and town hall meetings, taxpayers are sickened to read about pork-barrel programs that squander the money they send to Washington, especially when this country faces a record deficit of $399 billion this year. The General Accounting Office (GAO) recently estimated that a line-item veto could save more than $70 billion over a five-year period. The GAO based its findings on the Office of Management and Budget's "Statements of Official Policy," and it assumed the president would veto every spending measure he opposed. With a presidential line-item veto, even more wasteful programs than the $70 billion already identified might be eliminated.

The share of the gross federal debt borne by the average family of four will reach a record $64,000 this year. Part of that burden could have been erased if Congress had instituted a line-item veto earlier. It is high time that Congress adopt this budget process reform and grant the President the veto authority that 43 governors already possess. Thank you once again for your leadership in helping make the line-item veto a reality.

Sincerely,

PAUL BECKNER,
President.

U.S. BUSINESS & INDUSTRIAL COUNCIL,
Washington, DC, February 25, 1992.

DEAR SENATOR: This week, Senator John McCain will offer an amendment to an appropriate piece of legislation which will specifically grant the President the power of the Line Item Veto.

On behalf of the 1,500 member CEOs of the United States Business and Industrial Council, I urge you to take this important step to provide fiscal sanity to the federal budgeting process.

Forty-three of our nation's governors have a line-item veto. It is hard to imagine a company where the CEO would have as little control over his corporate budget as the President of the United States has over the Federal budget—unfortunately, the process of submitting a budget to Congress amounts to tossing it into an abyss, never to be heard from again.

As the deficit and the national debt continue to climb, the need for fiscal reform like the line item veto becomes more and more evident. We urge you to give the President the power to control federal spending that is, apparently, out of control.

Sincerely yours,

JOHN P. CREGAN,
President.

NATIONAL TAXPAYERS UNION,
Washington, DC, February 25, 1992.

Hon. DAN COATS,
U.S. Senate,
Washington, DC.

DEAR SENATOR COATS: On behalf of the National Taxpayers Union's 200,000 members I want to thank you and Senator Coats for offering a line item veto amendment, which would allow the President to cut wasteful port barrel spending.

As you know, an all too common Congressional tactic is to attach parochial, pork barrel appropriations to must-pass legislation that the President has little choice but to sign. Since most of these provisions are neither the subject of debate nor vote, many Members of Congress do not realize they exist. The McCain-Coats line item veto would allow the President, Republican or Democrat, to draw attention to pork barrel provisions and force their proponents to justify them. Meritorious provisions would stand under Congressional scrutiny, and the rest would be eliminated.

Additionally, the line item veto would make the President more accountable on the issue of wasteful spending. Many Presidents repeatedly criticize Congress on its spending. By giving line item veto authority to the President, Congress would be telling him to work actively rather than rhetorically to trim wasteful spending.

Although the discretionary account of the federal budget is by no means the largest, it is an area of tremendous waste and abuse. Our national debt is now over $3.8 trillion, and recent projections for the FY92 deficit are $400 billion. Clearly Congress needs to reevaluate its spending practices and take strong steps to restore fiscal discipline. The line item veto is one of those steps, and would be an important sign to taxpayers and voters nation-wide that Congress is finally taking our fiscal crisis seriously.

Again, thank you for sponsoring this amendment. It is my hope that all Senators will support this crucial measure.

Sincerely,

JAMES D. DAVIDSON,
Chairman.

INTERNATIONAL MASS
RETAIL ASSOCIATION,
Washington, DC, February 25, 1992.

DEAR SENATOR: The International Mass Retail Association (IRMA), on behalf of the mass retail industry—discount and off-price stores, warehouse clubs and other price-competitive mass retail stores—strongly supports legislation to give the President the same deficit—fighting tool available to near-

ly all the nation's governors: a line-item veto.

IMRA represents over 100 major discount retail chains accounting for approximately $150 billion in sales last year. IMRA's membership includes stores in every state; IMRA members employ literally millions of Americans. The highly competitive and efficient mass retail industry operates at a low markup and provides quality merchandise at affordable prices to most Americans.

IMRA supports efforts by Senators McCain and Coats to offer a line-item veto amendment to S. 479, the National Cooperative Research Act Extension of 1991, and urges your support for the McCain-Coats amendment. IMRA and its members firmly believe a line-item veto is a useful step in restoring spending discipline and reasserting control over budget deficits, an extremely serious issue both for economic recovery and future growth.

As noted in a General Accounting Office study released January 22, a line-item veto could have pared about $70 billion from Federal spending between 1984 and 1989. Although not a substitute for increased Congressional efforts to curb the rate of growth in Federal spending, it would be a constructive start. With bipartisan support, a line-item veto can become a reality this year.

Once again, please support the McCain-Coats amendment.

Sincerely,

ROBERT J. VERDISCO,
President, IMRA.

COALITION FOR FISCAL RESTRAINT,
Washington, DC, February 14, 1992.

Hon. JOHN MCCAIN,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR: The more than eighty undersigned member-organizations of the Coalition for Fiscal Restraint (COFIRE) are deeply concerned over flaws in the current budget process.

As evidence, this year federal spending will exceed 25 percent of GNP for the first time since World War II, and the federal deficit will reach a record $362 billion, contributing further to the immense burden of debt we are leaving to future generations.

We believe that one step in reforming the process which has contributed to this persistent deficit spending would be for Congress to place more responsibility for fiscal restraint on the Executive Branch.

It is for this reason that we are writing to urge your support for the Legislative Line Item Veto Act (S. 196) whose sponsors plan floor action early this year. A brief summary of S. 196 is enclosed.

This proposal would give the President enhanced rescission authority, retaining for Congress the power to reject presidential rescissions by a simple majority vote in both houses with such rejections then subject to the constitutional veto process.

On our behalf and on behalf of the vast majority of Americans who favor placing this burden on the Executive Branch, we urge your vote in support of S. 196 when its sponsors, Senators Coats and McCain, bring it to the Senate floor in the near future.

Respectfully,

MICHAEL MONRONEY,
Chairman, COFIRE.

(Note: Members of the Coalition for Fiscal Restraint endorsing this letter are listed on succeeding pages.)

Karen Meredith, President, American Association of Boomers.

Dean Kleckner, President, American Farm Bureau Federation.

Samuel A. Brunelli, Executive Director, American Legislative Exchange Council.

J. Patrick Boyle, President and Chief Executive Officer, American Meat Institute.

Richard Lewis, President, American Pulpwood Association.

James L. Ziegler, Chairman of the Board, American Rental Association.

David Miner, Chairman, Americans for a Balanced Budget.

Grover G. Norquist, President, Americans for Tax Reform.

Charles E. Hawkins III, Senior Vice President, Associated Builders and Contractors.

Joe M. Baker, Jr., Executive Vice President, Association of Wall and Ceiling Industries-International.

George W. Mervin III, President, Automotive Service Association.

Richard L. Lesher, President, Chamber of Commerce of the United States.

Thomas A. Schatz, Acting President, Citizens Against Government Waste.

Peter Roff, Executive Director, Citizens Against a National Sales Tax/VAT.

Paul N. Beckner, President, Citizens for a Sound Economy.

Art Kelly, Vice President, CNP Action, Inc.

Eric Licht, President, Coalitions for America.

Jeffrey C. Smith, Executive Director, Commercial Weather Services Association.

Barbara Keating-Edh, President, Consumer Alert Advocate.

Gary D. Engebretson, President, Contract Services Association.

John M. Martin, Executive Vice President, Dairy and Food Industries Supply Association.

Frank L. Jensen, Jr., President, Helicopter Association International.

Robert N. Pyle, President, Independent Bakers Association.

E. Linwood Tipton, President, International Ice Cream Association.

Robert J. Verdisco, President, International Mass Retail Association.

W. Don Ladd, Vice President, Marriott Corporation.

The Honorable John R. Block, President, National-American Wholesale Grocers' Association.

Walter E. Galanty, Jr., President, National Association of Brick Distributors.

W. Dewey Clower, President, National Association of Truck Stop Operators.

David E. Strachan, Executive Vice President, National Candy Wholesalers Association.

Robert E. Barrow, Master, National Grange.

Donald A. Randall, Executive Vice President, National Independent Dairy-Foods Association.

Edwary N. Delaney II, President, National Tax Equality Association.

Lewis K. Uhler, President, National Tax Limitation Committee.

James D. Davidson, Chairman, National Taxpayers Union.

Benjamin Y. Cooper, Senior vice President, Printing Industries of America.

Wayne J. Smith, Executive Director, United Bus Owners of America.

George S. Dunlop, President, United Fresh Fruit and Vegetable Association.

John P. Cregan, President, United States Business and Industrial Council.

Paul Cardamone President, United States Federation of Small Business

Other COFIRE member-organizations which endorse this letter are as follows:

American Amusement Machine Association.

American Conservative Union.

American Cyanamid Company.

American Furniture Manufacturers Association.

American Iron and Steel Institute.

American Trucking Association.

Amway Corporation.

Armstrong World Industries.

Baroid Corporation.

Beer Drinkers of America.

Chocolate Manufacturers Association.

Committee for Private Offshore Rescue and Towing.

Composite Can and Tube Institute.

Coors Brewing Company.

Eckerd Drug Company.

FMC Corporation.

W.R. Grace and Company.

Eli Lilly and Company.

Koch Industries.

Medford Corporation.

Milk Industry Foundation.

National Association of Convenience Stores.

National Association of Home Builders.

National Association of Manufacturers.

National Cattlemen's Association.

National Cheese Institute.

National Confectioners Association.

National Food Brokers Association.

National Limousine Association.

National Printing Equipment and Supply Association.

National Private Truck Council.

Nestle Holdings, Inc.

New England Machinery, Inc.

Reynolds Metal Company.

Sears, Roebuck and Company.

The Seniors Coalition.

Sun Company.

Sybra Corporation.

Truck Renting and Leasing Association.

Valhi, Inc.

Walgreen Company.

White Consolidated Industries, Inc.

Whitman Corporation.

Mr. MCCAIN. Mr. President, again, I would like to thank all those organizations, including Cofire [Coalition for Fiscal Restraint], some 83 different organizations, who have expressed their support.

Mr. President, I would also like to respond to the comments of the senior Senator from Arizona [Mr. DECONCINI] who spoke earlier about numerous projects in our State of Arizona which he believes would not be funded if the President had a line-item veto.

Let me say that I do not share that point of view. All the projects listed, I believe, should and would stand on their own substantial merit. But far more important than that, this amendment is not about projects, it is about process; it is about repairing a badly broken process. I am confident that the needs of the people of my State or any State in the Union can be met through an open and above-board process as dictated, in my view, by the Constitution—including hearings, authorization, appropriations, and signature by the President.

We do not need to rely on any back room deal or horse trading or anything else. And our children cannot afford the deficits that result from these deals. Let us bring balance to our fiscal affairs. That is all our amendment does.

Alexander Hamilton said in Federalist 73:

When men, engaged in unjustifiable pursuits, are aware that obstructions may come from a quarter which they cannot control, they will often be restrained by the bare apprehension of opposition from doing what they would with eagerness rush into if no external impediments were to be feared.

Your amendment will restore the balance of power that served our Nation so well. I will restore the President to his rightful role in our system of checks and balances. The Framers of the Constitution understood the importance of that balance, and so should we.

Anyone who needs help in attaining that understanding should look at the growth of our debt: 1960, $236.8 billion; 1970, $283.2 billion; 1980, $709.9 billion; 1990, $2.4 trillion, soon to be $4 trillion—$13,000 in debt for every man, woman, and child in America. If anyone believes that the system under which we operate is not broken, I do not think they understand very well what the system is doing to the American people.

I would like to again quote from the letter from President Bush, which I appreciate very much; he says:

Billions upon billions of dollars have been wasted over the years on programs of a parochial nature with dubious value to the American taxpayer. The line-item veto approach, whether instituted through the constitutional amendment I have previously proposed or through your statutory initiative, is the best way to prevent future wasteful spending and to rein in deficit spending.

I appreciate and fully support your amendment.

Sincerely,

GEORGE BUSH.

Mr. President, I express again my hope and guarded optimism that after the failure of this vote, the President of the United States will seize the first opportunity, the first appropriations bill that comes across his desk, to exercise the line-item veto and take it to the courts.

I do not have confidence that that case will either win or lose, but I do know this: If it loses, I do not see that we are any worse off than we are today with this very flawed and broken system. If he wins, that will be an affirmation of the belief that I and a substantial number of constitutional scholars—and I do not include myself in that group of constitutional scholars, the belief that the President already has that constitutional right. So I hope he will do that.

I do appreciate the fair and honest debate that has taken place. It is always a great educational experience in observing the scholarly and, indeed, enlightened views and opinions of our distinguished chairman of the Appropriations Committee.

Again I would like to thank Senator COATS and all those who have supported this amendment including the 28 cosponsors.

Mr. President, I yield the remainder of the time to Senator COATS of Indiana.

The PRESIDING OFFICER. The Senator from Indiana is recognized. The Chair will advise the Senator that 7 minutes and 50 seconds remain on this side.

Mr. COATS. Mr. President, I am new to the Senate and I do not know all the procedures. Is it customary for the proponents or opponents to close debate on the amendment? Or is there no custom?

The PRESIDING OFFICER. There is no custom with respect to——

Mr. MCCAIN. If I might mention, if the Senator will yield for 1 second, Senator BYRD and I were in agreement in earlier discussion that he would close the argument for 10 minutes.

Mr. COATS. I certainly have no problem with that and will be happy to close out our side of the debate and then the remaining 10 minutes will be Senator BYRD'S.

Mr. President, I want to begin my closing remarks by complimenting Senator BYRD for what is truly a prodigious effort on the floor of the Senate. The amount of research and the shear time invested in preparation for his defense of the power of the purse is an awesome feat and his physical endurance in standing on his feet for more than 7 hours yesterday is something that many of us respect. I do respect it.

But I also need to say I respectfully disagree with the conclusions reached by the distinguished Senate from West Virginia that this amendment before the Senate today denies the constitutional right to this legislative body to control the power of the purse. I think a fair reading of the amendment does not result in that conclusion. It does not destroy the power-of-the-purse authority granted to this body by our Constitution, nor does it shift that power to the executive branch. It does not destroy the separation of powers doctrine. It partly restores the separation of powers. It partly restores the balance of power that I think our Founding Fathers and our Constitution intends.

The reform embodied in this amendment would be nothing more or less than return the budget process to the practice of 185 years of American history.

Congress grabbed the power of unlimited political pork in 1974, not at the Battle of Hastings, and it has abused that power ever since.

Our President is annually blackmailed by Congress every time an appropriations bill is sent to the White House—given no option other than accept the entire bill or reject the entire bill, no option to exercise any power whatsoever in terms of how the taxpayers' dollars will be spent. As I indicated earlier in my remarks, the President's exercise of a line-item veto under this measure simply returns the line item to this body where it has every right and every power to restore it.

Mr. President, many feel the legislative branch, this Senate and the House of Representatives has forfeited its claim to exclusive control of spending by an abuse of the power that it granted itself in the Budget Act of 1974. Many feel that our current system is a mockery of the process that our Founding Fathers intended.

A vote to defend political pork at this sober economic moment in particular threatens to make this institution a laughingstock. This should be the subject of Senator BYRD'S concern, because I know he loves the Senate and I know he cares about this institution more deeply probably than anyone else.

Opposing budget reform and spending restraint extinguishes our credibility before a watching Nation. It reveals an institution that has misplaced its sense of shame. Expressions of outrage over the deficit without an equal passion for change is hypocrisy.

This Congress has no right to pained concern about our debt when it remains frozen in the ice of our own indifference. At a time when we have $300 billion, on a annual basis, and are approaching a $4 trillion national debt, that we cannot even institute a reform as simple as this to stop an addiction to irresponsible pork barrel spending is not a tribute to this institution. I think it is an embarrassment to this institution.

The measure that Senator MCCAIN and I have offered will put an end to the irresponsible practice of attaching and hiding pure self-serving pork barrel measures to massive spending bills and sticking it to the President and the American people.

If the Senate cannot take this small step today, the Senate will never be able to exercise fiscal discipline. The distinguished Senator from West Virginia, in one of his eloquent statements, made reference to those who support the line-item veto by quoting our Lord's words when he said, "Father, forgive them; for they know not what they do."

I think far more appropriate would be for the 100 Members of this Senate to turn to our children and our grandchildren, and future generations to come, and say, "Forgive us for what we have done; for saddling you with a burden of debt which you may never be able to climb out from under."

A simple piece of reform is what is at issue here today. Those who like the status quo; those who say "If it ain't broke, don't fix it; it is working just fine"; those who say we do not need to take any steps, any measure to change the way we currently do business; those should vote against this amendment.

Those who feel that the system is broke; that it is not delivering what the American people are asking us to deliver; that it is not exercising fiscal responsibility, that we have the responsibility to exercise it; those that feel that we ought to reform the way in which we spend the taxpayers' dollars will support the measure that Senator McCAIN and I have offered.

Mr. President, it has been a good debate. It has been a constructive debate. As I said in the bargaining, I respect the prodigious effort of the President pro tempore of the Senate, the distinguished Senator from West Virginia. He has laid a record, a historical record, a record of research, of commitment, and precedent.

I respectfully disagree, and ask my colleagues to support this small measure of reform.

I yield the floor.

The PRESIDING OFFICER. The Chair would inform the Senator from Indiana that all time on his side has been utilized.

Mr. HELMS. Mr. President, in this debate the opponents of a line-item veto have made some fascinating contradictory arguments.

On the one hand, they have argued that the Coats-McCain amendment is not a solution to our budget problems because it affects only a tiny portion of the budget. Therefore, they contend, we should not pass it. Then they turn around and argue that this proposal would fundamentally change the balance of power between the executive and legislative branches because it would give the President so much power.

Then the opponents argue that Congress is simply trying to pass the buck to the President by giving him the line-item veto. They argue that Congress must control our budget problems by "having the courage to make tough choices." In the same breath, they turn around and blame the President, specifically President Reagan, for the budget deficits we are facing today.

Mr. President, with all due respect, they cannot have it both ways. Let me first address the argument that has been made that Congress appropriated less money during the Reagan administration than the administration requested. As a matter of fact, my staff has compared the appropriations bills during those years with the budget requests.

To make such a comparison is not as easy as it would seem, but I think we came up with pretty accurate results. We found that when you compare the budget estimates with each appropriation bill as passed by Congress, that Congress appropriated approximately $17 billion more than was requested by the administration.

However, when you exclude the requests for defense appropriations, which Congress consistently underfunded, Congress appropriated approximately $130 billion more than requested. So let's discard the notion that Congress has been so frugal in the budget process during the Reagan years.

So I guess it is put-up-or-shut-up time for Congress, Mr. President. All of us can manufacture excuses for what we do or what we fail to do. But if we are unwilling at this crucial time to accept a discipline that will be difficult—some will even say it is impossible—then we are saying there is no remedy. And I say there is. I call upon my colleagues in the Senate and the House publicly to acknowledge the real danger in which our debt-hobbled Nation finds itself. I call upon my colleagues to forswear political and partisan interests as the Congress once again addresses this vital issue of a line-item veto. The interest that should matter most to all of us at this moment in history is our national survival as an economically and fiscally healthy United States of America.

Mr. SANFORD. Mr. President, before we rush to institute a line-item veto under the pretense of reducing the deficit, perhaps the current administration should show its commitment to deficit reduction by submitting balanced budgets to Congress.

When President Reagan began his first term in 1981, the Federal debt was less than $1 trillion. This year, after 8 years under President Reagan and almost 4 years under President Bush, the Federal debt will exceed $4 trillion. These Presidents together have had almost 12 consecutive years to put Federal spending on a proper path to balance the Federal budget. Instead of getting the job done, they have called for a constitutional amendment to require them to balance the Federal budget, and they have called for line-item veto authority to help them balance the Federal budget.

Instead of submitting balanced budgets to Congress, the White House has for almost 12 years used the constitutional amendment and line-item veto as a gimmick.

We have heard many Senators speak of the need for the line-item veto as a means of reducing the Federal deficit. It will hardly make a dent. Whatever might be said in behalf of the line-item veto, it cannot be said that it is an answer to, or would have much effect on, the rising debts and deficits. Our job of fiscal responsibility requires tougher action.

To maintain that the line-item veto is an appropriate budgeting tool and balances the powers between the executive branch and Congress is a farce. The President has in his power several means of controlling the budgetary process which he seems reluctant to use. Before we rush to institute a line-item veto under the pretense of reducing the deficit, perhaps the administration should show its commitment to deficit reduction by submitting balanced budgets to Congress.

The budget for fiscal year 1993, which President Bush submitted to Congress in January, increases the national debt by $464 billion. Surely, if he is serious about controlling the debt he would start by balancing the budget before he submits it to Congress and the Nation. He does not need a line-item veto to take out his own lines. He can simply do what neither he nor President Reagan have ever done, send Congress a balanced budget.

The claim has been made by Members of this body that the line-item veto would save significant U.S. taxpayer dollars. I believe that such statements are made only to appeal to the urgency of the deficit issue without developing substantive policy measures.

Is the President really in a position to judge whether congressional budget additions are worthy projects? The President can stand in Congress and laugh at grants for peas, lentils, peach, and catfish research, and he may be right, but maybe he is not, and who is the best one to sense what is helpful for neglected regions and small communities, the local Congressman, the Senator, or some White House budget staffer who writes a memo to go into the President's line-item veto message?

I will stick with the people's elected Representatives.

The truth is that most of those congressional items ought to be cut. Who knows better than a Member of Congress how crucial project funding may be to a local area? To allow the administration, with relatively little contact with small constituencies, to decide what is important to communities across the United States would be a gross misrepresentation of the American public.

Touting the line-item veto as a necessary tool for providing balanced budgets is a great fallacy, and another in a series of budgetary gimmicks. The administration already has extreme influence in the budgetary process. It submits its budget to the Congress yearly, setting the national spending priorities and the stage for policy discussions. If now the administration claims it needs the line-item veto as a tool to balance the budget, I would like the administration to answer why, if it feels balanced budgets are so important, does it not submit balanced budgets to Congress.

If the administration is so committed to fiscal restraint, then the administration should prove its commitment by developing a budget which implements spending reductions. If there is so much fat in the budget that can be so easily dismissed, then the President should come forward with those suggested cuts as part of his budget submission. Instead, this President, who

now so much wants the line-item veto authority, submitted a budget that will add $464 billion to the national debt.

In addition, if the President is serious about controlling the budget deficit by attacking the spending bills, he may use his general veto authority and power of rescission. Although these two methods require much more interaction with Congress and may pose political dilemmas for the President, they are avenues that do exist and could be useful if the President were to utilize them. Presidents Carter and Reagan used rescission successfully. Two-thirds of the dollar amount Carter rescinded was accepted by Congress.

My last, but most important objection, with the line-item veto is that it would radically upset the balance of power between the President and Congress. I suppose very few hard-working people, struggling with their own problems, care much about a power dispute between Congress and the President. But the balance of power, with not one branch too strong, was essential to the Founding Fathers, and it is important today to the best interests of citizens. It cannot be disputed that if the line-item veto were instituted, the President would use it to exert extraneous pressure on Members of Congress, for example, to hold local waste treatment projects hostage in order to get support of his veto of child care legislation.

Senator Charles Mathias spoke eloquently to what this kind of shift of power might mean. "For example," he said, "if President Reagan does not like my position on the issue of school prayer, and if he acquires the power to kill funds for the program that I have long supported to save the Chesapeake Bay * * * then the President * * * has a hostage. He can hold the Chesapeake for the ransom of my support * * * for State-sponsored prayer in school or any other subject that he might want my support on. * * * In my opinion it would destroy the balance that exists between * * * the executive and legislative branches."

Mr. President, we should take seriously these words from our former colleague from Maryland. Most local citizens and all local and State governments will be badly served by giving the President line-item veto authority over local projects. The line-item veto would muffle the public's voice and put a very long distance between the American people and Federal spending choices.

For the reasons I have discussed, I urge each one of my colleagues to carefully consider the line-item veto proposal before us. We cannot allow ourselves to be influenced by political situations and the current budgetary crisis into altering the balance of power our Founding Fathers were so enlightened to incorporate in our system of government. If we want to correct our Federal deficit we should do so with the tools at hand; and the President should begin by submitting honest and balanced budgets.

Mr. DURENBERGER. Mr. President, I rise to speak in opposition to this amendment which would grant to the President a line-item veto.

My record on this issue is clear and consistent. This is the ninth time in my Senate career that I have had to vote on a line-item veto. On each of the eight previous occasions, I have voted against this idea. And I will do so again.

Mr. President, with the Federal budget deficit at $400 billion, many of my colleagues think the line-item veto will provide the silver bullet that will restrain Federal spending. If I believed that, I would long ago have supported this idea. But no one seriously believes that granting the President the authority to line-item veto projects like the Lawrence Welk Museum will do anything to resolve our fiscal woes.

I would be far more inclined to consider supporting a line-item veto, if we concurrently had in place a statutory or constitutional requirement that Congress annually report a balanced budget. In that case, if Congress sent the President a deficit financed budget, it makes sense to give the President the authority to pick and choose which congressional spending projects should be eliminated to meet the legal requirement of a balanced budget.

But since we do not have the courage to adopt a balanced budget law, I cannot support this proposal.

Mr. President, it is just not possible for this Senator, or any Senator, to add to the history and analysis of the constitutional derivation of the veto power presented by the distinguished Senator from West Virginia [Mr. BYRD].

But I would like to take a moment to explain why I oppose the idea of a line-item veto. In my view, it is simply a matter of shifting the balance of power that existed in our triparte Government for more than 200 years. A shift that will permanently change the shape of our democracy.

Mr. President, in 20 of the last 24 years, the American public has lived with divided Government, with Republicans controlling the White House and Democrats the Congress. Both parties have had to work together, to compromise, in order to adopt legislation we believed to be in the best interests of our country. In some of those bills, compromise was only achieved because components of such bills contained measures important to a particular State or region of the country.

But I would suggest to all of my colleagues, especially my colleagues on this side of the aisle, that if we adopt the line-item veto, we will create a self-imposed legislative gridlock. And we will have shifted an extraordinary amount of authority from the legislature, from the Representatives and Senators of the 50 States, into the executive.

Mr. President, the current occupant of the White House is a Republican, and I would surely hope that President Bush will remain in the White House through 1996. If that happens, and if the line-item veto is adopted, I and my 42 Republican colleagues should be comfortable in knowing that it will be unlikely that our legislative proposals will be line-item veoted.

But one day, it is possible a Democrat will occupy the White House. And if that unlikely event occurs, I would suggest that all of my Republican colleagues will face the threat that their State's interests may be targeted for vetoes. The line-item veto will allow all future Presidents to pick and choose items to veto not on merit, but solely on the basis of political partisanship. A Democratic President might find it politically useful to my 1994 Democratic opponent to line-item veto a nursing home project critical to my Minnesota constituents.

Mr. President, I suggested earlier that this institution is founded on legislative compromise. There is always give and take in crafting legislation. That has been our tradition for more than 200 years. Yet why should any Senator, especially a Senator in the party that does not control the White House, compromise on anything if he knows that the President can pick and choose to veto those parts of a bill that the Senator supports.

Instead of compromise, I can assure you that we will see endless filibusters. Senators will block legislation until they receive guaranteed assurances from the White House that the items important to their States will not be line-item vetoed. Is that what our colleagues want? More filibusters, more cloture petitions, more endless debate. That is exactly what will result if we adopt this proposal.

Mr. President, I urge my colleagues to reject this amendment and to get on with the serious business of governing a nation that is looking with greater skepticism at how we conduct the people's business.

Mr. HATFIELD. Mr. President, the chairman of the Appropriations Committee has virtually exhausted the arguments that can be made against this proposal. I support his position absolutely, and have just one brief suggestion to make.

I suggest that the advocates of this proposal take better advantage of the existing rules and procedures of the Senate to advance their cause. There is still unlimited debate in the Senate. Senators can exercise their rights under the rules to take all the time they want to examine bills and reports, raise objections, offer amendments, and round up votes. I am confident that the proponents of this proposition,

and their capable staffs, are fully able to identify provisions of appropriations bills and reports that they find objectionable, and craft amendments to resolve those objections. Let them offer those amendments, and let us vote.

In those rare occasions when the Senate is faced with a conference report on an appropriations measure with no amendments remaining in disagreement to which further amendments might be adopted, thus forcing the Senate to an up or down vote on the entire measure, let me suggest this to the proponents. Presumably, they speak on behalf of the President. I should say as an aside that the principal sponsors of this proposal presume that the President will always be a Republican. But in any event, the proponents put great faith in the executive branch. Let the proponents encourage the President, then, to come forward with rescission proposals pursuant to title X of the Budget Act. I understand the President will do just that in the next day or so in regard to certain matters funded in fiscal year 1992 defense appropriations bill. That rescission message will be referred to the Appropriations Committee. If I read the Budget Act correctly, after 25 days the measure can be discharged on the petition of 20 Senators. Then the rescissions can be debated and voted on, and if the measure passes, the funds are rescinded.

So there is a mechanism the proponents of this matter can pursue to achieve their purpose. Of course, it means they must take the responsibility themselves, and not rely on the President to take it on for them, but I have every confidence that they will not shirk from that responsibility.

Mr. WOFFORD. Mr. President, the Federal budget deficit is a serious problem. It is reducing our national savings and eroding our Nation's ability to compete internationally. Unless we overcome that deficit our children and grandchildren will not enjoy the better world we hope to leave.

But the line-item veto would not be a solution. A Federal line-item veto would probably have little impact as a deficit reduction measure because much of the Federal budget, particularly entitlements, interest payments and taxes, would not be subject to it. In 1993, only 35 percent of Federal spending will be discretionary spending and, therefore, subject to a Presidential line-item veto. And by excluding revenues, which the President estimates to be over $1.1 trillion in 1993, the line-item veto could merely result in more tax loopholes as special interests seek to make up for lost Federal spending. Honest, serious deficit reduction will require a comprehensive approach to all aspects of the budget—not just discretionary spending.

For over 10 years, the Bush and Reagan administrations have claimed the need for the line-item veto to bring the deficit under control. But this is just smoke and mirrors. They seek to place the blame solely on the Congress—when the fact is that this administration has not once proposed a balanced budget or proposed a realistic solution to the budget deficit.

The net effect of a line-item veto would not necessarily be budget savings. Rather, it would provide a preference for executive spending priorities over legislative priorities. And as the current administration has shown—those priorities are often wrong. The President's 1993 budget proposal is full of examples of program cuts that would hurt the people of Pennsylvania and all States. He would for example eliminate trade adjustment assistance for workers dislocated from jobs because of foreign competition and mass transit assistance for cities with populations over 500,000. He proposed major cuts in the HOME Program, which creates new affordable housing opportunities, and the low-income housing weatherization program, which helps people afford to stay in their homes.

I do not agree with all congressional spending decisions. Some blame for our deficit of course lies in this body. However, the line item veto proposal ignores the President's participation in creating the increased Federal deficits. All the line item veto would do is transfer power from the legislative branch of Government to the executive branch without any guarantee of a more effective Government or reduced budget deficits.

Finally, the State experience with line-item vetoes has not always been positive. The line item veto is the power that a majority of State Governors have to reduce or eliminate individual provisions in bills offered by their State legislatures. The House Budget Committee concluded in 1984 that the power of the line-item veto on the States has given rise to significant political strife and, at times, threatened the shutdown of Government services.

Both the Congress and the President need to be involved in serious budget reduction. I cannot support a proposal, such as the line-item veto, that would reduce the accountability of Members of Congress to solve the budget deficit, shift the constitutionally established separation of powers sharply in favor of the President, and not necessarily get us any budget savings.

Therefore, I urge my colleagues to vote against the pending amendment.

Mr. HOLLINGS. Mr. President, I rise today in support of efforts to grant the President line-item veto power. It is an excellent discipline to control wasteful and unnecessary appropriations and thereby reduce the Federal deficit. My amendment, a statutory, separate enrollment line-item veto is identical to a measure previously considered by the 99th Congress as well as legislation reported favorably by a bipartisan vote out of the Senate Budget Committee on July 25, 1990, and I prefer this approach. However, it's time to stop splitting hairs and get this valuable tool to the President.

Currently, 43 States have, in one form or another, a line-item veto allowing the Chief Executive to limit legislative spending. As a former Governor who inherited a budget deficit in a poor State, I can testify that a line-item veto is invaluable in imposing fiscal restraint.

The fiscal problems of our Nation are well-known. We face annual deficits now approaching $500 billion and a total debt of $3.8 trillion. For years now, we have been toying with freezes, asset sales and sham summits, but the deficit and debt continue to grow.

Mr. President, the taxpayer, as well as the Congress, have grown weary of the smoke and mirrors and are past ready for a serious deficit reduction package. If ever there was a problem that needed to be attacked from every possible angle, it is this deficit. The President said in his State of the Union Address that he was willing to take the heat and make tough decisions with a line-item veto. Let's hold him to the commitment and make the line-item veto part of a deficit reduction measure.

Mr. BIDEN. Mr. President, I am a supporter of the line-item veto, one which is truly structured like a veto. I voted with Senator SASSER on the point of order made against the proposal by Senators COATS and MCCAIN because their approach is not a line-item veto, but a different creature called an enhanced recission. The differences between the two approaches are important.

As I noted earlier, I shared the stated beliefs of the Attorney General that the President does not have the authority now to veto individual items in bills. Suggestions from some quarters that the President should simply assert this authority and spark a court battle is political mischief of the worst type.

So there should be agreement that legislative action is needed for the President to gain the authority to eliminate specific items in appropriations bills. A variety of proposals have been made in this area, ranging from a constitutional amendment to the enhanced recission that was recently before the Senate.

A constitutional amendment is perhaps the most difficult approach to establish this authority and one that should be looked to only as a last resort. I believe we should first look to a statutory approach, which would be faster and, if properly structured, do no damage to the constitutional relationship between Congress and the Executive.

The amendment we voted on was a statutory approach, but flawed because

it granted the President too much authority and veered away from a true veto response to congressional action. The McCain amendment would have allowed the President to reduce, not just eliminate specific items. With this authority, the President would be allowed to rewrite appropriations bills, a power that would dramatically alter our traditional system of checks and balances.

I have supported a 2-year trial of allowing the President to take specific items in an appropriations bill and veto them. Congress would be able to vote to override that veto. It is a much simpler approach than the enhanced recission in the McCain-Coats amendment. And if it proves to be a failure, as some fear, the authority could be allowed to lapse.

A statutory line-item veto will help restore responsibility to the Federal budget process. A line-item veto will help increase accountability on the part of the Congress and the President. Estimates of the savings that could result from a line-item veto differ, but they could add up to billions of dollars. It is no cure-all for deficits and debt, but it is a step in the right direction and one that I believe must be taken.

With deficits racing toward $400 billion annually, the need for additional spending controls cannot be denied. But under the claim of fiscal responsibility, I cannot support an approach that would make such a dramatic shift in authority to the executive branch. I hope in the future we can develop a workable line-item veto.

Mr. MCCONNELL. Mr. President, I rise today in support of the line-item veto. As a cosponsor, I believe that the Coats-McCain amendment will help Congress restore some fiscal responsibility to the budget process that is presently lacking. This amendment will force the Congress to justify all of its spending requests and, I truly believe will eliminate frivolous and wasteful spending by the Congress.

This legislation will not compromise the budget process, it will enhance it. The line-item veto enables the President, 20 days after the enactment of an appropriations bill, to identify wasteful and unnecessary spending items and to notify Congress of his intention to eliminate such items. The real punch of this proposal is to force this body to justify its spending priorities by voting to overturn the President's rescissions.

Mr. President, it is high time that Congress end its spending spree. The American people can no longer afford to pay for our fiscal irresponsibility.

Mr. President, it strikes me as odd that Congress has only a limited supply of tax dollars to draw from, yet Members insert an unlimited number of wasteful spending items. The General Accounting Office has estimated that some $70 billion in unnecessary pork funding has been tucked away in appropriation bills between fiscal years 1984 and 1989. We have spent ourselves into a tremendous deficit, all in the name of good public policy. Mr. President, this level of deficit spending is not good public policy.

This legislation is long overdue. I urge my colleagues to support this common sense legislation.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the Chair. How much time do I have?

The PRESIDING OFFICER. The Senator from West Virginia has 10 minutes 7 seconds.

Mr. BYRD. Mr. President, I have just been asked by Mr. BUMPERS for 3 minutes. I yield 3 minutes to the distinguished Senator from Arkansas.

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

Mr. BUMPERS. Mr. President, I thank the distinguished Senator.

Mr. President, the line-item veto is very popular across the country. If you vote against the line-item veto, you do so at some political risk; we all know that. Yet I am not persuaded, and I will never be persuaded. On the contrary, I am convinced we would not be here today debating this issue at all if Jimmy Carter were President; if Bill Clinton were President, or if Fritz Mondale were President we would not be here debating the line-item veto.

I remember when President Reagan promised the people of this country he was going to balance the budget. All of a sudden, we have $100 billion, $200 billion, $250 billion deficits; all of a sudden, he said, "If I only had the line-item veto." Then next, he said, "I cannot spend a dime. The Congress did not appropriate it."

I tell you, we could not have spent a dime in this country that did not have Ronald Reagan's, or George Bush's signature, on it either. The President has the veto. There is 4 trillion dollars' worth of indebtedness in this country, and Congress is culpable to some extent, but I promise Ronald Reagan and George Bush signed for every dime of it; their names are on every penny of it.

So, Mr. President, I am not persuaded at all on the constitutionality of the line-item veto. On the contrary, I think it is unconstitutional. Even if it were not, there is not any question that Congress would figure a way to circumvent it.

Finally, Mr. President, if I were seeking a $15 million biotech startup project at the University of Arkansas, and let us say a Republican Senator has a project with a similar startup cost, we will say, in Texas, maybe Senator GRAMM, and the President is going through the bill. He is going to say we have to cut some money out of this budget. Who do you think is going to get vetoed? You do not have to be a rocket scientist to figure that out, do you?

Of course, the line-item veto is a massive transfer of power to the President of the United States, and people will stand up and wax eloquent on the floor of the U.S. Senate, saying: Oh, if we only had a line-item veto. Everybody here knows it will not make a dent in the budget deficit. It is all entitlements, defense, and so on.

People will walk down into the well of that Senate in the year 1992, and they will vote for billions for SDI; billions for the B-2 bomber; billions for the space station; billions for the super collider; $30 billion to spy on the Soviet Union, which does not even exist anymore; and then go home and say: Oh, if we only had the line-item veto.

Mr. President, I do not enjoy standing up here and saying things that I know are unpopular with our own people in my home State. But I did not come here to abdicate my responsibilities to the Constitution or commonsensical Government.

I remember when Lyndon Johnson called Harry Byrd, Sr., into his office during the time the civil rights bill was being considered, and said, "McNamara wants to close that naval base down there in your State." And Senator Harry Byrd, Sr., could not wait to get back over here and vote for the civil rights bill.

I am not going to vote for this massive transfer of power.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BYRD. Mr. President, what is driving the debt is in large measure something that the line-item veto will never touch; that is, entitlements spending and mandatory spending. Yet, what this amendment is directed to is the appropriations bills.

If this amendment were to be adopted, the President would not be using the red pencil; faceless, nameless bureaucrats—unelected bureaucrats—would be using the red pencil.

Our friends on the other side who offer this amendment are asking the American people to give up a lot; namely, the most important power that the people have through their elected representatives. We ought to think a long time before we turn an elected President—unelected by the people; he is elected by electors who are elected by the people—turn an elected President into a king.

This measure would effectively strip the authorizing committees—indirectly, of course—of power, as well. The President could simply negate any authorized program by striking its funding. This is a sham argument, crafted to take the focus off the real problem. The real problem is the lack of political will on the part of the White House and the Congress to cut entitlements or raise taxes, or both, and really do something about the deficits.

A number of times, Senators have referred here to the occasion when President Reagan stood before a joint session and held up the conference report and slammed it down on the desk and talked about how big and how heavy it was. That was the State of the Union Address in January 1988.

President Reagan carried on a great deal about the size of that package. Well, why was it sent to him in one package? Because in the fall of 1987, after the stock market crash, Congress had entered into summit negotiations with the Reagan administration, and the administration then insisted that all appropriations measures—all of them—and the reconciliation measure be submitted to the President concurrently.

That is the way we did it. We put them all into one package. It was at the administration's own request.

But Mr. Reagan went on at great length about his desire for line-item veto authority, so that he could line out portions of the bill in these kinds of bills.

He went on to say that he would send to the Congress a list of items that he would delete from the appropriations portions of the 1987 summit agreement. Well, 2 months later, President Reagan sent such a list to Congress. I have the President's proposal here. It is printed as House Document No. 100-174.

Let me read the President's message:

To the Congress of the United States:

I ask the Congress to consider the rescission or repeal of the wasteful, unnecessary, or low priority spending projects that were included in the full-year fiscal 1988 Continuing Resolution (P.L. 100-202). These are the projects that, if I were able to exercise line-item veto authority, I would delete. They consist of Congressional directives and amendments concerning activities which are unnecessary and for which my Administration has not requested funds. It is my hope that the funds appropriated for these projects will not be spent as directed and can instead be spent on worthwhile projects or retained by the Treasury to lower the deficit. Accordingly, I am informally asking that the Congress review these projects, appropriations, and other provisions line by line and either rescind or repeal them as soon as possible. I reserve the option of transmitting at a later date either formal rescission proposals or language that would make the funds available for more worthwhile purposes, for any or all of these items.

Since I assumed this office, the Congress has appropriated billions of dollars for questionable purposes, much of it in the context of massive spending bills passed in great haste that not even Congress had an adequate chance to evaluate. Because current law so severely restricts my ability to impound or not spend appropriated funds, I again appeal to the Congress to provide the Chief Executive with permanent line item veto authority. In the meantime, I urge your prompt attention to this request for legislative action in order to avoid these unnecessary expenditures of taxpayer dollars.

The details of these projects are set forth in the attached letter from the Director of the Office of Management and Budget.

Signed Ronald Reagan, White House, March 10, 1988.

Well, here they are. How much did they amount to? How much did this list of items amount to that the President said he would delete if he were given the line-item veto? $969.6 million. It says Total Wasteful Items, $969.6 million. That is a lot of money, to be sure. But in the context of Federal budgets that are in the nature of over $1 trillion, $969.6 million in budget authority is two-tenths of 1 percent of the 1988 total discretionary appropriations. There you are. That is what President Reagan would have deleted, because they were "wasteful items" in his words—two-tenths of 1 percent. That speaks for itself, Mr. President.

That should speak for itself as to how effective this so-called elixir of all of our budget problems would be. This is what the amendment's sponsors call "budget reform."

Mr. President, I ask unanimous consent that a table providing a summary of wasteful items earmarked in the fiscal year 1988 full-year continuing resolution be printed in the RECORD.

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

SUMMARY OF WASTEFUL ITEMS EARMARKED IN THE FISCAL YEAR 1988 FULL-YEAR CONTINUING RESOLUTION (PUBLIC LAW 100-202)

[In millions of dollars]

Agency	Budget authority fiscal year 1988	Outlays fiscal year 1988	Total Federal project cost [1]
Candidates for rescission:			
Department of Agriculture	116.4	116.4	156.0
Department of Commerce	17.0	8.2	34.3
Department of Defense-Civil	49.4	33.3	1,971.7
Department of Education	6.4	0.6	14.1
Department of Energy	182.3	84.6	419.8
Department of Housing and Urban Development	1.0	.9	1.4
Department of the Interior	7.4	1.5	7.4
Department of Justice	2.0	.2	2.0
Department of Transportation	85.2	17.1	786.1
Department of the Treasury	8.4	8.3	8.4
General Services Administration	19.0	20.0	20.0
Other Independent Agencies	45.0	45.0	45.0
Subtotal, candidates for rescission	539.5	336.1	3,466.2
Candidates for repeal or amendment:			
Department of Agriculture	4.0	4.0	152.0
Department of Commerce	1.7	.2	1.7
Department of Defense-Military	252.2	155.0	252.2
Department of Education	4.3	2.0	4.3
Department of Health and Human Services	.....	1.0	46.0
Department of Housing and Urban Development	6.0	6.0	6.0
Department of the Interior	4.9	4.1	4.9
Department of Transportation	.....	.....	119.2
Department of the Treasury	135.0	132.0	135.0
Small Business Administration	5.0	85.0	85.0
Other Independent Agencies	17.0	13.8	17.0
Subtotal, candidates for repeal or amendment	430.1	403.1	823.3
Loan asset sales:			
Department of Housing and Urban Development	.....	158.0	.....
Small Business Administration	.....	643	.....
Subtotal, loan asset sales	.....	801.0	.....
Total:			
Department of Agriculture	120.4	120.4	308.0
Department of Commerce	18.7	8.4	36.0
Department of Defense-Military	252.2	155.0	252.2
Department of Defense-Civil	49.4	33.3	1,971.7
Department of Education	10.7	2.6	18.4
Department of Energy	182.3	84.6	419.8
Department of Health and Human Services	.....	1.0	46.0
Department of Housing and Urban Development	7.0	164.9	7.4
Department of the Interior	12.3	5.6	12.3
Department of Justice	2.0	.2	2.0
Department of Transportation	85.2	17.1	905.3
Department of the Treasury	143.4	140.3	143.4
General Services Administration	19.0	20.0	20.0
Small Business Administration	5.0	728.0	85.0
Other Independent Agencies	62.0	58.8	62.0
Total, wasteful items	969.6	1,540.2	[2] 4,289.5

[1] Includes both funded and unfunded portions.

[2] In addition, the closing of small post offices would, if the prohibition were repealed, result in savings to the public in fiscal year 1988 of $15,000,000. This would increase to an annual savings of $240,000,000 in 20 years.

Mr. BYRD. Mr. President, I thank my colleagues on the opposing side for their courtesies, as well. They have put up a good fight, and I respect them for their viewpoints. I hope that the Senate will resoundingly defeat the motion to waive the Budget Act.

The PRESIDING OFFICER. The question now is on agreeing to the motion offered by the Senator from Arizona to waive section 306 of the Budget Act.

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Iowa [Mr. HARKIN] and the Senator from Nebraska [Mr. KERREY] are necessarily absent.

The PRESIDING OFFICER (Mr. DODD). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 44, nays 54, as follows:

[Rollcall Vote No. 33 Leg.]

YEAS—44

Bond	Gorton	Nickles
Boren	Graham	Packwood
Brown	Gramm	Pressler
Burns	Grassley	Robb
Chafee	Hatch	Roth
Coats	Helms	Seymour
Conrad	Hollings	Shelby
Craig	Kassebaum	Simpson
D'Amato	Kasten	Smith
Danforth	Lott	Specter
Daschle	Lugar	Symms
Dole	Mack	Thurmond
Domenici	McCain	Wallop
Exon	McConnell	Warner
Garn	Murkowski	

NAYS—54

Adams	Durenberger	Mikulski
Akaka	Ford	Mitchell
Baucus	Fowler	Moynihan
Bentsen	Glenn	Nunn
Biden	Gore	Pell
Bingaman	Hatfield	Pryor
Bradley	Heflin	Reid
Breaux	Inouye	Riegle
Bryan	Jeffords	Rockefeller
Bumpers	Johnston	Rudman
Burdick	Kennedy	Sanford
Byrd	Kerry	Sarbanes
Cochran	Kohl	Sasser
Cohen	Lautenberg	Simon
Cranston	Leahy	Stevens
DeConcini	Levin	Wellstone
Dixon	Lieberman	Wirth
Dodd	Metzenbaum	Wofford

NOT VOTING—2

Harkin	Kerrey

The PRESIDING OFFICER. On this question, the yeas are 44, the nays are 54. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. BYRD. Mr. President, I move to reconsider the vote.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The motion to waive the point of order made by the Senator from Tennessee, [Mr. SASSER] having failed, the Chair now rules on the point of order.

The amendment by the Senator from Arizona affects title X of the Budget Act and the process by which the budget authority may be rescinded. This is a matter within the jurisdiction of the Budget Committee proposed to a bill not reported by that committee. Therefore, the amendment violates section 306 of the Budget Act. The point of order is well taken. The amendment falls.

The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank all Senators who voted against the motion to waive the Budget Act.

Mr. President, there has been some considerable amount of discussion in the press and here on the floor to the effect that the President ought to go ahead and exercise a line-item veto.

Mr. President, I hope that the President will not be led into that thicket of confrontation. The vote here, I think, today, expresses the view of the Senate. There is too much confrontation already between the executive and the legislative branches. And I hope that the President will not be persuaded by hotheads to just go ahead, exercise the line-item veto, and have a court test.

Well, he can do that. But what we need is less confrontation, Mr. President, between the White House and the Congress—less confrontation. If the President were to make this attempt, it would ensure a good deal of bitter confrontation. God help the Nation if that should ever be done and if the court should uphold the President. I do not believe that a court in its right mind would ever do that.

I yield to the distinguished Senator from Delaware.

Mr. BIDEN. Mr. President, I would like to compliment the Senator from West Virginia on the work he has done in the last 24 hours. And on the point he has just raised, note for him what maybe a number of Members on the floor do not know.

The present Attorney General, whom I think is a fine man and is a first-class Attorney General and a man of great integrity, when, before the Judiciary Committee, for his confirmation hearing, volunteered to make the point that he was not unwilling to take stands on controversial issues and he was his own man, volunteered—and I am paraphrasing—that he had done a great deal of work on the issue of whether there was an inherent line-item veto right that the President presently has, as the Constitution is presently drafted. And he said he is not only certain he does not, but that he feels very strongly that he does not, based on his research.

So I would hope that the President, if he is considering what some of his political advisers apparently have suggested to him to test this, that he go to his chief law enforcement officer, the man in which he said he has allowed to reside the greatest amount of confidence on matters of legal weight and importance, and ask his Attorney General, the Justice Department, for a judgment.

I am confident that if he does, that the Attorney General will respond as the honorable man that he is, exactly how he did in the committee—that there is no such inherent right in the Constitution presently possessed by the President.

I thank the Senator from West Virginia for both his comments and for yielding.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Delaware, chairman of the Judiciary Committee. I did not know about the statement that the distinguished Senator has just alluded to. I am reassured greatly upon hearing of that statement. And I am all the more pleased that I voted for the confirmation of the Attorney General.

Mr. President, I yield the floor.

Mr. SHELBY. Mr. President, I ask unanimous consent to proceed as in morning business for 5 minutes.

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

The Senator from Alabama is recognized.

(The remarks of Mr. SHELBY pertaining to the introduction of S. 2278 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BIDEN. Mr. President, I am shortly going to send an amendment to the desk on the legislation that is before us. The distinguished Senator from Massachusetts, who is in the midst of having to chair a hearing, would like to speak to a matter unrelated to this legislation for a few minutes and I will be delighted to yield for that purpose, for what he has to say I think is important.

AMENDMENT NO. 1699

(Purpose: To encourage cooperation and participation in joint ventures for production)

Mr. BIDEN. Mr. President, in the interest of time, what I would like to do is send my amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Delaware [Mr. BIDEN] (for himself and Mr. BROWN) proposes an amendment numbered 1699.

Mr. BIDEN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 10, strike lines 12 through 22 and insert the following:

"SEC. 7. (a) IN GENERAL.—Section 4 of this Act applies to a joint venture for production only if the joint venture—

"(1) provides substantial benefits to the United States economy including, but not limited to, increased skilled job opportunities in the United States, investments in long-term production facilities in the United States, participation of United States entities in the joint venture, or the ability of the United States entities to access and commercialize technological innovations or to realize production efficiencies; and

"(2)(A) whose principal facilities for the production of a product, process, or service are located within the United States or its territories; or

"(B) whose principal facilities for the production of a product, process, or service are located within a country whose antitrust law accords national treatment to United States entities that are parties to joint ventures for production.

"(b) MEANING OF NATIONAL TREATMENT.—For the purposes of this section, a foreign country accords national treatment to United States entities that are parties to joint ventures for production if it accords treatment no less favorable with respect to the application of its anti-trust laws to United States participants in joint ventures for production than would be accorded to its domestic participants in joint ventures for production in like circumstances.

Mr. BIDEN. Mr. President, as I said, whenever the Senator from Massachusetts is ready, I will yield to him.

By way of brief explanation, the distinguished Senator from Colorado will speak very shortly.

I believe the administration and I have worked out a compromise to the amendment to this legislation, a piece of this legislation that was very controversial. I think we have reached not only satisfactory agreement but an agreement that meets what were the stated desires of the Senator from Colorado and myself that the purpose of this legislation from the outset was de-

signed to benefit American workers; that the end result of this is to put America in a more competitive position and to move in a direction that allows American corporations who would otherwise be inclined to go into a joint venture agreement with other high technology companies but would be fearful that if we were wrong in their reading of the antitrust laws they would be subjected to treble damages, knowing that treble damages in some cases can in effect cause a company not only to suffer but go bankrupt if they are wrong, that we have this overall legislation for the purpose of putting—not in any way bringing down the shield of antitrust laws that protect the consumer, but giving companies, encouraging companies to stay within the law but not be as fearful of trying something new in consortia with other companies to move forward.

My concern is at the same time the purpose is of benefiting American companies and workers that we not also inadvertently put up, in effect, unfair trade barriers; that we not be protectionist in this process. So, on that one hand, we have a goal of protecting and enhancing American jobs and workers, capabilities and American companies, because of the nature of the international market these days and the competition from abroad and, on the other hand, in doing that, making sure we are not overly protectionist in the way in which we proceed.

So that is what the Senator from Colorado and I have been wrangling about—we never wrangle, actually. I think he is one of the brightest guys in this Chamber. That is what we have been discussing, talking about. I have hours and hours of discussions, my staff as well as his and with the administration as well.

What I will shortly speak to in more detail, after I yield, with the permission of the Senator from Colorado, to my friend from Massachusetts—in not much more detail, 5 minute's worth—is the outlines of that agreement whereby I believe we have satisfied the intent of the bill and also satisfied the concerns of those who believe that there is a concern of protectionism, if you will, in this legislation. Maybe that is an oxymoron. I am not sure. At any rate, with that, I see my friend from Massachusetts is ready.

I ask unanimous consent, Mr. President, that the Senator from Massachusetts, since we have a time agreement, be given 10 minutes on his own time, not to come out of the time of the 15 minutes allotted to this amendment.

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

Mr. BIDEN. By way of clarification, it is 30 minutes on this amendment, Mr. President, 15 minutes per side, not to come out of that 30 minutes.

The PRESIDING OFFICER. The correction is so noted.

Mr. KERRY. I thank the distinguished Senator from Delaware. I appreciate his courtesy. I have two statements I wish to make on different topics, if I may.

WE CAN CONTROL CRIME AND DRUGS

Mr. KERRY. Mr. President, I was disturbed this morning to see reports that the President's drug summit in San Antonio is proceeding on about the same level of success as his trip earlier this year to Japan.

I was disturbed to hear President Fujimori of Peru call the administration's antidrug strategy in Latin America a "failure" and say that "millions of dollars have been wasted and there has not been any results."

I was disturbed to see that the United States remains in fundamental disagreement with the Presidents of Colombia and Bolivia about the proper role of the military in fighting the drug war in South America.

I was disturbed by all of these things, Mr. President, but I was not surprised. I was not surprised because you do not have to travel to South America or even to San Antonio to know that the administration's drug war is not succeeding, is not real. Yes, there has been progress in reducing casual drug use; progress that has resulted not from drug interdiction, but from drug education; progress that started to reverse itself this past year when cocaine use rose in every category for the first time since 1985.

The fact is that while the drug war generals are meeting in San Antonio, those on the front lines are engaged in a nonstop fire fight on the streets and in the schools of this country. What happened at Thomas Jefferson High School in Brooklyn yesterday said more about drugs, guns, kids, education, cities and our Nation's future than anything the President has said or will say in Texas this week.

The fact is that despite the hundreds of millions of dollars we are pouring into the Andean drug strategy, coca leaf production is not down, it is up; cocaine manufacturing is up; cocaine traffickers have established new bases of operations throughout our hemisphere; cocaine remains widely available on our streets; the price of cocaine is coming down and the purity of cocaine is going up.

I doubt that any Senator would quarrel with the goals of the Andean strategy. International cooperation in the drug war is essential. Sharing intelligence and going after money laundering operations is vital. Targeting drug kingpins and seizing drug shipments is important.

But the only bottom line that really counts is whether we are reducing the amount of drug use and drug-related violence in the United States. I, for one, believe that we are more likely to make progress against drugs by helping the police in Boston and New York and Chicago in Hartford than by funding corrupt militaries in Lima, La Paz, and Bogota. We get more value for our drug dollars by helping a student stay off or kick drugs here at home, than by trying to buy off the coca farmers of northern Bolivia or central Peru.

The time has come for the President to come down from his mountain top and pay a visit to the real world. The fact is that this is not a hopeless task; we can control the epidemic of crime and drugs, but we are not going to do it at politically motivated drug summits.

We have to do it day by day, step by step, street by street, classroom by classroom, right here in America. That is our job. It does not make sense to be funding interdiction and eradication instead of funding education, law enforcement, and drug treatment here at home.

That, Mr. President, is what leadership is all about, and I regret that we have yet to see that kind of leadership at this summit.

VIETNAM INSERTED INTO CAMPAIGN

Mr. KERRY. Mr. President, I also rise today—and I want to say that I rise reluctantly, but I rise feeling driven by personal reasons of necessity—to express my very deep disappointment over yesterday's turn of events in the Democratic primary in Georgia.

I am saddened by the fact that Vietnam has yet again been inserted into the campaign, and that it has been inserted in what I feel to be the worst possible way. By that I mean that yesterday, during this Presidential campaign, and even throughout recent times, Vietnam has been discussed and written about without an adequate statement of its full meaning.

What is ignored is the way in which our experience during that period reflected in part a positive affirmation of American values and history, not simply the more obvious negatives of loss and confusion.

What is missing is a recognition that there exists today a generation that has come into its own with powerful lessons learned, with a voice that has been grounded in experiences both of those who went to Vietnam and those who did not.

What is missing and what cries out to be said is that neither one group nor the other from that difficult period of time has cornered the market on virtue or rectitude or love of country.

What saddens me most is that Democrats, above all those who shared the agonies of that generation, should now be refighting the many conflicts of Vietnam in order to win the current political conflict of a Presidential primary.

The race for the White House should be about leadership, and leadership requires that one help heal the wounds of Vietnam, not reopen them; that one help identify the positive things that we learned about ourselves and about our Nation, not play to the divisions and differences of that crucible of our generation.

We do not need to divide America over who served and how. I have personally always believed that many served in many different ways. Someone who was deeply against the war in 1969 or 1970 may well have served their country with equal passion and patriotism by opposing the war as by fighting in it. Are we now, 20 years or 30 years later, to forget the difficulties of that time, of families that were literally torn apart, of brothers who ceased to talk to brothers, of fathers who disowned their sons, of people who felt compelled to leave the country and forget their own future and turn against the will of their own aspirations?

Are we now to descend, like latter-day Spiro Agnews, and play, as he did, to the worst instincts of divisiveness and reaction that still haunt America? Are we now going to create a new scarlet letter in the context of Vietnam?

Certainly, those who went to Vietnam suffered greatly. I have argued for years, since I returned myself in 1969, that they do deserve special affection and gratitude for service. And, indeed, I think everything I have tried to do since then has been to fight for their rights and recognition.

But while those who served are owed special recognition, that recognition should not come at the expense of others; nor does it require that others be victimized or criticized or said to have settled for a lesser standard. To divide our party or our country over this issue today, in 1992, simply does not do justice to what all of us went through during that tragic and turbulent time.

I would like to make a simple and straightforward appeal, an appeal from my heart, as well as from my head. To all those currently pursuing the Presidency in both parties, I would plead that they simply look at America. We are a nation crying out for leadership, for someone who will bring us together and raise our sights. We are a nation looking for someone who will lift our spirits and give us confidence that together we can grow out of this recession and conquer the myriad of social ills we have at home.

We do not need more division. We certainly do not need something as complex and emotional as Vietnam reduced to simple campaign rhetoric. What has been said has been said, Mr. President, but I hope and pray we will put it behind us and go forward in a constructive spirit for the good of our party and the good of our country.

I thank our distinguished manager of the bill and the Senator from Delaware.

NATIONAL COOPERATIVE RESEARCH ACT EXTENSION

The Senate continued with the consideration of the bill.

Mr. BIDEN. Parliamentary inquiry, Mr. President. Are we back now on the amendment sent up——

The PRESIDING OFFICER. Pursuant to the unanimous-consent request, we are now back on the amendment offered by the distinguished Senator from Delaware.

The Senator from Delaware has the floor.

Mr. BIDEN. Mr. President, the amendment I am offering is cosponsored by Senator BROWN and has the support of the administration.

This amendment ensures that the changes in antitrust law made by this legislation—

Will provide the benefits to the U.S. economy and American workers that are the reason for this bill; and

Without in any way discriminating against our trading partners that provide fair treatment to American business.

Along with Senator LEAHY and Senator THURMOND, I am an original cosponsor of S. 479. This legislation is a simple—but extremely important—antitrust measure designed to improve the competitiveness of American business, and the job opportunities and skills of American workers.

For companies deciding whether to work with other firms in a joint venture, this bill will clarify the potential antitrust penalties they may face as a result of their participation. Greater certainty under the law will, in turn, spur participation by American companies in joint ventures.

In other words, Mr. President, without this bill, the threat of heavy antitrust penalties will continue to deter companies that might otherwise join in lawful manufacturing ventures.

With this legislation, companies will know for certain the antitrust standards and the potential penalties they may face as a result of their participation in a joint venture.

By making the law more certain, and by encouraging American firms to join together in manufacturing ventures, this bill helps American businesses share the heavy investment burdens needed to compete successfully in high-tech industries.

The American economy and American workers will be the direct beneficiaries of this change.

To qualify for the antitrust treatment provided by the act, companies must notify the Justice Department of their joint venture. This notice will heighten the scrutiny directed at joint ventures covered by the act, and will give the Justice Department the means to strictly enforce the antitrust law, should these ventures restrain trade.

The amendment I offer now with Senator BROWN, my distinguished Judiciary Committee colleague, ties the benefits of the bill to manufacturing ventures that either—

Locate their factories here in the United States; or

In foreign countries that give fair and equal treatment to American businesses.

In either case, a manufacturing venture will fail to be covered by the bill unless it provides clear and direct benefits to our economy. Qualification under this standard will turn on whether a joint venture can show—

The creations of skilled jobs here in the United States;

New investment in manufacturing plants in the United States; and

Improvements in the ability of United States business to commercialize new technology.

Mr. President, this bill and the amendment I am offering are needed to respond to America's recent decline in the world economy. During the past two decades, an ever-increasing perception has taken hold—

That American firms are producing second-rate products;

That American firms are less able than their foreign counterparts to commercialize high-technology products; and

That we are losing ground to the rest of the world.

Consider, for example, America's recent experience in the semiconductor industry. In 1980, America's share of the global semiconductor market was 57 percent. Nine years later, it had been cut to just 36 percent.

Accordingly to a report of the National Advisory Committee on Semiconductors each percentage point drop in the U.S. share of the world semiconductor market costs America—

Nearly 3,000 semiconductor industry jobs lost;

Some $130 million in lost wages to American workers; and

A $59 million reduction in spending for research and development.

The purpose of the amendment I have offered along with Senator BROWN is to make certain that the change in antitrust treatment achieved by this bill works to halt the decline of the semiconductor industry and other American business interests.

The estimated 63,000 semiconductor jobs lost through the 1980's, and the corresponding lost wages approaching $3 billion can only be remedied by legislation that is directly linked to American jobs and the American economy.

Senator BROWN and Attorney General Barr have cooperated with me in producing an amendment that will create American jobs without unfairly dis-

criminating against our trading partners.

My amendment keeps U.S. antitrust law free of any discriminatory impact—yet guarantees this legislation will make our economy more competitive.

Joint ventures that locate their factories in the United States—creating jobs and helping business—will receive the benefits of the Act.

Joint ventures located in countries that treat American business fairly also will be covered by the bill, so long as the foreign venture provides significant benefits to our economy.

Greater certainty in antitrust treatment will allow American business to better compete against foreign companies.

And American workers will be provided with skilled jobs that otherwise would not exist.

Mr. President, the amendment I am offering with Senator BROWN represents an intelligent and balanced accommodation of the competing interests touched by this legislation.

Mr. President, I want to thank Senator BROWN and Attorney General Barr for their hard work and cooperation in reaching an agreement on this amendment. I also want to thank the distinguished manager of the bill, Senator LEAHY, for his longstanding efforts on behalf of this legislation. And I would like to thank Senator THURMOND, the distinguished ranking member of the Judiciary Committee, for his sponsorship of this bill and his efforts on its behalf.

Mr. President, as I indicated, along with Senators LEAHY and THURMOND, I am the original cosponsor of this bill. The legislation is simple but extremely important: Antitrust measures designed to improve the competitiveness of American business and job opportunities and skills for America.

Some thought that the Biden portion of the legislation came in conflict with not that objective, but with the notion of whether or not we would be protected in growing concerns and stated concerns of both the administration and the Senator from Colorado, representing the view of many, as well as our friends in the European Community. And so I think we have worked out all of the kinks.

I want to thank Senator BROWN and Attorney General Barr for their very hard work and cooperation in reaching an agreement on this amendment. I also want to thank the distinguished manager of the bill, Senator LEAHY, for his longstanding effort on behalf of this legislation. I would like to thank Senator THURMOND, our distinguished ranking member of the Judiciary Committee, for his sponsorship of this bill and his efforts on its behalf.

I will not take any more of the Senate's time. I know we have been on this bill a long time, based on the last amendment in particular. And I know we are about ready to go to a third reading after this amendment and a couple—or maybe several—technical amendments.

Without further ado, Mr. President, I will yield back the remainder of my time, and yield to my friend from Colorado.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BROWN. Mr. President, I ask unanimous consent that Tom Forbord, a congressional fellow from the Department of State, be allowed floor privileges during the consideration of S. 479.

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

Mr. BROWN. Mr. President, I rise in support of S. 479, and the amendment we are now considering, which will bring joint production ventures under the scope of the National Cooperative Research Act of 1984. The act now provides that the rule of reason standards applied to joint research and development ventures if legal action is taken against them.

The economic prosperity and national security of the United States depend on the ability of American firms to remain at the frontier of new technology. Research and development are critical to achieve and sustain a technological edge. It's tough to compete with an arm tied behind us. This provision removes those bonds and allows two-fisted international competition.

We want joint production ventures under the scope of the National Cooperative Research Act because of the successful experience we have had with joint R&D ventures. Since its enactment, companies have filed more than 230 notifications for joint research and development ventures involving everything from chipmaking and steelmaking processes to superconductors. Many experts in the semiconductor field credit the act for the U.S. world leadership in semiconductor manufacturing technology.

Some opponents had argued that the NCRA would foster anticompetitive activities. This has not been the case. Assistant Attorney General James Rill testified:

> The Department [of Justice] has been managing the implementation of NCRA since its passage. We have found it to be highly successful and we believe its extension to joint production ventures would have similar results.

Former Commerce Secretary Robert Mosbacher testified:

> To my knowledge, the NCRA has not resulted in abuse; indeed, it seems to be working very well. To date, none of the many research and development ventures registered under NCRA has been struck down as anticompetitive under the anti-trust laws.

American scientists and engineers are the world's best innovators. They continue to make scientific breakthroughs and invent new and improved products.

For example, the Colorado Center for Advanced Ceramics at the Colorado School of Mines conducts cutting-edge research leading to new uses for ceramics and ceramic composites. That same school is the home of the Advanced Steel Processing and Products Research Center. Its focus on steel manufacturing and materials processing is generating innovations that could be used by American Steel fabricators and the U.S. auto industry.

The University of Colorado at Boulder received international recognition in biochemical research when Thomas Cech was awarded the 1989 Nobel Prize for his research in chemistry. He opened up a new scientific field, RNA enzymology, which offers the possibility of biotechnological cures for a host of virus-caused human illnesses, including cancer, AIDS, and even the common cold.

CU also has taken a major step toward helping the United States maintain a competitive edge in technological innovation through the Optoelectronic Computing Systems Center. The center works to develop optoelectronic devices and systems for computing, signal processing, and artificial intelligence, to prepare students for careers in optoelectronics and to transfer technology efficiently to U.S. industry.

Good ideas and technological breakthroughs, however, are not sufficient to achieve success in global markets. World technological leadership depends on the ability to convert research and development advances into commercial production. The actual production of new products requires large investment of capital and the investment of resources which may be beyond the financial capability of any company.

I congratulate Senators BIDEN, LEAHY, and THURMOND for their leadership in developing this legislation. Every political speech given anywhere in America talks about how to make America more competitive. This bill will do exactly that.

S. 479, with the amendment the Senate is now considering, will remove antitrust uncertainty for joint ventures that benefit U.S. workers, U.S. business, and U.S. competitiveness in global markets.

If the bill remains in the current form, the President's top trade and foreign affairs advisers will recommend a veto. With this amendment, they will recommend that he sign the bill.

This amendment requires that there be substantial benefit to the U.S. economy and lists some examples of such benefits.

This list is illustrative only and is not exhaustive. Benefits can take many forms and we are not requiring a venture to show any particular type of benefit.

The amendment is also intended to eliminate any possible discrimination

against foreign participation in joint ventures. This amendment ensures that all ventures meeting the substantial benefit test receive equal treatment under U.S. antitrust laws whoever the parties and wherever located. Nothing hinges on the nationality of the participants.

The national treatment requirement is not a limitation on foreign participation in joint ventures that will enjoy the benefits of the bill. Nor is it some kind of reciprocity requirement for foreign participation.

Rather, it is to encourage a country where a venture is located to give national treatment under its antitrust laws to any U.S. participants in joint ventures.

Mr. President, I ask unanimous consent that four letters that relate to this subject be printed in the RECORD.

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

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

OFFICE OF THE ATTORNEY GENERAL,
Washington, DC, July 17, 1991.

Hon. JOSEPH R. BIDEN,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: We understand that the Committee may soon take up S. 479, the "National Cooperative Research Act Extension of 1991." As you know, the Administration has proposed similar legislation, introduced by Senator Thurmond (by request) as S. 1163, the "Cooperative Production Act of 1991." These bills, which would extend the National Cooperative Research Act of 1984 ("NCRA") to joint production ventures, could significantly enhance U.S. competitiveness while continuing fully to guard against conduct that likely would be anticompetitive. We urge the Committee to report favorably a bill that combines the best features of S. 479 and S. 1163.

We understand that amendments to this legislation may be offered in Committee or perhaps subsequently that would limit the coverage of the amended NCRA, insofar as joint production is concerned, to joint ventures (i) whose principal production facilities are located in the United States; and (ii) which have less than 30 percent foreign ownership. We also understand that an amendment may be offered that substitutes for the 30 percent foreign ownership limitation a requirement that each party to the joint venture make a substantial commitment to the United States economy, as evidenced by various indicia. We are writing to express our very serious concerns regarding such limitations, which would undermine the very benefits the NCRA amendments are seeking to achieve. Such limitations also would fundamentally change the nature of antitrust law and sharply conflict with the joint efforts of the President and the Congress to open up markets to free trade and investment without conditions or performance requirements pertaining to nationality. If a bill containing such limitations were presented to the President for his signature, we would, unfortunately, have to recommend that he veto the legislation, notwithstanding our strong support for the underlying provisions of the bill.

EXTENSION OF THE NCRA TO JOINT PRODUCTION VENTURES

Both S. 479 and the Administration's proposal would extend the coverage of the NCRA to joint production ventures. NCRA coverage would reduce any unwarranted antitrust uncertainty regarding such ventures by ensuring the application of the antitrust rule of reason in any antitrust challenge to such a venture. Under the rule of reason, full account must be taken of all relevant circumstances in the markets affected by a joint venture, including any procompetitive efficiencies that the venture will generate. NCRA coverage also would permit the parties to joint production ventures to limit any possible antitrust liability to actual, rather than treble, damages by notifying the antitrust enforcement agencies of their venture. Eliminating unwarranted antitrust deterrence of potentially procompetitive cooperative production would benefit U.S. businesses and U.S. consumers alike.

DENIAL OF NCRA COVERAGE TO CERTAIN JOINT VENTURES

As noted above, the goal of the proposed NCRA amendments is to improve U.S. competitiveness in the global marketplace by removing antitrust uncertainty and unwarranted antitrust deterrence of beneficial joint production ventures. The proposed NCRA amendments recognize the potential procompetitive efficiencies of cooperative production for innovations—especially high technology innovations—which are taking place so rapidly around the world and which may require cooperation among companies to reap their full benefits. American companies should be able to take advantage of these innovations quickly and efficiently, wherever they occur and with whomever they choose. Creating a more conducive environment for American firms to engage in such cooperation ultimately will lead to more jobs for U.S. citizens as well as to higher quality products at lower costs.

Never has liability under our antitrust laws or those of our competitors been predicated upon the nationality of the company involved. The proposed limitations, in contrast, would effectively allow different levels of antitrust liability to be imposed on companies depending on factors that are irrelevant to antitrust analysis. This approach to antitrust law is unfair and denies American companies the very benefits they are seeking in areas where cooperation could be most helpful—for example, areas in which foreign firms currently may have access to technology unavailable to U.S. firms. As we seek to remove barriers to efficient and beneficial cooperation, we should not at the same time interject the government into industry's private decisionmaking by using discriminatory antitrust treatment to discourage possibly beneficial cooperative ventures with foreign firms.

Equally objectionable is any provision that would require that principal joint venture production facilities be located in the United States, or that each party to the joint venture demonstrate a substantial commitment to the U.S. economy, as a condition of equal and nondiscriminatory treatment under the antitrust laws. Like a foreign ownership limitation, such a provision would introduce irrelevant criteria to antitrust law as well as disserve this legislation's basic purpose—to facilitate procompetitive joint ventures of benefit to U.S. firms and U.S. consumers alike—because it would limit and distort investment options, including those available to American companies. Any such requirement, particularly a requirement of a "substantial commitment to the United States economy," would also disserve the legislation's basic purpose by resulting in great uncertainty as to whether a given joint venture would be entitled to the protections of the legislation.

Legislation that would result in explicit or implicit discriminatory antitrust treatment of joint ventures with foreign ownership or foreign facilities also would send the wrong signal to our trading partners, with whom we are vigorously negotiating freer trade and investment opportunities and expecting the same high standards of nondiscriminatory treatment to be given to American companies as we provide foreign-owned companies here. Such legislation could be perceived as being inconsistent with our obligations under the Bilateral Investment Treaties; treaties of Friendship, Commerce and Navigation; and other international agreements. Moreover, consistent with the negotiating objectives established by Congress, we are seeking greater access for U.S. investment worldwide. We are urging the Japanese to revise their antimonopoly law and more effectively enforce it in the Structural Impediments Initiative; negotiating with Mexico and Canada on a North America Free Trade Agreement and considering similar trade and investment opportunities with other countries in our hemisphere; and pressing countries worldwide in the Uruguay Round negotiations under the General Agreement on Tariffs and Trade to drop barriers to international trade and investment. We urge your Committee not to adopt amendments to the NCRA that would be perceived by our trading partners as inconsistent with our international obligations, or be a possible barrier or cause for retaliation with respect to future trade opportunities.

Sincerely,

Nicholas F. Brady, Secretary of the Treasury; Carla A. Hills, U.S. Trade Representative; Dick Thornburgh, Attorney General; Robert A. Mosbacher, Secretary of Commerce.

DELEGATION OF THE COMMISSION OF THE EUROPEAN COMMUNITIES,
February 25, 1992.

Hon. HANK BROWN,
U.S. Senate,
Washington, DC.

DEAR SENATOR: I am writing to you in relation to S. 479, the National Cooperative Research Act Extension of 1992, which I understand will be debated on the Senate floor as soon as today. In conjunction with my colleague, the Ambassador of Luxembourg, I wrote to a number of Senators in June last year expressing the European Community's serious concerns about aspects of this legislation. In this letter I would like to supplement these by drawing your attention to our misgivings about this bill from an antitrust perspective.

As has been stated before the basic philosophy underlying the bill, namely to reduce the antitrust liability for production joint ventures is one which we fully comprehend and support. Indeed, you will be interested to know that the Community has had for many years rules and policies in place which either find that certain types of cooperation agreements do not restrict competition or, to the extent that they do, exempt them from a prohibition. Several of these types of cooperation agreements do also apply to production joint ventures.

The Commission is presently considering the publication of a so-called "Notice" in which it will announce a further relaxation

of its application of the competition rules to joint ventures, including production joint ventures.

While we seem to have similar objectives in mind, there are nonetheless serious differences in our approach. In a nutshell, the Community makes no distinction between whether the production joint venture's principal production facilities are located within the EC or not; nor do we mandate that the relaxation of antitrust rules for such ventures is dependent on whether the parties make a substantial commitment to our economy. In brief, we make no distinction whatsoever between the nationality of the owners, the relative importance of the production operations nor the location of the facilities in applying our laws in this or indeed in any other area of antitrust policy.

By contrast Section 7 of S. 479 introduces discriminatory provisions. These would have the effect of setting up two—track antitrust law enforcement dependent on whether the parties to the deal have principal production facilities in and commitments to the US economy or not. This is a highly damaging approach for the following reasons.

Firstly, if the US introduces discrimination into its antitrust laws other jurisdictions, including the EC, will be obliged to reflect on a mirror-image approach. By establishing a precedent in this area, the US will have sowed the seeds of business uncertainty, in complete contradiction to the aims of the bill which are to encourage business cooperation and technology transfer.

Secondly, the EC and the US have just signed and are implementing an antitrust cooperation agreement. The provisions of S. 479 are in contradiction with the philosophy of cooperation which underlies this important agreement.

Thirdly, it would be immensely damaging if the Senate were to pass a discriminatory piece of antitrust legislation at the very moment that serious attention is being given, in both the EC and the US, as to how to ensure that certain other industrialized countries follow our example by implementing and enforcing an effective antitrust policy. Two track discriminatory antitrust policies send the wrong message to those who shelter behind closed markets; instead of discriminating in the US market efforts should be concentrated instead of getting recalcitrant countries to ensure fair competition in their markets.

In summary, I would urge you to delete the discriminatory provisions of section 7 of S. 479 when the bill comes to the Senate floor for debate.

Yours sincerely,

ANDREAS VAN AGT,
Head of Delegation.

OFFICE OF MANAGEMENT AND BUDGET,
Washington DC, February 26, 1992.

STATEMENT OF ADMINISTRATION POLICY

S. 479—National Cooperative Research Extension Act of 1991—Leahy of Vermont and 12 others

S. 479 would extend the antitrust treatment now applicable to joint research and development ventures under the National Cooperative Research Act (NCRA) to joint production ventures which are often procompetitive and efficient. This extension of NCRA treatment would remove unwarranted antitrust uncertainty from such ventures. However, because discriminatory conditions that serve no antitrust purpose have been added to S. 479, the Attorney General, the Secratary of Commerce, the Secretary of the Treasury, the Secretary of State, and the United States Trade Representative would recommend that the bill be vetoed if presented to the President in its current form.

The Administration would not object to enactment of S. 479 if it were amended as proposed by Senator Brown because this amendment effectively eliminates discrimination. However, any amendment which continues to impose requirements with discriminatory effects would not cure the defects in the bill.

As currently drafted, the bill would condition equal treatment under the antitrust laws upon (1) location of principal joint venture production facilities in the United States; and (2) demonstration of a "substantial commitment" to the U.S. economy by each party to the joint venture. These conditions would:

Change fundamentally the nature of antitrust law by imposing additional sanctions on certain joint ventures for no antitrust reason. Instead, treble damages would be assessed for lack of a U.S. manufacturing presence or sufficient "commitment to the U.S. economy." Such a policy would be unfair and contrary to the way our antitrust laws have historically been applied.

Undermine the legislation's basic propose of reducing antitrust uncertainty by inviting extensive litigation over the meaning and application of the conditions.

Conflict sharply with the joint efforts of the President and the Congress to open up markets to trade and investment without conditions or performance requirements, and could provoke similar differential treatment of U.S. firms abroad.

Undermine the expected benefits of the legislation by limiting and distorting companies' investment and partnership options. American companies would be deterred from participating in promising ventures in areas where cooperation could be most helpful—for example, areas in which foreign firms currently may have access to technology unavailable to U.S. firms, yet may not have a sufficient manufacturing presence in or "commitment" to the U.S. economy.

The Brown amendment is an acceptable alternative to the objectionable provisions of S. 479.

OFFICE OF THE ATTORNEY GENERAL,
Washington DC, February 26, 1992.

Hon. HANK BROWN,
Ranking Minority Member, Subcommittee on Technology and the Law, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR SENATOR BROWN: This responds to your request for the views of the Administration regarding a substitute amendment to S. 479, the "National Cooperative Research Extension Act of 1991" which you will offer along with Senator Biden. The Administration would not object to enactment of S. 479 if the substitute amendment is adopted.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the presentation of this report.

Sincerely,

WILLIAM P. BARR,
Attorney General.

Mr. BROWN. Mr. President, not to push my luck, but I would like to add my voice of thanks to the distinguished Senator who heads our Committee on Judiciary. I believe good legislation is the product of not only thoughtful consideration but a willingness to work with others.

I had expressed a concern as this bill went forward that we faced the danger of retaliation by some of our trading partners. There were real threats to that effect from people representing the European common market, concern expressed by the administration.

In that process of raising those concerns, the distinguished Senator from Vermont and the distinguished Senator from Delaware were willing to work with us to work out a solution which I believe makes it clear this bill will not engender retaliation by our trading partners. The bottom line of this bill is about jobs, joint ventures that can add jobs for this country, and to develop a response to the new technological age of this nation. I believe it is a legislative victory, as well, because thoughtful people have taken time to work out the real problems.

I would just like to add one other concern. This is a step forward in indicating the determination of the United States to put ourselves on a competitive footing, and one of many steps that this Senate will be taking in the years ahead that will begin to insist on fair trade; which will begin to insist that we have reciprocal trading relationships; that we end a process which developed after World War II where this Nation allowed other nations to develop barriers to our products and our processes while we left ourselves open.

There is an element in this amendment that suggests that America from now on is going to insist on reciprocity, and on fair treatment. I must say I hope it is only the beginning salvo in an effort on this Senate's part to insist on fair treatment for Americans in the international marketplace.

I yield the floor.

Mr. LEAHY. Mr. President, I yield myself 1 minute on the bill. I just want to compliment both the Senator from Delaware and the Senator from Colorado. I have the highest regard for both of them in the work they have done in putting this compromise together. I am proud to work with both of them on it.

I urge acceptance of the amendment.

Mr. THURMOND. Mr. President, I want to commend Senator BIDEN and Senator BROWN for their time and efforts in reaching this compromise amendment to S. 479. I believe that this amendment addresses the major concerns of those who have expressed problems with S. 479, including the administration.

Our debate today about the need for legislation to encourage joint ventures is especially urgent because of the difficult economic times in which we find ourselves. It is, therefore, important that we take great care to fashion legislation that provides every appropriate competitive advantage to American companies, that fosters job creation, and that provides the best trading environment for our American companies. Mr. President, I believe the Brown-Biden amendment does that. It

strikes an appropriate balance between antitrust and trade, and in doing so, it offers an approach that ensures the creation of additional jobs through the encouragement of production joint ventures.

Mr. President, I strongly urge all my colleagues to support the Brown-Biden amendment and to vote for S. 479.

Mr. RIEGLE. Mr. President, I am opposed to this amendment. The amendment weakens the provisions of the bill requiring firms to demonstrate a commitment to the U.S. economy. I realize that this is a compromise amendment with the administration but I believe it goes in the wrong direction. If we are to grant antitrust relief to American companies, it should be for the benefit of the American economy and American workers. I would like to be recorded as voting "no" on this amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? Is all time yielded back on the amendment?

Mr. BIDEN. We yield the remainder of the time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1699) was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1700

(Purpose: Technical Amendment)

Mr. LEAHY. Mr. President, I have some technical amendments that I believe have been cleared. I have one on behalf of myself and Mr. THURMOND and Mr. METZENBAUM.

Mr. President, I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for himself, Mr. THURMOND, and Mr. METZENBAUM, proposes an amendment numbered 1700.

Mr. LEAHY. 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 5, line 15, strike "1991" and insert "1992".

On page 7, line 24, strike "and" and insert "or".

On page 8, line 3, strike "and".

On page 8, strike lines 5 and 6 and insert the following:

(C) in paragraph (2)—

(i) by striking "production or" each place it appears; and

(ii) by striking "other than the marketing of proprietary information developed through such venture, such as patents and trade secrets, and" and inserting the following: "other than—

"(A) the marketing of proprietary information, such as patents and trade secrets, developed through such venture formed before enactment of the National Cooperative Research Act Extension of 1991, or

"(B) the licensing, conveying, or transferring of intellectual property, such as patents and trade secrets, developed through such venture formed after enactment of the National Cooperative Research Act Extension of 1991, and"; and

On page 11, line 15, insert "and the Federal Trade Commission" after "the Department of Justice".

Mr. LEAHY. Mr. President, I note again, so people will understand the broad coalition here, this is on behalf of myself, Mr. METZENBAUM, and Mr. THURMOND. I understand that there are no objections to this amendment. I ask for its adoption.

Mr. METZENBAUM. Mr. President, as I have said repeatedly, I think the National Cooperative Research Extension Act of 1991 is a bad bill. In an effort to limit its reach, I have proposed three amendments which have been made part of this bill. I thank the sponsors of the bill for working with me to improve the bill even though I continue to oppose it.

The first amendment would make the bill prospective only. As originally drafted the bill would have extended lenient antitrust treatment for production joint ventures currently in the market. This bill is supposed to encourage the creation of joint ventures, therefore, it makes no sense to protect joint ventures that have already plunged forward.

The second amendment would limit those provisions of the bill which would extend its protection to existing production facilities. As with the previous amendment, I don't see why existing production facilities should be grandfathered into the more lenient antitrust treatment when the whole point of the bill is to encourage new and more efficient production. For that reason I proposed, and the sponsors accepted, an amendment to limit its special antitrust treatment to facilities which are used for the production or processing of a new product or technology.

Both these previous amendments were accepted during committee consideration. I have proposed a third amendment which the sponsors have accepted as part of the manager's amendment. This amendment concerns language in the original National Cooperative Research Act.

I supported the original legislation in 1984, but at the time made clear my concern that the extension of the act beyond research and development would be unwise. The bill we consider today extends protection to production, an unnecessary extension that I oppose. I likewise would strongly oppose extending the protections of this legislation to marketing; the next and final step in bringing a product to market.

The current law, however, provides that certain intellectual property which results from a research and development joint venture can be marketed within the protections of the act. I think the use of the term "marketing of proprietary information" in 15 U.S.C. 4301(b)(2) is unclear and unnecessarily broad. I have therefore proposed that more specific language be used. Pursuant to my amendment, intellectual property from future research and development or production joint ventures may be licensed, conveyed or transferred. These terms more accurately describe how intellectual property moves from one party to another. To use the term "marketing" would be to include more activity than is required for such transfers. The sponsors have accepted this limiting amendment.

I ask unanimous consent that these remarks appear before the adoption of the manager's amendment.

The PRESIDING OFFICER. Is there further debate on the amendment of the Senator from Vermont?

If not, the question is on agreeing to the amendment.

The amendment (No. 1700) was agreed to.

Mr. RIEGLE. Mr. President, I rise in support of S. 479, the National Cooperative Research Act Extension of 1991. I believe that this bill is an important part of our long-term economic growth strategy and will improve our international competitiveness.

As many have pointed out, the United States is good at inventing. Where we fall behind is in commercialization and manufacturing. Yet, it is these areas of commercialization and manufacturing that define international economic competition and drive economic growth. Over the long term our economy will grow to the extent that we spur innovation and productivity. This means we need to concentrate on developing new and improved goods and services and the utilization of new and improved manufacturing processes.

This bill will help by allowing firms to join together in cooperative arrangements that are often so important for successful technological innovation and commercialization. It does so by establishing a procedure under which firms may notify the Department of Justice and Federal Trade Commission of their cooperative ventures and thereby qualify for a single-damage limitation on civil antitrust liability. The bill builds upon the successful experience of the National Cooperative Research Act of 1984—extending the provision of that act which covered cooperative research ventures to cover joint production ventures as well.

As part of our ongoing efforts to improve competitiveness, the bill also re-

quires an annual report by the Free Trade Commission and a triennial report by the Secretary of Commerce. The report by the Commerce Secretary will include a description of the industrial technologies most commonly pursued by joint ventures for research and development, a description of the areas of production most commonly engaged in by joint ventures for production, and an analysis of the trends in the competitiveness of U.S. industry in those areas. This report will be especially useful in monitoring and improving our international competitiveness.

JOB CREATION

I would like to draw my colleagues' attention to one particular provision of the bill that is important for job creation. The bill requires that the protection under this act applies only to a joint production venture:

> * * * whose principal facilities for the production of a product, process, or service are located within the United States or its territories; and in which each of the parties to the joint venture makes a substantial commitment to the United States economy, as evidenced by investments in the United States such as long-term production facilities and by significant contributions to employment in the United States.

The Bush administration objects to that language. They believe that United States firms shouldn't be required to show a substantial commitment to the United States in order to qualify for this antitrust relief, but should be allowed to run off to Mexico or elsewhere with American jobs if they feel like it.

Last year, the Senate passed the Telecommunications Equipment Research and Manufacturing Competition Act of 1991, S. 173. That bill allowed the Bell Telephone Cos. to manufacture equipment through a manufacturing affiliate, which they were prohibited from doing under the modified final judgment that broke up AT&T. As a condition of allowing the Bell Telephone Cos. to establish a manufacturing affiliate, we required that:

> * * * such manufacturing affiliate shall conduct all of its manufacturing within the United States and, except as otherwise provided in this paragraph, all component parts of customer premises equipment manufactured by such affiliate, and all component parts of telecommunications equipment manufactured by such affiliate, shall have been manufactured within the United States.

Both business and labor supported that provision. Here was a perfect example of us working together to strengthen the American economy. Yet, President Bush is determined to play the spoiler. He threatens to veto that bill over that job creating provision. Once again, President Bush is showing through his actions that no matter what his lips say, American workers are not his priority.

Ms. MIKULSKI. Mr. President, I speak today in support of this necessary piece of legislation, and in support of American jobs.

The Research Cooperation Extension Act is important to America's future competitiveness. Our economy is increasingly based on information: Researching it, analyzing it, and applying it to products that keep our economy going. This bill brings American law up to date, by allowing companies to cooperate both on research and on product development.

American research in high technology areas provides the foundation for many of the new products here and across the world. But our antitrust laws, designed a half-century ago to prevent robber barons and monopolists from stifling new small businesses, are actually hurting some of the innovations they were meant to encourage.

American scientists and engineers have to be able to share their information. Rather than having two software experts working alone on the same program, we need to have them be able to share their knowledge and move faster to complete their work—probably making the program better than it would have been. Small companies with good ideas but a little short of capital should be able to pool their resources with others to develop telecommunications innovations that otherwise would go undiscovered or be produced overseas.

That is why the Congress established the Research Cooperation Act 8 years ago. That law allows limited and fair cooperation in research that does not stifle competition. However, we are a country that wins Nobel research prizes, but loses markets. We have the greatest higher education and research system in the world. But we let the Japanese and the Europeans develop the products that our research made possible.

This bill helps Americans take the next step—to go from research to producing products based on that research. It makes antitrust rules more reasonable for businesses pooling their talents to create high technology products and jobs. But it still protects small businesses from unfair practices that push little guys out of the market.

Rather than forcing our engineers and businessmen to live by laws half a century old while other countries cooperate to create jobs, the Research Cooperation Extension Act modernizes business law. American companies will be able to cooperate, fairly, to create the next generation of products. They will not have to fear arbitrary antitrust suits that subject them to treble damages. Instead, these businesses can focus their capital and energy on creating new products, not fighting legal battles. And the bill requires that this cooperation have substantial benefits to the American economy, or it will not fall under this law.

I urge my colleagues to vote for this bill and to vote for American jobs.

Mr. DIXON. Mr. President, I support S. 479, the National Cooperative Research Extension Act of 1991. I am particularly pleased that the legislation contains a provision I originally proposed on the Defense Production Act.

Section 7 of S. 479 is almost identical to a provision of the Defense Production Act, which I authored. The concept then remains eminently clear and simple. In joint production ventures, it is reasonable and appropriate to require that the principal production facility be located in the United States.

The administration opposes this provision. They opposed it in the Defense Production Act. Once again, the administration is shortsighted.

The purpose of offering the kind of incentive contained in section 7 of S. 479, is to promote jobs here at home. It is a carrot and stick approach to economic development.

If a foreign-owned joint venture wishes to locate its principal production facility somewhere other than the United States, then why should we reward them with the benefits provided for in this legislation? Why reward those involved in the joint venture with antitrust benefits if they do not invest in facilities and jobs in the United States?

The administration wants to give something for nothing.

What section 7, and its antecedent, my provision in the Defense Production Act, will do, is provide the kind of incentives to foreign-owned joint ventures that will have tangible results here at home. It means investment in the United States in facilities, workers, and communities.

The domestic production facilities language of S. 479 means jobs. Those who oppose it cannot be taken seriously when they claim to be working to bring jobs to their State.

I cannot understand the administration's opposition to section 7. I didn't understand their objections when I first proposed it on the Defense Production Act. It didn't make sense then, and it doesn't make sense now.

I urge my colleagues to vote for S. 479, with the domestic production facilities language. America needs this legislation, now more than ever.

I thank my colleagues.

Mr. HOLLINGS. Mr. President, I rise today in support of S. 479, the National Cooperative Research Act Extension of 1991.

At the end of World War II, this Nation faced yet another challenge to our fundamental principles of freedom and democracy. Forty-five years of commitment and sacrifice by this Nation resulted in the reconstruction and restoration of democracy in Asia and Western Europe and culminated in the collapse of the Soviet empire and the liberation of Eastern Europe. Now at the end of the cold war, we face yet another challenge. An economic challenge, a trade war, a no-holds-barred

struggle for market share that threatens our standard of living.

Just as winning the cold war required this Nation to abandon its tradition of isolationism, winning the trade war will require the courage to break with the failed policies of the past. Our blind adherence to free-trade policies have weakened our manufacturing base and sent 2 million American jobs offshore in search of low wages and regulators who look the other way when companies pollute.

Mr. President, the time has come for this Nation to end its crusade to convert the rest of the world to economic clones of ourselves. How can a nation that has posted over $1 trillion in trade deficits, hold itself out as the model that others should follow? How long will we persist with this naive endeavor to convince others to implement tough antitrust laws, asking them to abandon the Government-directed export policies that have served them so well? Do we really expect the Japanese to break up the Keiretsu structure, which has allowed them to capture market share long before they realize a profit? Instead, we must adopt a trade policy that is both aggressive in addressing predatory trade practices, but is also bold and creative.

S. 479 will remove the chains that have shackled American entrepreneurs from exploiting new technologies. It simply extends the National Cooperative Research Act from the laboratory to the shop floor. It would permit American companies to enter into joint production ventures without the threat of treble damages resulting from an antitrust suit hanging over their head like a "Sword of Damocles."

Japanese firms develop technologies under the auspices of an industrial group with an unlimited supply of patient capital willing to nurture the development of new technologies. Japanese firms also participate in consortiums with the encouragement of its Ministry of Trade and Industry.

In this country, our entrepreneurs face a shortage of patient and affordable capital. Few firms are able to get the capital necessary to convert basic research into a finished product. This legislation will enable American firms to join together not only to share the research and development costs, but also to share the costs of production.

This act does not exempt these ventures from the antitrust laws, it simply applies the rule of reason standard to joint production, so that if an antitrust action were brought against a venture, a court could weigh the competitive benefits of the venture. In addition, it limits antitrust recovery to simple damages rather than treble damages.

The fact is, our antitrust laws are the product of an era in which our economy was dominated by a few giant domestic trusts. Now faced with vigorous foreign competition, the concentration of domestic competition is not the problem it was even 25 years ago. MIT's Lester Thurow has clearly identified these changing circumstances:

> The United States can no longer afford the luxury of several firms developing the same technologically sophisticated product. These firms will face fierce competition from a limited number of Japanese competitors who developed their technology through MIT-sponsored R&D.

The fate of the semiconductor industry is an example of the decline that faces our high technology manufacturers that are touted as the industries that will lead us into prosperity in the next decade. Semiconductors are the building blocks upon which other high technology industries will be created. The semiconductor industry was characterized by innovation and entrepreneurship, an industry which American firms once dominated. Unfortunately, U.S. companies have steadily lost market share to Asian competitors who targeted the industry and pooled their resources together to attack the American market.

Now is the time for us to fight back. The first step was the National Cooperative Research Act Extension which allowed joint research and development to go forward without the threat of treble damages. This act laid the foundation for the formation of Sematech. Now we must take it a step further and allow our companies to band together to share the costs of production so that we can regain our economic prowess.

Unfortunately, the administration has chosen to oppose this bill because it contains a provision that a venture's principal production facilities be on U.S. soil and that foreign participants in these ventures which receive special treatment make a substantial commitment to the U.S. economy. A perfectly reasonable requirement. It simply provides that in order to receive a benefit from the loosening of our antitrust laws, a company must create some jobs in this country.

The administration, in its opposition to this, once again shows its hostility to the American worker. The administration has said it will veto this legislation in order to defend a company's right to produce offshore and further reduce our standard of living. All in the name of an outdated 18th-century theory of free trade.

Mr. President, let us hope that the passage of this legislation will mark the beginning of a new era in which our Government enables industry to meet the competitive challenge from abroad rather than contribute to our economic decline.

Mr. SPECTER. Mr. President, I am pleased to lend my support to S. 479, the National Cooperative Research Act, which I have cosponsored, as I did during the 101st Congress. This legislation is especially vital to the future economic strength of our Nation.

Since 1984, when the National Cooperative Research Act was first enacted, many companies have taken advantage of its provisions by establishing joint ventures for research and development. This act has clarified antitrust liability for such joint ventures and removed the threat of treble damages which had previously stifled not only unlawful anticompetitive behavior but also legal joint ventures because of the uncertainty surrounding the possibility of being liable for treble damages.

S. 479 extends the protection accorded to joint ventures for research and development to joint ventures for production. This is a perfectly logical next step, and it is one that I strongly support.

We all know that our Nation is currently in the grips of severe economic dislocation. Our manufacturing base has been especially hard hit. I know of this dislocation only too well from the experience of my own State, Pennsylvania, which has lost many well-paying jobs in manufacturing. Recently, I held a series of hearings throughout Pennsylvania under the auspices of the Judiciary Committee. At these hearings, the depths of the problems faced by our manufacturing industries was brought home in great detail. In addition, I spend a great deal of time traveling throughout Pennsylvania, and I come face to face all the time with the burdens faced by our manufacturers, especially from foreign competition supported by cheap foreign labor and weak foreign environmental laws and workplace rules but strong barriers to U.S.-made goods.

I believe that this legislation will create many new, well-paying jobs in the manufacturing sector in our Nation. Companies will be able to enter into joint production ventures without the sword of treble damages hanging over them. It is extremely expensive to build state-of-the-art manufacturing facilities in all industries today. Stimulated by this bill and the lessened risk of antitrust damaged, manufacturing ventures will be started to provide jobs and the accompanying economic benefit to our Nation.

I am pleased therefore to support S. 479. I want to compliment Senator LEAHY for his perseverance on this bill, Senator THURMOND for his leadership on our side, and Senator BIDEN and Senator BROWN for working through some of the controversial aspects of this bill and arriving at a compromise that all interested parties in the Senate and the administration can support.

Mr. LEAHY. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second? At the moment, there is not a sufficient second.

There appears to be a sufficient second.

The yeas and nays were ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. LEAHY. Mr. President, I had not understood that some time had been reserved on the bill. I yield back all time reserved on the bill.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the committee amendment in the nature of a substance, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Illinois [Mr. DIXON], the Senator from Iowa [Mr. HARKIN], and the Senator from Nebraska [Mr. KERREY] are necessarily absent.

The PRESIDING OFFICER (Ms. MIKULSKI). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 96, nays 1, as follows:

[Rollcall Vote No. 34 Leg.]

YEAS—96

Adams	Ford	Mitchell
Akaka	Fowler	Moynihan
Baucus	Garn	Murkowski
Bentsen	Glenn	Nickles
Biden	Gore	Nunn
Bingaman	Gorton	Packwood
Bond	Graham	Pell
Boren	Gramm	Pressler
Bradley	Grassley	Pryor
Breaux	Hatch	Reid
Brown	Hatfield	Riegle
Bryan	Heflin	Robb
Bumpers	Helms	Rockefeller
Burdick	Hollings	Roth
Burns	Inouye	Rudman
Byrd	Jeffords	Sanford
Chafee	Johnston	Sarbanes
Coats	Kassebaum	Sasser
Cochran	Kasten	Seymour
Cohen	Kennedy	Shelby
Conrad	Kerry	Simon
Craig	Kohl	Simpson
Cranston	Lautenberg	Smith
D'Amato	Leahy	Specter
Danforth	Levin	Stevens
Daschle	Lieberman	Symms
DeConcini	Lott	Thurmond
Dodd	Lugar	Wallop
Dole	Mack	Warner
Domenici	McCain	Wellstone
Durenberger	McConnell	Wirth
Exon	Mikulski	Wofford

NAYS—1

Metzenbaum

NOT VOTING—3

Dixon Harkin Kerrey

So the bill (S. 479) as amended, was passed, as follows:

S. 479

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 Cooperative Research Act Extension of 1992".

SEC. 2. JOINT VENTURES.

SEC. 2. The National Cooperative Research Act of 1984 (15 U.S.C. 4301 et seq.) is amended—

(1) by inserting after section 1 the following:

"SEC. 1A. FINDINGS AND PURPOSE.

"(a) The Congress finds that—

"(1) technological innovation and its profitable commercialization are critical components of the United States ability to raise the living standards of Americans and to compete in world markets;

"(2) cooperative arrangements among nonaffiliated firms in the private sector are often essential for successful technological innovation and commercialization; and

"(3) the antitrust laws may inhibit cooperative innovation arrangements because of uncertain legal standards and the threat of private treble damage litigation.

"(b) It is the purpose of this Act to promote innovation, facilitate trade, and strengthen the competitiveness of the United States in world markets by clarifying the applicability of the rule of reason standard and establishing a procedure under which firms may notify the Department of Justice and Federal Trade Commission of their cooperative ventures and thereby qualify for a single-damage limitation on civil antitrust liability.";

(2) in section 2(a)(6) by—

(A) striking "and development" and inserting ", development, or production";

(B) redesignating subparagraphs (D) and (E) as subparagraphs (E) and (G), respectively;

(C) inserting after subparagraph (C) the following new subparagraph:

"(D) the production or testing of any product, process, or service,";

(D) striking "or" after the comma in subparagraph (E), as redesignated;

(E) inserting after subparagraph (E), as redesignated, the following:

"(F) the collection, exchange, and analysis of production information related to activity of the joint production venture, or";

(F) striking "and (D)" and inserting "(D), (E), and (F)" in subparagraph (G), as redesignated; and

(G) by amending the matter following subparagraph (G) to read as follows:

"and may include the establishment and operation of facilities for the conducting of research, development or production; the integration of existing facilities where those facilities are used for the production or processing of a new product or technology pursuant to the joint venture; and the prosecuting of applications for the patents and the granting of licenses for the results of such venture, but does not include any activity described in subsection (b).";

(3) in section 2(b)—

(A) in the matter before paragraph (1) by striking "and development" and inserting ", development, or production";

(B) in paragraph (1) by striking "conduct the research and development that is the" and inserting "carry out the";

(C) in paragraph (2)—

(i) by striking "production or" each place it appears; and

(ii) by striking "other than the marketing of proprietary information developed through such venture, such as patents and trade secrets, and" and inserting the following: "other than—

"(A) the marketing of proprietary information, such as patents and trade secrets, developed through such venture formed before enactment of the National Cooperative Research Act Extension of 1992, or

"(B) the licensing, conveying, or transferring of intellectual property, such as patents and trade secrets, developed through such venture formed after enactment of the National Cooperative Research Act Extension of 1992, and"; and

(D) in paragraph (3)(B) by striking "and development" and inserting ", development, or production";

(4) in section 3 by—

(A) striking "and development" the first place it appears and inserting ", development, or production"; and

(B) striking "and development" the second place it appears and inserting ", development, product, process, or service";

(5) in section 4 by striking "and development" and inserting ", development, or production" each place it appears in subsections (a)(1), (b)(1), (c)(1), and (e);

(6) in section 4(e), by—

(A) inserting a dash after "if";

(B) designating the matter after such dash as paragraph (1);

(C) striking the period at the end of paragraph (1) as designated by subparagraph (B) and inserting "; and"; and

(D) adding at the end thereof the following:

"(2) in the case of a claim against a joint venture for production, the joint venture satisfies the requirements of section 7.";

(7) in section 5(a) by striking "and development" and inserting ", development, or production";

(8) in section 6 in the section heading by striking "and development" and inserting ", development, or production";

(9) in section 6—

(A) in subsection (a) by inserting "and, after enactment of the National Cooperative Research Act Extension of 1992, any party to a joint production venture, acting on such venture's behalf, may, not later than 90 days after entering into a written agreement to form such venture," after "whichever is later";

(B) in subsection (a)(1) by striking "identities of the parties to such venture, and" and inserting "identity of each party to such venture, including, in the case of a corporation, the nation in which it is incorporated and the location of its principal executive offices, and the nation of incorporation and the location of the principal executive offices of any corporation that directly or indirectly owns or controls a majority of the shares of such corporation, and"; and

(C) in subsections (d)(2) and (e) by striking "and development" and inserting ", development, or production" each place it appears; and

(10) by adding at the end thereof the following new section:

"APPLICABILITY TO JOINT VENTURES FOR PRODUCTION

"SEC. 7. (a) IN GENERAL.—Section 4 of this Act applies to a joint venture for production only if the joint venture—

"(1) provides substantial benefits to the United States economy including, but not limited to, increased skilled job opportunities in the United States, investments in long-term production facilities in the United States, participation of United States entities in the joint venture, or the ability of the United States entities to access and commercialize technological innovations or to realize production efficiencies; and

"(2)(A) whose principal facilities for the production of a product, process, or service are located within the United States or its territories; or

"(B) whose principal facilities for the production of a product, process, or service are located within a country whose antitrust law accords national treatment to United States entities that are parties to joint ventures for production.

"(b) MEANING OF NATIONAL TREATMENT.—For the purposes of this section, a foreign country accords national treatment to United States entities that are parties to joint ventures for production if it accords treatment no less favorable with respect to the application of its antitrust laws to United States participants in joint ventures for production than would be accorded to its domestic participants in joint ventures for production in like circumstances.

"REPORTS ON JOINT VENTURES AND UNITED STATES COMPETITIVENESS

"SEC. 8. (a) PURPOSE.—The purpose of the reports required by this section is to inform Congress and the American people of the effect of this Act on the competitiveness of the United States in key technologies and areas of production.

"(b) ANNUAL REPORT BY THE FEDERAL TRADE COMMISSION.—Within 1 year after the date of enactment of this subsection, and by that date in each succeeding year, the Commission shall submit to Congress a report including—

"(1) a list of joint ventures filing under this Act during the preceding 12-month period, including the purpose of each joint venture and the identity of each party to the joint venture as described in accordance with section 6(a)(1); and

"(2) a list of enforcement actions, if any, brought against joint ventures filing under the Act by the Department of Justice and the Federal Trade Commission during the preceding 12-month period for violations of the antitrust laws.

"(c) TRIENNIAL REPORT BY THE SECRETARY OF COMMERCE.—The Secretary of Commerce shall submit to Congress a triennial report, the first report to be submitted within 3 years after the date of enactment of this subsection, that includes—

"(1) a description of the industrial technologies most commonly pursued by joint ventures for research and development for which filings were made under this Act during the preceding 3-year period, and an analysis of the trends in the competitiveness of United States industry in those technologies;

"(2) a description of the areas of production most commonly engaged in by joint ventures for production for which filings were made under this Act during the preceding 3-year period, and an analysis of the trends in the competitiveness of United States industry in those production areas; and

"(3) an update of the report submitted by the Secretary under subsection (d) to reflect changes in foreign laws or practices.

"(d) REVIEW OF FOREIGN LAWS.—Within 1 year after the date of enactment of this subsection, the Secretary of Commerce shall submit to Congress a report on the treatment of United States corporations or other business entities under the laws relating to joint research and development and joint production ventures, or similar arrangements, of each foreign nation or community of nations whose corporations or other business entities have filed under this Act.

"(e) INTERAGENCY COOPERATION.—The Federal Trade Commission, the Office of the United States Trade Representative, and the Office of Science and Technology Policy, as well as other Federal departments and agencies, shall provide such information and assistance in the preparation of the reports under subsections (c) and (d) as the Secretary of Commerce may request.

Mr. THURMOND. Madam President, I move to reconsider the vote.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. For what purpose does the Senator from Vermont rise? The Chair has an announcement.

Mr. LEAHY. Madam President, I was going to take about 2 minutes on the bill, the Leahy-Thurmond bill that just passed.

The PRESIDING OFFICER. The Senator may proceed.

Mr. LEAHY. Madam President, I commend the Senate for passing this and thank the Senators who joined with us in getting it passed. We are in an era where our competitors in Europe and in Japan are using the competitive tools of the 1990's and the next century, and many times we use the competitive tools of the 1940's and the 1950's.

This legislation will allow us, especially in our high technology fields, to go into the next century and be competitive with Europe and be competitive with Japan. It means when a company like IBM in Essex Junction, VT, needs $35 million in order to expand a high-tech chip factory it can work with others in doing that. It means finally we are saying we are going to be competitive, we are going to use today's tools not yesterday's tools.

It is a good piece of legislation. It will in the future put thousands and thousands of Americans to work using American innovation, not as has been in the past when we invent the item and the Europeans and the Japanese produce it. Now we can both invent it and produce it. Additional thousands of Americans will work with good-paying jobs as a result of this legislation.

I commend all Senators who worked on it, and I yield the floor.

Mr. THURMOND. Madam President, it has been a pleasure working with the distinguished Senator from Vermont on this bill. He has done a good job on it. I think it is going to bring great benefit to the people of this country. I wish to commend Ms. Patricia Vaughn, my antitrust attorney on the Judiciary Committee, for her fine work on this legislation.

Mr. LEAHY. Madam President. I thank the distinguished Senator. I must say it has been a pleasure working with him and his staff. It has been a long ride to get here. We made a good pair and I am glad we won.

EXECUTIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session to consider the nomination of Barbara Hackman Franklin, of Pennsylvania, to be Secretary of Commerce.

The Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nomination will be stated.

DEPARTMENT OF COMMERCE

The legislative clerk read the nomination of Barbara Hackman Franklin, of Pennsylvania, to be Secretary of Commerce.

Mr. HOLLINGS. Madam President, today the Senate is considering the nomination of Barbara Franklin of Connecticut to be Secretary of Commerce. Ms. Franklin has a wealth of experience in Government and in the corporate world where she served as a director of several major corporations.

Ms. Franklin's nomination comes at a critical time for this Nation. The fall of the Berlin Wall and the triumph of democracy over communism in the former Soviet Union and Eastern Europe is a monumental achievement in our time. But we cannot now afford to bask in the glow of our victory in the cold war; for if we do, we face the prospect of winning the war yet losing the peace. After 40 years of commitment and sacrifice, the time has come for this Nation to turn its attention to revitalizing our own economy and restoring a sense of fiscal responsibility to this Government.

The Secretary of Commerce is at the forefront of promoting and protecting American industry in its struggle to compete in a world where our competitors use their governments to aggressively capture market share.

The President has challenged the Congress to pass his economic growth package before March 20. I agree with the President that it is imperative that we stimulate economic growth. We cannot, however, revitalize our economy without addressing our failure to pursue an assertive trade policy. Over the last decade, we have witnessed the steady erosion of our manufacturing sector. Basic industries such as steel, autos, textiles, machine tools, consumer electronics, and semiconductors created the industrial wealth that allowed this Nation to provide the leadership which held together the Western alliance. These industries once

stood as examples of American strength and manufacturing prowess. They are now threatened by an onslaught of imports that are being dumped on our shores. Real income has not grown since 1973, instead, income growth has been shipped offshore, along with the millions of manufacturing jobs that we have lost to low-wage countries around the world. Despite being first in productivity, the United States now ranks 10th in wages. Behind these statistics, behind our Washington rhetoric, lies the human toll that the loss of our manufacturing base has exacted. It was high-wage manufacturing jobs that made it possible for each succeeding generation to live a little better than the last, to buy a home, own a car, to send their children to college. Now, if we continue to refuse to pursue an aggressive trade policy, then the only legacy that we will leave to succeeding generations is a lower standard of living.

The principal responsibility of the Secretary of Commerce should be to preserve our manufacturing base, to protect it from predatory trade practices, to assist it in developing new technologies and to foster a spirit of cooperation between business and Government. In today's competition for international markets, governments play a key role in developing an industry's competitive advantage. In Japan, the Ministry of International Trade and Industry orchestrates that nation's export machine.

But, it is not just what agencies like MITI do for their industries, it is also what they do not do to their industries that gives them their competitive edge in the international marketplace. Japanese corporations do not worry about antitrust laws; they do not worry about Hart-Scott-Rodino filings. Instead, the Japanese Government actively encourages the collusive and monopolistic machinations of the keiretsu.

The newly industrializing nations of Asia have no choice but to emulate this model. Look at the Chabeol in Korea, in which only a handful of industrial concerns dominate that economy. The Japanese economic powerhouse has accomplished in east Asia what the Japanese military could not do. They have created an east Asian economic powerhouse.

In Europe, the nations that comprise the European Economic Community are not binding together in 1992 for free trade. Instead, they are joining forces to combat the economic offensive being launched by Japanese exporters.

In order to capture market share in high-tech industries, the Europeans subsidize the development of high-technology products like the Airbus. In order to preserve a vital industry they negotiate tough agreements with Japanese automakers that place strict limits on their imports.

In this country, administration officials think industrial policy is some pejorative term that shouldn't be used in front of the children. And yet we have an industrial policy—it is called USDA. There is no question that our farmers are the most efficient in the world, but it is no coincidence that programs such as the Commodity Credit Corporation and targeted export assistance have provided our farmers with billions of dollars in export help, while quotas under section 22 have shielded certain commodities from import competition. Our pursuit of industrial policy is not just limited to agriculture.

The oil industry prospered under the protective quotas put in place by the Eisenhower administration. We must put an end to these games of semantics. We have an industrial policy, it is a policy designed to ensure our standard of living; it is comprised of minimum wage, Social Security, Medicare, clean air, clean water, OSHA, and unemployment compensation. We do not want a level playing field, we do not want to be fair. We want instead to protect a standard of living that is second to none.

Using Government to promote industry and protect a standard of living is not some Kennedy School theory of industrial policy. It is instead an idea that is at the core of our Constitution. It was Madison who wrote that "* * * it should never be forgotten that the great object of the Convention was to provide, by a new Constitution, a remedy for the defects of the existing one; that among these defects was that of the power to regulate foreign commerce, that in all nations this regulating power embraced the protection of domestic manufacturers. * * *" As a consequence, article I, section 8 of the Constitution grants to the Congress alone the power to regulate foreign commerce.

The Congress has in turn delegated to the Commerce Department the power and the authority to meet head-on the challenges of international competition. Ms. Franklin has assured the Commerce Committee that she will vigorously enforce our laws against dumping and subsidization; laws which serve as a shield against the predatory trade practices that threaten our economic security. We have discussed with her the discretion she has to change the administrative practices that have instead shielded the predatory pricing behavior of our competitors, rather than preventing the injurious effects they have on our industry and our employment. She has also said she will be the ally for American businesses and American workers in the administration. We have had enough of administration officials that lecture industry on the virtues of a form of social Darwinism known as free trade. We need a Commerce Department that provides constructive assistance, that will keep American jobs at home rather than shipping them to low-wage countries abroad.

If she is confirmed, she will be at the helm of an agency which has an enormous impact on every aspect of our life, from the oceans to the atmosphere, from protecting our basic industry to luring foreign tourists to Myrtle Beach. This is an enormous challenge, and I believe that Ms. Franklin will meet it. I urge my colleagues to vote for this nomination.

Mr. DODD addressed the the Chair.

The PRESIDING OFFICER. The senior Senator from Connecticut.

Mr. DODD. Madam President, I rise to urge my colleagues to approve the pending nomination of Barbara Franklin as Secretary of Commerce. And I want to commend the Senator from South Carolina [Mr. HOLLINGS] for bringing this nomination to the floor so quickly.

Madam President, today our economy is in turmoil. This week's report on consumer confidence is only the latest statistic to prove it. We are going through a structural change in our economy that will hold back growth for years.

Madam President, there are many economic statistics which should warn us about the times we are in. It is truly unnecessary, I believe, to recite all the difficult problems we face, whether one is from New England or the South, Midwest, or Far West.

I can point to a number of things that would help to bring about our economy. An investment tax credit, research and development tax credits, tax relief for the middle class—these are all measures which I believe would help turn this economy around.

But more than anything else, Madam President, this country needs leadership.

It is for this reason, Madam President, that when we evaluate a nominee for the position of Secretary of Commerce, we must ask ourselves one question: Does this nominee have the experience and leadership this country needs?

Madam President, as someone who has had the pleasure of knowing Barbara Franklin for many years now, I am confident that the answer to that question is "yes."

Madam President, I happen to feel that Barbara Franklin, based on my knowledge of her, and my awareness of her work over the years, more than fulfills the qualifications of someone who wants to be the next Secretary of Commerce. This country needs a person of her talent and ability.

Barbara's career is, indeed, a career of firsts. She was one of the first women to graduate from Harvard Business School, in 1964. She established the first Government relations department at Citibank. And in 1971, she di-

rected the first program ever initiated by the White House to recruit women for high-level Government positions.

In 1973, she was nominated and confirmed as one of the first Commissioners of the U.S. Consumer Product Safety Commission. For her work in child safety as part of that commission, she was honored by a number of national organizations, including the American Academy of Pediatrics. Currently, she serves as an adviser to the Comptroller General of the United States.

Over the course of her career, Barbara has served for four Presidents. However, Barbara has managed to strike a delicate balance between the private sector and public service. She has worked closely with the private sector, having sat on the board of a number of major corporations. And for the past 8 years, she has managed Franklin Associates, an internationally-recognized consulting firm she founded in 1984.

Barbara has also developed close ties with a number of other private organizations. After leaving the Consumer Product Safety Commission, Barbara became senior fellow of the Wharton School of the University of Pennsylvania. She has also chaired the audit committee of the American Institute of Certified Public Accountants, and was recently elected to the board of trustees of the Committee for Economic Development, an organization of business leaders and university presidents.

Barbara is a member of a number of other economic organizations, including the New York Economic Club, the Women's Economic Roundtable, and the National Women's Economic Alliance.

You do not have to go very far to find high praise of Barbara Franklin, Madam President. In October 1990 the American Management Association named her one of the 50 most influential corporate directors in the Nation. And in a headline in its January 15, 1992, edition, the Financial Times called her "The woman to do business with."

You could also ask anybody in the State of Connecticut, Madam President. As a resident of Bristol, CT, Barbara has gained respect throughout the State for her thoughtful manner and her single-minded determination. I know the people of Connecticut are very proud that one of their own may soon be the Secretary of Commerce.

There is no question, Madam President, that Barbara Franklin will do an excellent job as the Secretary of Commerce. It is a critical position, and we should have someone of talent and ability and experience in both the public and private sector to hold that position during these difficult days.

So, Madam President, I stand before my colleagues this afternoon and state with full confidence that this nominee will serve this country well, she will serve this President well, and she will serve this Congress well.

The issues of international trade and encouraging innovative businesses to take advantage of creative ideas—someone in a position like that has to do what they can to expand those opportunities for those industries and businesses.

Finally, Madam President, I would add one personal note. I have had the pleasure of knowing Barbara and her husband, Wallace Barnes, for several years. In October 1988 I served with her as a delegate to the United Nations. And in the spring of 1990, I had the pleasure of traveling with her husband on a trade mission to eastern Europe.

Madam President, I know there will be those who will express some concerns about whether or not there is enough commitment, enough determination in this nominee. I can speak from personal experience. This is not a nomination which I support in the abstract. I know Barbara Franklin. I know her family. I know her to be a tenacious and a hard worker, a person of complete and total dedication, a person of significant knowledge and experience.

I know Barbara not only as the tough, business-oriented advocate but as a charismatic and reliable person, with tremendous honesty and a wealth of integrity. I have no doubt that she will make a tremendous addition to the Cabinet and I urge the Senate to quickly confirm her nomination.

Mr. THURMOND. Madam President, I rise today in strong support of the nomination of Barbara Hackman Franklin to be Secretary of Commerce.

Ms. Franklin has an impressive and varied background in the public, private, and academic sectors. Following her graduation with distinction from Pennsylvania State University, and her receipt of a masters degree from the Harvard Graduate School of Business Administration, she was an analyst and then a manager for the Singer Company in New York City. She next went to Citibank, working in corporate planning and heading the Government relations department.

With regard to Government service, in 1971, Ms. Franklin served as a staff assistant to President Nixon. In 1973, she became a Commissioner at the Consumer Product Safety Commission where she was vice chairman from 1973 to 1974 and from 1977 to 1978. She also served as an alternate representative and public delegate to the United Nations in 1989.

Following her years of service in Government, Ms. Franklin became a senior fellow at the Wharton School of the University of Pennsylvania in 1979. Subsequently, she became Director of the Wharton Government and Business program. She currently is the president and chief executive officer of Franklin Associates in Washington, DC.

At present, Ms. Franklin is a member of the board of directors of the following major corporations: Aetna Life & Casualty; the Dow Chemical Co.; Westinghouse Electric Corp.; Automatic Data Processing, Inc.; Black & Decker Corp.; Nordstrom, Inc.; and Armstrong World Industries. Additionally, she serves on the board of trustees at Pennsylvania State University and on the board of regents at the University of Hartford in Connecticut.

Throughout her career, Ms. Franklin has served on numerous Government advisory panels and boards. She has served as an advisor to the Departments of Labor and Defense, and to the General Accounting Office. She has been a member of the Advisory Committee for Trade Policy and Negotiations and of the State Board of Education in Pennsylvania.

Ms. Franklin has honorary doctorates from Drexel University in Philadelphia and Bryant College in Providence, RI. Other honors include her selection by the American Management Association as one of the 50 most influential corporate directors in the United States and a distinguished alumna award from Pennsylvania State University. She is widely published in the areas of business, public health, and consumer safety.

If confirmed, and I am sure she will be, Ms. Franklin will have to grapple with a wide variety of issues including our huge trade deficit, the National Weather Service, the National Oceanic and Atmospheric Administration and tourism. With regard to trade, we must open foreign markets to our products. In shaping our trade policy, I am sure that Ms. Franklin will respond to the needs of American industries, especially those like the textile industry that have been hard hit by foreign imports. I look forward to working with her in this regard.

Madam President, I commend President Bush for nominating Ms. Franklin. She is a nominee of high qualifications, with great achievements in various areas. I believe Ms. Franklin will be resoundingly successful as the Secretary of Commerce. I urge my colleagues to vote in favor of her confirmation.

I yield the floor.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. I thank the Presiding Officer for her usual courtesy.

Madam President, I take the floor today with some reluctance. I take absolutely no satisfaction in opposing nominations, particularly when the nominee is a very good person who will act with integrity and responsibility, such as in this case.

Nevertheless, I will oppose this nomination, just as I did when the nomination was considered in Commerce Committee.

As I indicated at Mrs. Franklin's hearing, the Commerce Department is an important agency—at least on paper. It is in charge of export promotion, export controls, prosecuting unfair trade practice cases, and leading Federal efforts on behalf of critical technologies. These are all areas that will determine America's ability to compete in the global marketplace in the next century.

Equally important, the Department is at something of a crossroads in each of these areas where strong leadership will be required.

Our laws against unfair trade practices—dumping and subsidies—are literally on trial in Geneva. The draft Uruguay round text, offered December 20 by GATT Director General Arthur Dunkel, would result in major weakening of those laws and thereby our ability to insist on market discipline in the trading system. The Senator from Texas [Mr. BENTSEN], the chairman of the Finance Committee, made exactly this point in a very thoughtful statement on this floor 2 weeks ago.

We—along with many others in the House and Senate—are very concerned that the administration lacks the will to press for revision of the Dunkel text in these areas. The lead negotiator on dumping has come from the Commerce Department, and it is Commerce that will have to enforce whatever we agree to. We badly need a strong leader at Commerce to stiffen the administration's spine in Geneva and fend off those in other agencies that would sell out our manufacturing base by allowing these laws to be gutted.

Commerce also administers our export control program, which is currently in a state of turmoil, at exactly the worst time. With the breakup of the Soviet Union, our enemy of more than 40 years is suddenly preoccupied with more local matters—to wit, their survival. We desperately need to bring our export control apparatus up-to-date and to enable our manufacturers to export their products to the new republics and capture that market share. I can guarantee that the Germans are not waiting for us.

In the midst of these rapid changes, the two key position in the department are vacant—the Under Secretary for Export Administration for nearly a year, and the Assistant Secretary for a shorter period. As a result, the center of decisionmaking in this area has shifted, quite logically and quite clearly, to the State Department and the Defense Department, at the very time we need someone who will speak for American exporters and American workers.

Third, our export promotion effort, despite administration claims to the contrary, continues to be in disarray. A recent report by the General Accounting Office found that our efforts lack coherence, focus, and centralization. GAO concluded:

> The Government's present approach to export promotion lacks coherence because no overall strategy exists to guide agency efforts.

They said:

> Without an overall strategy, the U.S. Government does not have reasonable assurances in today's highly competitive economic environment that its export promotion resources are being most effectively used to emphasize sectors, regions, and programs with the highest potential return.

I have introduced legislation—S. 1721—to address some of these problems, but the fact remains that much will depend on clear and determined leadership at the top of the Commerce Department.

Fourth, the Department's efforts to support critical technologies risk being dissipated in a misguided ideological battle over industrial policy.

For example, last year Congressman MINETA and I proposed moving $10 million of National Institute of Standards and Technology money into a new program of loans to help commercialize the advanced technology that NIST grants are developing. Our basic R&D is the best in the world; yet we often fail to translate it into quality products in the marketplace. Therefore, it seemed to me that Congressman MINETA's and my approach was very reasonable and very responsible and rather modest.

The administration threatened to veto the entire NIST budget over this single item. It was "industrial policy," they roared. I say it's shoot-yourself-in-the-foot policy. Our idea is precisely the kind of self-help we have to begin, if we are to compete effectively.

That was a decision made by OMB and probably John Sununu. The Commerce Department did not make it, but neither did they fight it. When the Commerce Committee held its hearing on Barbara Franklin, I asked her about this. I asked for her thoughts about the relationship between Government and industry. She did not have any. She wanted to know what I thought.

Well, I am glad to tell her, but that is not the point. We should have a Secretary of Commerce—and a President—whose answers show their determination to deal with the challenges facing us here and abroad. What is so difficult about responding to the change around us, with new approaches and ideas aimed directly at building the long-term economic strength of our country?

It is particularly important, Madam President, that this kind of determination be in place at the top. There are many good people in the Commerce Department. My staff and I work with them every day. But we all know that Government works on many different levels, and there are many critical discussions and decisions that occur at the Cabinet level that simply cannot be handled by staff and other decisions that are made in a more informal context, outside the Cabinet—perhaps within White House councils. But if the Secretary of Commerce is not there and is not there with the right approach and with the right zeal, and with the right commitment standing up for the Department that she represents, and willing to take on the President, even, if that is necessary, or the President's closest advisers, and risk her reputation—then that person should not be Secretary.

I recall Secretary Mosbacher's effort in 1989, on behalf of HDTV. He was right on that, Madam President, but he was crushed by the ideological iron triangle of John Sununu, Richard Darman, and Michael Boskin. But making the fight was critically important, because by doing so he put this issue on everyone's screen and altered the parameters of the policy debate in the process. That effort, along with numerous other pressures from many of us in the years since then, contributed to the President's national technology initiative—a truly modest step forward, but a clear break with the past rigidity of refusing to do anything on behalf of critical technologies.

But that is precisely why we need a Secretary who is a fighter, including one who is prepared to fight with the President himself on occasion. That does not require an expert in the Department's many diverse fields—expertise can be learned or brought along. But it does require commitment, vision, and a bulldog determination to challenge ideology.

I understand the argument—and it has been put to me, and I understand it even better—that it is unrealistic to expect a President to appoint a secretary whose views and priorities differ from his. I understand that and I acknowledge that much of my concern about this nomination relates to the President's lack of vision and even lack of concern about the problems I have discussed. The country is facing the worst competitiveness crisis in its history, and the President does not even seem to be aware of it. Worse, he sees little or no role for the Government in dealing with it.

A telling moment for me came when I read Fortune's December issue, which contained a special report on what various CEO's want America to do. CEO after CEO—Steve Jobs, Andrew Grove of Intel, Joe Gorman of TRW—called on the Government to lead—to determine what our national priorities are and to mobilize Government resources to achieve them. One or two of them even used the dreaded words, "industrial policy."

President George Bush's paragraph stood in sharp contrast. His vision was

for companies to keep on doing what they do best. His goal was to get out of their way. No vision. No leadership.

My concern is that a hands off policy is no longer adequate to meet our competitive challenges. Moreover, it is out of synch with the American people and even contradicts what business and industry leaders are saying everywhere I look:

We have to cope with a global market, not just a domestic one;

They are saying: That market has competitors who are very, very good, sometimes better than we are;

They are saying: That market also has a growing number of countries that use government policies, subsidies, infant industry protection, advantageous patent laws—to literally create comparative advantage for their companies;

The are saying: That market has countries that have figured out what their goals are; and those goals, more often than not, are to capture market share from us in the critical technologies that will run economies of the future: semiconductors, computers, advanced ceramics, telecommunications, robotics, and we know the list.

Continuing the status quo is just not good enough to succeed in the modern environment.

And it is the Commerce Department that will inevitably be at the center of addressing all these problems. For that reason, Madam President, I have no choice but to demand a leader and a fighter for Secretary.

We simply have to have strong hands at Commerce's helm, someone who will lead creatively, manage effectively, and resist efforts from others in the administration to remove this agency's remaining teeth.

In reviewing Mrs. Franklin's record and her answers to my questions, it is clear that she is very dedicated and eager to run the agency very well.

But I was disappointed. Her views are more than familiar to me. Indeed, they echo exactly the President's philosophy and policies in the areas of concern to the agency.

No hint that she seems willing to look beyond. No hint of questioning the President's policies, even as I suggest it would be very difficult to define just what the President's policies are. So what is it she wants to follow, or does she only want to follow, or does she want to help create critical technologies and the economic future for our country?

All of this sounds like another refrain of this administration's stubborn—and I suggest blind—attachment to staying the course.

Unless we deal promptly and effectively with our weaknesses, we will not be able to sustain our position of world leadership. That is clear.

While we still have the chance to secure the future, to restore long-term prosperity, and to promise our people real hope for a good life, we should do everything in our power to seize that opportunity.

I am under no illusions about this administration. They still seem to think we are on the right path, and that a little tinkering will do. But the American people know that we are in danger of permanent economic decline, and they said so quite clearly in New Hampshire.

The American people are hurting now, but most of all they are worried that their country and their own lives will slip to a point of no return over the long run.

What is more, our country's business leaders are calling on Government to assert itself, to work aggressively with industry, and to put the tools, like the Department of Commerce, to use.

I have no illusions about the likelihood of this nomination being rejected, and I do not intend to take more of the Senate's time. As Senators, each of us must define our responsibility for ourselves and ultimately justify that to our electorate.

Given the situation our country is in right now, I have concluded that every possible avenue should be taken to convince this administration to change, and not stay, the course. My vote on Barbara Franklin is one way to press for that change.

Mrs. Franklin is no doubt—no doubt, at all—a woman of competence and integrity with a tremendous background. She will be a capable steward of the status quo, but there is no sign that she has been charged to apply the independence and to chart the new efforts which are vital to meeting the challenges facing this country here and abroad.

For me, Madam President, this nomination asks us to accept the continuation of policies and views that are demonstrating no leadership and no vision on where we should be headed in manufacturing, trade, and our country's economic condition.

Accordingly Madam President, I will vote against Ms. Franklin.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Madam President, I want to speak to the nomination of Barbara Franklin as Secretary of Commerce. She is someone I know personally, with whom I have had significant business discussions, and I want to encourage the Senate to vote to support her nomination.

My good friend from West Virginia—an articulate spokesman on behalf of business in this country; a leader in the Senate; a leader in the country—makes some very important points in his discussion about the things that he would like to see happen. I agree with him fully. I do not agree with President Bush's policies on how to stimulate business and encourage trade. But that does not in any way detract from my support of Barbara Franklin.

The President has the right to recommend, and we have the right to accept or reject. But the President is, by far and away, the leader on selecting his Cabinet people. Once again, we do not have to agree at all. But we are committed to challenge any recommendation the President makes if we disagree.

I look at this in terms of this person, her qualifications, her ability to learn the things that she does not yet know about this job; I look at her basic character and her quickness of mind. And Barbara Franklin, in my view, deserves the full support of this Senate.

I noted with the distinguished chairman of the Commerce Committee, in front of whom I appeared on behalf of Barbara Franklin, that she was recommended by the committee with only one dissenting vote; and Senator ROCKEFELLER indicated his concerns and misgivings.

The nomination moved over here fully supported. I just want to say, Barbara Franklin and I know each other, because she served, until now, on the board of ADP, a company that I helped found over 40 years ago. She served after my leaving there to come to the U.S. Senate. But I still have many friends in the management of the company and on the board of the company, and I checked with them to see what Barbara Franklin's performance has been like. Without reservation, every one of them was very enthusiastic about her capacity to serve in this very important task.

We have a variety of people and views on that board, distinguished business leaders like Laurence Tisch, the chairman of CBS; the chairman of Toys R Us, Joe Califano—Joe Califano, who many of us knew as Secretary.

Person after person said they felt Barbara Franklin was competent, skilled, intelligent, energetic, forceful, that she would do as good a job as could be done. Still, at the same time, let us face facts. If she works for the country but at the direction of the President of the United States, she is not going to go there and change his position.

I asked her to be more aggressive about making certain that American business is represented in overseas markets, to make sure that not only were the large companies that often had their own capacity to penetrate markets and register their presence, but the smaller companies, to help them find ways to do business in distant markets and to try to be creative and innovative in that regard. She assured me, in our discussions over the last couple weeks, that she would be very energetic in that capacity.

So, Madam President, I stand fully supportive of Barbara Franklin. I believe she will be an excellent Secretary

of Commerce based on what I know of her, and I encourage the Senate to enthusiastically endorse this nomination.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Madam President, I will be very brief, but I want to join those who urge the Senate to support the nomination of Barbara Hackman Franklin to become the Secretary of Commerce. I think if one looks at her record, they will find a record of a woman who has really pushed the influence for women on the national scene and in business in whatever she has done.

She was named, in October 1990, by the American Management Association as one of the 50 most influential corporate directors in the Nation. She held directorships in seven of the largest American corporations—Aetna Life and Casualty, Black and Decker, the Dow Chemical Co., for instance. She was one of the first women to ever graduate from Harvard Business School.

I have known Ms. Franklin since she came to the Government as part of President Nixon's staff. She initiated the White House program to recruit women to high level Government positions, and, as has been stated, she became one of the first Commissioners of the then newly created U.S. Consumer Product Safety Commission. She has held positions with several administrations, but particularly with this administration, at the United Nations Assembly, and, I might add, there she dealt with a subject also that was very near and dear to my heart as an Alaskan when she dealt with the original U.S. resolution that was submitted to the United Nations to bring about the abolition of driftnets. While she was in that capacity, we succeeded in achieving that goal.

I do believe that she deserves the full support of the Senate and that all of us will be very proud of her service as Secretary of Commerce.

Mr. SPECTER. Madam President, I strongly support the nomination of Barbara Franklin to be Secretary of Commerce. I do so after having examined her record very thoroughly and having discussed with her in some detail the current trade problems facing the United States.

At the outset, I state my Pennsylvania concern for Mrs. Franklin on the basis of her being a resident and voting citizen of Pennsylvania from Lancaster. Her undergraduate degree was awarded by Penn State.

Beyond my own concerns about a Pennsylvania nominee, I believe she is extremely well qualified to be Secretary of Commerce. There has already been a recitation of her educational and professional background, but it is worth noting that she is the first woman to graduate from the Harvard Business School, and she has a very distinguished record in business with her corporate directorships, which I shall not repeat, and her work as assistant vice president for corporate planning for Citibank in 1969.

She has similarly had a very extensive record in Government, which has been detailed already. She served as Commissioner of the Consumer Product Safety Commission for some 6 years. As well, she is currently serving her fourth term as a member of the President's Advisory Task Force for Trade Policy and Negotiations. She was a senior fellow at the Wharton School of the University of Pennsylvania, where she served as director of its government and business program for some 8 years.

I have heard my distinguished colleague from West Virginia comment about the United States facing difficult competitive position in world markets and the President apparently not being aware of it. I agree with the distinguished Senator from West Virginia about the seriousness of a competitive position, but I strenuously disagree with his assertion that the President is not aware of that problem. The President is actively pursuing a policy to try to improve the United States' competitive position, and it is not an easy policy to pursue given the problems of competitiveness which we face and the fact that we have too long ignored some of the essential requirements of competitiveness, of productivity and of research and development. I believe the President is striving mightily to put the United States in a better competitive position. In any event, the Senator's is a political argument which I think does not bear on the qualifications of this nominee.

I am frank to say, Madam President, that I have not been satisfied with some of the trade policies of the administration in prior years. For instance, in 1984, President Reagan overturned the ruling of the International Trade Commission which had found in favor of the steel industry. Senator Heinz and I visited every one of the Cabinet officers, and found support for the ITC ruling from then Secretary of Commerce Mac Baldrige, and support from the great Representative Bill Brock. When we got to then Secretary of State Shultz and then Secretary of Defense Weinberger, it was clear that American trading interests would be sacrificed for foreign policy and defense policy.

Similarly, I have been concerned about the so-called fast track procedure which abrogates certain congressional responsibilities in trade legislation, namely, the ability to offer amendments on the floor. These matters and others were discussed by this Senator in some detail with Ms. Franklin. I believe that she is a fighter. I believe she will be tenacious, and I believe she understands what has to be done for American trade policy.

I discussed with her, for example, my findings from a series of hearings on trade in Pennsylvania, in Allentown, Harrisburg, Pittsburgh, and Philadelphia. There is great concern about the lack of reciprocity in global trade. There is no reason why our markets ought to be open to foreign competitors when their markets are not open to us.

It may be that because Ms. Franklin is petite, attractive, and perhaps quiet, that some do not recognize her tenacity, toughness, and resolve. All of these are important qualities for the Secretary of Commerce. I believe she will bring those qualities to the position.

I urge my colleagues to support this very worthwhile nominee for this important position. I thank the Chair. I yield the floor.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH, Madam President, I want to first express my appreciation to our chairman, Senator HOLLINGS, for his characteristic efficiency and courtesy in holding hearings for both the new Secretary of Transportation and the new, soon-to-be Secretary of Commerce.

It is a great pleasure to work with Senator HOLLINGS. We worked well for years now, and there are matters on which we sometimes disagree. There are many, many matters on which we agree, but whether we are in agreement or disagreement it truly is a pleasure to work with my friend from South Carolina.

The case for Barbara Franklin has been very well made by people who have known her much longer than I have known her, and people who have worked with her in a variety of capacities. Senator DODD, who has a political history, as a matter of fact, relating to Barbara Franklin and her husband, and Senator DODD being on the other side of the political fence from Ms. Franklin, has been very, very energetic in his support for the nominee both before the Commerce Committee and here on the floor of the Senate.

Senator LAUTENBERG, who has known her in a business capacity, known her because she has been a director of a board of a business in which he has a history, has been equally supportive before for her before the committee, and now on the floor of the Senate. Senator STEVENS, who has known her in Government, has been equally supportive. And the words that have been used are quite expressive of the person they know. They have called her experienced and determined and tenacious. All of these expressions of support for exactly the kind of person who should be serving in the Government of our country.

I am not going to reiterate the life story of Barbara Franklin because it

has been told by several Senators who have spoken on her behalf, but only say that it is an impressive life history, and that she is indeed highly qualified for this position.

The vote in the Senate Commerce Committee was unanimous, except for Senator ROCKEFELLER, who voted against her in committee and who is the only Senator so far to speak against her nomination on the floor of the Senate.

I think it is important to recognize that Senator ROCKEFELLER has characterized her as—and I think that these are words that he used—a good person, dedicated, and eager.

So he, too, reaffirms the personal qualifications that have been expressed by people who have known her for a long period of time.

The criticism by Senator ROCKEFELLER, and really the one point—and it is a significant point that he makes—goes not against the nominee, but goes instead against the trade policy of the Bush administration. Senator ROCKEFELLER has taken this as an opportunity to criticize the policies of the Bush administration with respect to international trade by opposing the nominee.

But I think that it is important to recognize that every President is going to attempt to nominate people for his or her administration who fit in with the philosophical view of the administration. No President knowingly is going to put in place a Secretary of Commerce or anything else, somebody who holds an entirely different view of the world.

So we have to presume that Barbara Franklin does agree, as a matter of policy, with the Bush administration. What else is new? We will not expect anything else.

Both in committee and here on the floor, by Senator ROCKEFELLER, strong points were made. They are debatable points. They are debatable points relating to trade philosophy. This is an election year. Ultimately the American people are going to decide exactly the points that have been debated by the Senator from West Virginia.

The American people will be presented with two clearly contrasting points of view with respect to international trade, and with respect to the relationship between Government and American business. We do not know how the people are going to decide, but there are two different views.

The administration's basic view is different from the basic philosophical position taken by the Senator from West Virginia; that he has said, in effect, we need new approaches. He has said that there have to be new approaches concerning the relationship between Government and business. He has said that the role of the Federal Government is to lead. He has referred with apparent approval to the phrase "industrial policy." He has called for a basic position in the executive branch—for what he calls vision relating to America's competitive position in the world.

There are people, good people, who believe that the Federal Government should be much more aggressive in relating itself to the private sector. There are good people who believe that there is a kind of wisdom in Washington, that people here are experienced, they are well trained, and they have a vision relating to how the country should operate; that if we have the right plan in Washington, that if we convene the right planners here in Washington, the brain power exists here in our Nation's Capital to map out a new business strategy for America. And if the rest of the country will only follow us, we will be doing better in international competition. That is a point of view. But it is not the point of view of President Bush. It is not the point of view of this President and, therefore, it is not the point of view of anybody who serves President Bush in the cabinet.

The President believes that the strength of the country is not in Washington, DC. The President believes that the wisdom of the country is not monopolized in Washington, DC. The President believes that the role of the Federal Government is not to plan out the economic future of America, not to devise an industrial policy. The President believes that the marketplace—namely, the country as a whole—is where economic decisions are best made. That is his philosophical position, and we would expect that to be the philosophical position of Barbara Franklin.

So the concern expressed is a basic policy concern. It is a debatable policy concern. It is debatable by good people on both sides of the argument. And clearly, it is going to be debated in the context of a Presidential campaign. The American people can then make a choice. Do they believe that the Federal Government does have the wisdom to chart for us the course for the country? Or do they, instead, believe that the strength of the country and wisdom of the country is diverse and decentralized and is held by the American people as a whole and not by planners in Washington, DC?

Let us not decide that issue, which will be decided by the votes on the floor of the Senate today. The question is not the overall relationship between business and Government. The question is the capability of Barbara Franklin to do the work of the Secretary of Commerce. Those who have known her well, and those who heard her testify before the Commerce Committee, are convinced that she can do that work, and she can do it with enormous skill and energy. Therefore, I support her nomination.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. (Mr. LIEBERMAN). The Senator from South Carolina is recognized.

Mr. HOLLINGS. Mr. President, today the Senate is considering the nomination of Barbara Franklin of Connecticut to be Secretary of Commerce. Ms. Franklin has a wealth of experience in government and in the corporate world where she served as a director of several major corporations.

Ms. Franklin's nomination comes at a critical time for this Nation. The fall of the Berlin Wall and the triumph of democracy over communism in the former Soviet Union and Eastern Europe is a monumental achievement in our time. But we can not now afford to ask in the glow of our victory in the cold war; for if we do, we face the prospect of winning the war yet losing the peace. After 40 years of commitment and sacrifice, the time has come for this Nation to turn its attention to revitalizing our own economy and restoring a sense of fiscal responsibility to this Government.

The Secretary of Commerce is at the forefront of promoting and protecting American industry in its struggle to compete in a world where our competitors use their governments to aggressively capture market share.

The President has challenged the Congress to pass his economic growth package before March 20. I agree with the President that it is imperative that we stimulate economic growth. We cannot, however, revitalize our economy without addressing our failure to pursue an assertive trade policy. Over the last decade, we have witnessed the steady erosion of our manufacturing sector. Basic industries such as steel, autos, textiles, machine tools, consumer electronics, and semiconductors created the industrial wealth that allowed this Nation to provide the leadership which held together the Western alliance. These industries once stood as examples of American strength and manufacturing prowess. They are now threatened by an onslaught of imports that are being dumped on our shores. Real incomes has not grown since 1973; instead, income growth has been shipped offshore, along with the millions of manufacturing jobs that we have lost to low-wage countries around the world. Despite being first in productivity, the United States now ranks 10th in wages. Behind these statistics, behind our Washington rhetoric, lies the human toll that the loss of our manufacturing base has exacted. It was high-wage manufacturing jobs that made it possible to reach succeeding generation to live a little better than the last, to buy a home, own a car, to send their children to college. Now, if we continue to refuse to pursue an aggressive trade policy, then the only legacy that we will leave to succeeding generations is a lower standard of living.

The principal responsibility of the Secretary of Commerce should be to preserve our manufacturing base, to protect it from predatory trade practices, to assist it in developing new technologies, and to foster a spirit of cooperation between business and government. In today's competition for international markets, governments play a key role in developing an industry's competitive advantage. In Japan, the Ministry of International Trade and Industry orchestrates that nation's export machine.

But, it's not just what agencies like MITI do for their industries, it is also what they don't do to their industries that gives them their competitive edge in the international marketplace. Japanese corporations do not worry about antitrust laws; they don't worry about Hart-Scott-Rodino filings. Instead, the Japanese Government actively encourages the collusive and monopolistic machinations of the keiretsu.

The newly industrializating nations of Asia have no choice but to emulate this model. Look at the Chabeol in Korea, in which only a handful of industrial concerns dominate that economy. The Japanese economic powerhouse has accomplished in East Asia what the Japanese military could not do. They have created an East Asian economic powerhouse.

In Europe, the nations that comprise the European Economic Community are not binding together in 1992 for free trade. Instead, they are joining forces to combat the economic offensive being launched by Japanese exporters.

In order to capture market share in high-technology industries, the Europeans subsidize the development of high-technology products like the airbus. In order to preserve a vital industry they negotiate tough agreements with Japanese automakers that place strict limits on their imports.

In this country, administration officials think industrial policy is some pejorative term that shouldn't be used in front of the children. And yet we have an industrial policy—it's called USDA. There is no question that our farmers are the most efficient in the world, but it is no coincidence that programs such as the Commodity Credit Corporation and targeted export assistance have provided our farmers with billions of dollars in export help, while quotas under section 22 have shielded certain commodities from import competition. Our pursuit of industrial policy is not just limited to agriculture.

The oil industry prospered under the protective quotas put in place by the Eisenhower administration. We must put an end to these games of semantics. We have an industrial policy, it is a policy designed to ensure our standard of living; it is comprised of minimum wage, Social Security, Medicare, clean air, clean water, OSHA, and unemployment compensation. We don't want a level playing field, we don't want to be fair. We want instead to protect a standard of living that is second to none.

Using government to promote industry and protect a standard of living is not some Kennedy School theory of industrial policy. It is instead an idea that is at the core of our Constitution. It was Madison who wrote that

> * * * it should never be forgotten that the great object of the convention was to provide, by a new constitution, a remedy for the defects of the existing one; that among these defects was that of the power to regulate foreign commerce, that in all nations this regulating power embraced the protection of domestic manufactures. * * *

As a consequence, article I, section 8 of the Constitution grants to the Congress alone the power to regulate foreign commerce.

The Congress has in turn delegated to the Commerce Department the power and the authority to meet head-on the challenges of international competition. Ms. Franklin has assured the Commerce Committee that she will vigorously enforce our laws against dumping and subsidization, laws which serve as a shield against the predatory trade practices that threaten our economic security. We have discussed with her the discretion she has to change the administrative practices that have instead shielded the predatory pricing behavior of our competitors, rather than preventing the injurious effects they have on our industry and our employment. She has also said she will be the ally for American businesses and American workers in the administration. We have had enough of administration officials that lecture industry on the virtues of a form of social Darwinism known as free trade. We need a Commerce Department that provides constructive assistance, that will keep American jobs at home rather than shipping them to low-wage countries abroad.

If she is confirmed, she will be at the helm of an agency which has an enormous impact on every aspect of our life, from the oceans to the atmosphere, from protecting our basic industry to luring foreign tourists to Myrtle Beach. This is an enormous challenge, and I believe that Ms. Franklin will meet it. I urge my colleagues to vote for this nomination.

Mr. President, it is my hope and intent that this nomination be passed with a voice vote. There is virtually unanimous support for Barbara Franklin, and the comments to follow are not in criticism of Barbara Franklin. I want to comment on points made by the Senator from West Virginia.

I first thank my distinguished ranking member and former chairman of our committee, Senator DANFORTH of Missouri. We have worked very closely together over the years. It has been a distinct privilege. I have learned from him. He is a good teacher. Last fall my distinguished colleague from Missouri educated the distinguished President of the United States on civil rights. It was actually a 2-year educational course, but there is no question in my mind that this distinguished humanist and minister, as well as distinguished Senator, changed the President's mind, and I would like to do the same on the issue of trade.

Let me offer some self-criticism of this Congress. Commerce denotes just that—trade. But commerce has turned out to be a many-splendored thing, and commerce policy is parceled out all over the Government.

We do not have, in a sense, a singular trade policy, and this is a dangerous shortcoming. That is why I speak out as a chairman of the Commerce Committee, in that we have moved from military threats and a preoccupation with military security to economic threats and economic security. Our foreign policy is like a three-legged stool. The first leg is our values as a country, and these values are very secure.

The Senator from Missouri reaffirmed our values in the civil rights field, and I joined behind his leadership in support of his position. Likewise with our values the world around for freedom, for self-determination, for equal justice under the law, for nondiscrimination, these are well known.

The second leg of that three-legged foreign policy is our military strength, and that has just been demonstrated a year ago in Desert Storm. So we have two secure legs with respect to our values as a country, and our military strength. But the third leg, the economic leg, should it shatter or bend or break, then this great power, the United States of America, will falter.

The President crows that "we are the one remaining superpower. What is the matter with you Americans? You ought to be proud to sacrifice your jobs." Sheer nonsense. We must protect our economic strength. Instead, that strength has been diminished terribly and threatened ultimately, because we learned the wrong lesson coming out of World War II. At that time, we had the only industry. America was fat, rich, and happy.

Long ago, on behalf of a predominant textile industry in my own State, I had the role of testifying before the International Tariff Commission as to the violations of various agreements, the dumping of imported textiles into our country. Incidentally, Tom Dewey was representing the Japanese at that time. This goes back to the 1950's.

The rationale then was, look, you have these emerging economies in Europe and out in the Pacific rim. We are trying to promote competitive capitalistic free enterprise there, or they will go the way of democracy. What do you expect them to make? Not the computers and the airplanes. "Governor,"

they would tell me, "we will make the computers and airplanes. Let them make the textiles, and let them make the shoes, so they can economically get on their feet."

I had to acknowledge that was a reasonable approach. We had to build up those economies. They had to build basic industries in their own nations. I could understand that, and I went along at that particular time. But now, after 35 years of concessionary trade policies, it is clear that Uncle Sam is being treated like Uncle Sucker. What's more, we are being undermined within by what you might call a fifth column, which I will get to shortly.

After World War II, our multinationals were sent overseas to complement the Marshall plan. They disseminated their technology and methods. We used to sell Fords and Chevrolets in downtown Tokyo not long before World War II. But after World War II, only Nissan and Toyota were licensed to use American technology. At first, the Japanese did not produce high-quality cars.

But they kept improving and improving and improving on their skills and techniques using our technology, and our methods of quality control, and now everyone readily agrees they have a high-quality product. Meanwhile, our multinationals discovered the benefits of operating overseas, where they are not encumbered by U.S. regulations and laws. That is why I say, by way of self-criticism, that Congress has driven up the U.S. cost of production. We run around here like children telling U.S. industry to get off the golf course, to make long-term investments, but meanwhile we burden industry with untold regulations and rules.

Look at the antitrust laws, the merger laws and the SEC quarterly reports. If you build up a corporation for a long-term investment, the sharks come in, take over the company, and sell it off.

We legislate all these rules and regulations—clean air, clean water, minimum wage, Social Security, Medicare, Medicaid, plant-closing notice, safe workplace, safe machinery. Just look at the list. Everybody runs down on the floor and votes, aye, aye, aye, on regulation, but still pontificates that the American Yankee traders have to be more competitive and hardworking.

Let me go right to that point. The most productive industrial worker in the world is in the United States. Go over to the Department of Labor, go to the international economic section of the United Nations. Their statistics show that the United States industrial worker is No. 1, Netherlands No. 2, West Germany No. 3, and Japan is No. 8. The worker in Japan only produces 82 percent of what the United States industrial worker produces. So what is the trouble? The trouble is with the Government here in Washington that is not producing and not competing.

So, after the war, the multinationals went overseas, with the bankers financing them, and we had foreign investment tax credits to encourage them to produce overseas. We wanted to spread capitalism. It was a policy of "let us get the jobs out of the United States and into the foreign lands" to spread democracy and capitalism, and the policy has worked.

Heaven's above. With the fall of the wall, the dissolution of the Soviet empire, the capitalistic successes in Japan, Taiwan, Korea, Hong Kong, Thailand, Indonesia, we are very fortunate. We have accomplished what we set out to do. But we are frustrated because we did not understand that when those banks and multinationals started producing abroad and shipping back to the United States, they would start shouting free trade, free trade, free trade so that they would be allowed to continue dumping. Them the foreign countries picked up that "free trade" chant.

The State Department always led the way, selling off America's industrial backbone in order to buy friends abroad. We have heard that argument many times over the last 45 years.

The Congress, in frustration with President Carter, resorted to putting in a provision requiring that the economic counselor in our Embassies would report directly to the Secretary of Commerce and not to the Secretary of State.

We have been trying to rein in a State Department that seemed determined to sell out everything in this country. They would grin and bow and scrape to our allies, and they'd talk about our special relationships.

So, now, at this moment, we have an adversary in the State Department, we have an adversary in the multinationals that have no allegiance to America. You have the adversary, in the big American banks who lend the majority of their money outside of the United States, not in the United States. And then when the foreign governments threaten to default on these loans they turn to the Government and say bail us out, negotiate a free trade agreement with big debtors like Mexico. And then, of course, you have got the retailers. And whenever we argue for a textile bill, I go down to Bloomingdale's and I go to Hermann's and I bring back ladies' blouses, and I show the one made in Taiwan and the one made in New Jersey. And I show how they both sell for the same price, so there is no savings to the consumer thanks to free trade. The retailers simply make a bigger markup. Nonetheless, the retailers say "look out for the consumers, the consumers." Then, of course, you have the Council on Foreign Relations in New York and the Trilateral Commission.

I say to the distinguished Presiding Officer, you will get an invitation from the Trilateral Commission. They will want you to come up to New York and they will give you a grand dinner, and you will sit around with the heads of banks, and everybody will be bowing and scraping about America's special relationships. And, of course, all you have got to do is parrot the buzzword—free trade, free trade, free trade. And then you get accepted into the cozy establishment fraternity. That is why you have some of the best candidates out on the stump advocating free trade. They still cannot get it through their minds.

Tsongas is coming around on trade issues. He has not gotten around yet. He is saying that a Democrat has to be pro business. Heavens above, is that news? You cannot get elected the Governor of South Carolina unless you are pro business. You cannot get elected Governor of North Carolina or Georgia unless you are pro business. So what is new?

Democrats are finally catching on up north. But Tsongas still talks of free trade. And they talk of winners and losers, and he essentially referred to the textile industry as a loser, and then his staff had to correct that statement.

The point is that the Trilateral Commission grinds out these canned editorials along with the Council on Foreign Relations, the New York Times, and the Washington Post.

In 1990, when we debated the textile bill, we got the annual statement of the Washington Post. It turns out that the Post took in a billion bucks, and $800 million of it was made from retail advertising.

So it is obvious. If retail advertising is the bread and butter at the Post, no wonder they are hollering for "free trade" on behalf of the retailers. It's a full-court press. And the Japanese and multinationals fund the think tanks, which trumpet free trade, free trade, free trade.

So the misunderstanding of the Chief Executive, the President of the United States, is understandable. We confront a real, selfish, greedy multinational corporate leadership, all looking at their own pocket. They have no patriotism, these multinationals, or loyalty to the United States of America, and the rest are all in there for the buck. And we can free trade ourselves to the poorhouse.

I testified back in the 1950's—back then we were worried that 10 percent of the domestic consumption in textiles would be represented in imports.

Now, in this Chamber and in the galleries, 66 percent of the clothing is imported. Eighty-six percent of the shoes are imported.

I just had a visit from the Chairman of Smith-Corona. I remember bringing that industry to South Carolina. Boy, did we have productivity. They tried their best to hold on, but they had to

move to Singapore. Cummins Gears from Stuttgart to South Carolina and now to Mexico. Pratt and Reed was making pianos in Liberty, South Carolina, has now gone to Mexico. United Technologies, not long ago in South Carolina, has now gone to Mexico. And, incidentally, while I am on that point, General Motors is not announcing the closing of 21 plants and letting go 74,000 employees on account of bad times in the United States. They are announcing it on account of good times in Mexico.

One of the largest employers in Mexico is General Motors. They have 41 plants this minute. Wake up, U.S. Senate. Wake up, U.S. Government, and understand that the Yankee trader is much smarter than you give him credit for. He is getting ahead of the curve. He is going south of the border. They do not have to worry about $4-plus minimum wage. There is no clean air and no clean water and no housing and no Social Security and no plant-closing notice, no safe workplace, and so on.

You set up shop in Mexico and just bring the finished products back over the border, and you make a killing. And all you have to do is hire one of those Washington lawyers to handle any problems.

On that point, Japan is better represented than the people of America in Washington today. Japan's 100 United States lobbying firms earn over 113 million bucks. Read Pat Choate's book, "The Agents of Influence."

So we are sold out by these consultants, lawyers, and the State Department and the retailers and the multinationals and the big banks and the think tanks all babbling "free trade, free trade," while we are going broke.

Now, Mr. President, as you know, I facetiously wish I was Mao Tse-Tung so I could reeducate the American people. I would get them reeducated quickly. Not having that authority, I have to go back to the real authority, to the days of the Constitution and the Founding Fathers. And I will never forget David Ricardo on trade. Let us talk about that for a minute, because Ricardo was talking at a time when nations had a natural comparative advantage, Mr. President, and you could not produce anything anywhere. No, no. Each country had its advantage, and it was Great Britain who had all the industrial capacity. And as long as Britain could cry "free trade" and sell that idea, boy, they were fat, rich, and happy, the great United Kingdom.

Big difference today. You can produce anything anywhere. Making Fiat automobiles in the Ivory Coast in Africa, electric subassemblies in Singapore. Smith-Corona, by the way, only has 1,200 employees left in the United States. They are the last of the Mohicans.

Everything else is moving abroad. America no longer makes watches. I brought Elgin watch out of Illinois down to South Carolina, Mr. President. We named the town Elgin. But there is no watch made in America; 100 percent, that is gone.

Eighty-five percent of 35-millimeter cameras, 100 percent of VCR's and radios come from abroad. The last of the TV's left St. Louis. Zenith, it has gone to Mexico this past year.

Now, you can produce anything anywhere. You can produce it in Mexico, Singapore, Africa, anywhere. But Ricardo—going back to the history of comparative advantage—he corresponded with Alexander Hamilton. He said, "Now, as a little fledging United States, you have got your freedom. You should trade back with the mother country with what you produce best—your raw materials and farm products. We, in turn, will trade back with what we produce best—manufactured goods. There will be no tariffs, there will be no barriers." Free trade, free trade. Like monkeys on a string here that you see on the Senate floor.

Alexander Hamilton wrote a book. There is one copy left that I know of under lock and key over here in the Library of Congress. "Reports of Manufacturers" is its title. I cannot read the book here now. We are out of time and ready to vote. But, in short, Hamilton told the British, "Bug off." He said we are not going to remain your colony. We are going to build up our industrial backbone. And the very first bill that passed the U.S. Congress, July 4, 1789, was a tariff bill; protectionism. Fifty percent tariff on 30 articles, iron, textiles, going right on down the list.

Madison supported that bill. He was not in the Congress at the time. But to quote from Madison in the Federalist Papers, talking about the Constitution, he said, and I quote:

> It should never be forgotten that the great object of the Convention was to provide, by a new Constitution, a remedy for the defects of the existing one; that among these defects was that of the power to regulate foreign commerce, that in all Nations this regulating power embraced the protection of domestic manufacturers.

You do not have to go just to the Federalist Papers. You look in the Constitution itself, article I, section 8, which precedes the power of the Congress to declare war. Article I, section 8, says the Congress alone may regulate foreign commerce. It did not say deregulate foreign commerce. It said regulate.

So I really get a feeling of embarrassment when our distinguished President runs around and says we do not want to start a trade war, we do not want to have a trade policy or industrial policy.

Industrial policy? Heavens above, you ask the agriculture boys if they have an industrial policy, winners and losers. We picked agriculture as a winner. I believe in it.

Old Franklin Roosevelt used the Government. He put in the price support program to get America's agriculture out of the dust and dirt and into production, and then he put on protective quotas.

It is really to the benefit of all society—the common good. We have industrial policy with respect to other industries, for instance, the Defense Department and the defense industries. They are winners. We have been putting in all our research money. Now we are changing it. You and I are looking at it. Senators are trying to change the billions in research that now goes to DARPA in the Defense Department; we want to get it into the private sector. But defense was a winner. Now the economy has got to be a winner.

But right now Ambassador Hills, she is picking winners in intellectual property, financial services, and other things over there in Geneva trade negotiations. The losers are the textile industry and the steel industry, even high-technology industries like semiconductors, industries that have been saved by our laws against dumping but now are declared losers.

The trade war. Mr. President, most respectively, the trade war is in the fourth quarter. When they ask me who I am for for President I say I am for Coach Lou Holtz. He knows how to make three touchdowns in the last 3 minutes. We need that kind of leadership. And that is what the Senator from West Virginia is trying to communicate to the American people. It is not just a small difference in policy.

We are learning from the distinguished Senator from Missouri. He educated the President of the United States on human rights and civil rights. And the Senator from West Virginia and the Senator from South Carolina are now trying to educate the President and this new Secretary on competitive reciprocal trade. It is fundamental. That has to be understood.

We ought to take a page from old Roosevelt in the days of the Depression. In order to keep the banks open, he temporarily closed the doors. In order to save the farms, he temporarily plowed under the crops.

Today, in order to remove a trade barrier, you have to raise a barrier and then remove them both.

That is economically sound. If we did not have any barriers, we could really compete like gangbusters. We have, as I say, the most productive industrial worker in the world. But that is the goal and not the policy. Just like peace on Earth, good will toward men. Peace is the goal, but heavens knows you will never attain it with running around limply demonstrating and flapping your wings and laying on the ground and rolling everywhere.

George Washington, the Founding Father, said, "The best way to preserve the peace is to prepare for war."

The best way to get that free trade, as a goal, is to demand competitive re-

ciprocal trade. Cordell Hull called it a reciprocal free trade policy.

Lincoln used it. At the very beginning days of the Civil War, building the transcontinental railroad, some said: "Buy the steel from England."

Lincoln said: "No; we are going to build the steel plants. When we get through, we will have the railroad and the steel." President Eisenhower imposed oil import quotas to encourage domestic production. As I noted during Ms. Franklin's hearing, there are 27,000 tariffs in the schedule—27,000 of them.

Go look at the register.

So I do not bash Japan. Japan and other competitors are using their governments in a common sense manner. They have pioneered the MITI approach in the Pacific rim. And EC-92 is repeating that same approach. They are not organizing for free trade; they are organizing for the trade war.

I will give a simple example so people can understand. People just do not really appreciate the fact that if we get in 1,000 Toyotas in Portland, OR, we will inspect 5 or 10 in a couple of hours, put them on flatbeds, send them to Hartford and Charleston, and we will sell all those Japanese cars. Yet, you put a Ford on the dock in Tokyo and it takes them 4 months to inspect it. And then they will change the rules after another 4 months.

You think that is bad. Put a car on the dock in LeHavre, France; any foreign car. Inspection will take 1 year; they will not buy a 1992 Toyota until January 1, 1993.

You cannot build a car in Great Britain unless it is 45 percent domestic parts. They are trying to pass, in the European Community now, an agreement requiring 75 percent European content.

We are going to have to emulate that. The big debate in the 1984 Presidential race was the content bill. We were trying to save Detroit then.

They said protectionism, it was going to wreck the economy, like it did in the days of Smoot-Hawley. Mr. President, I wish we had the distinguished Senator from Pennsylvania, Senator Heinz, with us. Ten years ago, he and I tried to educate them. I will use his statistics and figures.

The denigration of Smoot-Hawley is a bum rap. Smoot-Hawley was passed in June 1930, 8 months after—not before—the crash in October 1929. It did not cause any crash. The truth of the matter is, Smoot-Hawley affected less than 1 percent of our GNP overall, and only a third of the trade. And within 3 years, by 1933, we got a positive balance of trade under Cordell Hull's Reciprocal Trade Acts. We maintained it until this crowd came to town here 12 years ago hollering free trade and turning us into a debtor Nation.

It is nonsense to suggest that Smoot-Hawley started the crash and started the Depression. Senator Heinz had a distinguish record on that particular score, and it is historically accurate, and they know it. But it's covered up in a deluge of editorials, and lobbyists paid by the hour.

We need a Secretary of Commerce who understands that she has all kinds of authority and powers. Here in this U.S. Senate, we work against American business and we protect the foreign importer. We have protectionism in the United States for the foreigners, for the foreign manufacturer. We passed the exporters' sales price offset, which is used in calculating the margin of dumping when an article sold in the United States is being sold at less than fair value, in other words, cheaper here than in the protected home market.

That Toyota Cressida sells for $23,000 in downtown Washington this minute. It sells for $31,000 in Tokyo this minute. If it is nighttime there, you can wake them up. They will sell you one quick.

What do you have? You are buying cars around here, imports, at $8,000 and $10,000 less than cost. Let me buy a Ford or Chevrolet at $8,000 or $10,000 less than cost, and I will run around hollering quality, too. Bash Japan? I want to stop the bashing of the United States, and bash Washington here, and get this crowd awakened to the competition that we are in.

We are in a serious jam here with our Commerce Department in the improper interpretation of our laws against dumping. Then when you try to make it categorical, they will attack you. They are protecting the big banks, the multinationals, the consumers, the retailers, and propogating the idea that there is such a thing as free trade. Henry Clay, years back, said "There is not now and never will be free trade—it is like the cry of a baby in the crib for something they wished they had but never would occur." We live in a very economically competitive world, and one dimension of comparative advantage—in fact, to this Senator, the most significant dimension—is government.

These governments are coming in and building up strong, because they know that if they are not economically strong, they are not going to do anything for their people.

So I do not bash Japan, and I am certainly not bashing the nominee, Ms. Franklin. She is outstanding. She is capable. She is brilliant. She has unquestioned integrity. She is deserving of the appointment. But she is not deserving of an uncompetitive, do-nothing trade policy.

She served on these business boards, just like Bob Mosbacher did. He came in here from the business world. Man, he just smiled. He said: You are right. Yes, you are right. Oh, you are right; you are right.

And then, by gosh, he got his clock cleaned by the U.S. Trade Representative, by Boskin and Darman, as Senator ROCKEFELLER pointed out.

I will never forget Truman. He might not have known how to run a haberdashery, but he knew how to run a government. When he was sworn in at the death of Roosevelt, he had Wild Bill Donovan from Intelligence come upstairs. He said "Mr. President, here is the intelligence report, and here is what you have to do."

The Secretary said, "Oh, no; that is against our security interests." The Secretary of Defense would say, "No; that is not our policy."

Truman said, "I am telling you, by Executive order, I am going to get you all together right underneath me here in this White House," and he instituted the National Security Council with Defense and State, and all these other entities underneath him. He said, "You all just fuss it out; hammer it out; and give me a couple of alternatives, and I will make a choice. Not more than three."

Mr. President, out of that, we got the Marshall plan; we got the Truman doctrine; the Atlantic Charter; the North Atlantic Treaty Organization. We got visionary government, in foreign policy, from a gentleman who had a tough time running a business, but knew how to get us moving together.

This President has no idea in the Lord's world of that. He has this country going in all directions and running around hollering, "Do not start a trade war. Let us keep sending the jobs to Mexico; I want NAFTA, the Northern American Free Trade."

I voted for free trade with Canada because we have relatively the same standard of living. But down in Mexico, they have not had a free election, much less free trade. And they have none of our nettlesome regulations. If you want to see all the rest of America's industry forced to go down, then vote for a Mexican Free Trade Agreement.

We should know that there has to be a change in mindset in this country. We must end this nonsense of running around and just professing, almost a soul-like thing, "I'm for free trade, I'm for free trade." Look here, I am for protectionism.

The President of the United States pledged to preserve, protect, and defend. And then, couple days later, somebody said "protectionism," and they were almost knocked over, "Oh, we cannot have protectionism."

They do not know the fundamentals of the Founding Fathers in building up this economic industrial giant, the United States. Now we are into global competition, and if we cannot use the people's Government to do anything other than add to the cost of production and frustrate competition, then we are going to run all of our business out of the United States. This crowd is into the capitalistic free enterprise productive society, and we cannot af-

ford a new Secretary of Commerce not enforcing the dumping laws, taking the free trade zones. That is within her authority.

Do you know what they do over there? We manufacture golf carts, E–Z Go and Club Car. They manufacture them in Augusta and up in Clinton SC. I can tell you right now that they have a Japanese engine in the golf carts. So they go to Newman, GA, grant their application for a free-trade zone up there so they can bring in the Japanese engines to get 800 jobs up at Newman. Meanwhile, they eliminate 1,500 jobs down in Augusta, and they have the gall to say they are promoting commerce. It is a total adulteration. We had better wake up. The problem is not the recession; it is international competition. It is the lack of a trade policy in one sense or, rather, reverse trade policy that protects foreign manufacture, that protects foreign imports and harms the domestic manufacturer. I do not say that lightly. Smith-Corona is going out of business, and they do not do anything down there at the Department of Commerce.

I will never forget when Zenith won its case, went all the way to the White House. The White House reversed it on national security grounds. So Zenith does not make TV's in the U.S. anymore. They say, "We are not in the business of hiring Washington lawyers to go all the way through the legislative lawyers to go all the way through the legislative provisions and then have the White House change them. I will never forget Houdaille, from Florida. They went all through the legal hurdles, won everything all the way to the Supreme Court. Then they went before the Cabinet. The Cabinet was just about to have a unamimous vote to support the decision against Japan, which had stolen the Houdaille technology. In comes President Regan. He said, "I just talked to Nakasone. We have a special relationship and we are going to reverse that decision."

So American business is constantly coming and knocking on the door. If we do not get these facts out on top of the table, the American people will never understand. Yes, we are in trouble on account of wasteful spending in the national Government—not just congressional spending. Every dollar spent since President Bush has been in office has President Bush's name on it. So let us not start that ying-yow, or pointing fingers, "No, you did it,' no, you did it,' no, you did it." We both have done it. We have not paid any bills in heaven knows how long.

The first thing we do every weekday is go down and borrow a billion dollars from the bank to pay interest on the debt. Interest costs keep the doors open around here, but if I had that $200 billion that they have added on in just carrying charges on the debt, I could take Senator ROCKEFELLER's $60 billion health program and give President Bush his $100 billion health program and we would still have a surplus.

We are spending that $200 billion, but we are not getting anything for it. We are just buying our own reelection. That is what is going on. So that is half of the problem.

But the other half of the problem is lack of a trade policy. As chairman of the Commerce Committee of the U.S. Senate, I feel this responsibility very keenly, and I am trying my best to awaken this Government at every particular turn to correlate and coordinate and let us get a competitive trade policy. We know how to do it for our national security; we must now do it for our economic security. Whenever we pull together and work together and sacrifice together, there is no force on Earth that can stop us, Mr. President.

I appreciate the time to address the Senate on this important subject. Adlai Stevenson said, "Now is the time to talk sense to the American people." That is why Paul Tsongas has become popular. He is talking sense, and the others are running around telling how much they love everybody. Everybody is for education.

Do you know I have 37 Japanese plants in South Carolina. Do you know we have more West German industry in South Carolina than all the other 49 States combined? We are not against Japan. I have out a welcome mat for them. We are against this Washington Government not protecting its industrial backbone and not enforcing our trade laws.

We are going to have to meet the competition, Mr. President. I hope that I am as successful as the distinguished Senator from Missouri was on changing the President's mind on civil rights. I hope I can change the President's mind on trade policy. If he can come back home and not give us this pollster nonsense—I hear, "Yeah, I understand, I see, yeah, I sympathize, I get the message". That is nonsense. We want to get a policy and get competing in leading this country. Tell him to shoot all the pollsters and get out there on his own and he will start winning.

Mr. President, I urge the confirmation of Mrs. Barbara Franklin as the Secretary of Commerce.

Mr. HATFIELD. Mr. President, I rise to support the nomination of Barbara Franklin to be Secretary of Commerce. Let me first commend the distinguished chairman of the Commerce Committee, Senator HOLLINGS, and the ranking minority member, Senator PACKWOOD, for so expeditiously handling the hearings.

Mr. President, no issue is of greater importance than our economic health. This is a critical period for both American families and the Federal Government, and growth is necessary. The choice for Secretary of Commerce cannot be made without this goal in mind, and I am happy to say that President Bush has made an excellent selection. Barbara Franklin brings with her a lifetime of business experience which will serve as her foundation as she continues her work on the Nation's behalf. With over two decades of involvement in Government at various levels and her well-known organizational skills, she is qualified to take the helm of a department that is integral to the productivity of so many areas in this country, especially in my own State of Oregon.

As Secretary Franklin undertakes her new position, I encourage her to continue to be a strong advocate of business. And as a representative of a State with a large fishing industry, I encourage her to take a strong interest in the effort to ban drift nets as well as other fishing concerns. The Department of Commerce oversees a number of other programs and issues of great importance as well, and I encourage Secretary-designate Franklin to approach this challenge with the enthusiasm and intellect she has displayed in her past actions.

Mr. DOLE. Mr. President, in these turbulent economic times, the position of Secretary of Commerce has taken on added importance.

In my opinion, the qualifications for an effective Commerce Secretary are these:

Someone who will be a strong advocate for the interests of America's business men and women.

Someone with experience, who knows the pressures of meeting a payroll and making a profit.

Someone who will fight for our manufacturers and merchants.

Someone who is an expert on the competitive global marketplace.

Someone who knows their way around the bureaucratic jungle.

I have no doubt, Mr. President, that Barbara Franklin more than meets those qualifications, and will make an outstanding Secretary of Commerce.

She will bring to the Commerce Department a vast array of experience—both in Government and in the private sector.

Her Government service includes 6 years as a member of the U.S. Consumer Product Safety Commission, and four terms as a member of the President's Advisory Committee for Trade Policy and Negotiations.

U.S. Presidents have continually turned to Barbara Franklin for good reason: Simply put, she is one of the most influential and respected businesswomen in America.

She is president and CEO of Franklin Associates, her own internationally recognized management consultant firm.

Her reputation is such that seven of America's largest and best known corporations have prevailed upon her to become a member of their board of directors.

Many of us in this Chamber had the pleasure to work with Malcolm Baldrige of Connecticut, who was President Reagan's first Secretary of Commerce.

Upon Barbara Franklin's confirmation, the Commerce Department will once again be led by a Secretary from Connecticut, and I anticipate that she will serve with the same skill and leadership as did Malcolm.

Mr. GORTON. Mr. President, I am pleased to lend my support today to the nomination of Barbara Franklin to be the Secretary of Commerce. President Bush is to be commended for sending forth such a worthy nominee for this important position in our Government. Ms. Franklin has extensive public and private sector experience which will serve her well in her new capacity.

Ms. Franklin was one of the first women to graduate from Harvard Business School. She began her business career at the Singer Co. and later at Citibank. Her distinguished private sector career was recognized first by President Nixon when in 1971, she was appointed by the President to direct a program to recruit women for high-level Government positions. In 1973, she was nominated by the President to serve as a Commissioner of the Consumer Product Safety Commission [CPSC]. While I was not in Washington, DC at that time, my more senior colleagues tell me that she did an excellent job in that capacity. After leaving the CPSC, Ms. Franklin was the director of the Government and business program for 8 years at the Wharton School of the University of Pennsylvania. She has served for four terms as a member of the President's Advisory Task Force for Trade Policy and Negotiations.

Mr. President, I have had the opportunity to meet with Ms. Franklin and have discussed a wide range of important issues to Washington State in particular and to the Nation as a whole. I found her to be an intelligent and highly capable woman. She has my complete confidence and I am sure that she will serve all of us well in her soon to be capacity as Secretary of Commerce.

Mr. LIEBERMAN. Mr. President, I rise to support the nomination of Ms. Barbara Franklin to be the next Secretary of Commerce.

Ms. Franklin is clearly a very able candidate. She is an accomplished advocate of the business community, holding directorships at seven of the largest and best known American corporations, including the board of Aetna Life and Casualty Co., one of the most important businesses in the State of Connecticut. I understand that she gets high marks for her work with Aetna.

Barbara Franklin brings to the job a special expertise in trade. She has served on the President's Advisory Committee for Trade Policy and Negotiations. She is also very familiar with Government work, getting her start in the White House in 1971 and serving as Vice Chairman of the Consumer Product Safety Commission on two different occasions.

I want to take a moment to commend Senator HOLLINGS for the thorough hearing he conducted on her nomination. The distinguished chairman of the Commerce Committee is, among other things, a leading spokesman on trade issues. He and his fine staff, particularly Loretta Dunn, have made certain that the administration strongly consider the interests of domestic manufacturers as they develop trade policy.

I hope and believe that Barbara Franklin will act as an advocate for American exporters. Her predecessor, Bob Mosbacher, made a real effort to reach out to American business as they pursue overseas markets.

I am proud to claim Barbara Franklin as at least a part time resident of Connecticut. Her husband, Wallace Barnes, is a good friend and very successful businessman in the State. We are lucky to have them both.

Mr. SIMPSON. Mr. President, I rise in support of the nomination of Barbara Franklin to be Secretary of the Department of Commerce.

We are all so well aware of the growing importance of issues surrounding trade and competitiveness. Indeed, they have never been a focus of more debate than they are right now. It is absolutely crucial that our Government do more than it ever has before to make it possible for American business to succeed.

I ask my colleagues to consider what qualities they would most want in a Secretary of Commerce. I would feel that the ideal candidate for the position would have both Government and top-level business experience. It would normally be too much to ask, but would it not also be fortuitous if the private-sector experience not only involved traditional corporate service, but also work with consumer protection organizations?

We are so very fortunate to have in Barbara Franklin someone with all of these fine qualities. While she was a staff assistant to the President from 1971 to 1973—she helped to recruit women into high-level positions in the Federal Government. She knows how things work at the highest level of the executive branch.

Barbara Franklin understands American business. She has served with distinction on the corporate boards of companies like Armstrong, Nordstrom, Black and Decker, Westinghouse, and Aetna. She also understands the American consumer. She performed admirably as a Commissioner of the U.S. Consumer Product Safety Commission from 1973 to 1979.

Barbara Franklin has always been a zealous promoter of women in public service. She was a founding member of the Women's Forum of Washington, 1982, and a founding member of Executive Women in Government, 1973. She has been a member of the advisory board of governors of the National Women's Economic Alliance, and has been a member of the Women's Economic Round Table. So, in addition to her substantial Government and business expertise, she will bring a unique and valued set of contacts and perspectives to the Department of Commerce.

Barbara Franklin is the youngest-ever recipient of the Penn State Distinguished Alumni Award.

Barbara Franklin's personality reflects what her résumé implies. She is intelligent, strong, sensitive, a woman of great strength and good humor—not afraid to be a pioneer or an iconoclast. She has a remarkable understanding of the need for our tax policy to reflect our goals in trade and in economic growth.

We are indeed fortunate to have the opportunity to have our Department of Commerce benefit from Barbara Franklin's many remarkable qualifications and talents, and I urge the Senate to confirm her nomination.

Mr. WARNER. Mr. President, I rise this afternoon to congratulate Ms. Barbara Franklin who has been nominated by the President to be the next Secretary for the Department of Commerce.

Mr. President, Ms. Franklin has served in our Government as a Commissioner at the United States Consumer Product Safety Commission, and she has held various positions in the private sector. Her extensive experience in the business world provides her with the background she needs to serve as the next Secretary of the Department of Commerce.

I wish Ms. Franklin much success as she begins to confront the challenges of being the next Secretary. Ms. Franklin is a role model for many people, and I am confident she will be an excellent Secretary of Commerce.

Mr. SYMMS. Mr. President, I am glad we are debating the President's nomination of Barbara Franklin to be Secretary of Commerce. I have no doubt President Bush selected her for her tremendous qualifications, and I will support the nomination.

However, upon Ms. Franklin's likely confirmation by this Senate, I intend to discuss with her a very important issue facing American businesses and their employees.

Mr. President, I am concerned that at the very time we strive to maintain the employment rate in the United States and attract outside investment to our country, the Taiwan Relations Act of 1979 has been used to preclude high-level Government representatives from the United States and the Republic of China, on Taiwan, from discussing problems relating to these issues on an official basis. On numerous occa-

sions, U.S. businessmen have complained of the inability of getting high-level official representation to assist on problems affecting their business interests.

Mr. President, I believe recognition is a separate issue from having Government representatives visit one another to discuss matters of mutual interest on an official basis. We should not forget Taiwan holds the largest reserves in the world and is one of our most important trading partners. And, after all, trade is clearly recognized as a key to our domestic economic development and jobs are important to all of us.

The Washington Post lauded the Republic of China on their recent democratic elections. As the leader of democracy worldwide, we want to encourage these developments.

I hope that in her capacity as Secretary of Commerce, she will pursue this important economic matter and work toward reversing the United States' current position allowing United States and Taiwanese authorities to officially meet and discuss issues of mutual benefit.

The PRESIDING OFFICER. Is there further debate? If not, the question is: Will the Senate advise and consent to the nomination of Barbara Hackman Franklin to be Secretary of Commerce?

The nomination was confirmed.

Mr. HOLLINGS. I move to reconsider the vote.

Mr. BREAUX. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The President will be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

RECOGNITION OF THE LUMBEE TRIBE OF CHERAW INDIANS OF NORTH CAROLINA

MOTION TO INVOKE CLOTURE ON MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, there will now be 2 hours of debate on the motion to invoke cloture on the motion to proceed to the consideration of H.R. 1426.

The Chair recognizes the distinguished Senator from Hawaii [Mr. INOUYE].

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

The PRESIDING OFFICER (Mr. BREAUX). The Senator from Hawaii is recognized.

Mr. INOUYE. Mr. President, is the time limit 2 hours equally divided?

The PRESIDING OFFICER. The Senator is correct.

Mr. INOUYE. Mr. President, I ask unanimous consent that the time be changed to 40 minutes equally divided. I have conferred with the Republicans and they concur.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? Hearing none, it is so ordered.

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

The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

Mr. INOUYE. Mr. President, I am pleased today to speak on behalf of H.R. 1426, a bill to provide Federal recognition to the Lumbee Tribe of Cheraw Indians of North Carolina. My distinguished colleague from North Carolina, Senator SANFORD, has sponsored an identical measure in the Senate, S. 1036.

Mr. President, this legislation is long overdue—perhaps even 100 years overdue. The Lumbee Tribe of Indians began their efforts to seek Federal recognition in 1888, 104 years ago. There is no better time than now—in this year of commemoration of the Native people of the Americas—for the Congress to provide this long-awaited justice to the Lumbee Tribe of North Carolina.

This legislation will accomplish that long overdue justice by establishing a formal Government-to-Government relationship between the Government of the United States and the Government of the Lumbee Indian Tribe. This is the same status that the United States has conferred on over 500 other Indian tribes and Alaska Native villages. This status provides recognition of the sovereign authority of a unique community of Native American people to govern themselves and to maintain their cultural, social, religious, and economic identity.

Mr. President, there are some in this body who would argue that we in the Congress should defer to the Department of the Interior to decide the issue of whether or not the Lumbee Indian Tribe is actually a tribe within the meaning of certain regulations that have been written by officials at the Bureau of Indian Affairs.

At the outset, I must point out that these regulations have been written and revised without the benefit of congressional authorization or a Federal statute. When they were first promulgated in 1978, officials testified that the BIA would be able to process 20 applications for recognition each year. However, in the 14 years since the rules were finalized, the Department has recognized only 8 tribes. It has denied recognition to one or two others. This means that only 10 or so applications have actually been processed in 14 years. During that same period of time, Congress has recognized 16 tribes, some restored to recognition and some newly recognized.

The Lumbee Tribe did petition for recognition to the BIA. After many years and at great expense to the tribe, the BIA informed the tribe in 1989 that they are ineligible for the process because of a 1956 act of Congress.

That act acknowledged the existence of the Lumbee Indians and their history, but fell short of granting full Federal status to the tribe, leaving the tribe in a legal limbo. While the Congress officially recognized and designated the tribal members as the Lumbee Indians, the Congress also added language, at the request of the Department of the Interior, to deny the tribe eligibility for services provided by the BIA. Ironically, the effect of this language, according to the 1989 solicitor's opinion, also has the effect of denying the tribe access to the administrative acknowledgment process.

During the era of the Federal policy of termination in the 1950's, the Congress also enacted two other bills that are very similar to the 1956 Lumbee Act—one with respect to the Pasqua Yaqui Tribe of Arizona and the other regarding the Ysleta Del Sur Tribe of Texas, formerly known as the Texas Tiwas.

In both cases the administration said the tribes were not eligible for the Federal acknowledgment process so the Congress—not the administration—has since provided recognition to these two tribes. In doing so, the Congress did not amend the previous acts affecting the status of these tribes to allow them access to the administrative process. The Congress simply provided recognition. We can do no less for the Lumbee Tribe. To treat them differently would be to treat them unfairly. I believe they have been treated unfairly for a long, long time.

There are some who might argue that Congress does not have the capacity to judge the information presented to us to determine whether a group is a tribe or not. This is simply not accurate. We have listened to expert testimony—the same experts on whom the Bureau of Indian Affairs must also rely. Those experts tell us that the Lumbee Tribe is a tribe deserving of Federal recognition and that the Lumbee Tribe meets all of the seven criteria established in the regulations. Why then should the Congress require the tribe to go through an expensive and time consuming process? We have the information and we are as well qualified to judge its merits as are the employees of the BIA.

Granting Federal recognition status is not new to the Congress. As I mentioned, we have been engaged in this process for over 200 years under the Indian commerce clause of the U.S. Constitution where Article I gives Congress plenary power over Indian affairs. The Congress has always had the au-

thority and the power to recognize a particular community of Indian people as an Indian tribe and to deal with that tribe on a Government-to-Government basis. The Congress has never expressly delegated the authority to recognize tribes to the Bureau of Indian Affairs at the Department of the Interior.

The Congress has given a general delegation of authority to the Secretary to manage Indian affairs and it is under that general authority that regulations were promulgated by the Secretary for the administrative recognition of Indian tribes. However, there was never any assumption that promulgation of such rules would preempt the power of the Congress, acting in accordance with its best judgment, to exercise its authority to grant recognition when appropriate.

The case of the Lumbee Tribe of North Carolina is an appropriate case for congressional recognition. There are many reasons for this, not the least of which is a suspected institutional bias against the Lumbee Tribe by officials within the Department of the Interior. It is interesting that a former Assistant Secretary for Indian Affairs in the Reagan administration has communicated his belief that the Congress should recognize the Lumbee Tribe; during his tenure at the Department of the Interior, this same official presented the administration's opposition to legislation to recognize the Lumbee Tribe.

My suspicion is that the administration continues to object because they consider it a matter of money. There is no question that the Lumbee Tribe is large—there are about 40,000 members. The Lumbee Tribe is the largest tribe seeking Federal recognition, and will, when recognized, be the third largest Indian tribe in the Nation. In my view that is why recognition of the tribe has been so difficult to accomplish.

The Lumbee Tribe has been recognized by the State of North Carolina since 1885 and as a State-recognized tribe is eligible for Indian programs operated by the Department of Housing and Urban Development, the Department of Labor, and the Department of Education. However, as I mentioned, because of the language of the 1956 act, the tribe is not eligible for the services and programs of the Bureau of Indian Affairs and the Indian Health Service. Issues related to the cost of providing such services are addressed in the bill by creating a separate budget for the Lumbee Tribe that would then be submitted to the Congress.

In my view this is a fair bill. It takes nothing away from any other tribe in the country. The House passed the measure by a vote of 253 to 164. The Senate Select Committee on Indian Affairs, by a vote of 9 to 5, recommended that the bill be passed. This is a fair bill and it is a bill whose time has come.

Those who object to this bill on the grounds of cost need to understand the great cost to the Lumbee Indian people of continued inaction on the part of the United States. This inaction not only results in the denial of services, but ever so much more important, it results in the denial of status, a recognition status that the Lumbee people so desire because it affects their standing in the entire Indian community. They, like all other tribes, desire only to protect their culture, their religion, their very identity. Federal recognition will provide the tribe with the ability to exercise the sovereignty to assure that protection.

Some have asserted that Indian tribes oppose this legislation. That is true. There are not many, but there are some. Others argue that the tribe should be required to pursue the Federal acknowledgment process. But I have addressed that issue. Others oppose congressional recognition because they do not believe the Lumbee Tribe is an Indian tribe. The Select Committee has held extensive hearings on this measure and we are convinced that the Lumbee Tribe is an Indian tribe that meets all rational criteria for Federal recognition.

Mr. President, I should like to point out that the Lumbees have been recognized by the State of North Carolina since 1885, and until desegregation in 1971 funded a separate school system operated and attended exclusively by tribal members. This is nothing new. These Indians have been recognized not only by the Congress of the United States but by the State of North Carolina.

The tribe is descendent aboriginally from the Cheraw and other Sioux speaking tribes in the area, and is currently named for the Lumbee River which bisects the Indian community. The Lumbee Tribe has been recognized as a self-governing people by the State of North Carolina, as I indicated, since 1885, and first sought Federal recognition in 1888. Since that time 10 bills have been introduced before the Congress enacted the 1956 Lumbee Act.

And so I would like to point out that these Indians have waited a long time. I realize that there are a few Indian tribes that oppose this, but I am sad to report to you, Mr. President, that the major reason for opposition is the fact that the Lumbees number 40,000 at this time and since the Congress and Government of the United States have not been forthcoming and generous in carrying out our trust responsibility and thereby appropriating sufficient funds to assist them in their health and social services and education, they are afraid by adding 40,000 eligible Indians the small pie would be made smaller.

I realize the concern of our fellow Americans, the first Indians, but I would hope the fact that the Lumbees are Indians, recognized as such by the State of North Carolina, recognized by this Congress, should entitle these people not only to Federal recognition but to give them all of the rights and privileges other recognized Indians receive.

So I hope that the Members of this body will vote in favor of proceeding with the consideration of this measure.

The PRESIDING OFFICER. Is there further debate on the measure?

Mr. INOUYE. Mr. President, without taking time off either side, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislate clerk proceeded to call the roll.

Mr. SANFORD. 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. SANFORD. Mr. President, would the Senator from Hawaii yield me 10 minutes?

Mr. INOUYE. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has consumed 8 minutes; 12½ minutes remain.

Mr. INOUYE. I am happy to yield 10 minutes.

The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

Mr. SANFORD. Mr. President, I want to thank on behalf of these citizens of North Carolina the distinguished Senator from Hawaii, who has in a very forceful way presented the case for the recognition of the Lumbee people that now is a case that is at least 100 years old. There is no question that we have made these people not only second-class citizens, but by preventing them from going through the regular recognition process, have made them second-class Indian citizens.

The time has come for us to say to these people that this Nation through its Congress does indeed recognize their roots, their heritage, and the fact that they have come from and remain an honorable Indian tribe.

I look forward to the passage of this bill, which provides for full recognition of the Lumbee people.

I certainly hope that we will be permitted by this body to go forward. That of course is the purpose of this cloture vote, to get permission to move forward for a deliberation and decision on the legislation itself. I regret that a cloture vote is even necessary because, while there may be some dispute over how to recognize the Lumbees, there is no dispute that some act of Congress is necessary.

I would like to note for the RECORD that the Congressional Budget Office has determined that this legislation will not affect direct spending or receipts, and therefore our pay-as-you-go procedures do not apply.

The Senator from Hawaii has already laid out all of the facts, and has so well

stated the sense of justice that would prevail if we were able to pass this legislation now, to recognize these people.

In beginning debate on the motion to invoke cloture on the motion to proceed to the consideration of the Lumbee Recognition Act, I would like to commend the Lumbee people for the tenacity and patience they have shown for more than 100 years.

Mr. President, I am filled with regret. The U.S. Senate has the responsibility of correcting injustice within the law whenever possible. Before us now is legislation that does just that. However, for reasons unknown to me, some have chosen to make this a partisan fight. This is grossly unfair to the Lumbee people. I say this because the Lumbees simply have no other recourse to obtain recognition except to obtain congressional action. This congressional action can either recognize them or simply make them eligible for the administrative process from which they are precluded by statute. Clearly, congressional action of some sort is required.

It is beyond me that given this fact, a cloture vote is required. I repeat, the Lumbees cannot go through the traditional recognition process. Therefore, to deny them the opportunity for congressional action on this bill is to leave them out in the cold.

However, let me remind you Mr. President, that this bill passed the House of Representatives with support from both sides of the aisle—including the support of the ranking member of the House Interior Committee and two of the four Republican Representatives from North Carolina. In the Senate Select Committee on Indian Affairs, the committee voted to favorably report out this legislation with support on both sides of the aisle. Finally, the Republican administration of Governor Martin in North Carolina strongly supports H.R. 1426. In fact, I understand that the Governor's office has placed calls to several Members on the other side of the aisle, in an effort to squelch the false allegation that this is partisan legislation. I ask unanimous consent that Governor Martin's letter of support be included in the RECORD.

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

STATE OF NORTH CAROLINA,
OFFICE OF THE GOVERNOR,
Raleigh, July 30, 1991.

Hon. DANIEL K. INOUYE,
Chairman, Senate Select Committee on Indian Affairs, Washington, DC.

DEAR SENATOR INOUYE: I have asked James S. Lofton, Secretary of the North Carolina Department of Administration to represent me at the Joint Hearing regarding S. 1036, the Lumbee Recognition Bill, which will be held on August 1. Secretary Lofton will be accompanied by Henry McKoy, Deputy Secretary of the Department of Administration, Patrick O. Clark, Chairman of the North Carolina Commission of Indian Affairs, and A. Bruce Jones, the commission's executive director.

I fully support the passage of S. 1036 and am requesting the support of the Senate Select Committee on Indian Affairs. The State of North Carolina has recognized the Lumbee Tribe as a separate and viable Indian entity since 1885. The passage of S. 1036 will entitle the Lumbee to enjoy the same rights, privileges and services enjoyed by other federally recognized tribes in the nation and will, further, be a major step toward rectifying the inequities suffered by the Lumbee people for centuries.

I thank you for your attention to this matter and will appreciate your favorable consideration of my request.

Sincerely,

JAMES G. MARTIN.

RESOLUTION

Whereas, the Lumbee Indians are descendants of the coastal Cheraw tribe and related to Siouan-speaking people, and have continually inhabited their aboriginal territory which is now Robeson County, North Carolina;

Whereas, the first documented contact with Europeans occurred in the early 1500's, and the Lumbee Indians have maintained a separate and distinct culture and community since European contact;

Whereas, at the time of first contact with Europeans the Lumbee held their land in common, and in the early 1700's, Robert, King of the Cheraw, and fourteen headmen deeded tribal land to white settlers, and between that time and the organization of the United States under the Constitution of 1789 the Tribe lost all its common lands. Today, individual tribal members hold free title to large acreage of land in Robeson County;

Whereas, local communities, State of North Carolina statutes, Indian tribes, federal officials, the National Congress of American Indians, Congress and the Department of Interior recognize the Lumbee as Indians;

Whereas, the Lumbee tribe has an established enrollment process and membership criteria which is based on direct descendants from the Tribe's base roll developed from the special Indian census of Robeson County, North Carolina (1900–1910), and school and church records. And, in 1912, a Department of Interior study concluded that the large majority of Lumbee had ¾ or more Indian blood.

Whereas, the Lumbee Tribe has functioned as a cohesive, political organization and exhibits traditional forms of leadership by passing down the leadership role through family ties. Currently, the Lumbee Tribe is governed by the Lumbee Regional Development Association Board (LRDA) which exerts political authority over its members;

Whereas, the LRDA Board is elected by and composed of Lumbee Indians;

Whereas, in 1956, the Congress enacted the Lumbee Act, 170 Stat. 254, which recognized the Lumbee Indians, but provided no services by the United States, made no federal Indian statutes applicable to the Lumbee, and may by virtue of the federal Indian statute prohibition made the Lumbee ineligible for federal recognition through the administrative process;

Whereas, the Lumbee Recognition bill amends the 1956 Lumbee Act by making the Lumbee eligible for Bureau of Indian Affairs and Indian Health Service programs, and corrects and completes the legislative process of recognition that Congress began in 1956;

Whereas, the Lumbee Recognition bill contains no appropriations to the Lumbee Tribe, and thus will not affect the budgets of presently federally recognized Indian tribes;

Whereas, the Lumbee Recognition bill provides for no delivery of services from the Bureau of Indian Affairs or the Indian Health Service until Congress directly appropriates money specifically to pay for those services and such money shall not be administered by the Bureau of Indian Affairs; and

Whereas, The Lumbee Recognition bill is not a circumvention of the administrative recognition process because the Lumbee Act was enacted in 1956 and the federal administrative process was established in 1978, now

Therefore, be it

Resolved by the North Carolina Commission of Indian Affairs, That the Board support federal recognition of the Lumbee Indians through the Lumbee Recognition bill.

Mr. SANFORD. In addition, I regret that two more false allegations have been made regarding this legislation. I understand that some Members have said that H.R. 1426, if passed, would cost $200 million and would establish another Federal reservation.

Nothing could be further from the truth. This bill authorizes no money, and in fact, it expressly prohibits the Lumbees from inclusion in the budget from Indian programs at the BIA. The bill requires the Lumbee to be a separate line item in the Interior appropriations process. It is up to Congress to determine to what extent services would be funded, if at all. I would like to reiterate that the Lumbees request for recognition is not driven by money, otherwise, they would not have agreed to take on the appropriations process each year rather than receive a definite percentage of funds included in the process. At this time, I ask unanimous consent that resolutions from tribes who support this legislation be included in the RECORD following my remarks.

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

(See exhibit 1.)

Mr. SANFORD. Mr. President, the original cost estimate for this bill done by the Congressional Budget Office simply plugged in the number of Lumbees into a generic formula. The national average spent on a federally recognized Indian is approximately $3,000. However, the figure yielded in this equation for the Lumbee is erroneous, and CBO agrees with me.

According to CBO, the cost of extending services to the Lumbee would be substantially less than the generic formula would yield because as a State recognized tribe—which the Lumbees have been since 1885—they are already receiving some services from the State and Federal Government. In addition, CBO recognizes the fact that the Lumbee would not need certain costly services such as those associated with a reservation. I would like to quote from a letter written by Mr. James L. Blum of the Congressional Budget Office to Chairman INOUYE:

The exact amount of the additional cost to the federal government resulting from H.R.

1426 is difficult to predict because the nature of services and programs provided would be negotiated by the tribe and the Secretary of the Interior and would be based on the specific needs of the tribe. The cost of some services would be low (or zero) because the tribe has no land base and thus has no need for certain types of services (for example, real estate services or reservation law enforcement), or because the tribe already receives such services.

I ask unanimous consent that this letter be printed in the RECORD.

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 26, 1991.

Hon. DANIEL K. INOUYE,
Chairman, Select Committee on Indian Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 1426, the Lumbee Recognition Act, as ordered reported by the Senate Select Committee on Indian Affairs on November 20, 1991.

H.R. 1426 would grant federal recognition to the Lumbee Tribe of Cheraw Indians of North Carolina. The act would make the tribe and its members eligible for all services and benefits provided to federally recognized Indians upon the appropriation of funds for these purposes.

The act would require the Secretary of the Interior and the Secretary of Health and Human Services to work with the tribe to develop a needs assessment and budget for services necessary for the tribe. It also would require the tribe to organize and adopt a constitution and by-laws, and would direct the Secretary of the Interior to assist the tribe in this effort. The act would require the tribal roll to be open for a 180-day period before adopting a constitution. H.R. 1426 would authorize the appropriation of funds necessary to carry out the provisions of the act.

CBO estimates that the average annual cost of services and benefits provided nationally to American Indians and Alaska Natives is about $3,000 per year. If the national average were applied to the Lumbee Tribe, providing services to the tribe and its members as a result of federal recognition could cost the federal government $110 million to $120 million annually. CBO estimates that the cost to the federal government to provide services to the Lumbee Tribe would be less than the national average, however, since the Lumbee Tribe is recognized by the State of North Carolina. As state-recognized American Indians, members of the Lumbee Tribe are already eligible for and receiving some federal services and benefits, including job training and education funding. As a result, CBO estimates that H.R. 1426 could result in annual costs to the federal government of $80 million to $90 million annually, assuming the necessary funds are appropriated. CBO's estimate is based on a tribal enrollment of about 40,000 members.

The exact amount of the additional cost to the federal government resulting from H.R. 1426 is difficult to predict because the nature of services and programs provided would be negotiated by the tribe and the Secretary of the Interior and would be based on the specific needs of the tribe. The cost of some services would be low (or zero) because the tribe has no land base and thus has no need for certain types of services (for example, real estate services or reservation law enforcement), or because the tribe already receives such services. However, the tribe may be able to negotiate the provision of other services at a higher than average rate.

Based on information from federal agencies, CBO estimates that it would cost between $100,000 and $150,000 to review and verify the tribal roll in fiscal year 1992, as required in Section 4(b)(1) of the act.

Enactment of H.R. 1426 would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply. Also, enactment of H.R. 1426 would result in no cost to state or local governments.

If you wish further details on this estimate, we will be pleased to provide them. The staff contact is Patricia Conroy.

Sincerely,

JAMES L. BLUM,
(For Robert D. Reischauer, Director).

The allegation that this bill provides for a reservation is absolutely false. This bill does not establish a new Federal reservation. The bill makes absolutely no provision for a reservation, nor does it allow for or anticipate a land claim. Under BIA regulations, in cases where there is no reservation, the land is officially referred to as a "tribal service area." This simply puts limits on the area where services are conducted.

Finally, I return to the fact that the issue before us is justice. The simple fact of the matter is that the Lumbees are barred by statute from the normal administrative process established in 1978. For the Lumbees to become federally recognized, whether it is done legislatively or administratively, it requires an act of Congress. In 1989, an Associate Solicitor for Indian Affairs, ruled that the 1956 Lumbee Act precluded them from participation in the administrative process. I ask unanimous consent that a copy of this opinion be printed in the RECORD.

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

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SOLICITOR,
Washington, DC, November 20, 1989.

To: Secretary.
From: Solicitor.
Subject: Interpretation of the Lumbee Act.

Congress is currently considering legislation, H.R. 2335, which would extend Federal recognition to the Lumbee Indians of North Carolina. The purpose of this memorandum is to provide you with background on how the Department, and the Solicitor's Office in particular, has interpreted previous legislation involving the Lumbees, the Act of June 7, 1956 (70 Stat. 254) ("1956 Act").

In 1972, the Associate Solicitor, Indian Affairs, advised the Commissioner of Indian Affairs that the 1956 Act had terminated our authority to provide services to individuals who had been certified under the Indian Reorganization Act (IRA) as "Indians" having ½ degree or more Indian blood. In 1975 the Court of Appeals for the D.C. Circuit overruled the Associate Solicitor's position and held that the 1956 Act did not terminate the individual rights acquired by the survivors of the 22 individuals who had been certified under the IRA. *Maynor v. Morton*, 510 F.2d 1254 (D.C. Cir. 1975). Staff attorneys in the Solicitor's Office initially read the *Maynor* decision narrowly and informally advised that the 1956 Act was still a bar to the Department acknowledging the tribal existence of the Lumbee Indians as a tribe.

In 1976 representatives of the "Hatteras Tuscaroras", a group of apparent Indian descendants in Robeson and adjoining counties (the area covered by the 1956 Act), requested a meeting to discuss federal recognition of them as an Indian tribe. Under Secretary, and formerly Solicitor, Kent Frizzell, noted that the *Maynor* decision did not deal with the status of persons not certified as Indians prior to the 1956 Act and that the "1956 Act remains a bar to extending [BIA services and] benefits to any other individuals Indians of Robeson or surrounding counties." Under Secretary Frizzell concluded that: "Congress must modify the 1956 Act before any federal recognition and services can be extended generally to a group such as the Hatteras Tuscaroras."

In 1978 when the Department was developing its revised proposed acknowledgment regulations, counsel for the Lumbees submitted a brief arguing that the 1956 Act was not a bar to administrative consideration of a petition from the Lumbees for acknowledgment as an Indian tribe. The Department's staff accepted counsel's position and proceeded to provide technical assistance to the Lumbees in the development of the documentation for their petition on the assumption that Department would be able to consider the petition under our regulations. It was not essential initially, however, to resolve the issue as to the effect of the 1956 Act. The development of essential factual information through a documented petition was a necessary predicate for either legislative or administrative action. Our regulations require that if the Secretary can not acknowledge the tribal existence of a petitioner that he advise the petitioner what alternatives, if any, may exist for group, or at least some members of it, to acquire services and benefits as Indians, such as legislation or enrollment in other tribes.

In the last Congress, the Senate Select Committee on Indian Affairs conducted an oversight hearing on the acknowledgment process. Dr. Adolph Dial, spokesman for the Lumbees at that hearing and accompanied by counsel for the Lumbees, noted that:

"[T]he [BIA's Acknowledgement] Branch's recommended preliminary findings must be reviewed by the Solicitor's Office and the Assist Secretary for Indian Affairs before it is published. Some people believe that the Lumbee Act passed by Congress in 1956 is legislation prohibiting the Federal relationship within the meaning of the recognition regulations. *The Solicitor's Office at the Department of the Interior has never taken a position on this issue.* If the Solicitor's Office agrees with that interpretation of the Lumbee Act when asked to review the recommended preliminary findings, then all the years of work and delay by the Lumbee Tribe and the Branch will have been for naught". . . [Emphasis added.] *Oversight Hearing On Federal Acknowledgment Process: Hearing Before the Select Committee on Indian Affairs*, S. Hrg. 100-823, 100th Cong., 2d Sess. 32 (1988).

Shortly after the hearings, the Select Committee considered S. 2672, a bill similar to H.R. 2335 which would extend Federal tribal recognition to the Lumbees. In testifying on the Senate bill, former Assist Secretary Ross Swimmer stated:

"The 1975 decision of the U.S. Court of Appeals for the D.C. Circuit In Maynor v. Morton (510 F.2d 1254) and a 1979 decision of the Comptroller General (58 Comp. Gen. 699)

would seem to indicate that [the last sentence of Section 1 of] the 1956 Act is not a bar to action as to any of the six petitioners in Robeson and adjacent counties under 25 CFR Part 83, although that specific issue was not mentioned in either decision. However, a legislative statement to that effect would remove any doubt and we recommend that such a statement be enacted." S. Rpt. 100-579, 100th Cong., 2d Sess. 15 (September 30, 1988).

Immediately prior to the hearing on the Senate bill, the Associate Solicitor, Indian Affairs, considered the effect of removing the last sentence of Section 1 of the 1956 Act which reads:

"Nothing in this Act shall make such Indians eligible for any services performed by the United States for Indians because of their status as Indians, and none of the statutes of the United States which affect Indians because of their status as Indians shall be applicable to the Lumbee Indians." 70 Stat. 254.

The Committee apparently believed that the effect of removing this language would be to render the Lumbees a recognized tribe and eligible for Federal services. The Associate Solicitor concluded in a September 26, 1988, memorandum, a copy of which is attached, that it would not have such an effect since the 1956 Act did not recognize the Lumbees as a tribe.

The Associate noted further that: "[C]onsistent with the Department's recent testimony on the proposed Lumbee legislation, deleting the sentence as proposed by the Committee would remove any doubts as to whether the Lumbee Indians may apply for recognition under the Department's acknowledgement procedures. Because the language in the Act is similar, if not identical, to language used in many of the termination statutes, it has been argued that the Act prohibits a Federal relationship. Deleting the last sentence of Section 1 of the Act of June 7, 1956 would confirm that the Lumbee Indians may apply for Federal acknowledgment under 25 CFR part 83."

While the Lumbees submitted their documented petition on December 17, 1987, and supplemented it in February 1988, it was still waiting its turn to be reviewed for obvious deficiencies when Assistant Secretary Swimmer testified. In connection with that review and continued interest by representatives of the Lumbees in legislation like S. 2672 and H.R. 2335, questions as to whether the Department was precluded by language in the 1956 Act from considering the Lumbee petition continued to be raised.

At the time of the hearing on H.R. 2335, the Associate Solicitor, Indian Affairs, was well along in his review of the Lumbee issues, although he had not issued his final conclusion. When asked by Congressman Gejdenson whether the Department had ruled on whether the Lumbees were eligible for the acknowledgment process or were precluded by the 1956 Act, Deputy Assistant Secretary Hayes, the Department's witness, replied that it had not. Subsequent to the hearing, several members of Congress wrote the Department wanting to know the Department's position on the effect of the 1956 Act. As a result, the Associate Solicitor concluded his review and issued his opinion of October 23, 1989, a copy of which is attached.

The Associate concluded that the 1956 Act was legislation terminating or forbidding the Federal relationship and that, therefore, the Bureau was precluded by its own acknowledgment regulations from considering the Lumbee petition. He went on to note that his decision cleared the way for Congress to act on Department's recommendation to amend the 1956 Act to allow administrative consideration of the Lumbee petition or to enact H.R. 2335. His reference to H.R. 2335 was not intended or made as a recommendation in favor of that bill but rather as a simple recognition of the alternatives before Congress.

I hope that this adequately explains the course of the Department's and my office's consideration of the Lumbee legislation. If you have questions, please don't hesitate to call on us.

MARTIN L. ALLDAY.

Mr. SANFORD. Mr. President, clearly, this is a matter at which point only Congress has exclusive jurisdiction, and a responsibility to act fairly and judiciously. The House of Representatives has already made a ruling on this matter. It is the obligation of the Senate to do the same. I appeal to my colleagues to do the decent and fair thing and vote to invoke cloture to allow debate on the merits of the bill.

EXHIBIT 1

[Governors' Interstate Indian Council, Inc.]

RESOLUTION NO. 3

Whereas, the Lumbee Tribe of North Carolina submitted a petition for federal recognition to the federal acknowledgement branch of the United States Department of the Interior pursuant to 25 C.F.R., Part 83 on December 17, 1987; and

Whereas, Congressman Charles Rose introduced House Bill 5042 into the United States House of Representatives and Senator Terry Sanford introduced Senate Bill 2672 into the United States Senate for their consideration and passage into law; and

Whereas, the North Carolina Commission of Indian Affairs, pursuant to North Carolina General statute §143B-407, which states that the Commission will ". . . provide for official State recognition by the Commission of such groups; and to initiate procedures for their recognition by the federal government"; and

Whereas, the Lumbee Tribe has, since 1888, pursued federal recognition by the United States of America and has been recognized by the state of North Carolina since 1885 as a separate and viable Indian entity.

Now, therefore, be it resolved by the Governors' Interstate Indian Council at its 39th Annual Meeting in Nashville, Tennessee, that it does hereby support and endorse the efforts of the Lumbee Tribe to gain federal recognition.

Adopted August 12, 1988.

[Ysleta del Sur Pueblo]

Whereas, the U.S. Congress has exercised its authority by restoring or extending the Federal relationship to tribes subject to termination-era legislation, such as 1956 Lumbee Act, without relegating any tribe through Interior's federal acknowledgement process.

Be it therefore resolved, that the Tribal Council hereby support extending the Federal relationship to the Lumbee, and

Be it further resolved, that the Tribal Council memorializes the Congress of the United States to adopt the "Lumbee Recognition Act" as proposed in H.R. 1426 and S. 1036.

[Wampanoag Tribal Council of Gay Head, Inc.]

RESOLUTION

Whereas, the Wampanoag Tribal Council of Gay Head, Inc. is the governing body of the Gay Head Wampanoag Tribe, a Federally Recognized Tribe; and,

Whereas, the Lumbee Tribe of North Carolina has sought federal recognition from Congress for more than one hundred years, but has been denied due to the large size of the tribe and the cost of providing services to tribal members;

Whereas, the Department of the Interior has studied the history of the Lumbee Tribe at the request of Congress on three occasions (1912 Pierce, 1915 McPherson, and 1933 Swanton reports) and has concluded that the Lumbee are Indian descended from the Cheraw and other coastal North Carolina tribes, and function as a separate, self-governing people;

Whereas, the Lumbee Tribe of North Carolina is subject to a 1956 federal act, 70 Stat. 254, which recognizes it as Indian and also precludes the application of general Indian statutes to it;

Whereas, the Associate Solicitor for Indian Affairs has determined that the 1956 Lumbee Act makes the Lumbee Tribe ineligible for administrative recognition under 25 C.F.R. Part 83;

Be it hereby resolved, that the Gay Head Tribe of Wampanoag Indians supports the immediate enactment of federal legislation that would extend full federal recognition to the Lumbee Tribe of Cheraw Indians of North Carolina.

Certification: The motion was made and duly seconded to adopt the above resolution at a meeting of the Officers and the Board of Directors of the Wampanoag Tribal Council of Gay Head, Inc. on October 24, 1990, there being a quorum present.

[Tunica-Biloxi Indians of Louisiana]

RESOLUTION NO. 02-91

Whereas, the Lumbee Tribe of North Carolina has sought federal recognition from Congress for more than one hundred years, but has been denied due to the large size of the tribe and the cost of providing services to tribal members; and

Whereas, the Department of the Interior has studied the history of the Lumbee Tribe at the request of Congress on three occasions (1912 Pierce, 1915 McPherson, and 1933 Swanton reports) and has concluded that the Lumbee are Indians descended from the Cheraw and other coastal North Carolina tribes, and function as a separate, self-governing people; and

Whereas, the Lumbee Tribe of North Carolina is subject to a 1956 federal act, 70 Stat. 254, which recognizes it as Indian and also precludes the application of general Indian statutes to it; and

Whereas, the Associate Solicitor for Indian Affairs has determined that the 1956 Lumbee Act makes the Lumbee Tribe ineligible for administrative recognition under 25 C.F.R. Part 83, now therefore be it

Resolved, that the Tunica-Biloxi Indian Tribe supports the immediate enactment of federal legislation (Bills H.R. 2335 and S. 901) that would extend full federal recognition to the Lumbee Tribe of Cheraw Indians of North Carolina.

[Tribal Council of the Penobscot Nation]

Whereas, the Penobscot Nation is a federally recognized, sovereign Indian tribe whose seat of government is located at Indian Island, Maine; and

Whereas, the Penobscot Nation did not receive federal recognition until 1979 and knows full well the situation of being a state recognized tribe; and

Whereas, the Lumbee Tribe now has before Congress two legislative documents, H.R.

2335 and S. 901 which seek federal recognition for the tribe; and

Whereas, the Lumbee Tribe is constrained under other federal legislation from seeking federal legislation through the Federal Acknowledgment Process; and

Whereas, the people of the Penobscot Nation fully recognize the people of the Lumbee Tribe as Indian people; and

Now, therefore be it resolved, that the Penobscot Nation Governor and Council strongly urges Congress to favorably resolve this issue and extend full recognition to the Lumbee Indians with all the rights and privileges belonging to that status.

Be it further resolved, that this Resolution shall be effective immediately and that copies of this Resolution be sent forthwith to all concerned parties.

[Governing Body of the Little Shell Tribe of Chippewa Indians of Montana]

RESOLUTION NO. LS-91-03

Whereas, the Little Shell Tribe of Chippewa Indians of Montana presently has pending before the Department of the Interior a petition for Federal acknowledgment under 25 CFR Part 83; and

Whereas, the Little Shell Tribe fully recognizes the Lumbee Tribe of North Carolina as an independent Indian people; and

Whereas, the Lumbee Tribe is subject to a 1956 act of Congress that recognized the Lumbees as Indian but precludes the delivery of Federal Indian services and the application of general Indian statutes to them; and

Whereas, in 1989 the Associate Solicitor's Office determined that because of the 1956 act the Lumbee Tribe is not eligible for Federal acknowledgment under 25 CFR Part 83; and

Whereas, the only two other Indian tribes (Pascua Yaqui and Ysleta del Sur Pueblo) subject to a preclusive act like the 1956 Lumbee Act have since been recognized by the Congress; and

Whereas, there are presently pending in the Congress bills to extend the full Federal relationship to the Lumbee Tribe; and

Whereas, the numerous studies done over the last hundred years by the Department of the Interior fully document the tribal status of the Lumbee Indians;

Be it therefore resolved, that the Little Shell Tribe of Chippewa Indians supports enactment of the pending Lumbee recognition bills and urges Congress to act expeditiously on the same.

[Narragansett Indian Tribe of Rhode Island]

RESOLUTION NO. TC 91-20

Whereas, the Narragansett Indian Tribe of Rhode Island is a Federally Recognized and Acknowledged Tribe; and

Whereas, the Narragansett Indian Tribal Council is the Governing Body of the Tribe; and

Whereas, the Lumbee Tribe of North Carolina has sought federal recognition from Congress for more than One hundred (100) years, but has been denied due to large size of the tribe and the cost of providing services to tribal members; and

Whereas, the Department of Interior has studied the history of the Lumbee Tribe at request of Congress on three occasions (1912 Pierce, 1915 McPherson, and 1933 Swanton reports) and has concluded that the Lumbee are Indian descended from the Cheraw and other coastal North Carolina tribes, and function as a separate, self-governing people; and

Whereas, the Lumbee Tribe of North Carolina is subject to a 1956 federal act, 70 Stat. 254, which recognizes it as Indian and also precludes the application of general Indian statutes to it; and

Whereas, the Associate Solicitor for Indian Affairs has determined that the Lumbee Act makes the Lumbee Tribe ineligible for administrative recognition under 25 C.F.R. Part 83;

Now, therefore be it resolved, by the Narragansett Indian Tribal Council that the Narragansett Indian Tribe fully supports the immediate enactment of federal legislation that would extend full federal recognition to the Lumbee Tribe of Cheraw Indians of North Carolina.

[Miami Nation of Indians of the State of Indiana, Inc.]

MIAMI COUNCIL RESOLUTION VII

Whereas, the charter of the Miami Nation of Indians of the State of Indiana calls for the tribal government to advance the mental, social, and moral well-being of said tribe, and to promote the mutual protection of the membership and to improve our general welfare;

Whereas, the Tribal Council of the Miami Nation of Indiana has established the achievement of federal recognition of the tribe as a goal of the highest priority; and

Whereas, the Council of the Miami Nation of Indians of Indiana seeks to strengthen tribal governance, welfare, and economic development to further said Charter goals and prepare for federal recognition of the tribe;

Now, therefore be it resolved that the Miami Tribal council being the governing body of the Miami Nation of Indians agrees to authorize Arlinda Locklear, Esquire to present the rebuttal evidence to the Branch of Acknowledgement. Bureau of Indian Affairs on behalf of the Miami Nation of Indians on or before June 17, 1991.

RESOLUTION NO. 120690-02 OF THE MASHANTUCKET PEQUOT TRIBAL COUNCIL, THE GOVERNING BODY OF THE MASHANTUCKET PEQUOT TRIBE, LEDYARD, CT

Whereas the Lumbee Tribe of North Carolina has sought federal recognition from Congress for more than one hundred years, but has been denied due to the large size of the tribe and the cost of providing services to tribal members;

Whereas the Department of the Interior has studied the history of the Lumbee Tribe at the request of Congress on three occasions (1912 Pierce, 1915 McPherson, and 1933 Swanton reports) and has concluded that the Lumbee are Indian descended from the Cheraw and other coastal North Carolina tribes, and function as a separate, selfgoverning people;

Whereas the Lumbee Tribe of North Carolina is subject to a 1956 Federal act, 70 Stat. 254, which recognizes it as Indian and also precludes the application of general Indian statutes to it;

Whereas the Associate Solicitor for Indian Affairs has determined that the 1956 Lumbee Act makes the Lumbee Tribe ineligible for administrative recognition under 25 C.F.R. Part 83: Now, therefore be be it

Resolved, That the Mashantucket Pequot Tribal Council supports the immediate enactment of federal legislation that would extend full federal recognition to the Lumbee Tribe of Cheraw Indians of North Carolina.

RESOLUTION NO. 1116/91

Whereas the Fond du Lac Reservation is a sovereignty, possessed of the jurisdiction and authority to exercise regulatory control within the boundaries of the Fond du Lac reservation; and

Whereas it is the sovereign obligation of the Fond du Lac Reservation under the Treaty of 1854 and the Indian Self-Determination Act, P.L. 93-638, 25 U.S.C. section 450 et seq., to assume responsibilities of Self-Government; and

Whereas the Lumbee Indian Nation of North Carolina has pursued federal recognition as an Indian tribe for over thirty years; and

Whereas the Fond du Lac Band of Lake Superior Chippewa have for the past several years supported the Lumbee Tribe of North Carolina in their efforts to become a federally recognized tribe.

Whereas the House has adopted a law granting federal recognition to the Lumbee Tribe of North Carolina which is known as H.R. 1426 "Lumbee Recognition Act"; and: Now, therefore , be it

Resolved, That the Fond du Lac Band of Lake Superior Chippewa hereby states its continuing support for federal recognition of the Lumbee Tribe of North Carolina; and be it further

Resolved, That the Fond du Lac Reservation Business Committee, the Governing Body of the Fond du Lac Band of Lake Superior Chippewa, hereby directs its Chairman, Robert B. Peacock, to make this support known to the Minnesota Representatives in the Senate and request their support in the approval of the "Lumbee Recognition Act," S. 1036.

LUMBEE RECOGNITION RESOLUTION NO. 10/20/88

Whereas Great Lakes Inter-Tribal Council, Inc. is a consortium of the eleven (11) Federally recognized Tribes located within the State of Wisconsin, and

Whereas the member Tribes acknowledge the right of Indian people to achieve and maintain Federal Recognition for their Tribes and support the effort of those Tribes who are not currently recognized but desire to achieve this status, and

Whereas Great Lakes Inter-Tribal Council, Inc. is familiar with the long struggle of the Lumbee people to achieve recognition status for their Tribe, this being their inherrent right as Indian people, so: Therefore be it

Resolved, The eleven (11) member Tribes of the Great Lakes Inter-Tribal Council, Inc. hereby express their support to the Lumbee Indians of North Carolina in the Tribe's quest to secure Federal recognition, and be it further

Resolved, The right to be recognized as an Indian Tribe by the Federal government is an inherrent right of Indian people that must not be questioned or withheld when applied for.

POARCH BAND OF CREEK INDIANS,
Atmore, AL, August 16, 1988.

Mr. DANIEL INOUYE,
Chairman, Select Committee on Indian Affairs, Hart Senate Office Building, Washington, DC.

DEAR MR. INOUYE: The Poarch Creek Indians has enjoyed many years of friendship with the Lumbee Tribe of North Carolina. On July 14, 1988, H.R. 5042 was introduced to provide federal recognition for the Lumbee Indians. This initiative is a result of the Lumbees' years of effort to acquire acknowledgment as a federally recognized tribe.

While it has been the official position of this Tribe that only those tribes who can meet the criteria of the federal acknowledgment process should be afforded government

to government relations with the federal government, the Poarch Creek Indians Concur with their friends that special consideration should be extended.

The Lubbees' extensive involvement over a long period of time in Indian affairs represent a compelling reason for Congress to consider expediting the recognition process. The size and cohesiveness of the group is another factor supporting special consideration.

Unfortunately, the Lumbees' situation is complicated by the disparity between the means and standards and procedures of federal agencies. The BIA has not enjoyed the resources to perform a timely and efficient job in evaluating petitions for federal recognition. It is not surprising that the Lumbees assert that the administrative burden and cost of processing their petition is extreme.

While the Poarch Creek Indians would caution Congress regarding other groups using legislative recognition as a vehicle for circumventing established administrative procedures, Congress should consider a special appropriation for the BIA to accelerate its review process. Additional measures ought to be examined by Congress to expedite the acknowledgment process for the Lumbers as well as other tribal groups.

We appreciate your continued efforts to address the multitude of problems which exist in Indian country. The concern of the Select Committee on Indian Affairs regarding this unique problem is greatly appreciated. If we can be of further assistance, please feel free to contact me.

Sincerely,

EDDIE L. TULLIS,
Tribal Chairman.

Washington, DC, September 19, 1991.

Hon. GEORGE MILLER,
Chairman, House Interior and Insular Affairs Committee, House of Representatives, Washington, DC.

DEAR CONGRESSMAN MILLER: The National American Indian Council is writing to you to let you know that N.A.I.C. supports H.R. 1426, the Lumbee Federal Recognition Legislation.

The Lumbee Tribe has been seeking justice from the US Congress for over 100 years and its time Congress did the right thing. The Lumbees are ineligible for the B.I.A. Administrative Process for Federal Recognition and should not be subjected to a dual process. No other tribe has since the 1978 process was established.

The Congressional Lumbee Act of 1956 should be amended to correct the injustice done to this tribe based on termination policies of the 50's.

The National American Indian Council board of directors have unanimously endorsed legislative recognition of the Lumbee Tribe. Support this legislation so that no Lumbee child will ever again be ridiculed by white and black peers because this countrie's government does not recognize his heritage and people who have sent Lumbee soldiers to every major war conflict in this country's history.

May the Great Spirit guide your heart in this deliberation.

Sincerely,

LEE ANN TALLBEAR,
Executive Director.

THE UNITED METHODIST CHURCH,
Lakeland, FL, October 4, 1991.

Hon. BOB GRAHAM,
Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR GRAHAM: I am writing to ask your support for legislation which is designed to give full Federal recognition to the Lumbee tribe in North Carolina. In the House (HR Bill 1426) the legislation was passed on September 26 by a vote of 263 to 154.

While I am the United Methodist Bishop of the Florida Area, United Methodists of the Southeastern United States have a great concern for issues affecting our Native American friends, and have across the years supported various missions/social outreach efforts on behalf of the Lumbee people in North Carolina.

Attached is a Resolution adopted by the Third SEJ Native American Conference held in September in Lake Junaluska, North Carolina.

Your favorable consideration of this Bill will be most appreciated.

Thanking you very much, I am

Sincerely yours,

H. HASBROUCK HUGHES, Jr.

MENOMINEE INDIAN TRIBE OF WISCONSIN
RESOLUTION NO. 88-85

Whereas, the Menominee Tribal Legislature is the governing body of the federally recognized Menominee Indian Tribe of Wisconsin; and

Whereas, the Menominee Tribal Legislature recognizes and supports the efforts of the Lumbee Tribe of North Carolina to seek federal recognition; and

Whereas, the Menominee Indian Tribe of Wisconsin through its elected governing body, realizes that the Lumbee Tribe of North Carolina may be legislatively granted federal recognition by the United States Congress; and

Now, Therefore, Be it Resolved by the Menominee Tribal Legislature representing the Menominee Indian Tribe of Wisconsin, hereby requests the House Interior Committee and the Senate Select Committee to give proper and due consideration towards the efforts of the Lumbee Tribe of North Carolina to gain federal recognition.

NINILCHIK TRADITIONAL COUNCIL,
Ninilchik, AK, January 24, 1990.

ADOLPH BLUE,
Chairman, LRDA,
Pembrooke, NC.

DEAR CHAIRMAN BLUE: I am happy to offer, on behalf of the Ninilchik Traditional Council, full support for the Lumbee recognition bills, which would extend full federal recognition to the Lumbee Tribe.

Your representatives were very moving and earnest in their testimony before the Senate Select Committee and made quite an impression on our staff person, Gary Oskolkoff, who was also in attendance.

We empathise with your plight as we are also making an effort to obtain, once again, our full federal recognition which was taken away from us four years ago due to what we have been told was, a clerical error.

We have also contacted the appropriate congressional reps on your behalf.

Sincerely,

D.L. OSKOLKOFF,
Executive Director.

QUINAULT INDIAN NATION,
Tamolam, WA, August 22, 1988.

HON. DANIEL K. INOUYE,
Chairman, Senate Select Committee on Indian Affairs, Washington, DC.

DEAR CHAIRMAN INOUYE: The Quinault Indian Nation supports serious Congressional considerations and enactment of S. 2672, the "Lumbee Recognition Act of 1988."

Under normal circumstances, the Quinault Nations's policy of Federal recognition of Indian Tribes has been to support the Federal acknowledgement process. We, in fact, provided written correspondence for the recent Senate Select Committee on Indian Affairs Oversight hearing on the Federal Acknowledgement Project encouraging expanded Federal support for this operation.

The Lumbee Tribal situation, however, requires special Congressional consideration. I do not doubt that the present Lumbee Tribe represents the descendants of American Indian people who originally inhabited rural North Carolina. State and Federal attempts to disperse, relocate, and destroy these people are historically documented as another sad chapter of this country's past. The Lumbee Tribes resistance and resilience against these overwhelming odds is remarkable.

I am concerned that the size of the Lumbee Tribal enrollment will become a key factor in Federal acknowledgement considerations. The financial commitment involved in the Federal acknowledgement of the Lumbee Indian people should rest with Congress rather than a timid bureaucracy. The realization in Section 4(a) provision of this impact on the Indian Affairs bureaucracy requiring specific additional appropriations to serve the Lumbee people is sensitive to the concerns of other tribes regarding further diminishment of limited resources.

Therefore, I support passage of S. 2672, the Lumbee Recognition Act.

Sincerely,

JOSEPH B. DELACRUZ,
President.

SEMINOLE TRIBE OF FLORIDA,
Hollywood, FL, January 2, 1990.

Hon. MORRIS K. UDALL,
Chairman, House Committee on Interior and Insular Affairs, House of Representatives, Washington, DC.

DEAR CHAIRMAN UDALL: I am writing as Chairman of the Seminole Tribe of Florida to register the views of our Tribe on the above-captioned bill, which would extend federal recognition to the Lumbee Indians.

The Seminoles and Lumbees share a special bond as tribes from the eastern coast of this country. As you know, history does not speak as clearly about many of the coastal tribes. These are the Native Americans who first sacrificed their lands and lives to European settlement centuries ago, but have since been largely forgotten as the United States grew up around them.

The Seminoles and the Lumbees have maintained a cordial relationship for many years. The National Congress of American Indians has passed a resolution in support of the Lumbee recognition effort. The majority of the tribes of United Southeastern Tribes, including the Seminoles, would like to see Congress recognize the Lumbees.

The Seminole Tribe of Florida does not seek to deny the rights of other tribes seeking Federal recognition through the administrative process. The Lumbees have also submitted their petition to the Department of Interior. But since it appears the Lumbees are not eligible to be recognized under the

administrative process, this legislation is clearly needed. We strongly encourage the Committee to approve this bill.

SHO NAA BISHA,
JAMES E. BILLIE.

SMALL TRIBES ORGANIZATION
OF WESTERN WASHINGTON,
Sumner, WA, September 23, 1988.

Senator DANIEL EVANS,
Washington, DC.

DEAR SENATOR EVANS: We urge your support of S.B. 2672, a bill to provide Federal recognition to the Lumbee Tribe of North Carolina.

It is not controverted that the Lumbee are descendants of North Carolina Tribes and have maintained a distinct Indian community since the time of white contact.

The tribe has been recognized by the State of North Carolina since 1885.

The American Indian Policy Commission (1977) documented that, "The Federal Government's most callous treatment of American Indians during this century flared during the 1950's and 1960's." During this period, there was an errant attempt to disavow its responsibilities to tribes through legislation.

The Lumbee Act of 1956 recognized the tribe, but did not furnish benefits. This deficiency should be corrected. Only Congress can lift this statutory restriction, and should do so.

Indian policy should be applied equitably to all Indian tribes. When inconsistencies and oversights in the Indian policy of the United States are exposed, they should be corrected.

Thank you for your consideration of this matter.

Sincerely,

Donald Mechals, Tribal Chairperson, Chinook Indian Tribe; Cecile Maxwell, Tribal Chairperson, Duwamish Tribe; Karen Boney, Tribal Chairperson, Snoqualmie Tribe (Sdukqalbix); Patrick Clements, Executive Director, Small Tribes Organization of Western Washington; John Barnett, Tribal Chairperson, Cowlitz Indian. Tribe; Robert Woodley, Tribal Chairperson, Snohomish Tribe of Indians; Joan Ortez, Tribal Chairperson, Steilacoom Tribe.

I yield the floor.

The PRESIDING OFFICER. Does the Senator yield back the remainder of his time?

Mr. SANFORD. Yes, to the leader.

The PRESIDING OFFICER. He yields back to the chairman of the committee.

The Senator from Hawaii is recognized.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum, and ask that the time not be taken from either side.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INOUYE. 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. McCAIN. Mr. President, the pending order of business before the Senate is whether the Congress will legislatively confer Federal recognition on the Lumbee Indian Tribe of North Carolina.

The fact of the matter is that we're debating the wrong issue. The Senate should be debating whether it will continue to permit the existence of two recognition processes: The current administrative recognition process within the Interior Department—which operates according to established criteria, or the legislative recognition process—operates without any established criteria. The continued existence of two recognition processes is a proven formula for unfairness. It is especially unfair to those petitioners who are frustrated with the administrative process but are unable to muster the political support necessary to move a recognition bill through the Congress.

At the same time, I have great compassion for the Lumbees who literally waited years for the Interior Department to act on their petition, only to be told later that their petition had been legislatively barred from further administrative consideration. What other choice do the Lumbees have if overcoming the bar means that they then have to marshall additional resources to confront a Federal recognition process that is costly, protracted, and cumbersome? What are the Lumbees to do when faced with an administration that has heretofore refused to even acknowledge that the recognition process at the Interior Department is flawed?

I am neither for or against the Lumbee petition. In fact, I do not believe that we have the resources in the Senate to determine if the Lumbee Tribe meets the criteria employed by the Interior Department. While the administration has indicated its strong opposition to the bill and may veto it if it is sent to the President, the administration has chosen to ignore the issue of reform. I feel like a petitioner myself in waiting for the administration to face reality and to begin working cooperatively with the Congress on legislation to reform the Federal recognition process.

In 1978, 1983, 1988, 1989, and 1991 the Select Committee on Indian Affairs held oversight hearings on the Federal recognition process. At each of these hearings the record has clearly shown that the current administrative process for Federal recognition of certain Indian groups is a very costly and protracted one. There needs to be consistency and fairness in the Federal recognition process, which has too often been characterized by inconsistency and the lack of fairness. That is why I have repeatedly introduced legislation to reform the current process. The parameters on any future reforms, in my view, must be the existence of only one Federal recognition process with firm timelines and an endpoint for the consideration of all petitions. Until such legislation is enacted, the Members of this body will continue to find themselves rendering judgment on more and more individual recognition bills.

One would think that after so many oversight hearings on the Federal recognition process, especially within the past few years, the administration would get the message that the system is flawed and in need of reform. Incredibly, despite numerous hearings on this issue and various legislative alternatives that have been offered by members of the select committee over the past few years, the administration's response has been to ask for additional time so that they could more fully develop their own proposed revisions to the existing recognition process.

The administration has run out of time. Hopefully, this debate will spur the administration into action. I will do all I can to see that legislation reforming the Federal recognition process is brought to the full Senate before the end of the session.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum, the time not be taken away from the quorum call.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. WALLOP. Mr. President, I ask unanimous consent to proceed as in morning business for not to exceed 2 minutes.

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

WHY JAPAN BASHING HURTS ALL AMERICANS

Mr. WALLOP. Mr. President, a few years ago in Detroit, two white auto workers used a baseball bat to beat an Asian-American to death. His murderers blamed Vincent Chin for the problems of domestic car companies. Never mind that Mr. Chin was of Chinese descent and had no relation whatsoever to Nissan, Toyota, or Mitsubishi; these disillusioned workers were mad, and Vincent Chin happened to be nearby.

Mr. President, there is a striking similarity between the unwarranted blaming of Vincent Chin and the current round of Japan bashing. No; it is not as blatant. The politicians, if nothing else, recognize the importance of finessing their remarks; so they may couch their blame in subtler terms. One Democratic Presidential candidate demands that the Japanese reduce their surplus by 20 percent, down to zero, in 5 years, or else. He tells them there are two ways to do it: "Buy more or sell us less." As if curtailed access to inexpensive, high quality products will somehow help American consum-

ers and manufacturers. After all, are not the largest purchasers of Japanese auto parts America's big three automakers?

The Presidential challengers—from Pat Buchanan on the far right, the Senator from Iowa on the Democratic left—are improvising the old tune of America first.

There is the TV plot depicting one democratic candidate guarding a hockey net while warning the Japanese that "if we cannot sell in their market, they cannot sell in ours." A variation on the theme most of us probably employed back in the sandbox. Or the more soft-spoken Democrat Paul Tsongas who cracks, "the cold war is over, and Japan won." Another popular theme: the myth of America in terminal demise and Japan, "The Rising Sun," on the ascent. From many who should know better we hear subtle to outright blame of Japan for our recession.

All this political rhetoric is not only wrong, but dangerous. With it, we risk doing real damage to the Japanese-American alliance, our most important alliance in this post-Soviet era. Maybe we all need reminding that together America and Japan account for close to 40 percent of the world's GNP, that America, not Japan, is the world's largest exporter, and that Japan is the biggest buyer of our goods in the world. Since 1985, United States exports to Japan have more than doubled, to $48 billion in addition to 55 billion dollars' worth of goods purchased from American companies in Japan. To put it simply: the United States exports more to Japan than it does to Germany, France and Italy combined.

But our political rhetoric against Japan—whether it claims "America first," "economic nationalism," or otherwise—is dangerous for another reason. Its racist undertones are evident. Why do we hear so much about the Japanese "buying up America" when Japanese investment is still only 60 percent of total British investment in the United States? Adjusted for Japan's and Britain's populations that means the average Briton owns nearly four times as much of America as the average Japanese. And why are there anti-Japanese protests in Louisville when Toyota's plant expansion there will mean 200 new American jobs in the local economy? The racist element, whether overt or implied, is there. And it is ugly. And inevitably anger aimed at Japan hits Asian-Americans—a grievous legacy which found its roots in our deeming Japanese-Americans enemy aliens in World War II.

And this racism is compounded by hypocrisy. Americans complain about Japanese firms building plants here, plants which create jobs. But then we gripe about American firms building plants in the Philippines or Mexico. Why? Because it takes jobs away from Americans. We overlook the fact that investments are a positive-sum game, a win-win scenario. It is good for all the world's countries to invest in each other.

America does many things well—excelling in the aircraft, software, pharmaceutical, telecommunications, and agriculture industries, to begin a long list. Across the board, we are the most innovative most productive country in the world. But when we allow ourselves to seek scapegoats in though economic times, we all suffer, we are all demeaned by it. We hurt others without reason and hurt ourselves without knowing. Because America is bettered by the contributions of those Americans of Asian descent—I think of our olympic champion, Kristi Yamaguchi—and because all of us benefit by Japanese investment in this country which now employs 600,000 Americans and buys a huge portion of America's debt, "every stroke our fury strikes is sure to hit ourselves at last," to quote William Penn.

I do not suggest that Japan is above reproach. Far from it. Only an arrogant and stagnant nation would so claim itself. And while remarks by a few Japanese politicians were unfair and unfortunate, they are no more indicative of Japanese sentiment than those spoken by some politicians here in the United States are of American sentiment. But before we castigate Japan's markets as impenetrable and their trade practices as beyond repair, we would do well to go beyond the theatrics, beyond the symbols and concentrate on the real problems. And there are problems—whether they be licensing requirements that are unnecessarily stringent or a distribution system which is outmoded. Let us also not presume that problems of access are in Japan alone. Please look at the vastly more protectionist policies of Europe and E.C. 1992. Are these barriers more acceptable because they are white barriers? I reject that notion.

But let us look at what Japan is really doing. One thing is certain: Japan does import a lot, so its markets are by no means closed. And those imports are clustered in a striking way. Japan exports very little food, raw materials or fuels, but imports a lot of these. By contrast it imports relatively few motor vehicles or other machinery, but it exports a lot. What that suggests is that Japan follows the principle of comparative advantage: exporting what it is good at making, and importing what it lacks. Is this, after all not the reason countries trade in the first place? Certainly they do not do it to put themselves at a disadvantage. They trade with one another so they may more efficiently utilize the resources which they do possess; so they may import goods which they cannot produce efficiently—providing greater choice to their consumers; and so they may expand the markets for the goods which they do produce.

I also suggest that if each of the world's trading countries insisted on a perfect balance, all trade with the Third World and the developing countries would cease immediately.

A trade deficit is all too often taken as conclusive proof of unfairness. But let us allow the consumers, American and Japanese, to decide what a good buy is. And while it may be easy to construe Japan as a villain, such attempts are short-sighted and illusory. I think it is time to stop looking at Japan as the enemy and start recognizing it as one of America's vital trading partners and allies. In so doing may we both enjoy the fair judgment and continued economic prosperity which will surely result.

Mr. President, I ask unanimous consent that a piece from the Washington Post of February 3, be printed in the RECORD at this point.

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

THE FALLOUT FROM JAPAN-BASHING

(By Frank H. Wu)

In a demonstration of the principle that the only way to get rid of temptation is to yield to it, politicians faced with the country's economic problems in an election year have given in to scapegoating. They have led the country to blaming Japan for our woes. Although most people who criticize Japan do not mean to make an issue of race, they don't realize that hatred of Japan blurs into hostility toward some of their fellow citizens.

On occasion, sentiments directed against Japan are voiced with express racial prejudice. Television commentator Andy Rooney, for example, has admitted, "I'm vaguely anti-Japanese. Don't ask me why. Just prejudice, I guess. I'm very comfortable with some of my prejudices and have no thought of changing them now."

More often, Japan becomes a symbol for anything Asian, including Asian Americans. When a public figure uses the epithet "Jap" and then apologizes because he had no idea the term is anything other than an abbreviation, he probably also does not understand that it implies Asian Americans.

Along this line, during the last recession, Rep. John Dingell (D-Mich.) complained that American jobs were being lost to "little yellow men." His statement could have meant that domestic workers had their livelihood threatened by overseas competition, but it just as easily might have referred to white employees meeting Asian-American colleagues. It would not have helped much if he had paused to add, "The little yellow men who are Americans are okay, though."

Invitably, anger aimed at Japan hits Asian Americans. That has been true ever since Japanese Americans were deemed enemy aliens in World War II. But Asian Americans did not realize that they still had to worry, and about trade imbalances, until a few years ago, when in Detroit, two white auto workers used a baseball bat to beat an Asian American to death. His murderers blamed Vincent Chin for the problems of domestic car companies.

Perhaps forgetting the Japanese American internment, people have explained to me that I must recognize that many Americans are still angry about World War II and Viet-

nam, and that helps explain their frustration at foreign competition. Needless to say, I am not persuaded that they should be angry with me. After all, Chrysler chairman Lee Iacocca, who is proud of his Italian ancestry, is not called upon to apologize for the fact that Italy was an Axis power nor held to account for its contemporary political affairs—and rightly so.

The popular worries about the rise of Asia and the decline of the West seem to take Asian Americans as an example of both trends. When people say that America is becoming a colony of Japan and then post signs in a neighborhood with a large Asian-American population saying that the last American to leave should turn out the lights, their concern is no longer about relationships among countries.

While Japan and Asian Americans are treated as akin to one another, Japan and European nations are dealt with differently. It sounds even-handed if far-fetched to warn against any foreign interest trying to take over the American economy. But alarms are not sounded over the conduct of all multinational companies, only Japanese-based ones, even when others are doing more or less the same thing.

In the last decade of foreign investment, British companies bought up more than their Japanese counterparts. In Cleveland, where I live, the British Petroleum skyscraper is an imposing presence on the downtown public square, apparently without bothering anyone very much. I wonder if the same would be true if a Japanese petroleum building were there instead.

None of this is to suggest that Japan is above criticism, whether for its trade practices and ambitions in Asia, or its own racism and antisemitism, or numerous other reasons. To the contrary, if attacks on Japan do not become attacks on Asian Americans, and if policies treat Japan like other countries, then legitimate criticism will not degenerate into Japan bashing.

Mr. WALLOP. Mr. President, the purpose of this is to counsel Americans that this current round of Japan bashing is beginning to result in certain very dangerous racial incidents. This morning there was a businessman of Japanese descent in Ventura, California who stepped through his door and was murdered, I believe primarily because he was of Japanese descent.

I think it ill behooves our country to have politicians of either side lapse into very politically comfortable but very damaging language in the process of trying to conduct these campaigns.

This is a warning I hope is heeded.

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

Mr. WALLOP. I am happy to yield.

Mr. INOUYE. I commend my dear friend from Wyoming for his courageous and thoughtful statement. I congratulate the Senator.

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

Mr. INOUYE. Under the same conditions.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

RECOGNITION OF THE LUMBEE TRIBE OF CHERAW INDIANS OF NORTH CAROLINA

MOTION TO INVOKE CLOTURE ON MOTION TO PROCEED

The Senate continued with the consideration of the motion to invoke cloture on the motion to proceed.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. WALLOP. Mr. President, on the time allocated to Senator DOLE or his designee, I yield myself 3 minutes.

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

Mr. WALLOP. Mr. President, I have just come from a meeting in Senator SIMPSON's office with the Wind River Tribes of Wyoming who expressed their vehement opposition to this piece of legislation.

When inquiring why, they made three very specific points, the first of which is that there is an established procedure for acknowledgment or, as it is called, a procedure by which tribes are able to qualify as tribes and associated status. Their view is that has worked well, that process, and that it ill behooves a tribe which has not been able, or a group which has not been able to be acknowledged as a tribe to step in front of the system, go to the head of the line, as it were, when others are seeking to qualify themselves under the terms and conditions that have existed for 5 years.

More importantly they view this as a significant threat to their funding, to programs that are not only traditional but are underway and needed. And they believe, I think correctly, that there is not going to be a large addition to the funding through the Bureau of Indian Affairs for the Native American peoples of this country.

I think that is fair supposition on their part. It seems very unlikely that there will be large increases in funding. So whatever funding is available will be diluted to the extent that this becomes the large tribes in America overnight not having qualified for acknowledgment under procedures that have existed.

On top of it, I think it is fair to characterize their view that the acknowledgment procedure protects the inherent integrity of the status of Native Americans and that to run across the corner of that and establish by legislative fiat a group of people as Native American is an abuse of the system and fundamentally will dilute the value of that acknowledgment for all other native American people who have qualified under the existing procedures.

So Mr. President, I rise in opposition to this legislation for reasons that the tribes of Wyoming have expressed and for similar kinds of reasons that the Senator from Wyoming feels and wishes to express on his own.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator yields the floor.

Who seeks recognition?

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I yield myself such time as I may need.

The PRESIDING OFFICER. The Senator is recognized.

Mr. NICKLES. Mr. President, I would urge my colleagues to vote against cloture, and I do that with great reluctance because I have the greatest respect for Senator INOUYE and his chairmanship of this committee, and I want to acknowledge his leadership in this committee because he has done an outstanding job. He has actually taken the Special Committee on Indian Affairs and really has had a real interest in helping Indians throughout the United States, and I will say including the State of Oklahoma. He has been kind enough to be in my State to talk to Indians, travel around our State to talk to many of the tribal leaders and also to some of the other Indians in our State, to talk about how we can make things better.

We happen to have more Indians in my State of Oklahoma than any other State in the Nation. I am particularly interested and appreciative of his leadership.

I do not support this bill. That does not mean that I oppose recognition. There is difference. I oppose this process. I think most of my colleagues, whether they may or may not be aware, but in 1978 the administration—and that goes back to the Carter administration—worked out with Indian tribal leaders a method of Federal recognition. It is called the Federal acknowledgment process. They set up a process so Congress would not be recognizing tribes because we do not really have expertise, and many times we might not make some of the right decisions concerning eligibility and, tribal recognition is a very important thing. And so, anyway, it was agreed upon to do this through the Federal acknowledgment process.

This is bypassing that process, and says, well, we are going to acknowledge the Lumbees by Congress. And then I am also bothered by the fact that we said, well, we are going to fund it outside of BIA; we are going to fund it directly.

I happen to be the ranking Republican on the Interior Subcommittee, and I do not know where we are going to get the money. I am really concerned about that. And I will talk about that just for a moment. But my main concern is how we recognize tribes. So my comments do not just apply to Lumbees, but they apply to almost any tribe.

You might say, Who cares whether or not we have tribal recognition? Certainly, if they are Indians, are we not going to recognize them? And Congress has recognized tribes in the past. But Congress has made mistakes in the past. And I might say, once a tribe is recognized, it is very hard to make a change in that, as I have learned in my State, as well.

I have a statement of administration policy, and I will just read it into the RECORD.

It says:

The Administration strongly opposes S. 1036, because the bill would statutorily acknowledge the Lumbee Tribe of Cheraw Indians (North Carolina), as an Indian tribe. If S. 1036 is presented to the President, the Secretary of the Interior would recommend a veto.

In 1978, the Department of the Interior established in regulation a Federal "acknowledgment" process to ensure that all petitions for acknowledgment as an Indian tribe would be evaluated in an objective and uniform manner. The process, developed with the support of the Indian community and Congress, provides each petitioning group the opportunity for an unbiased, detailed review of its petition.

Federal acknowledgement establishes a perpetual government-to-government relationship between the tribe and the United States and has major political, social, and economic implications for the petitioning tribe and Federal, State, and local governments.

S. 1036, 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 only federally recognized tribes. Recognition through legislation would be unfair to all other groups seeking Federal acknowledgment. It would also undermine the administrative process that was designed to eliminate the need for ad hoc determinations through legislation.

Mr. President, I think that statement of Administration Policy states it very well. Again, I am bothered by the process.

And I might mention, too, that there are a lot of groups or subgroups within certain tribes that would like to be recognized. And you might say, Why? Well, one reason is because of the benefits. The benefits are estimated at being $2,000 or $3,000 per person. That may be part of it.

But in a lot of cases, these are subgroups of an existing tribe. They want to be recognized, in some cases, because, well, they feel as sovereign tribes they can have their own laws dealing with various things such as gaming; such as waste disposal.

In my State, in Oklahoma, we have had some tribes talk about being recipients of waste that is generated all across the country. Now, my State, again having more Indians than any other State, having something like 39 different tribes, I am kind of concerned if we have 39 different groups wanting to say, "Well, we want to be the waste disposal for the entire country"; and saying, "Well, we don't have to comply with State law."

We have a dispute going on right now where one group is talking about having some type of health facility that did not comply with mental health regulations, and so on. You might have some that deal with waste disposal; you would have a lot dealing with gaming. And we have a big issue right now because a lot of tribes wanted to go from what we call class 2 into class 3 gaming, the high-stakes gaming, Las Vegas-type gaming. They want to do that on an unlimited basis.

So you can see, if somebody says, "Well, if we can be recognized as a tribe, then we might be able to have certain advantages, like going into high-stakes gaming." And again, I am not sure that is the right decision to be made. But I do think that Federal recognition does confer benefits, as nation to nation, and therefore we ought to be careful and make sure we do not make a mistake.

And I might mention, too, you would think by now we would know most of the tribes. I understand the Lumbees are in a different situation. I also understand in 1956 there was legislation that passed that would prohibit—that would actually prohibit—them from recognition. I think that is wrong. And if the chairman of the Indian Affairs Committee would like to, I would be happy to support a substitute amendment that would eliminate that restriction so they could go through the Federal recognition or acknowledgment process like any other tribe, as several other tribes are petitioning to do right now.

Right now, they are barred statutorily from recognition. That is a mistake, and we need to change that. And I will be happy to support that. The administration would be happy to support that. My guess is that could become law in a very short period of time.

Now, concerning one other matter, and this is a very important matter, because my guess is that the reason the Lumbees really want to be recognized is because they believe they will receive more money.

I am the ranking Republican on the Interior Subcommittee. I do not know if we are going to have any new money in the Interior bill whatsoever. Last year, we had growth in the Interior bill of about 1 percent. I understand the cost of this. If it equals $2,000 to $3,000 per person, as estimated by the BIA—we are talking about as much wealth as $3,000 per person and you are talking about 50,000 Indians—that is as much as $150 million.

I heard Chairman INOUYE say, well, many of these people are already receiving benefits, so it would not be all incremental, new. But in all likelihood it would be significant. I do not know. If it is not $150 million, maybe it would be $100 million; maybe $120 million; maybe $80 million.

In our bill, we may not have $80 million more to spend than we had last year. And I would question, with the needs that we have—and I will tell you we have very large needs, if you are talking about Indian health care, Indian education. A lot of our health care facilities in Indian hospitals and clinics are pathetic. They are not poor, they are pathetic. We need significant improvement. They have been ignored for years.

Again, I compliment Senator INOUYE because he has helped us try to put some energy and efforts and dollars in making some improvements there. But there could be an enormous demand.

And I might mention this does not go through the BIA. This goes outside the BIA. The BIA now has a budget of about $1½ billion, but this could be a cost of almost 10 percent of that.

It does not go through the BIA. It goes into a direct appropriation directly to the tribe. We do not do that for hardly any other tribes. We have a lot of tribes that would love to have direct appropriations, but most of them do not. Some of them are talking about it. And we are actually trying that now in a couple cases where tribes have petitioned so they could have bypassed the BIA. But most of the funds for Indian assistance go through the BIA. This would bypass the BIA.

Again, I will just tell my colleagues that this bill, as presently drafted, is strongly opposed by the administration. I am sure that they would veto it. So I hope that we would not do that.

I hope that we would not vote for cloture. And if cloture is not invoked, then maybe we could pass a substitute amendment by myself and others that would allow the recognition and acknowledgement process to proceed, and the Lumbees could go forward just as any other tribe or any other proposed tribe would petition the Federal Government.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator yields the floor.

The Senator from Hawaii has 9 minutes remaining.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, if I may, I would like to respond to my dear friend from Oklahoma.

First, the State of North Carolina, by an act of their legislature and approval by the Governor, recognized the Lumbees as a Government entity in 1885. Since that time to this moment, the State has recognized the Lumbees as a viable Indian tribe. Accordingly, the State has conferred upon them benefits, financial and otherwise.

At this juncture, I ask unanimous consent that a letter from the honorable James G. Martin, Governor, the State of North Carolina, be printed in the RECORD.

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

STATE OF NORTH CAROLINA,
OFFICE OF THE GOVERNOR,
Raleigh, NC, July 30, 1991.

Senator DANIEL K. INOUYE
Chairman, Senate Select Committee on Indian Affairs, Hart Senate Office Building, Washington, DC.

DEAR SENATOR INOUYE: I have asked James S. Lofton, Secretary of the North Carolina Department of Administration to represent me at the Joint Hearing regarding S. 1036, the Lumbee Recognition Bill, which will be held on August 1. Secretary Lofton will be accompanied by Henry McKoy, Deputy Secretary of the Department of Administration, Patrick O. Clark, Chairman of the North Carolina Commission of Indian Affairs, and A. Bruce Jones, the commission's executive director.

I fully support the passage of S. 1036 and am requesting the support of the Senate Select Committee on Indian Affairs. The State of North Carolina has recognized the Lumbee Tribe as a separate and viable Indian entity since 1885. The passage of S. 1036 will entitle the Lumbee to enjoy the same rights, privileges and services enjoyed by other federally recognized tribes in the nation and will, further, be a major step toward rectifying the inequities suffered by the Lumbee people for centuries.

I thank you for your attention to this matter and will appreciate your favorable consideration of my request.

Sincerely,

JAMES G. MARTIN.

Mr. INOUYE. This letter says:

I fully support the passage of S. 1036 and am requesting the support of the Senate Select Committee on Indian Affairs. The State of North Carolina has recognized the Lumbee Tribe as a separate and viable Indian entity since 1885. The passage of S. 1036 will entitle the Lumbee to enjoy the same rights, privileges and services enjoyed by other federally recognized tribes in the nation and will, further, be a major step toward rectifying the inequities suffered by the Lumbee people for centuries.

Mr. President, the Lumbees began the process, seeking recognition in 1888.

They have been waiting for 104 years. In 1956, after much consideration by the Congress of the United States, an act was passed which had intended to recognize the Lumbee Tribe. However, because of a provision in the bill, although the recognition was granted and the books will show that the Lumbees are recognized as a viable Indian tribe, also, it is indicated in one of the provisions that they may not receive any benefits that are accorded to federally recognized Indian tribes, and, as such, they were denied the opportunity of participating in the recognition process which was passed in 1978.

This is a matter of equity. There is no question, all anthropologists, social scientists, and historians concur that the Lumbees are Indians and are entitled to be recognized as such. I hope the Congress of the United States will rectify that bad situation.

This is not a situation where they are trying to get in front of the line while others have been waiting. They have been waiting for 104 years, and I would think 104 years is long enough, sir.

Mr. President, I have been advised that both sides are ready to yield back the remainder of our time.

The PRESIDING OFFICER. The Senator from Oklahoma has 6 minutes remaining.

Mr. NICKLES. Mr. President, I ask unanimous consent to have a letter printed in the RECORD by the Mississippi Band of Choctaws in opposition, as well as a letter by the Cherokees from the State of North Carolina in opposition.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

MISSISSIPPI BAND OF
CHOCTAW INDIANS,
Philadelphia, MS, January 14, 1992.

Hon. DANIEL K. INOUYE,
Chairman, Select Committee on Indian Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR INOUYE: I am writing in reply to your Dear Tribal Leader letter of November 25 concerning H.R. 1426, the bill to provide federal recognition to the Lumbee Tribe of North Carolina. While I highly respect your position on this matter, I believe that Indian tribal governments need to take the positions that feel best for them on such controversial questions.

Although we have repeatedly received assertions, in correspondance from the Lumbees and their supporters, that the Lumbees are American Indians and their group is a tribe, I have not, in 33 years in tribal government, ever seen a report or other research that proves beyond a reasonable doubt that Lumbees are in fact American Indians with a history of self-government apart from a state-chartered corporation. In fact, it is my impression that the Lumbees have simply not been able to demonstrate historically or geneologically American Indian status. Should you know of any research which does demonstrate this, I would certainly like to examine it, and would ask that you disseminate the information to the tribes that received your November 25 letter.

It is our position that all groups should go through the FAP, and that the Solicitor's ruling denying the Lumbees access to the FAP was mistaken—and it would seem that the Lumbees would have a good legal basis on which to take the Solicitor to court. In the meantime, we would support the Senator Nickles/Congressman Rhodes approach assuring Lumbee access to the FAP.

Sincerely,

PHILLIP MARTIN,
Chief.

THE EASTERN BAND OF
CHEROKEE INDIANS,
Cherokee, NC, October 30, 1991.

Hon. DON NICKLES,
Hart Building, U.S. Senate, Washington, DC.

DEAR SENATOR NICKLES: As you know, one of the more controversial bills pending before the Indian Affairs Committee is the proposed legislation to grant federal recognition to the Lumbee Indians of North Carolina. The Eastern Band of Cherokee Indians has serious concerns about this legislation and we laid out our rationale in detail during testimony before the Committee. Contrary to claims by the Lumbees (and as you will note in our testimony), we do not oppose the bill for monetary reasons. Additionally, tribes from across the United States have enacted resolutions stating the same concerns we have always expressed; namely, that the granting of federal recognition to any group of Indian descendants by the Congress, absent the adoption by the Congress of *any* criteria, is a dangerous course to follow and will ultimately diminish the foundations of tribal sovereignty.

Many members of the Indian Affairs Committee have made statements supporting the concept of tribal sovereignty and we are grateful for that. We hope that Committee members understand our desire to protect sovereignty and to ensure there is a legal foundation to the establishment of a perpetual fiduciary government-to-government relationship. This is not anti-Lumbee any more than it is anti-Mowa or anti any of the other pending legislative recognition bills. Certainly it is a conservative view but with the make-up of the Supreme Court, all proponents of sovereignty must be vigilant in ensuring that criteria are met before the relationship is established. Resolutions from tribes in Arizona, California, Nevada, North Carolina, Oklahoma, Michigan, Washington, Montana, Idaho, New Mexico and South Dakota as well as from Inter-tribal Indian organizations including the Affiliated Tribes of Northwest Indians, the Montana-Wyoming Tribal Chairmen's Association, the United South and Eastern Tribes and both inter-tribal Pueblo groups have all said the same thing: there is a process with criteria that have been agreed to and all groups should go through it. If the process needs refinement, do it. We just testified before the Committee in support of S. 1315 to that end.

I am attaching a copy of the Minority and Additional Views from the House Interior Committee on this legislation. I have asked very little from Committee members but I am now making a personal request to you. Regardless of whatever your final position is on Lumbee, please personally read this letter and the attached views. I assume with your busy schedule that you have not been able to read our testimony so I do ask that you read the enclosed as it probably represents our last opportunity to ensure that you have fully reviewed our side of the issue.

Thank you Senator Nickles.

Sincerely,

JONATHAN L. TAYLOR,
Principal Chief.

Mr. NICKLES. Again, Mr. President, let me just state to my good friend, Senator INOUYE, I do not oppose recognition of this tribe if they would go though the process. I do oppose, and I am concerned about, bypassing the recognition process. I am very concerned, as a member of the Appropriations Committee, about two things. One, having the funding outside of BIA. We are giving this tribe, if they are recognized by this statute, direct-line appropriations in a manner that we do not do for any other tribe in the country. I have 39 tribes that would probably like to have direct appropriations. This would give the Lumbees a direct appropriation, but we do not do that for most tribes like the Choctaws, Chickasaws, Creeks, and Seminoles, and I could go on and on with tribes in my State that would love to have such funding. They do not get a direct appropriation.

We would be doing that. I would also say Senator BYRD and I on the Interior Appropriations Subcommittee have an excellent working relationship. We have done some pretty good work in trying to make improvements in Indian country. But we have so much work to do to improve the quality of health care and education and so on through the BIA, it is enormous. To have an addition that is going to be coming out of the Interior bill, which is close to being an entitlement, will make it very difficult for conditions in the entirety of Indian country. I do not know how in the world we could come up with these kinds of funds. Whether the figure would be $100 million, $150 million, $120 million—I have heard all kinds of estimates. I do not believe it is realistic to expect this kind of funding from Congress.

In this bill it authorizes, it does not appropriate, I recognize that; but it authorizes by telling us to provide such sums as we might be able to appropriate. Again, I do not know how we are going to come up with the necessary funding.

Again, I do not believe the Lumbees should have preferred appropriations status above that of other tribes in the country. This bill would do that. So, I hope we will have this tribe follow the procedures, go through the process like all other tribes and as a result, end up having a bill that the President can sign, and which hopefully the Lumbees could receive the Federal acknowledgment which they have been seeking for so long.

One final point I might mention, the substitute amendment which I am prepared to offer, would send the Lumbees through the Federal acknowledgment process on an expedited basis so they would not have any further delays. I heard my colleague say that the Lumbees have sought recognition for 104 years. I understand that. My proposed amendment would allow them to have a fair and thorough evaluation so that they could have an answer in the near future to their request for Federal recognition.

I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, if I may clarify a few things. This bill does not authorize, nor does it appropriate a penny. It says that with the passage of this measure, upon the verification of the tribal role, the Secretary of the Department of Health and Human Services will conduct a study to determine the needs of the Lumbees. Upon completion of this study, it will be turned over to the Secretary of the Interior, who, in turn, will conduct another study. Upon such studies, if justification can be found, a budget request will be made. That will be submitted to the administration, and the administration, in turn, may decide for or against approving this budget request.

If it does approve it, then it is submitted to the Congress of the United States, and the Congress of the United States, as we do every day, can either approve or disapprove. If the Congress of the United States should approve a certain sum of money, that money will not go to the Lumbees; it will go to the Secretary of the Interior. It will be at his discretion as to whether these funds will be used to extend services and privileges to the Lumbee Tribe.

So it is a long process. It is a process in which we will once again involve ourselves. So I hope we will bring about some justice here and rectify a bad situation that has existed for 104 years.

Mr. President, I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. The Senator has 3½ minutes remaining. The minority has 2½ minutes remaining.

Mr. DURENBERGER. Mr. President, I rise in opposition to the cloture vote on the motion to proceed to H.R. 1426, the Lumbee Recognition Act.

Mr. President, this legislation provides that if recognized, the Lumbees shall be eligible for all services and benefits provided to native Americans because of their status as a federally recognized tribe. However, the members of the Lumbee Tribe shall not be entitled to such services until the appropriation of necessary funds.

Mr. President, we do require an appropriation for any other native American. Indeed, I know of several tribes in my own State would prefer to have a direct line to appropriations.

In addition, it may be very difficult for members of the Appropriations Committee to withhold funds from the Lumbee Tribe when other tribes receive annual funding. Very soon, then, although designed as an appropriation, this program could easily become an entitlement, one that would potentially cut into the limited funds available for tribes that are currently federally recognized.

Mr. President, there are more than 120 tribes awaiting Federal recognition at the Bureau of Indians Affairs. There is an acknowledged procedure by which these tribes may eventually be recognized. Certainly that procedure is not without flaw. But if we were now to recognize by legislative fiat this tribe, how long do my colleagues think it will be before all the tribes awaiting Federal recognition approach their elected officials and attempt to accomplish the same? In other words, Mr. President, I do not think it is fair to essentially push the Lumbees to the front of the recognition line.

Just today, Mr. President, I met with the Lower Sioux Indian Tribe from my own State of Minnesota. It appears that the tribe has outgrown the ability of the city of Redwood Falls to provide infrastructure and related support. Thankfully, Mr. President, the city and the tribe have combined their efforts and will likely be able to solve the near-term problems. I believe, though, that very soon they, or any of the other tribes in my State will be back for funding help.

Mr. President, for too long we in this country did not provide adequate services of help to our native American friends and although I can appreciate the desire of the Lumbees, I believe the Congress should be working to rectify those situations with the methods provided for under current law, not through the Congress.

Mr. SIMPSON. Mr. President, I rise in opposition to the motion to proceed, and I will vote to invoke cloture. I hear clearly the concerns raised by my able friend and colleague from North Carolina, Senator HELMS. He makes a very powerful case.

But, Mr. President, I think it also important for this body to know that currently recognized Indian tribes do not generally support this legislation. Just a few moments ago, I left a meeting with distinguished representatives from the Shoshone and Arapaho Tribes in Wyoming. They advise me that they oppose this legislation and are joined in their opposition by nearly all of the western Indian tribes.

The reason for their opposition is not that there will be less money to spread among the currently recognized tribes; but because the system that is in place to achieve Federal recognition works very well. It is fair, it is objective, and it has been working well for many years.

Mr. President, there is simply no good reason to make a special exception in this matter. I am persuaded by the arguments of the Senators from North Carolina and my friend Senator NICKLES from Oklahoma; but I am most impressed by the concerns expressed by my constituents, Mr. John Washakie, member of the Shoshone Business Council, and Mr. Alfred Ward, distinguished member of the Arapaho Business Council. Between them, these gentlemen represent over 12,000 enrolled American Indians who are my constituents. I hear their message most succinctly and I do appreciate having the benefit of their counsel and guidance on this matter.

So, Mr. President, I will be voting against invoking cloture on the motion to proceed and, if that motion passes, I will join my colleagues in working vigorously to defeat this legislation in the Senate.

Mr. SIMON. Mr. President, I rise today to speak in favor of legislation introduced in the House of Representatives, H.R. 1426, to provide Federal recognition to the Lumbee Tribe of North Carolina. Senator SANFORD has worked long and hard to see that the Lumbees receive Federal recognition. This bill seeks to correct a century-old injustice by making tribal members eligible for

Federal services approved and funded by Congress. After the Department of the Interior certifies the tribal roll, all laws that generally apply to Indians and Indian tribes would apply to the Lumbee Tribe. The bill requires the tribe to organize under a constitution and develop bylaws for its common welfare.

The Lumbee Tribe has sought Federal recognition for more than 100 years. During that time, Congress and the Department of the Interior have studied the tribe and at no time has Congress or the Department ever indicated that the Lumbees do not deserve Federal recognition. Rather, the issue always seems to be whether the Federal Government could afford the expense of recognition.

At a 1988 congressional hearing, Dr. William Sturtevant, a world-renowned expert on Indians of the Eastern United States who is employed at the Smithsonian Institution, summarized the tribe's record:

> It is clear that the Lumbee have those characteristics that identify an Indian tribe. Certainly anthropologists who have looked into the case over the last century or so agree that they are an Indian tribe; no anthropologist has denied it.

In 1885, the tribe was formally recognized by the State of North Carolina under the name Croatan Indians of Robeson County. Croatan Tribe leaders petitioned Congress in 1888 for assistance for a separate school system for the tribe established by the State. In 1899, the first bill was introduced in Congress to appropriate funds to educate the Croatan Indian children.

In my view, we cannot in good conscience allow a tribe of Indian people, acknowledged by all leading experts to be an Indian tribe, to be denied Federal recognition because of the failure of non-Indian governments to minutely record the tribe's presence and activities at the turn of the 18th century. There is no serious question about the Department of the Interior's ability to fairly judge its status.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I will just take a minute to indicate what has already been indicated by the Senator from Oklahoma. The administration does oppose this bill since it does circumvent the so-called acknowledgment process. I certainly appreciate the good work done by the Indian Affairs Committee, but I have been advised there are a multitude of resolutions that have been approved by tribes that support strict adherence to the process, and these tribes are in California, Arizona, Oklahoma, Michigan, Idaho, Washington, Montana, New Mexico, North and South Dakota, Florida, Nevada, and North Carolina, as well as, I understand, regional Indian organizations, including the affiliated tribes of Northwest Indians, the Montana and Wyoming tribal councils, the Southern Pueblos Governors' Council of New Mexico, and the United South and Eastern Tribes.

I do not know what the substitute is but it seems to me this is not an appropriate process. It seems to me maybe there is some way to accommodate the concerns of the Senator from North Carolina [Mr. SANFORD] and enable us to bring justice to the Lumbee Tribe, but I am not certain this is the way to do it. It is opposed by the administration. I urge my colleagues not to support the vote on cloture.

The PRESIDING OFFICER. Who yields time?

Mr. INOUYE. I am prepared to yield back the remainder of my time, and so yield it back.

Mr. NICKLES. We yield back the remainder of our time.

CLOTURE MOTION

The PRESIDING OFFICER. All time has been yielded back. Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislation clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to H.R. 1426, an act to provide for the recognition of the Lumbee Tribe of Cheraw Indians of North Carolina, and for other purposes:

Daniel K. Inouye, David L. Boren, Bob Graham, Jeff Bingaman, Herb Kohl, John Breaux, J. Lieberman, Pat Leahy, Alan Cranston, J.J. Exon, Tom Daschle, Wendell Ford, Dale Bumpers, Charles S. Robb, Dennis DeConcini, Timothy E. Wirth, Christopher Dodd, Terry Sanford.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, is it the sense of the Senate that debate on the motion to proceed to consideration of H.R. 1426, a bill to recognize the Lumbee Indian Tribe of North Carolina, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Illinois [Mr. DIXON], the Senator from Iowa [Mr. HARKIN], and the Senator from Nebraska [Mr. KERREY] are necessarily absent.

The yeas and nays resulted—yeas 58, nays 39, as follows:

[Rollcall Vote No. 35 Leg.]

YEAS—58

Adams	Ford	Mikulski
Akaka	Fowler	Mitchell
Baucus	Glenn	Moynihan
Bentsen	Gore	Nunn
Biden	Graham	Pell
Bingaman	Heflin	Pryor
Boren	Hollings	Reid
Bradley	Inouye	Riegle
Breaux	Jeffords	Robb
Bryan	Johnston	Rockefeller
Bumpers	Kasten	Sanford
Burdick	Kennedy	Sarbanes
Byrd	Kerry	Sasser
Cohen	Kohl	Shelby
Conrad	Lautenberg	Simon
Cranston	Leahy	Wellstone
Daschle	Levin	Wirth
DeConcini	Lieberman	Wofford
Dodd	McCain	
Exon	Metzenbaum	

NAYS—39

Bond	Gorton	Packwood
Brown	Gramm	Pressler
Burns	Grassley	Roth
Chafee	Hatch	Rudman
Coats	Hatfield	Seymour
Cochran	Helms	Simpson
Craig	Kassebaum	Smith
D'Amato	Lott	Specter
Danforth	Lugar	Stevens
Dole	Mack	Symms
Domenici	McConnell	Thurmond
Durenberger	Murkowski	Wallop
Garn	Nickles	Warner

NOT VOTING—3

Dixon	Harkin	Kerrey

The PRESIDING OFFICER (Mr. WELLSTONE). If there are no other Senators wishing to vote, on this vote the yeas are 58, the nays are 39. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

Mr. NICKLES. Mr. President, I move to reconsider the vote.

Mr. SYMMS. 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 majority leader is recognized.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. PRESSLER addressed the Chair.

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

Mr. PRESSLER. I thank the Chair.

(The remarks of Mr. PRESSLER pertaining to the introduction of S. 2297 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

ORDER OF PROCEDURE

Mr. REID. Mr. President, I ask unanimous consent that I be allowed to speak as if in morning business.

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

RESPONSE TO "FROM DETERRENCE TO DENUKING"

Mr. REID. Mr. President, last week I received a white paper from Congressman LES ASPIN, chairman of the House Armed Services Committee, called "From Deterrence to Denuking: Developing with Proliferation in the 1990's."

Mr. President, I agree with one of the major premises of this paper: that the proliferation of nuclear weapons is now the chief security threat we face in the post-Soviet era. There is no doubt that there are too many nuclear weapons in the world. There is no doubt that the number of countries possessing these deadly weapons of mass destruction is growing, growing as we speak.

Besides the United States, several Republics in the former Soviet Union, Great Britain, France, and China are now nuclear powers.

In addition, a number of other countries are believed to possess the technology to produce nuclear weapons, namely Israel, India, Pakistan, and South Africa.

Mr. President, there are still other countries in pursuit of nuclear weapons: Iraq; North Korea, and in fact we have learned in the press recently that North Korea is very close; Libya; Iran; Argentina; Brazil, and possibly even Algeria.

There are four policies that Chairman ASPIN states need to be reconsidered: Institution of a comprehensive test ban, an end to production of fissile materials for bombs, removal of forward-based tactical weapons, and renunciation of first use of nuclear weapons.

It is the idea of a comprehensive test ban that I wish to address today. Chairman ASPIN poses the question: "If testing is no longer needed for modernization, what if any need is there for testing to maintain the safety of the remaining arsenal?"

Let me say that the problem in the world today is not nuclear testing. It is nuclear weapons.

Mr. President, to eliminate testing before we eliminate nuclear arms would not only undermine our country's military security, but also endanger our public safety. As long as arms exist, testing is necessary to ensure that those weapons may be safely stored. Let me give just one example.

In May 1990, Defense Secretary Cheney acknowledged a safety problem with U.S. nuclear artillery shells in Europe. The defects had been found in hundreds of W79 short-range nuclear artillery shells based in Germany, Italy, and the Netherlands. These are shells that can deliver a 10-kiloton nuclear blast, about two-thirds as big as the one at Hiroshima. The safety problems were confirmed through testing at the Nevada test site in 1988 and 1989. Because the problems were identified through testing, they were fixed, and accidents were prevented.

The use of nuclear weapons is a horrible thought, but it is that horror which has maintained the peace; it may be that horror which in the end causes the abandonment of war as an instrument of national policy, at least among those nations whose power is capable of world destruction.

However, as long as we rely upon those weapons to keep the peace, we must test them to maintain an effective and credible deterrence posture. We need to know that the weapons in our arsenal are safe and reliable. We need to know that they will survive an attack. We need to know their effect on our equipment and that of our enemy. It has been the testing program, which, by teaching us to create smaller, more accurate, and more efficient weapons, has enabled us already to substantially reduce the size of our nuclear arsenal.

Perhaps as importantly, we also need to test to know the future. We test nuclear weapons to verify computer modeling, maintain scientific vitality, and to avoid technological surprises. Almost every underground nuclear test has produced unexpected results not predicted by computer modeling. I would like to quote from a speech given by President Kennedy on March 2, 1962:

> We know enough about broken negotiations, secret preparations, and the advantages gained from a long test series never to offer again an uninspected moratorium. Some urge us to try it again, keeping our preparations to test in a constant state of readiness. But in actual practice, particularly in a society of free choice, we cannot keep top flight scientists concentrating on the preparation of an experiment which may or may not take place on an uncertain date in the future, nor can large technical laboratories be kept fully alert on a standby basis waiting for some other nation to break an agreement. This is not merely difficult or inconvenient. We have explored this alternative thoroughly and found it impossible of execution.

We must remember that the Nevada nuclear test site is a highly complex scientific operation, which involves literally hundreds of scientists and engineers and thousands of highly skilled technicians. You neither create nor deactivate such a facility with the wave of some magic wand. If we were to stop testing and then decide a year or two from now to begin again, where would we be?

I commend Chairman ASPIN for wanting to do something about nuclear proliferation. Indeed, the development of nuclear weapons by Third World countries is the most troubling and dangerous aspect of proliferation. We do not know what would have happened if Saddam Hussein had exploded a nuclear weapon in the atmosphere over the battlefield. We do not know what would have happened to our equipment. We think we know, but we are not sure. We need to test. It would be unsafe, impractical and unwise not to, and it would send a signal of complacency to Third World countries currently developing these weapons of mass destruction.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER (Mr. BINGAMAN). The majority leader is recognized.

Mr. MITCHELL. Mr. President, I note the presence of the distinguished Senator from North Carolina, the principal author of the bill, with respect to which the Senate has just voted not to invoke cloture. There were 58 votes, 60 being required, and I wanted to yield to the Senator from North Carolina to ask for his suggestion on the best way to proceed with respect to the Lumbee bill.

Mr. SANFORD. Mr. President, a great many people worked diligently and long to get this legislation up, and to attempt to gain support for it. I regret that it became a partisan matter. It should not have been a partisan matter. It should not have been voted on on that basis.

The Governor of North Carolina, who is, as you know, a staunch Republican, and who served in the Congress, has very strongly endorsed the recognition of the Lumbee people in this fashion, strongly endorsed this legislation, and wrote a letter to Senator INOUYE, the chairman of the Select Committee on Indian Affairs urging that it be passed. So it was not a partisan matter. I am sorry that it took that turn particularly because the Lumbee people do not have the option of seeking recognition through the regular Federal acknowledgement process.

I am pleased that we got 58 votes. I might say, for the RECORD and for those who might be watching, that under our rules, we cannot take up a piece of legislation without unanimous consent. If we cannot get unanimous consent, it is necessary to have a cloture vote, and it is necessary to have 60 votes—not 60 percent of those present and voting, but 60 votes. We got 58. But we had three Senators that would have voted to invoke cloture, had they been here. Two of them are on the campaign trail for the Presidency. One of them is in a very tight primary race in Illinois. And they had justification for not being here. But had they been here, we would have had enough votes to have invoked cloture.

It occurs to me, Mr. President, that it would be wise, since the Lumbee people have waited 104 years to get to this point, that we might wait a few more weeks and attempt to have a vote when everyone is present, and maybe by this time we will have been able to con-

vince people that this ought not to be a partisan vote anyhow. So I wonder it I may inquire of the leader, Mr. President, if we do attempt to bring it back up when the other three Senators are here, would he be willing to bring it to the floor?

Mr. MITCHELL. Mr. President, my answer to the Senator from North Carolina is, yes, I would. I believe this to be a matter of simple justice. I had a similar experience in Maine with respect to a tribe—we actually what we refer to them as a band—of Micmac Indians in northeastern Maine and Canada, who had, unfortunately, been excluded from legislation enacted some years ago, settling the rights of the various tribes in Maine, settling the rights of the various tribes in Maine, settling their claims against the United States.

I joined with Senator COHEN as the author of legislation to redress that in a situation that is not identical but in which the principle is the same. We felt strongly that it was a matter of simple justice, and I believe that, again, while this is not an identical situation, the same concept exists, and I believe that the recognition of the Lumbee is long overdue and, for that reason, I assure the Senator that at a future time, when the presence of all Senators is possible, I will attempt to bring the matter up and attempt to again obtain cloture.

Mr. SANFORD. I thank the leader.

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

I know the distinguished Senator from Rhode Island seeks recognition, and I am going to discuss with the distinguished Republican leader the schedule for the remainder of this week and next week.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I now ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

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

Mr. MITCHELL. Mr. President, there will be no further rollcall votes this evening, and I will shortly have an announcement, as I noted earlier, following the consultation with the distinguished Republican leader, on the schedule for the remainder of this week and the early part of next week.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. CHAFEE. Mr. President, if the leaders wish to proceed on something now, I do not want to hold them up.

Mr. MITCHELL. No. I thank my colleague for the courtesy, but I am not ready to proceed now. It is no inconvenience whatsoever for him to proceed.

Mr. CHAFEE. I thank the distinguished majority leader.

CLIMATE CHANGE NEGOTIATIONS

Mr. CHAFEE. Mr. President, this afternoon in New York, the U.S. delegation to the ongoing international negotiations to develop a framework convention on climate change—these are the negotiations dealing with climate change, the global warming problem—the U.S. delegation made a statement that signals a major shift in the U.S. position at these talks.

For months, President Bush has been criticized for, among other things, denying that the threat of global climate change is a real and serious threat, and refusing to commit to what are known as targets and timetables.

This criticism has been strident, and in large part, Mr. President, unfair.

Three days ago, Senator DOMENICI and I wrote to President Bush urging that he direct our negotiators to undertake a new initiative in New York.

Mr. President, I ask unanimous consent that a copy of that letter that Senator DOMENICI and I wrote to the President be printed in the RECORD.

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

FEBRUARY 24, 1992.

Hon. GEORGE BUSH,
The White House, Washington, DC.

DEAR MR. PRESIDENT: We are writing to congratulate you for your recent announcement in response to the global environmental threat of ozone depletion and to urge that you announce a similarly bold initiative to counter the threat of global climate change. Time is of the essence because the current session of the Intergovernmental Negotiating Committee for a Framework Convention on Climate change that is being held in New York City is scheduled to end this week.

It is our firm belief that you should direct the U.S. delegation to deliver a new message at the current meeting in New York City. A major announcement by you of a bold new initiative that commits the United States to specific actions which will have the effect of stabilizing emissions of greenhouse gases at 1990 levels by the year 2000 will give the negotiations the breakthrough that is needed to move the world closer to a meaningful climate convention.

Such an announcement will have the added benefit of silencing those thoughtful critics who have been pressing for such action. We recognize that there will always be carping critics who will continue to complain no matter what you do and will accuse you of promising "too little, too late" to combat the threat of global climate change. The carping critics should be ignored. The important thing is to move on with a meaningful convention.

We thank you in advance for your personal attention to this important matter and look forward to your decision.

With warm personal regards,

Sincerely,

PETE DOMENICI,
U.S. Senator.
JOHN H. CHAFEE
U.S. Senator.

Mr. CHAFEE. Mr. President, I believe that the U.S. position that I just referred to as having been announced today signals a breakthrough that is needed to move the world closer to a meaningful climate convention. The President directed his staff to announce a series of bold, new initiatives, to commit to a series of actions that will limit the U.S. greenhouse gas emissions starting immediately.

Mr. President, these are very, very significant undertakings by the negotiators in New York. Preliminary analyses suggest that these actions will have the effect of stabilizing greenhouse emissions at 1990 levels starting in the year 2000.

If that is true, the major obstacle to the signing of a convention in Rio de Janeiro this June has been eliminated. If the list of actions add up to stabilization, as I believe they will, the President will be able to hold his head high and take credit for moving the world closer to a meaningful climate convention.

The United States stated its intention to provide an even more exhaustive list of actions, along with preliminary estimates of what these new actions may mean for limiting U.S. greenhouse gases prior to the final negotiations that will be held in April.

I am encouraged by today's actions, Mr. President. I urge President Bush to press on. President Bush is to be congratulated for the actions that he has taken. He deserves all of our thanks.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

SUPREME COURT DECISION IN FRANKLIN VERSUS GWINNETT COUNTY PUBLIC SCHOOLS

Mr. KENNEDY. Mr. President, in an important decision yesterday, in the case of Franklin versus Gwinnett County Public Schools, the Supreme Court ruled that a plaintiff who proves intentional sex discrimination in violation of title IX of the education amendments of 1972 can recover damages from the wrongdoer. These damages would not be limited by any cap such as the one included in the Civil Rights Act of 1991, which we passed last year.

The Court's decision in the Franklin case makes clear that unlimited damages for intentional discrimination also are available for race discrimination prohibited by title VI, disability discrimination prohibited by section 504 of the Rehabilitation Act of 1973, and age discrimination barred by the Age Discrimination Act of 1975. These statutes prohibit discrimination by institutions receiving Federal funds.

The Franklin decision is a major victory for women and girls across the Nation in the ongoing battle against sex discrimination. It puts school systems and institutions of higher education on notice that victims of intentional discrimination have real remedies under title IX. These remedies are especially important for students, for whom back pay is not available, and for teachers who suffer sexual harassment but not lost wages.

Yesterday's decision also highlights the inequities that remain in our anti-discrimination laws. Because of the cap on damages in the Civil Rights Act of 1991, students and teachers in public schools who suffer intentional sex discrimination can be made whole, but nurses in hospitals who suffer similar discrimination cannot be made whole because of the cap.

The Senate Labor and Human Resources Committee will soon consider the Equal Remedies Act, to eliminate these inequities in the remedies available under our civil rights laws. I urge my colleagues to support that legislation when it comes to the Senate floor.

ALBANIANS OF KOSOVA STRUGGLE FOR 3 YEARS UNDER MARTIAL LAW

Mr. PELL. Mr. President, later this week, the Albanians of Kosova will mark a somber anniversary. Three years ago on February 28, 1989, the Government of Serbia imposed a state of martial law on Kosova, home to 2 million ethnic Albanians. Although the 1974 Yugoslav Federal Constitution affirmed Kosova's autonomous status, the Government of Serbia ignored the law and abolished Kosova's autonomous status as well as its parliament. I believe it is important to commemorate this anniversary and, accordingly, I recently joined in introducing Senate Resolution 257, which calls attention to the plight of the Albanian population in Kosova.

Mr. President, in the past several months, much of our attention on the Balkans has focused on the conflict between Serbia and Croatia. Our concentration on that conflict is understandable: An estimated 10,000 lives have been lost in a war that has threatened both reform and stability in the region. However, I believe that the situation in Kosova is also a potential powder keg, and if ignited, it could lead to chaos not only in the former Yugoslavia, but in neighboring countries as well.

Even if the potential threat to regional security did not exist, however, I believe that from a human rights perspective, the Kosova situation deserves more attention than it has been receiving. During the last year, conditions have worsened, and some observers suggest that the Serbian Government has taken advantage of the war in Croatia, which has distracted international attention, to step up its brutalization of the Albanians of Kosova.

In its recently released human rights report for 1991, the State Department found that:

> In the autonomous province of Kosova, Serbian authorities intensified repressive measures against the majority Albanian population, eliminating virtually all Albanian-language schooling. They arrested and beat hundreds of Albanians on trumped-up charges and suppressed the Albanian community's attempt to organize a referendum on Kosova's future. In March, Serbian police and army troops in Belgrade used force to repress large-scale opposition demonstrations to demand the Serbian Government's ouster, resulting in two deaths and hundreds of injuries.

These actions by the Serbian Government are unjustified and unacceptable, and the United States must speak out more loudly against them.

Mr. President, a delicate cease-fire is holding in Croatia, and the United Nations Security Council recently voted to send a peacekeeping force to the region. These are hopeful signs, but much more needs to be done to ensure the peace in the former Yugoslavia. The issue of Kosova must be addressed in this context.

I would urge the administration to do so, and I would hope that the U.N. sponsored negotiations and the European Community sponsored peace conference on the former Yugoslavia will include representatives from Kosova, and that the issue of Kosova will figure prominently on the agenda.

REGARDING THE RECENT STATEMENT BY QUEEN NOOR

Mr. MITCHELL. Mr. President, last November, Her Majesty Queen Noor of Jordan gave an eloquent speech in London. The occasion was the first gathering of alumni in Europe from the American University of Beirut [AUB]. It was an historic event, enhanced significantly by the quality of Queen Noor's remarks.

The Queen is well known to all of us in the United States. Born in America Lisa Najeeb Halaby, the Queen is an avid urban planner and a tireless volunteer in her efforts to improve the quality of life in Jordan. She is well known for her work in the areas of social welfare, environmental protection, child care, women's development, art, and education. Queen Noor is a distinguished world figure with an impressive record of working to better conditions both within Jordan and between nations throughout the world.

Queen Noor's remarks to the AUB alumni were notable in two respects. She accurately captured the unique qualities and role of AUB. Describing the university as "an open, tolerant environment where ideas and dreams could be shared among students from many different social, political, religious, and ethic backgrounds," she said that it provides "a model of constructive and beneficial interaction between the Arab and Western worlds." I fully concur with this characterization, and with the Queen's assessment of the crucial role that the university and its graduates play in the international scene today.

In addition, I was struck by the hopeful tenor of her remarks about the changes under way in the Arab world. The most powerful trend, she argued, is a demand for more responsive political systems. The Queen noted the efforts of several Arab states to respond to this demand by incorporating pluralism, individual rights, democratic participation, and the accountability of public officials.

Queen Noor noted that the momentum for change in the Arab world, "grounded firmly in the burgeoning spirit of democracy, pluralism, and nation-building," is one instilled at AUB. I believe she is correct.

I urge my colleagues to read this eloquent and insightful speech by Queen Noor to understand why AUB, now in its 125th year, deserves both our congratulations and our appreciation. I ask unanimous consent that the full text of Queen Noor's speech be inserted in the CONGRESSIONAL RECORD.

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

ADDRESS BY HER MAJESTY QUEEN NOOR AT THE FIRST A.U.B. ALUMNI EUROPEAN CONVENTION, LONDON, NOVEMBER 30, 1991

Mr. Chairman, Your Excellencies, Lords, ladies and gentlemen, I am particularly happy to be here tonight to celebrate with you this gathering of American University of Beirut alumni in Europe. As you and your fellow graduates around the world mark the 125th anniversary of the founding of A.U.B. this year, you venerate the traditions, the wisdom, and the legacy of an old and established institution and you honour the continuing vigour and relevance of an idea that is timeless and a spirit that is universal.

Although I did not attend A.U.B., I have long recognized the qualities that distinguish your university and its outstanding graduates.

My family association with A.U.B. became institutionalized in 1972 through my father who, as trustee and later as chairman of the board in the 1980's, so vigourously pursued his responsibilities to the university that it was sometimes frustrating for me that I could not attract any of his attention to my projects developing in Jordan. His enthusiasm probably matched any A.U.B. graduate's, though he had missed that unique experience, and so did I when my turn came.

The last time I visited A.U.B. in the mid-1970's, I entered and departed the campus under shellfire. The experience, a daily nightmare for the people of Beirut for so many years, impressed upon me the extraordinary courage and resilience of that intellectual haven. A.U.B. has always been an institution with a purpose and a mission, sustained by determination to succeed in the face of enormous threats and obstacles.

Since its founding in 1866, your alma mater has played a significant regional and inter-

national role. It has provided the best education available for several generations of Arab men and women. Throughout the past century, most A.U.B. graduates have continued on to assume leadership roles in their own countries in all fields. Most of you probably know that nineteen of your fellow alumni participated in the drafting of the U.N. Charter in 1945, five were among its signatories. At the recent Madrid Peace Conference, A.U.B. alumni were prominent among the Arab delegates and, appropriately, A.U.B. graduates excelled on the podium of peace and justice, their articulate and thoughtful words reaching hearts and minds around the world. As a woman, I share with many others great pride and admiration for A.U.B. graduate Hanan Mikhail Ashrawi's exceptionally eloquent contribution to the Middle East peace process.

Your university also has always provided an important meeting ground for interaction amongst all Arabs—an open, tolerant environment where ideas and dreams could be shared among students from many different social, political, religious, and ethnic backgrounds.

Perhaps more than any other institution in the region, the university has been as well a model of constructive and beneficial interaction between the Arab and Western worlds. It has provided a multi-dimensional window through which they have been able to discover the best in each other, to learn from one another and to affirm their mutual aspirations and ideals.

Just as A.U.B. is a symbol of the human dynamics we value within the Arab world, and between the Arabs and the West, College Hall is the symbol of A.U.B. If those who planted the bombs in College Hall sought to halt the process of reconciliation in Lebanon or the wider negotiations to bring justice and peace to all the people of the region, they have failed. And they will always fail, because they confront a will to build that is stronger than their urge to destroy. They confront a commitment to justice, freedom, and elightenment that is deeper and stronger than their intolerance and bitterness.

As H.G. Wells said many decades ago, "Human history becomes more and more a race between education and catastrophe." We are going to win that race.

The clock tower of College Hall may be temporarily missing from the skyline of Beirut, but the horizons of the Arab world remain illuminated by everything that A.U.B. has offered to the Arab people and to the world in the last 125 years.

The indomitable spirit of the American University of Beirut sustained hope and confidence in the future for so many tragic and traumatic years for Lebanon and the entire region.

That same spirit has brought you together here tonight and inspired A.U.B. alumni groups to rally throughout the Middle East and the rest of the world.

You are here to honour that spirit, to rebuild College Hall, and to affirm our joint commitment to life and learning. You are here tonight not to celebrate what A.U.B. has given you, but to demonstrate what you can give to A.U.B. For many decades, the Arab world looked to the university as a model of all that was excellent and exceptional in education, human development, and Pan-Arab progress. Today, in its moment of need, A.U.B. looks to you to affirm your commitment, conviction, and faith in this noble ideal.

And so we must continue to work together and support one another in our common national challenge—a challenge that demands that College Hall be rebuilt as quickly as possible, that classes continue as they always have, without interruption, that political reconciliation and stability in Lebanon continue to advance, and that the quest continues for justice and peace in the Middle East.

In the twelve and one-half decades since the founding of the American University of Beirut, the Arab world has witnessed extraordinary change. Much of this change has been positive for human development, including gains in literacy, life expectancy, standards of living, and access to essential human services.

In recent years, however, the developmental trend throughout the region has deteriorated, resulting often in violence and in widespread economic regression.

The problems and imbalances of the Middle East culminated recently in the gulf crisis, which for all of its destruction and waste, spurred the Arab people to the most serious questioning of our deteriorating national condition and the direction of our collective national destiny. The vast majority of Arab people opposed foreign military intervention and inter-Arab confrontation and war. Consequently, they sought to promote something more important—a more stable Arab order based on equity and cooperation, greater Pan-Arab integration, and balanced human development. These enduring sentiments and aspirations continue to motivate the national hopes and personal dreams of most Arabs today. Like the clock tower of College Hall, they can be momentarily felled, but never obliterated—damaged, but never destroyed.

In the Arab world, the most powerful trend in the last decade has been a demand for more responsive domestic political systems. Several Arab states are formulating new political structures based on pluralism, individual rights, democratic participation, and the accountability of public officials.

My own country of Jordan has been fortunate to make such change in a generally orderly and peaceful manner. Our recent political development is based firmly on our liberal democratic constitution. Its principles are reflected and detailed in the recently ratified Jordanian National Charter, drafted by a royal commission representing all political forces in the country. The charter commits the state and all its citizens to a pluralistic democracy based on respect for human and political rights.

Our progress is not ours alone, for we see ourselves as a testing ground and potential model for democratic transformation throughout the Middle East. This trend reflects a deeper, historic change in Arab attitudes. Driven by a renewed sense of realism and pragmatism, we are in the midst of deep and serious national reassessment, identifying the obstacles that have held us back, and articulating new and more realistic goals for the immediate future. The Arab national consensus is to develop a just, productive, and stable order at home before we can aspire to re-order the region, or contribute to historic change throughout the world. The foundation of the new Arab order must be democratic pluralism and respect for human rights which will release vital forces that have not been fully tapped in recent decades—forces of energy, intellect, confidence, creativity and national commitment.

We already see signs of this new Arab spirit. In several recently democratising Arab countries, scores of new political parties and publications have been established. Human rights organizations are increasingly active. The press is coming to life with debate and new ideas. Schoolchildren engage in discussions about the forms and values of democracy.

We also see it in the dramatic recent progress in negotiations to resolve the Arab-Israeli conflict. For the first time in half a century, we may be on the threshold of a truly new and rational regional order. We have an opportunity to shift the momentum in our region from warfare and waste to justice, reconciliation and peace, based on the application of international law and United Nations resolutions. If we can succeed in this endeavor, we shall have destroyed the single greatest obstacle that has stalled Arab political, economic and cultural development for nearly five decades.

The force that drives the new momentum for change in the Arab world is grounded firmly in the burgeoning spirit of democracy, pluralism, and nation-building. You recognize that spirit because you have carried it within you since your days as students at A.U.B. Many of us who did not attend A.U.B. also recognize it in the quality of the individuals A.U.B. graduated and their immense contribution to Arab development. Throughout the Arab world, it is hard to find a hospital, a university, a development bank, a successful engineering firm, or a planning ministry that does not count several A.U.B. graduates among its founders or its current managers.

If the new spirit I speak of permeates the Arab world today, it is in large part because A.U.B. graduates such as yourselves have been spreading throughout the Arab world for the last several generations. For here—in this spirit, in this room—is the ultimate worth of your university and its mission. And here—in your hearts and lives—is the indestructible ticking of the clock that adorned the tower of College Hall. For some ideas—like some clocks—can never be silenced. You are such an idea.

Today, you are called upon as never before to give life to the legacy you represent. You were fortunate to study at an institution that was driven by the commitment "that you may have life and have it abundantly." Your challenge today is to prove to that institution that it is fortunate to have your support, and to have it more abundantly. Now is the time to demonstrate the spirit that was instilled in you at A.U.B.—the spirit of humanity and hope that is so central to your university, your lives, your Arab nation, the future aspirations of your children, and the eternal promise of our human family.

Today, as never before, your university needs you more than you ever needed your university. This is the moment when all Arabs can help promote the growth and development of A.U.B., just as the university has always promoted the growth and development of the Arab world. This is the moment when you can recognise the gift that A.U.B. gave to you, to your countries, and to your Arab nation. This is the moment for you to recognise your alma mater, to repay it, to thank it, to honour it, and to perpetuate its great human mission. It is also the single greatest tribute that you can pay to the enduring legacy and mission of A.U.B., as well as to the bountiful promise of an Arab nation that has suffered, but not succumbed—a nation that rises again, like College Hall, like A.U.B. itself, like Lebanon, to rededicate itself to its mission of hope.

Thank you again for inviting me to share this occasion with you. May your personal

and professional endeavors always reflect the strength and success of your university, and the blessings of God.

Thank you very much.

SENATOR HAYAKAWA

Mr. HELMS. Mr. President, all of us were saddened to learn of the passing earlier today of our former colleague, Sam Hayakawa of California.

Of the many unique Senators with whom I have had the honor of serving, Sam Hayakawa was among the most fascinating. His was a life of many careers—his time in the Senate being but one.

When he was elected to the Senate in 1976, S.I. Hayakawa was 70 years old. During his early years, he was a college professor in the Midwest. I believe he began his academic career in the 1930s at the University of Wisconsin, moved on to the Illinois Institute of Technology, and then to the University of Chicago.

Mr. President, during his years in Chicago, he developed a lifelong appreciation for jazz music and African art. In fact, he was widely known as an expert in both fields. He also carved out a national reputation as a semanticist. One of his books, "Language in Thought and Action" became a classic. For millions of American college students it is required reading.

In 1955, Dr. Hayakawa joined the faculty of San Francisco State College here he taught for the next 13 years. In 1969, he was selected by then-Gov. Ronald Reagan to be President of the college.

As president of San Francisco State, Dr. Hayakawa stood up to the radical students who saw college as an opportunity to participate in antiwar demonstrations instead of a place to get an education. I confess that I wish more college presidents had thought the same.

Indeed, it was his opposition to student radicals that made Hayakawa famous with patriotic Americans—which at the time was the large majority of the American public. It seems like it was just yesterday that Dot Helms and I saw him on the evening news shutting down a demonstration by pulling the wires out of the students' sound system. To Dr. Hayakawa, it was simple: Students who were in school to learn had a right to do so without being interrupted or disturbed by the campus radicals.

Sam Hayakawa came to the Senate in 1976. His campaign—in which he defeated a telegenic incumbent—was marked by the kind of humor and wit that so endeared him to so many of us here. Some of his commercials became classics—including one picturing the windshield wipers of an automobile going back and forth, back and forth, the message being that the incumbent had flip-flopped on the major issues of the day.

During the years we served together in the Senate, I had the privilege of serving with Senator Hayakawa on the Agriculture and Foreign Relations Committee. He could always be counted upon to bring—often with humor—a dose of reality to debate. He was often ahead of his time. I recall that in 1982, he brought before the Agriculture Committee a proposal to require able-bodied food stamp recipients to participate in Workfare—a proposal attracting a great deal of attention in this Presidential election year.

As a Senator, Sam Hayakawa stood by his convictions—even when they were not popular. Although he was of Japanese descent, he opposed vigorously the proposal to indemnify Japanese-Americans relocated during the Second World War. Despite California's large Hispanic population, he led efforts in the Senate to make English the official language of our Nation.

In 1982, Senator Hayakawa chose not to run for reelection. However, he was not yet ready to retire. He returned home to San Francisco, where he headed up "US English," a group dedicated to making English our national language.

Mr. President, Sam Hayakawa was one of those rare individuals who improved the lives of all those he touched. I feel privileged to have known him, and deeply regret his passing.

PUBLIC TELECOMMUNICATIONS ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate now proceed to Calendar No. 333, S. 1504, a bill to authorize appropriations for public broadcasting, and for other purposes.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

CLOTURE MOTION ON THE MOTION TO PROCEED

Mr. MITCHELL. Mr. President, in light of the objection by the distinguished Republican leader to immediately proceed to that bill, I now move to proceed to Calendar No. 333, S. 1504, and I send a cloture motion to the desk and ask that 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 debate on the motion to proceed to S. 1504, a bill to authorize appropriations for public broadcasting, and for other purposes:

Daniel K. Inouye, Wendell Ford, Harry Reid, Alan Cranston, Jay Rockefeller, Pat Leahy, George Mitchell, Joe Biden, Terry Sanford, Brock Adams, John Glenn, Tom Daschle, Al Gore, Timothy Wirth, Christopher J. Dodd, Joe Lieberman, Ernest F. Hollings, Slade Gorton.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the vote on the cloture motion just stated occur at 12 noon on Tuesday, March 3, and that the live quorum be waived.

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

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, there will be no rollcall votes tomorrow or Monday. The Senate will be in session only on a pro forma basis tomorrow. There will be no session on Monday. The next vote will be, in accordance with the order just obtained, at noon on Tuesday. It will be a vote on a motion to invoke cloture on the motion to proceed to the bill to fund the Corporation for Public Broadcasting.

We will then proceed from that time on. The regular caucuses will occur at 12:30 on Tuesday, March 3, shortly following the cloture vote just scheduled.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations:

Calendar No. 501, Alan Greenspan, to be a member of the Board of Governors of the Federal Reserve System;

Calendar No. 502, Alan Greenspan, to be Chairman of the Board of Governors of the Federal Reserve System;

Calendar No. 503, Frank G. Zarb, to be a Director of the Securities Investor Protection Corporation;

Calendar No. 504, J. Carter Beese, Jr., to be a member of the Securities and Exchange Commission;

Calendar No. 505, William C. Perkins, to be a Director of the Federal Housing Finance Board;

Calendar No. 506, Lawrence U. Costiglio, to be a Director of the Federal Housing Finance Board;

Calendar No. 507, Marilyn R. Seymann, to be a Director of the Federal Housing Finance Board; and

Calendar No. 508, Daniel F. Evans, Jr., to be a Director of the Federal Housing Finance Board.

Nominations reported today by the Committee on the Judiciary:

Karen J. Williams, to be U.S. circuit judge;

Mary Little Parell, to be U.S. district judge;

Garland E. Burrell Jr., to be U.S. district judge;

Roderick R. McKelvie, to be U.S. district judge;

William B. Traxler, to be U.S. district judge;

David J. Jordan, to be U.S. attorney;

Jack W. Selden, to be U.S. attorney; and the nomination reported today by the Armed Services Committee:

Adm. David Jeremiah, to be Admiral and Vice Chairman, Joint Chiefs of Staff.

I further ask unanimous consent that the Senate proceed to their 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; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

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

The nominations, considered and confirmed en bloc, are as follows:

FEDERAL RESERVE SYSTEM

Alan Greenspan, of New York, to be a member of the Board of Governors of the Federal Reserve System.

Alan Greenspan, of New York, to be Chairman of the Board of Governors of the Federal Reserve System.

SECURITIES INVESTOR PROTECTION CORPORATION

Frank G. Zarb, of New York, to be a Director of the Securities Investor Protection Corporation.

SECURITIES AND EXCHANGE COMMISSION

J. Carter Beese, Jr., of Maryland, to be a member of the Securities and Exchange Commission.

FEDERAL HOUSING FINANCE BOARD.

William C. Perkins, of Wisconsin, to be a Director of the Federal Housing Finance Board.

Lawrence U. Costiglio, of New York, to be a Director of the Federal Housing Finance Board.

Marilyn R. Seymann, of Arizona, to be a Director of the Federal Housing Finance Board.

Daniel F. Evans, Jr., of Indiana, to be a Director of the Federal Housing Finance Board.

THE JUDICIARY

Karen J. Williams, of South Carolina, to be U.S. circuit judge for the Fourth Circuit.

Mary Little Parell, of New Jersey, to be U.S. district judge for the District of New Jersey.

Garland E. Burrell, Jr., of California, to be U.S. district judge for the Eastern District of California.

Roderick R. McKelvie, of Delaware, to be U.S. district judge for the District of Delaware.

William B. Traxler, Jr., of South Carolina, to be U.S. district judge for the District of South Carolina.

David James Jordan, of Utah, to be U.S. attorney for the District of Utah for a term of 4 years.

Jack W. Selden, of Alabama, to be U.S. attorney for the Northern District of Alabama.

DEPARTMENT OF THE NAVY

The following-named officer for reappointment as Vice Chairman of the Joint Chiefs of Staff under title 10, United States Code, section 154:

To be Vice Chairman of the Joint Chiefs of Staff

To be admiral

Adm. David E. Jeremiah, 542-34-3914, U.S. Navy.

STATEMENT ON THE RECONFIRMATION OF ALAN GREENSPAN

Mr. SASSER. Mr. President, I rise to address the issue of the reconfirmation of Dr. Alan Greenspan to a second term as Chairman of the Federal Reserve. It has been written that the chairmanship of the Federal Reserve is the second most important position in the United States. Indeed, Nobel Laureate James Tobin told the Senate Banking Committee recently that the Federal Reserve made the most important decisions of political economy in the world.

Obviously, given current economic conditions, we cannot take lightly the vote we cast today. The Chairman of the Federal Reserve should be a competent, intelligent, knowledgeable, and experienced regulator. He should command the respect of the financial markets and be capable of moving quickly in time of crisis.

Mr. President, I think Chairman Greenspan easily meets these qualifications. In particular, he did a masterful job in keeping the financial markets from collapsing during the 1987 stock market crash.

Dr. Greenspan also displays the attributes of a tough bank regulator. Over the last 5 years, banks for which the Federal Reserve was primary regulator posed the lowest losses to the bank insurance fund—far lower than those of national banks.

However, on policy matters, Mr. President, I cannot be as complimentary. I think the Federal Reserve under Chairman Greenspan has taken liberties with the Glass-Steagall Act and developed interpretations that are not intended by Congress.

And most of all—and this is no secret—I disagree strongly with Dr. Greenspan's great concern about, and preoccupation with, inflation. I think the Federal Reserve kept interest rates too high for too long in the late 1980's in an unnecessary and destructive war against inflation.

Mr. President, I think monetary policy precipitated this 20-month recession and it certainly has not been effective in getting us out. The Federal Reserve's response to the recession has been laggard. To quote James Tobin, the Federal Reserve has been "too slow, too little, and too late."

Moreover, the Federal Reserve appears to have let us down on an implicit understanding of the 1990 budget agreement—at the time we agreed that monetary policy was to take the place of fiscal policy as the engine that would keep the economy moving.

Today, at a time when there would appear to be no downside in reducing rates further, the Federal Reserve is holding back. It is sending mixed signals when it should be sending a strong signal that it will do everything possible to bring the country out of its economic misery.

Mr. President, this is not an easy vote to cast. I am sure that I will continue to disagree strongly with many of the policies pursued by Dr. Greenspan as Chairman of the Federal Reserve. But today I will support his nomination for a second term because I believe that he is a capable, competent regulator of the banking industry and the financial markets.

Thank you, Mr. President. I yield the floor.

STATEMENT ON THE NOMINATION OF KAREN WILLIAMS

Mr. THURMOND. Mr. President, I rise today to voice my strong support for President Bush's nominee, Mrs. Karen Williams, of my home State of South Carolina, who was nominated to serve as a U.S. circuit judge for the Fourth Circuit Court of Appeals.

Mrs. Williams is a native of Orangeburg, SC, and a graduate of Columbia College, and the University of South Carolina School of Law where she graduated cum laude. In law school, Mrs. Williams was a member of the Order of the Coif, Order of the Wig and Robe, Law Review, and received the American Jurisprudence Award in Estate and Gift Taxation. After law school, Mrs. Williams joined the law firm presently known as Williams and Williams in Orangeburg, SC.

Mrs. Williams has been actively involved in her community serving as: Director of the Orangeburg County Mental Retardation Board; director of the Regional Medical Center Hospital Foundation, and as a member of the University of South Carolina School of Law Advisory Board and Law Partnership Board. As well, Mrs. Williams has contributed to the State and local bar associations by serving in such capacities as: A member of the Board of Commissioners on Grievances and Discipline for the State of South Carolina; a member of the probate code study committee, and a member of the business corporation code revision committee.

Mr. President, Mrs. Williams is a woman of ability, integrity, and independence. Her outstanding record speaks for itself. I believe that Mrs. Williams has the experience and temperament to become an outstanding judge on the fourth circuit. It was with considerable pride that I recommended Mrs. Williams to President Bush for this very important position, and it is

with an equal amount of pride that I recommend her confirmation today. I strongly support her nomination and urge my colleagues to do the same.

Mr. President, I might add that Mrs. Williams, when confirmed, will be the first woman to serve as a judge on the Fourth Circuit Court of Appeals.

STATEMENT ON THE NOMINATION OF MS. MARY LITTLE PARELL

Mr. LAUTENBERG. Mr. President, I rise to support the confirmation of Mary Little Parell for a position on the U.S. District Court for the District of New Jersey.

An attorney who has operated at the most senior levels of government, private and corporate practice—her wealth of experience should enrich the court and the quality of judging.

Ms. Parell is an honors graduate of Bryn Mawr College. She graduated in 1972 from Villanova Law School, where she served as associate editor of the Law Review.

After law school, she joined McCarter and English, a large broad-based firm in Newark, NJ, where she became partner in 1980. Her practice was devoted to litigation, concentrating in the areas of insurance law, product liability and negligence, contracts, and family law.

In 1984, she joined the Governor's cabinet as commissioner of banking. As the chief of the State's banking department, she was intimately involved in all aspects of administrative law, including not only the promulgation and implementation of regulations, but the conduct of adjudicatory proceedings.

Ms. Parell presided over hearings on applications for new bank charters. She heard from witnesses and experts, and gained valuable experience in judging. From all indications, she distinguished herself in the eyes of the applicants and the attorneys who appeared before her.

In 1990 Ms. Parell joined the Prudential Property and Casualty Insurance Co. as vice president and general counsel. She is currently associate general counsel.

Throughout her career, Ms. Parell has demonstrated a commitment to public service within the bar and outside it. She chaired the State Bar's Committee on Rights of the Mentally Handicapped and remained deeply involved in the legal representation of the disabled.

She has given of her time to the YMCA of Newark, the New Jersey Historical Society, and community service activities of the Bryn Mawr Club.

She received a unanimous rating of qualified from the American Bar Association.

Mr. President, I would note that notwithstanding her varied career, Ms. Parell has not had occasion to practice criminal law. Yet a major part of her time will be spent presiding over criminal cases. She will have to address new and complex legal issues.

Based on her record and the input of those who know her, I believe she has the intelligence and the dedication to learn what she needs to know. And, more importantly, I believe she has the temperament, and the commitment to justice that will enable her to succeed and to serve the public well.

I am pleased to support the confirmation of Mary Little Parell as a district court judge for the District of New Jersey.

STATEMENT ON THE NOMINATION OF JUDGE WILLIAM B. TRAXLER, JR.

Mr. THURMOND. Mr. President, I rise today to voice my strong support for the nomination of Judge William B. Traxler, Jr., President Bush's nominee to be a U.S. district judge for the District of South Carolina.

Judge Traxler is a native of Greenville, SC, a graduate of Davidson College, and the University of South Carolina School of Law. During his undergraduate studies, he was a Dean's list student, and a member of the Scabbard and Blade Honorary Military Society. In law school, Judge Traxler was a member of the Law Review, Omicron Delta Kappa, and was the director of an American Bar Association grant which was administered by the law school.

After law school, Judge Traxler served in the office of the Governor of South Carolina as a part-time law clerk to the legislative affairs department. In 1973, he joined his father in the private practice of law in Greenville, SC. From 1975 until 1985, Judge Traxler served in the State district attorney's office as the chief deputy solicitor and later as solicitor for the Thirteenth Judicial Circuit. Since 1985, Judge Traxler has served as a resident judge, which is the highest trial court judge, for the Thirteenth Judicial Circuit in Greenville, SC.

He has received numerous awards from professional and civic groups. As well, Judge Traxler has made significant contributions to State and local bar associations throughout his legal career. He is married and has two children.

Mr. President, the American Bar Association found Judge Traxler to be "well qualified," it's highest rating, for this position. As well, numerous individuals have endorsed him as one of the best trial judges in South Carolina. I was very pleased to recommend Judge Traxler to President Bush to serve as a district court judge and I am confident that he will be an outstanding addition to the Federal bench in South Carolina. Mr. President, I will vote in favor of his confirmation and urge my colleagues to do the same.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

TRADE POLICY AGENDA AND TRADE AGREEMENTS PROGRAM—MESSAGE FROM THE PRESIDENT—PM 111

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance:

To the Congress of the United States:

In accordance with the provisions of section 163 of the Trade Act of 1974, as amended (19 U.S.C. 2213), I transmit herewith the 1992 Trade Policy Agenda and 1991 Annual Report on the Trade Agreements Program.

GEORGE BUSH.

THE WHITE HOUSE, *February 27, 1992.*

MESSAGES FROM THE HOUSE

At 12:35 p.m., a message from the House of Representatives, delivered by Mr. Hayes, one of its reading clerks, announced that the House had passed the bill (S.1579) to provide for regulation and oversight of the development and application of the telephone technology known as pay-per-call, and for other purposes, with amendments, in which it requests the concurrence of the Senate.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

H.R. 2212. An act regarding the extension of most-favored nation treatment to the products of the Peoples Republic of China, and for other purposes.

The enrolled bill was subsequently signed by the President Pro Tempore [Mr. BYRD].

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

S. 120. A bill for the relief of Timothy Bostock (Rept. No. 102-257).

S. 800. A bill for the relief of Carmen Victoria Parini, Felix Juan Parini, and Sergio Manuel Parini (Rept. No. 102-258).

By Mr. BIDEN, from the Committee on the Judiciary, without amendment and with a preamble:

H.J. Res. 343. A joint resolution to designate March 12, 1992, as "Girl Scouts of the United States of America 80th Anniversary Day".

H.J. Res. 350. A joint resolution designating March 1992 as "Irish-American Heritage Month".

H.J. Res. 395. A joint resolution designating February 6, 1992, as "National Women and Girls in Sports Day".

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

S.J. Res. 35. A joint resolution proposing an amendment to the Constitution of the United States relative to contributions and expenditures intended to affect Congressional and Presidential elections.

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment and an amendment to the title and with a preamble:

S.J. Res. 139. A joint resolution to designate October 1991, as "National Lock-In-Safety Month".

By Mr. BIDEN, from the Committee on the Judiciary, without amendment and with a preamble:

S.J. Res. 210. A joint resolution to designate March 12, 1992, as "Girl Scouts of the United States of America 80th Anniversary Day".

S.J. Res. 214. A joint resolution to designate May 16, 1992, as "National Awareness Week for Life-Saving Techniques".

S.J. Res. 218. A joint resolution designating the calendar year 1993 as the "Year of American Craft: A Celebration of the Creative Work of the Hand".

S.J. Res. 224. A joint resolution designating March 1992 as "Irish-American Heritage Month".

S.J. Res. 233. A joint resolution to designate the week beginning April 12, 1992, as "National Public Safety Telecommunicators Week."

S.J. Res. 239. A joint resolution designating February 6, 1992, as "National Women and Girls in Sports Day".

S.J. Res. 240. A joint resolution designating March 25, 1992 as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy."

S.J. Res. 244. A joint resolution to recognize and honor the National Conference of Commissioners on Uniform State Laws on its Centennial for its contribution to a strong federal system of government.

S.J. Res. 246. A joint resolution to designate April 15, 1992, as "National Recycling Day".

S.J. Res. 254. A joint resolution commending the New York Stock Exchange on the occasion of its bicentennial.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary:

Karen J. Williams, of South Carolina, to be a judge of the U.S. circuit court.

Mary Little Parell, of New Jersey, to be U.S. district judge for the District of New Jersey.

Garland E. Burrell, Jr., of California, to be U.S. district Judge for the Eastern District of California.

Roberick R. McKelvie, of Delaware, to be U.S. district judge for the District of Delaware.

William B. Traxler, Jr., of South Carolina, to be U.S. District Judge for the District of South Carolina.

David James Jordan, of Utah, to be U.S. attorney for the District of Utah for a term of 4 years.

Jack W. Selden, of Alabama, to be U.S. attorney for the Northern District of Alabama for the term of 4 years.

By Mr. NUNN, from the Committee on Armed Services:

The following-named officer for reappointment as Vice Chairman of the Joint Chiefs of Staff under title 10, United States Code, section 154:

To be Vice Chairman of the Joint Chiefs of Staff

To be admiral

Adm. David E. Jeremiah, [redacted] U.S. Navy.

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, January 23, January 24, January 25, and February 5, 1992 at the end of the Senate proceedings.)

*In the Air Force there is 1 appointment to the grade of brigadier general (Rudolf F. Peksens) (Reference No. 457–2)

*Colonel Glen W. Van Dyke, ANG, to be brigadier general (Reference No. 672)

*In the Army there are 37 appointments to the grade of brigadier general (list begins with Richard A. Chilcoat) (Reference No. 730)

*Lieutenant General Thomas S. Moorman, USAF for reappointment in the grade of lieutenant general (Reference No. 818)

*Lieutenant General William H. Reno, USA to be placed on the retired list in the grade of lieutenant general (Reference No. 820)

*Major General Thomas P. Carney, USA to be lieutenant general (Reference No. 821)

*In the Army Reserve there are 26 appointments to the grade of major general and below (list begins with Allen E. Chandler) (Reference No. 823)

*In the Marine Corps there are 7 promotions to the grade of major general (list begins with Jefferson D. Dowell, Jr.) (Reference No. 824)

*In the Marine Corps there are 11 promotions to the grade of brigadier general (list begins with Larry T. Garrett) (Reference No. 825)

**In the Air Force Reserve there are 13 promotions to the grade of lieutenant colonel (list begins with Janet S. Drew) (Reference No. 830)

**In the Army there are 9 promotions to the grades of colonel and below (list begins with James M. Norton) (Reference No. 831)

**In the Army there are 10 promotions to the grade of colonel (list begins with Jerry W. Black) (Reference No. 832)

**In the Army Reserve there are 47 promotions to the grade of colonel and below (list begins with James E. Brown) (Reference No. 833)

**In the Army Reserve there are 19 promotions to the grade of colonel (list begins with Emmett M. Ade) (Reference No. 835)

**In the Army there are 18 promotions to the grade of colonel (list begins with William V. Adams) (Reference No. 836)

**In the Army there are 43 promotions to the grade of lieutenant colonel (list begins with Robert L. Ackley) (Reference No. 837)

**In the Army Reserve there are 11 appointments to the grade of lieutenant colonel (list begins with Walter M. Braunohler) (Reference No. 838)

**In the Army there are 4 promotions to the grade of major (list begins with Brad A. Case) (Reference No. 839)

**In the Navy there are 6 promotions to the grade of major (list begins with Edward L. Spires) (Reference No. 840)

**In the Navy and Naval Reserve there are 29 appointments to the grades of commander and below (list begins with John G. Hannink) (Reference No. 841)

**In the Air Force Reserve there are 60 promotions to the grade of colonel (list begins with Douglas K. Acheson) (Reference No. 842)

**In the Air Force Reserve there are 261 promotions to the grade of colonel (list begins with Robert O. Amaon) (Reference No. 843)

**In the Army there are 318 promotions to the grade of major (list begins with William R. Addison) (Reference No. 846)

**In the Army there are 138 promotions to the grade of colonel (list begins with James E. Albritton) (Reference No. 847)

**In the Army Reserve there are 61 promotions to the grade of lieutenant colonel (list begins with John A. Atwood) (Reference No. 848)

**In the Army there are 74 appointments to the grades of captain and below (list begins with John G. Angelo) (Reference No. 849)

**In the Marine Corps there are 931 appointments to the grade of second lieutenant (list begins with Arnoux Abraham) (Reference No. 850)

**In the Navy there are 1,034 appointments to the grade of ensign (list begins with Michael Narciso Abreu) (Reference No. 852)

*Brigadier General John T. Coyne, USMCR to be major general (Reference No. 854)

**In the Army there are 5 promotions to the grade of colonel and below (list begins with Robert F. Gonzalez) (Reference No. 872)

**In the Army there are 3 promotions to the grade of lieutenant colonel (list begins with Francisco B. Iriarte) (Reference No. 873)

**In the Navy there are 48 appointments to the grade of lieutenant (list begins with Mason X. Dang) (Reference No. 874)

**In the Navy there are 24 appointments to the grade of lieutenant and below (list begins with Bruce W. Glasko) (Reference No. 875)

**In the Navy there are 247 appointments to the grade of captain and below (list begins with Paul R. Cox) (Reference No. 876)

**In the Navy there are 700 appointments to the grade of commander and below (list begins with John Geoffrey Speer) (Reference No. 877)

**In the Navy there are 307 appointments to the grade of lieutenant (list begins with Neal Adams) (Reference No. 878)

**In the Air Force Reserve there are 28 promotions to the grade of lieutenant colonel (list begins with Garnett T. Alexander, Jr.) (Reference No. 890)

**In the Army Reserve there are 31 promotions to the grade of colonel and below (list begins with Lucien A. Brundage) (Reference No. 891)

*Major General Alfred J. Mallette, USA to be lieutenant general (Reference No. 822)

*Colonel Bobby G. Hollingsworth, USMCR to be brigadier general (Reference No. 826)

Total: 4,569.

Mr. DIXON. Mr. President, for the Committee on Armed Services, I report favorably a nomination list in the Army which was printed in full in the CONGRESSIONAL RECORD of January 22, 1992, and ask, to save the cost of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators:

Army nominations beginning Thomas C. Ada and ending Molly S. Maguire, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on January 22, 1992.

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. KOHL:

S. 2270. A bill to amend the provision of title 5, United States Code, to provide that consultation with the private sector and ensuring practical application of research and development through Federal funds shall be used as criteria in performance appraisals of certain Federal employees, and for other purposes; to the Committee on Governmental Affairs.

S. 2271. A bill to provide that each agency shall include a competitiveness impact statement for research and development funding in budget requests, and for other purposes; to the Committee on Governmental Affairs.

By Mr. DECONCINI:

S. 2272. A bill to amend the Internal Revenue Code of 1986 to permit penalty-free distributions from qualified retirement plans for unemployed individuals; to the Committee on Finance.

By Mr. DOMENICI (for himself, Mr. CHAFEE, Mr. DANFORTH, Mr. MACK, Mr. RUDMAN and Mr. SEYMOUR):

S. 2273. A bill to amend the Internal Revenue Code of 1986 to stimulate economic growth by revitalizing the domestic real estate market, and for other purposes; to the Committee on Finance.

By Mr. DOMENICI (for himself, Mr. MACK, Mr. SEYMOUR and Mr. DANFORTH):

S. 2274. A bill to amend the National Housing Act to increase the limit for mortgages eligible to be insured by the Secretary of the Department of Housing and Urban Development, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DOMENICI (for himself, Mr. MACK, Mr. SEYMOUR, Mr. DANFORTH and Mr. D'AMATO):

S. 2275. A bill to require the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Federal Housing Finance Board to study and report on the development of a secondary market for commercial real estate mortgages and to require the Resolution Trust Corporation to report on the impact of its commercial real estate securitization program; to the Committee on Banking, Housing, and Urban Affairs.

S. 2276. A bill to permit the Director of the Office of Thrift Supervision to relax capital requirements applicable to certain savings associations subsidiaries in limited circumstances; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. COHEN (for himself, Mr. BOND, Mr. BROWN, Mr. SIMPSON, Mr. CHAFEE, Mr. MCCAIN, Mr. NICKLES and Mr. SEYMOUR):

S. 2277. A bill to amend the Public Health Service Act to facilitate the entering into of cooperative agreements between hospitals for the purpose of enabling such hospitals to share expensive medical or high technology equipment or services, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. SHELBY:

S. 2278. A bill to amend section 801 of the Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901, to require life imprisonment without parole, or death penalty, for first degree murder; to the Committee on Governmental Affairs.

By Mr. LEVIN:

S. 2279. A bill to provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes; to the Committee on Governmental Affairs.

By Mr. BRADLEY (for himself and Mr. LAUTENBERG):

S. 2280. A bill to extend until January 1, 1995, the suspension of duties on certain chemicals; to the Committee on Finance.

S. 2281. A bill to extend duty-free treatment to certain chemicals; to the Committee on Finance.

By Mr. HEFLIN:

S. 2282. A bill to direct the Secretary of Transportation to carry out a limited access highway project in the vicinity of Dothan, Alabama; to the Committee on Commerce, Science, and Transportation.

S. 2283. A bill to authorize appropriations for the purposes of carrying out the activities of the State Justice Institute for fiscal years 1993, 1994, 1995, and 1996, and for other purposes; to the Committee on the Judiciary.

By Mrs. KASSEBAUM:

S. 2284. A bill to permit insured banks to elect to forgo deposit insurance, provided such banks are subject to oversight by the Board of Governors of the Federal Reserve System; to the Committee on Banking, Housing, and Urban Affairs.

By Ms. MIKULSKI:

S. 2285. A bill to amend the Public Health Service Act to revitalize the intramural research program of the National Institutes of Health, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. ROCKEFELLER (for himself, Mr. WOFFORD, Mr. LIEBERMAN and Mr. KERRY):

S. 2286. A bill to provide support for enterprises engaged in the research, development, application, and commercialization of advanced critical technologies through a private consortium of such enterprises; to the Committee on Commerce, Science, and Transportation.

By Mr. GORTON:

S. 2287. A bill to amend the Forest Resources Conservation and Shortage Relief Act of 1990 to modify the basis for a determination by the Secretary of Commerce to increase the volume of unprocessed timber originating from State lands that will be prohibited from export, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BROWN (for himself and Mr. MCCAIN):

S. 2288. A bill to amend part F of title IV of the Social Security Act to allow States to assign participants in work supplementation programs to existing unfilled jobs, and to amend such part and the Food Stamp Act of 1977 to allow States to use the sums that would otherwise be expended on food stamp benefits to subsidize jobs for participants in work supplementation programs, and to provide financial incentives for States and localities to use such programs; to the Committee on Finance.

By Mr. ROTH:

S. 2289. A bill to establish procedures to disclose to the public the cost to society of federal programs and regulations; and for other purposes; to the Committee on Rules and Administration.

By Mr. WIRTH (for himself, Mr. KERREY, Mr. RIEGLE, Mr. HARKIN, Mr. SIMON, Mr. BRYAN, Mr. CONRAD, Mr. SHELBY, Mr. REID, Mr. LEVIN, Mr. DECONCINI, Mr. LAUTENBERG, Mr. BINGAMAN, Mr. DASCHLE, Mr. PRYOR, Mr. ADAMS, Mr. ROCKEFELLER and Mr. FOWLER):

S. 2290. A bill to require public disclosure of examination reports of certain failed depository institutions; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SEYMOUR (for himself, Mr. CRANSTON and Mr. LIEBERMAN):

S. 2291. A bill to revise the eligibility requirements applicable to emergency and extended unemployment compensation benefits; to the Committee on Finance.

By Mr. ROTH (for himself and Mr. SYMMS):

S. 2292. A bill to amend the Internal Revenue Code of 1986 to allow an incremental investment tax credit on a permanent basis, and for other purposes; to the Committee on Finance.

By Mr. RIEGLE:

S. 2293. A bill to make emergency supplemental appropriations to provide a short-term stimulus for the economy and meet the urgent needs for the fiscal year ending September 30, 1992, and for other purposes; to the Committee on Appropriations.

S. 2294. A bill to amend the Internal Revenue Code of 1986 to promote long-term investment-led economic growth; to the Committee on Finance.

S. 2295. A bill to amend the Internal Revenue Code of 1986 to promote fairness within the tax code; to the Committee on Finance.

By Mr. AKAKA:

S. 2296. A bill to amend the Packers and Stockyards Act, 1921 to make it unlawful for any stockyard owner, market agency, or dealer to transfer or market nonambulatory livestock, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. PRESSLER:

S. 2297. A bill to enable the United States to maintain its leadership in land remote sensing by providing data continuity for the Landsat program, by establishing a new national land remote sensing policy, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BINGAMAN:

S. 2298. A bill to amend the Federal Food, Drug, and Cosmetic Act to regulate the sale and distribution of tobacco products containing tar, nicotine, additives, carbon monoxide, and other potentially harmful con-

stituents, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SARBANES (for himself and Mr. SASSER):

S. 2299. A bill to amend title 31, United States Code, to assist State and local governments in financing urgent public needs caused by the recession by providing for Federal payments to those State and local governments, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

S. 2300. A bill to amend title 31, United States Code, to assist State and local governments in meeting urgent public needs by providing low-cost Federal loans to State and local governments, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SASSER (for himself and Mr. SARBANES):

S. 2301. A bill to amend the Intermodal Surface Transportation Efficiency Act of 1991, the Federal Transit Act, and the Federal Water Pollution Control Act to provide assistance to States for certain infrastructure projects, and for other purposes; to the Committee on Environment and Public Works.

By Mr. RIEGLE (for himself and Mr. COATS):

S. 2302. A bill to require the Secretary of Energy to offer to enter into a Vehicle Fuel Efficiency Research Agreement, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. KASTEN (for himself, Mr. DOLE, Mr. BUMPERS, Mr. THURMOND, Mr. COATS, Mr. PRESSLER, Mr. DASCHLE, Mr. BURNS, Mr. COCHRAN, Mr. D'AMATO, Mr. DECONCINI, Mr. DODD, Mr. DURENBERGER, Mr. GARN, Mr. GRASSLEY, Mr. HOLLINGS, Mr. JOHNSTON, Mr. LEVIN, Mr. LIEBERMAN, Mr. LUGAR, Mr. MACK, Mr. MURKOWSKI, Mr. PRYOR, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. RUDMAN, Mr. SEYMOUR, Mr. SHELBY, Mr. STEVENS, Mr. REID, Mr. ROTH, Mr. DOMENICI and Mr. WALLOP):

S.J. Res. 262. A joint resolution designating July 4, 1992, as "Buy American Day"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. PRESSLER:

S. Con. Res. 96. A concurrent resolution to express the sense of the Congress that the United States should recognize the independence of the Republic of Kosova, extend full United States diplomatic recognition to the republic and provide effective leadership in international bodies to protect democracy and human rights in Kosova; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KOHL:

S. 2270. A bill to amend the provision of title 5, United States Code, to provide that consultation with the private sector and ensuring practical application of research and development through Federal funds shall be used as criteria in performance appraisals of certain Federal employees, and for other purposes; to the Committee on Governmental Affairs.

S. 2271. A bill to provide that each agency shall include a competitiveness impact statement for research and development funding in budget requests, and for other purposes; to the Committee on Governmental Affairs.

FEDERAL EMPLOYEE TECHNOLOGY TRANSFER ACT AND FEDERAL RESEARCH AND DEVELOPMENT COMMERCIALIZATION ACT

Mr. KOHL. Mr. President, I rise to introduce two bills entitled the Federal Employee Technology Transfer Act and the Federal Research and Development Commercialization Act. These bills are designed to promote greater cooperation between business and government in the area of research and development. And that is something we desperately need.

Last year, a report was issued by a nonprofit, nonpartisan, private sector organization called the Council on Competitiveness, not to be confused with the White House Council on Competitiveness.

The council's executive committee is chaired by George M.C. Fisher, chairman of Motorola. The board includes representatives of Ford Motor Co., IBM, Xerox, BellSouth, the National Association of Manufacturers, and B.F. Goodrich, to name a few.

The report issued by the council last year was called "Japanese Technology Policy: What's The Secret?" It concluded that the Japanese Government takes a pro-active, leadership role in helping industry with the research, development, and commercialization of new technologies. In Japan, Government and industry work closely together to formulate science and technology policy. In America, Government and industry do not.

But through this report, the businessmen and women of this country are sending a clear message: If America is to remain internationally competitive, we must begin to forge a nexus between government and industry. American Government and industry must start working together in order to level the international playing field.

Some would call this industrial policy and reject it out of hand, but I believe the American people and the business community are weary of listening to ideological rhetoric while our industries are losing market share and our workers are losing their jobs.

I have chosen one particular area in which we should begin to focus our attention: the Federal research and development complex. For fiscal year 1993, the President's budget proposes to spend $76 billion. In the budget documents, the administration talks a great deal about the need to transfer Federal technology to the private sector, the need to spend more on applied research which can benefit industry, and the need to shift from defense research to civilian research. The budget claims to target more R&D dollars to civilian and industrial purposes.

But the numbers do not match the rhetoric. According to experts from the Congressional Research Service, the Office of Technology Assessment, and the General Accounting Office, only about $5 billion of that $76 billion is specifically targeted to R&D with commercial or industrial applications. In other words, less than 8 percent of our R&D budget will have any real effect on U.S. competitiveness. If the Nation's top priorities are to become more competitive, improve our economy, and get people back to work, the R&D budget will not get us there.

Furthermore, overall R&D spending in the United States is dropping, while it is rising in other nations, like Japan and Germany. A headline in the February 21 New York Times states: "Research Spending Is Declining in United States As It Rises Abroad." Industry is doing less research because of the recession, and the Federal research is not responding to fill in the gap.

Meanwhile, OTA says that we have lost our manufacturing sector to the Japanese with little hope of recovering it without drastic changes in the way we do business. CRS reports that we lag behind all of our competitors when it comes to transferring technology, planning R&D with industry, and commercializing our ideas. We have lost the VCR market. We are losing the market for high-definition TV. How many other technologies do we have to lose before we take action to turn this situation around?

At the very least, I would propose that we start by involving the private sector in Federal budget decisions related to research and development spending. The two bills I am introducing will help us do that.

The Federal Employee Technology Transfer Act requires that Federal employees who allocate Federal R&D dollars will be evaluated in their job appraisals on the extent to which they seek advice and input from the private sector. This will ensure that the Federal Government makes an effort, wherever possible, to reach out to the private sector and find out what business and industry needs to become more competitive.

The Federal Research and Development Commercialization Act requires agencies to submit competitiveness impact statements with their R&D budget request to OMB and Congress. When agencies request appropriations for R&D, they should at least consider what, if any, impact this spending will have on the economy.

Both of these bills are small steps toward forging a nexus between government and industry. But I believe that both bills will bring about a change in attitude throughout the Federal bu-

reaucracy. If, indeed, our top priority is improving the Nation's competitiveness, then we are going to have to start thinking about what the Federal Government can do to help business and industry. We have to make it part of the bureaucratic mindset—to think about the economic impact associated with every Government action and every Federal spending decision.

These bills will move us a little closer to the development of working partnerships between business and Government. Hopefully, these partnerships will help restore America's competitive edge. It is through R&D and the commercialization of technology that new markets and new jobs will be made, and it is time to turn things around for America, and it's time to get Uncle Sam off the sidelines.

Mr. President, I ask unanimous consent that the text of these bills, as well as the article from the New York Times which I mentioned, be printed in the RECORD.

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

S. 2270

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 "Federal Employee Technology Transfer Act".

SEC. 2. PERFORMANCE APPRAISALS FOR PRIVATE SECTOR CONSULTATIONS AND PRACTICAL APPLICATION FOR RESEARCH AND DEVELOPMENT.

(A) PERFORMANCE APPRAISAL.—Section 4302a(c) of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(3)(A) In addition to the provisions of paragraph (1), an appraisal of the performance of employees described under subparagraph (B) shall take into account the extent to which such an employee—

"(i) consults and seeks advice from nongovernmental persons of relevant industries on the expenditure of Federal funds on applicable research and development; and

"(ii) ensures to the greatest extent possible that the expenditure of Federal funds on research and development shall have practical application beneficial to the national economy, without compromising the mission responsibility of the agency.

"(B) The provisions of subparagraph (A) shall apply to any employee who—

"(i) is covered by a performance appraisal system under this section; and

"(ii) holds a position with duties which include the awarding and administration of any loan, grant, contract, or other financial support involving the expenditure of Federal funds for research and development.".

(b) SENIOR EXECUTIVE SERVICE.—Section 4313 of title 5, United States Code, is amended—

(1) by inserting "(a)" before "Appraisals"; and

(2) by adding at the end thereof the following new subsection:

"(b)(1) In addition to the provisions of subsection (a), an appraisal of the performance of a senior executive described under paragraph (2) shall take into account the extent to which such an executive—

"(A) consults and seeks advice from nongovernmental persons of relevant industries on the expenditure of Federal funds on applicable research and development; and

"(B) ensures to the greatest extent possible that the expenditure of Federal funds on research and development shall have practical applications beneficial to the national economy, without compromising the mission responsibility of the agency.

"(2) The provisions of paragraph (1) shall apply to any senior executive who—

"(A) is covered by a performance appraisal system under this subchapter; and

"(B) holds a position with duties which include the awarding and administration of any loan, grant, contract, or other financial support involving the expenditure of Federal funds for research and development.".

S. 2271

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 "Federal Research and Development Commercialization Act".

SEC. 2. COMPETITIVENESS IMPACT STATEMENTS IN BUDGET REQUESTS FOR RESEARCH AND DEVELOPMENT FUNDING.

(a) AGENCY REQUESTS.—Section 1108 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(h)(1) The head of the agency shall include in any appropriation request under this section that relates to research and development funding a competitiveness impact statement.

"(2) The competitiveness impact statement required under paragraph (1) shall be a statement as described under section 5421 of the Omnibus Trade and Competitiveness Act of 1988 (2 U.S.C. 194b; Public Law 100-418; 102 Stat. 1468) and shall include the impact of such funding on—

"(A) the extent that the value added to the economy by such funding would be domestic;

"(B) the extent that such funding would have on the related industries market share;

"(C) the ability of the United States firms engaged in the manufacture, sale, distribution, or provision of goods or services to compete in foreign or domestic markets; and

"(D) the international trade and public interest of the United States.

"(3) This subsection provides no private right of action as to the need for or adequacy of the statement required under this subsection.".

(b) PRESIDENT'S BUDGET SUBMISSION.—Section 1105 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(g)(1) The President shall include in the budget submitted under subsection (a), a competitiveness impact statement for each request relating to research and development funding.

"(2) The competitiveness impact statement required under paragraph (1) shall be a statement as described under section 1108(h)(2).

"(3) This subsection provides no private right of action as to the need for or adequacy of the statement required under this subsection.".

[From the New York Times, Feb. 21, 1992]

RESEARCH SPENDING IS DECLINING IN U.S. AS IT RISES ABROAD

(By William J. Broad)

American spending on research and development has begun to fall for the first time since the 1970's, even as foreign rivals increase their investments in research, a Federal science agency said yesterday.

The amounts spent on research by the Federal Government and private industry each fell, worrying many analysts. They fear that the nation is losing its edge in the international race for discoveries and innovations that can form the basis for new goods and services.

The National Science Board, in its biennial report on the health of the nation's research enterprise, said overall spending on research by the Federal Government, industry, universities and private patrons slowed during the second half of the 1980's and began to fall in 1989, ending an era of extraordinary growth.

RECESSION AND END OF COLD WAR

A Federal analyst, who spoke on the condition of anonymity, said the decline was caused by cutbacks in military research with the end of the cold war and by industrial reductions prompted in part by the recession.

Dr. James J. Duderstadt, president of the University of Michigan and chairman of the National Science Board, said in a statement that the decline, when coupled with educational woes, "should give us real concern for the continued vitality of our research enterprise."

He noted that the United States, despite the drop, still leads the world in overall spending on scientific research.

Yet analysts already edgy about America's status in the global contest for economic advantage expressed worry about the research decline. American spending is falling, they said, as similar investments by Japan and Germany are rising rapidly.

"Clearly it's another warning sign," said Kent H. Hughes, president of the Council on Competitiveness, a private group in Washington that seeks policies to promote industrial vigor. "Especially on the private side, I'd be concerned. That's the research closest to commercialization and marketable products."

Dr. Frank Press, president of the National Academy of Sciences, a federally chartered organization of scientists that advises the Government, agreed. "We especially need to ask why industrial research is down when for other countries it's going up," he said. "That's a matter of concern."

News of the overall drop came in a 487-page report, "Science and Engineering Indicators." Its author, the National Science Board, is the policy-making arm of the National Science Foundation, a Federal agency that supports science research and is responsible for monitoring the nation's overall scientific health.

The biennial report is meant to give decision makers in Government, industry and academia concise information about national trends in science spending, education, manpower and the various fruits of the research enterprise, including patents, scientific papers and new technologies.

In recent decades, the only other drop in overall science spending occurred in the early 1970's as the United States reduced space research after the Apollo moon landings and cut back on military research amid an early thaw in the cold war.

The new report shows that the United States, beginning in 1975, embarked on a spending spree that climaxed in 1989 with an annual national expenditure for research and development of $154.31 billion. After that peak, the amount for 1990 fell to $151.57 billion. The figures are in constant 1991 dollars to cancel the effects of inflation.

The report said that preliminary data suggest that the total for 1991 will be about the same as 1990. But a Federal analyst working on the data suggested that the 1991 total might go down further.

"The dip," said the Federal analyst, who spoke on the condition of anonymity, "is not simply in Federal dollars but in almost all sectors.

"The bottom line for industry is that they had tremendous growth in the first half of the 80's," the analyst said. "And now, with a change of expectations in profits and sales, and a certain amount of consolidation, there's been a slowing in research and development."

From a peak in 1989 of $78.83 billion, annual research spending by American industry dropped to $77.84 billion in 1990, according to the report. It was the biggest drop in three decades.

PROBABLY WILL GET WORSE

"It's bad news," said Erich Bloch, former director of the National Science Foundation. "And it probably will get worse. A couple of years ago, the leveling off had to do with restructuring. But the drop now has to do with the recession and restructuring."

Even before the decline, the rate of growth had fallen sharply. Between 1980 and 1985 the rate of annual growth for industrial research was 6.9 percent in inflation-adjusted dollars, the report said. Between 1985 and 1990, it fell to 1.2 percent.

The report also noted that the American share of the global market for high-technology goods had fallen from 40 percent in 1980 to 37 percent in 1988.

The report, which is required by Congressional legislation, is submitted by the National Science Board to the President, who in turn provides it to Congress. The current volume is the 10th in a biennial series begun in 1972.

In a preface to the report, Dr. Duderstadt of the National Science Board noted the rapid changes around the globe and warned that American research priorities and programs must be "refined and reshaped to adapt."

By Mr. DECONCINI:

S. 2272. A bill to amend the Internal Revenue Code of 1986 to permit penalty-free distributions from qualified retirement plans for unemployed individuals; to the Committee on Finance.

TAX TREATMENT OF QUALIFIED RETIREMENT PLANS

Mr. DECONCINI. Mr. President, this morning, the Labor Department reported that the number of unemployment claims climbed for the second straight week, with a total of 459,000 Americans applying for unemployment for the first time. Last week, the Arizona Department of Economic Security released its unemployment figures for January 1992, and, Mr. President, the news was not good. In fact, it was extremely bad news. Arizonans woke up on February 21, 1992, to a headline in the Arizona Republic which read "State Jobless Rate Climbs to 9.3%—Nine Year High Tops U.S. Mark By 2.2 Points."

For those who say economic recovery is just around the corner, the figures suggest otherwise. When Congress began the debate on extension of emergency unemployment insurance benefits last August, and President Bush was insisting that the recession was bottoming out, Arizona's unemployment rate had been hovering between 5 and 6 percent.

So some could look at Arizona and say unemployment was not getting any worse. I thought it was bad then and said so. That is why I have supported legislation to extend the unemployment compensation benefits. The President twice refused to enact emergency unemployment legislation, before finally signing a bill to extend theses benefits last November. Congress just recently extended those benefits a second time, because clearly, the economy is not recovering.

Now, 6 months later Arizona has one of the highest unemployment rates in the country, 2.2 percent higher than the national average. We all take pride in our States, Mr. President, but this is something that I am very sad to see happen to the beautiful State that I represent.

These charts shows the seasonally adjusted unemployment rates for each of the 15 Arizona counties. Since August 1991, each has experienced an increase in their unemployment rates. Some of the rural counties have been the hardest hit.

In Cochise County, in the southern part of our State, the unemployment rate in August was 6.9 percent; it went up in December to 9.9 percent and up again in January to 11.1 percent.

Mohave County has gone from 6.2 percent in August to 12.2 percent in January 1992.

Graham County, where my mother was born and my relatives still live, the unemployment rate has gone from 5.7 to 11.1 percent in the past 6 months.

These are not very encouraging economic statistics for the State of Arizona, or for the Nation, Mr. President. Some of these rural counties have been extremely hard hit as we can see by these figures. Even in Maricopa County, the most populous county, unemployment has gone from 4.6 in August to 8.3 percent—just about the national average today.

Pima County, where I live, has an unemployment rate that has gone from 3.6 to 6.7 percent, nearly doubled in 6 months.

The unemployment rates shown here are discouraging. The total unemployment figures for Arizona today is 149,400—149,400 people without work.

Mr. President, everyone has been hit hard by this recession. Many people are not eligible for unemployment and are not reflected in the State's unemployment rates. So the problem is surely greater than even these statistics would indicate.

According to a Rocky Mountain Behavior Research poll conducted in January, 15 percent of the Arizona households headed by adults of working age reported at least 1 unemployed member, a figure that has nearly doubled since 1988. That is indicated here. That is a staggering 156,000 households with someone looking for a job.

One of the reasons cited by experts for the increase in unemployment rates in Arizona is the number of individuals who are reentering the job market or who are newly unemployed. This suggests that the profile of the unemployed in this country is indeed changing, and changing dramatically.

Here is an article from the Arizona Republic dated February 6, 1991, "15.1 percent of Arizona families have member out of work."

More individuals are applying for unemployment benefits for the first time in their lives. Skilled workers and professionals who previously made $2,000-$3,000 a month are now struggling to make ends meet on unemployment insurance benefits of $169 per month. With house payments, health insurance costs, and automobile payments, these individuals cannot possibly make it in today's economy.

In January, I spoke on the floor about the unemployment problem in Yuma County in the State of Arizona. I specifically spoke of two families who had experienced unemployment firsthand. One of these individuals, Bob Secrist, told me that he had to withdraw funds from his individual retirement account just to pay his living expenses. In doing so, not only did he have to pay taxes on that amount of money, or will, when income taxes are due, he had to pay a 10 percent penalty as well. When interviewed by a Yuma newspaper, he said, why should our Government punish someone who is truly unemployed and looking for work from withdrawing from some savings they put aside while they were employed.

There are many stories similar to Bob Secrist's, in Arizona and all across this country I suspect. Therefore, today I am introducing legislation which will provide for the penalty-free withdrawal of funds from IRA's and other qualified retirement plans in cases of extended unemployment. My bill states that an individual who has received unemployment benefits for 12 consecutive weeks could use his or her retirement funds in order to meet day-to-day living expenses—paying the mortgage, the car payment, to buy groceries, to obtain medical care, or what have you.

Three months without a job can literally wipe out any savings someone may have.

My bill seeks to cushion the blow of unemployment for these individuals.

I ask unanimous consent that the entire 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. 2272

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

SECTION 1. PENALTY-FREE DISTRIBUTIONS FOR CERTAIN UNEMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (2) of section 72(t) of the Internal Revenue Code of 1986 (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding at the end thereof the following subparagraph:

"(D) DISTRIBUTIONS TO UNEMPLOYED INDIVIDUALS.—Distributions made to an individual after separation from employment, if—

"(i) such individual has received unemployment compensation for 12 consecutive weeks under any Federal or State unemployment compensation law by reason of such separation, and

"(ii) such distributions are made during any taxable year during which such unemployment compensation is paid or the succeeding taxable year."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions on or after the date of the enactment of this Act.

Mr. DOMENICI. Mr. President, might I say to my friend from the neighboring State of Arizona that I first assumed he was going to come to the floor and engage in another litany of the negatives going on in America. I was wondering, knowing how positive he is normally, and constructive, why he would come to repeat what everyone knows, but I must say I even apologize for my thoughts because obviously he had something very constructive in mind.

I do think the IRA's have to be looked at anew in light of what is going on in the country. I joined with Senator SPECTER, and said we should use IRA's for first-time home buying and also for automobile purchases without penalty.

Some people wonder why we would do that since we are operating against the notion that we need more savings. But frankly it is a question of what does the Nation at large expend to get out of a recession? If you can get out of it a little early, it is certainly worth a few savings even though we are short of savings, because frankly we lose not only the human sufferings that go on and family problems, and we also lose a significant amount of revenue to the national Government, and we pay enormous bills in the unemployment periods of recession for food stamps and other things.

So whatever we can do to curb it and to get us out of it, I think we ought to seriously consider.

Mr. DECONCINI. If the Senator will yield for a response, I thank him for his comment.

I have been negative because I am frustrated. But I feel an obligation to also offer some proposals that might provide relief to the unemployed people of this country. I hope this legislation will do so. And I think the Senator will agree that people who are, indeed, employed should have incentives to save and contribute to their savings, IRA's.

Once they are in trouble, or if you want to use these funds to help stimulate the economy, the proposals of the Senator from Pennsylvania, which the Senator mentioned, should be considered. I hope the Senator from New Mexico might look at my proposal and concur that this is a legitimate means of relief. We need to try to be optimistic and help those who have been wise enough and prudent enough to save something for that rainy day. Because if you think about it, it is really a rainy day when you are suddenly unemployed, and you are willing to work but can't find a job.

By Mr. DOMENICI (for himself, Mr. CHAFEE, Mr. DANFORTH, Mr. MACK, Mr. RUDMAN, and Mr. SEYMOUR):

S. 2273. A bill to amend the Internal Revenue Code of 1986 to stimulate economic growth by revitalizing the domestic real estate market, and for other purposes; to the Committee on Finance.

By Mr. DOMENICI (for himself, Mr. MACK, Mr. SEYMOUR, and Mr. DANFORTH):

S. 2274. A bill to amend the National Housing Act to increase the limit for mortgages eligible to be insured by the Secretary of the Department of Housing and Urban Development, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DOMENICI (for himself, Mr. MACK, Mr. SEYMOUR, Mr. DANFORTH, and Mr. D'AMATO):

S. 2275. A bill to require the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Federal Housing Finance Board to study and report on the development of a secondary market for commercial real estate mortgages and to require the Resolution Trust Corporation to report on the impact of its commercial real estate securitization program; to the Committee on Banking, Housing and Urban Affairs.

S. 2276. A bill to permit the Director of the Office of Thrift Supervision to relax capital requirements applicable to certain savings associations subsidiaries in limited circumstances; to the Committee on Banking, Housing and Urban Affairs.

REAL ESTATE MARKET IMPROVEMENT ACT OF 1992, TARGET FHA TO FIRST-TIME HOMEBUYERS ACT, SECONDARY MARKET FOR COMMERCIAL REAL ESTATE MORTGAGES ACT OF 1992, AND CREDIT AVAILABILITY ACT OF 1992

Mr. DOMENICI. Mr. President, strengthening the real estate market enhances the safety and soundness of our financial institutions, contributes to consumer confidence and helps our economy grow.

How?

Because real estate is a big part of our economy.

The real estate market is responsible for 25 percent of the gross domestic product. Two-thirds of all American families' wealth is in the form of real estate. It employs more than 8 million people. It is America's greatest tangible asset valued at $12 trillion.

The relationship between homebuilding and the business cycle is well known and with history as our guide we know that real estate has been a leading indicator in the recovery from eight recessions since WW II. Typically, homebuilding leads the country into recessions. It leads the country out of recessions.

However, as Alan Greenspan has recognized, this recession is different. In his opinion, the one unique factor threatening an economic recovery this year is the serious downward spiral in real estate values.

When the economy started to pick up last spring, homebuilding was not strong. Consequently, it can be said that real estate led us right out of the recovery.

Another relationship, though not as obvious, exists between the strength of our financial institutions and the real estate market. A stronger real estate market will improve the condition of our financial institutions, enhance credit availability for other small businesses, ease State and local budgets, and improve the overall economy.

We want the recession to end—and the sooner the better. But we can't get there from here without a strengthened real estate market.

The decline in the real estate market is comparable to the decline in the value of the stock market during the 1987 crash—about $500 billion. The difference is that in 1987, the stock market rebounded in 3 months later.

The difference in the stock market crash directly affected the roughly 1 percent of Americans who own stock. Sixty-four percent of all Americans own real estate.

The difference is that people expect the stock market to move up and down, but they didn't expect the real estate market to do anything but go up.

An investment in a home was a milestone toward providing economic security for the family. It was safe. It was a source of equity to finance the children's education and finally a source of retirement income.

The decline in real estate values has sharply reduced the net worth of many American families since two-thirds of all American families' wealth is in the form of real estate.

Reviewing these statistics, it is easy to understand that the decline in real estate values has contributed significantly to consumers' lost confidence.

None of us has been alarmist enough to characterize the real estate market as crashed. Some have said it is in a freefall, but semantics aside, we should all recognize that it is in serious trouble and demands our prompt and corrective action.

That is why the Republican Real Estate Task Force was formed and that is why we are introducing this bill today.

Our task force was formed in October by Republican Leader DOLE. In the months since then, the task force has solicited and received analyses and recommendations from over 40 real estate and financial organizations. We met with Chairmen of the Federal Reserve, the Federal Deposit Insurance Corporation, and the Director of the Office of Thrift Supervision. We held meetings in California and New Mexico.

I want to recognize all the hard work of the task force members. Senators SEYMOUR, MACK, CHAFEE, DANFORTH, RUDMAN, and MCCAIN. Without their ideas and dedication this legislation would not be possible.

We were extremely pleased that the President recognized the importance of real estate to the country's economic growth. In fact, the President's prescription for a real estate recovery includes many of the same elements as the Real Estate Task Force's recommendations and legislation. We differ on some of the details, but the important thing is that we all agree on the need to strengthen the real estate market.

The reason is not just for real estate's sake. It is for jobs, the health of our financial institutions, and the overall economy.

The elements in the Real Estate Market Improvement Act include capital gains tax cut; passive loss reform to end discrimination against real estate developers; $5,000 first-time home buyer credit; penalty-free withdrawal of IRA funds for down payments; casualty loss deduction for selling homes at a loss; extension of the mortgage revenue bond program to provide low-interest mortgages to first-time home buyers; continuation of the low-income housing tax credit and provisions to make it easier for pensions to invest in real estate; a tax cut in the cost in aid of construction for home building and a provision to simplify bookkeeping for banks dealing with real estate loans.

This might seem like a long list, but the problem of declining real estate values is very serious.

We need to act now.

This decline in real estate values is causing credit problems for financial institutions.

For example, in Texas where S&L losses have been the greatest, real estate accounted for about 75 percent of all thrift institution losses.

Financial institution regulators have required banks to write down or write off many real estate loans. Financial institutions have been required to increase loan loss revenues. This has contributed to the credit crunch.

The resulting tight credit is hurting small businesses because banks don't have the money to lend because of the high reserve requirements required for their real estate loan portfolio. The lending institutions are not in a position to make additional loans. These small businesses have to do with out the loans they need to expand. These firms doing without are the same firms that generate most of the new jobs in our economy.

If the real estate market is not stabilized soon it could weaken insurance companies and pension funds as well.

The two bills we are introducing today are designed to stabilize and strengthen the real estate market and the economy. One would go to the Finance Committee, the others would go to the Banking Committee.

Mr. President, it is easy in recessionary times to forget that recessions end. I think while our memories are short, facts are there indicating that since the Second World War, every few years America goes through a recession. Our economists and our best policy advisers have not been able to come up with an economic policy that eliminates recessions. Consequently, this Nation has to go through the throes of recession every 2 or 3 or 4 years. In the last case, our country enjoyed 6 years of sustained recovery before we experienced the present downturn.

Maybe we, some day, will be smart enough to, and capable of, adopting policies so that recessions will not occur. But it seems to me that when recessions do occur, as it is now—and, clearly, this is a serious recession—policymakers must keep historical perspective. This recession is not as deep as the last. The economic facts are not as bleak as the 1981–82 recession. Unemployment was higher and remained at a very high level for a very long time in 1981–1982. Almost every indicator we are looking at now was worse then than now.

That is the strange part of it. But I think it is easy to tell the American people that it is somebody's fault, and if somebody would just do what they ought to do, we could fix it.

People come to the floor and talk as if a magic wand is around to create jobs. The truth of the matter is that Congress has done very poorly in enacting antirecessionary packages in time to do any real good. The first two or three times we had a recession, Congress thought we would spend money and put people to work. We decided we would cut taxes and spend money. This time it is different, because we have a huge deficit already and fiscal tools are readily available. The deficit, in and of itself, is probably the cause of some of the longevity of this recession.

However, what we have found in looking at the history of trying to ameliorate or make better recessionary times through congressional action, that is, actions of the Government espoused by Congress, is of little avail. Most of the time we call for more spending, but by the time the money flows, believe it or not, the recession is already over. People are put to work on public works jobs on bridges, highways, courthouses, and the like only after the recession is over and private sector is providing jobs. That is the history of it. Nonetheless, it is assumed by some that leaders of the United States can, all of a sudden, find a way to put Americans back to work by waving our magic wand.

I wish we could. I am not so sure the Americans are asking us for that. What I think they are asking us for are some constructive policies that will begin to permit America to come out of this recession and grow at a sustained rate. They want some confidence in the future.

So I have tried, where I could, to suggest positive things, knowing full well that we creep along here in the Congress so slowly that even with the simple, constructive ideas of the Senator from Virginia, who is in the chair, and the Senator from California, the junior Senator from California, or the Senator from New Mexico, it still takes a long time to get them done.

Nonetheless, today I am going to introduce four bills; three bills will go to the Banking Committee, and I will describe them later very briefly. The other will go to the Finance Committee of the U.S. Senate.

Let me explain why I am here and what these bills are about. The distinguished Republican leader, Senator DOLE, asked me to chair a small task force of Senators from our side of the aisle to look at the issue of real estate in the United States. We studied the residential and commercial markets. We looked at real estate's impact on financial institutions and consumer confidence. We considered what could be done to reenergize that part of the American economy, which indeed was in free fall.

Real estate prices were falling so rapidly that we had not seen such a trend for maybe 50 or 60 years in the United States, or more. Houses stopped increasing in value. We even saw States where houses went down in value and were being sold at a loss by substantial numbers of people for the first time in modern history. The security that banks held, which was real estate in the past, and a very sound type of security that permitted them to loan money for people to start businesses, was in such a serious state of decay that it put the financial institutions in trouble. In fact, a substantial portion of the bank failures occurred because real estate values fell out from under the banks.

That does not have to do with the huge Texas thrift failures. Incidentally, the losses in Texas amounted to 75 percent of all of the failed thrift losses.

We talk about all these billions, and that is because of some very peculiar

circumstances that came together, as we all know. But lending by the American banking system to people who needed money to expand businesses which cause growth and put people to work was at an all time low. Any way you measure it, lending still is very low, because the bank's security in the form of real estate is constantly at risk. Reappraisals show properties that have gone down from the time it was given as security and what to do about it becomes the talk around the President's office in the bank. What do you do about someone who is making the payments but the little shopping center is no longer worth the face value of the note and the mortgage? All of these things cry out for us to see if we can do something to stop that free fall.

Frankly, the free fall is caused by a lot of things. But I think it is fair to say that we made a conscious decision in 1986 when we rewrote the tax laws of America and supposedly adopted the most reform-minded laws on taxes in modern times. That will be questioned by many Americans, small American taxpayers, medium-size businesses, real estate people, they will all say it was not reform but, rather, the seeds of this recession that were planted in the pages of the Tax Reform Act of 1986.

I do not know who is right. But the truth of it is that we took value out of the real estate market in gobs with that bill. In fact, we were told by experts then: You are apt to be reducing by 25 to 30 percent the value of real estate in America by changing the tax laws.

I am not going to go into the whys and wherefores of the tax law change, other than to say that it is obvious and remains obvious that some of the changes were in order. Real estate, in general, received enormous subsidies from the American Tax Code and, thus, took on an atmosphere of almost irrational investment versus the rest of America's economic needs.

Nonetheless, by making these tax changes and by making them apply to existing transactions and investments we have put a lot of investments in jeopardy. We are going to try today with the bill we introduced on behalf of this task force—Senators CHAFEE, DANFORTH, MACK, RUDMAN, SEYMOUR, who is here, and myself—we are going to attempt to do some things that we think are desperately needed to shore up real estate values in our Nation.

Again, I want to try to make clear the relationship between real estate and joblessness and unemployment in America. Most of the time, Mr. President, we come to the floor and talk about America's growth and relate that to America's job market. We are very excited when the gross national product now called the gross domestic product, has grown 2.5 and 3 percent. If it grows 5 percent we are in a boom time. If it gets to 6 percent we are wondering about inflation ruining us, the economy is so hot, some people say.

Well, it just happens that real estate in its broad sense is about 25 percent of America's gross national product. It is not easy to measure, but it is thought to be between 20 and 25 percent.

It is logical that a set of activities called real estate, that comprises 25 percent of America's gross domestic product which is in a state of free fall, is having a monstrous effect on our ability to recover and grow. Growth means jobs—unless economics have been turned upside down—and I sometimes question whether economics, makes sense but I do not think our economics has been turned on its head yet. If the economy is growing, our people go back to work, jobs begin to appear, businesses begin to prosper. Growth is measured in the gross national product, and lack of growth is given the name "recession", and the measurements indicate we are in a recession.

As I said once, the American people don't take the time to tell us they are for growth but, they are. Because I will ask the two Senators who are here—neither of whom have been here as long as I, but long enough to get a lot of letters from constituents. And I ask if you ever got a letter from a constituent saying "I want a recession." And if you are in one, I wonder if you ever got a letter saying "I would like it to continue." I can attest to 19 years of letters—going on 20—maybe I am in the 20th—never got one, one that wanted recessions.

Now, today we are introducing a bill on capital gains that has been discussed ad infinitum. Frankly, this bill is not being introduced to help any particular group of taxpayers. Capital gains will help boost this economy through capital formation.

Growth-oriented activities in America are good for everyone.

If you do not have large quantities of capital in an economic system, then there is no growth. There is a reason that capital is the first word in our economic system—capitalism. For those people who do not think capital is necessary, maybe they ought to suggest we change the system. But nobody has any desire to charge the system. The whole world is trying to get their capitalistic system moving.

The Soviets finally ended up—the last phase of their revolution was to get rid of communism as a dictatorial institution. But they also wanted economic growth, which they call capitalism, and they are right to want capital.

So we preach that we are for capitalism but we forget that capital is necessary to grow. Capital gains is a tool to take advantage of profits made on the sale of capital assets, so that there will be a big incentive to put money in capital assets.

Most industrial nations have a capital gains differential, which may or may not be relevant to America. It is an effort to help American workers with jobs because, with capital comes growth and jobs.

We are going to reiterate in this bill, the need to allow penalty-free withdrawal for IRA's, and parents and grandparents can do that for their children or grandchildren, which we think adds a dimension to its size, passive loss for real estate professionals. This will end Tax Code discrimination against them.

This will be debated before long because some think we should not start down a passive loss tax shelter path. But let me suggest if we do not, we have just about committed the real estate business in America, real estate as a business, we have just about relegated it to a lesser business in this country because out-of-pocket losses are not allowable except in very restricted circumstances by definition. Yet in other businesses they are allowed. It is not a passive loss.

This bill includes a $5,000 first-time home buyer credit. A permanent extension of mortgage revenue bond. All of these provisions are similar to others but we have put the details in legislative form to articulate our opinion of best policy. We include the loss deduction for selling a house at a loss, which the President suggested.

None of us would ever think to say to the occupant of the Chair, who would have thought in your adult life and in mine, that we would ever even need to protect a homeowner from loss in case of sale? Never happened. Maybe occasionally. Everyone expected an investment in a house to go up. It was most people's nest egg and saving. Nonetheless, selling at a loss is happening in this free fall of real estate.

This bill is going to allow pensions to invest in real estate. There will still be tremendous safeguards put on pension funds to ensure they operate in a safe and sound manner. But if real estate is going to be shored up, more capital has to be made available and pension funds can help. When I visited the State of California, with Senator SEYMOUR, for informal hearings, it was indicated that the pension funds ought to be permitted to invest in real estate. All things being equal, and with appropriate safeguards it might help to bring in capital. We felt it was an excellent idea.

Uniform regulatory treatment of nonaccruing loans. A technical matter. But nonetheless it helps straighten out some of the problems and makes lending in real estate run smoother.

Repeal the income tax on the cost in aid of construction. Another very special and precise one. Controversial. Nonetheless, we feel that in these times, with real estate being under siege, we ought to not make it more expensive to provide infrastructure and utilities for subdivision housing, which are necessary.

We think we have a good bill. We think all of its provisions should be adopted one way or another. I frankly feel very remorseful that it seems to me that the Senate is going to go the way of politics. There will be a Democratic bill and we Republicans will not be able to support it. It does not accomplish what the President asked in his very urgent pleas to us. He asked us to do something quick and very precise, and not get dragged down by politics.

The President is not going to accept the bill, and many of these provisions will find their way into that bill. Even though some of us will ask that they be in there, it will not mean that we will accept it.

I hope if that is the route we go, that we come back after that process and enact some of these good measures.

Mr. President, the tax bill I have introduced today on behalf of the Republican real estate task force will strengthen the real estate market, bolster real estate values, improve the balance sheets of our financial institutions, increase real estate credit and increase construction and related housing jobs.

A good case I believe can be made that because of the economic benefits from this package, with increased jobs, increased revenues, reduced bank failures, and increased credit, that the direct costs of the package will be offset with economic growth.

Nonetheless, it is true that under current scorekeeping conventions, the provisions included in the bill are estimated without these secondary economic benefits. This is referred to as a static cost estimate, not a dynamic cost estimate.

I continue to support and will abide by the 1990 budget agreement and its pay-as-you-go provisions. Therefore, the costs of the task force recommendations, if they are to become law, must be offset so as not to increase the Federal deficit.

The task force recommendations did not attempt to identify pay-as-you-go offsets. Nonetheless, I believe the administration's 5-year static cost estimate of the task force recommendations—$21.2 billion—could be offset by a number of provisions. The Joint Tax Committee would likely estimate the 5-year costs at a higher level because of different assumptions about capital gains tax estimates.

First, important and critical reforms to the Pension Benefit Guarantee Corporation as recommended by the President along with the extension of one expiring provision concerning lump-sum payments to Civil Service retirees would more than adequately fund the administration's estimates of the task force recommendations.

Second, while I may not agree with all the recommendations in the President's recent budget submission, I must note that in addition to the PBGC offsets, the President's budget included an additional $27 billion in revenue offsets and nearly $30 billion in entitlement savings.

Finally, the Congressional Budget Office released this week its voluminous report entitled: "Reducing the Deficit, Spending and Revenue Options." While the CBO report does not endorse any option, it nonetheless has provided the Congress with a valuable service by listing in one document many possible options for deficit reduction. Again, I cannot endorse all the options listed in the CBO report but it is clear that sufficient offsets exist to fund the bill introduced today.

As the bill proceeds and receives the consideration due it, I will work with the committees of jurisdiction to clarify and identify the necessary offsets to fund this important bill.

INTRODUCTION OF THE REAL ESTATE BILLS REFERRED TO THE SENATE BANKING COMMITTEE

Mr. DOMENICI. Mr. President, Alan Greenspan yesterday at the Senate Banking Committee stated that we have not seen an abatement to the decline in real estate values. His message was that we have not reached rock bottom yet.

While most people are focused on the economic tax package related to real estate in the Finance Committee, there is much that can be done to stop the free fall of real estate values through the Banking Committee. If we act in time, maybe we can provide some assistance to stop the fall in prices.

RELATIONSHIP BETWEEN REAL ESTATE AND BANKING

There is a clear relationship between the strength of our financial institutions, the real estate market, and the strength of our economy. A strong real estate market will improve the conditions of our financial institutions, enhance credit availability, encourage homeownership, and create construction jobs.

Part of the credit crunch is related to the regulators requiring banks to write down or write off many real estate loans. The bank examiners view real estate loans as taboo. In today's market, the regulators are requiring banks to build large loan loss reserves against real estate loans.

As banks and thrifts are forced to build capital and loan loss reserves in relation to real estate, there are fewer resources to provide loans to businesses and home buyers. The current capital requirements distort lending decisions away from real estate and even provide a disincentive to not make real estate loans.

CREDIT AVAILABILITY

By January 1, 1994, thrifts will have to put aside 100 percent of capital against real estate development subsidiaries. Rather than meet the new capital requirements, thrifts have been dumping the real estate development subsidiaries.

This bill will give the Office of Thrift Supervision [OTS] some limited and temporary authority to relax the capital requirements against real estate. Without this bill, by 1994 nearly $900 million in capital will be pulled out of the economy for thrifts to keep real estate subsidiaries.

This bill will help relieve the credit crunch, stimulate the economy, and slow the rate of thrift failures. The amendment will free-up bank capital to be put back into the economy through business and mortgage lending rather than storing capital to meet regulatory requirements.

SECONDARY MARKET FOR COMMERCIAL REAL ESTATE

Bankers and regulators view residential mortgage lending as a less risky investment compared to commercial real estate. This is because we have a vibrant secondary market for residential real estate.

The secondary market for residential real estate has created liquidity and diversified risk in the home mortgage lending market. It has maintained an adequate flow of mortgage credit to homebuyers and stabilized mortgage price across the country. A secondary market for commercial real estate has not developed despite the apparent benefits for lenders and homeowners in the residential market.

The number one impediment to the creation of a secondary market for commercial real estate is the standardization of the securities product. This bill requires Fannie Mae, Freddie Mac, and the Federal Home Loan Banks to try to better understand the commercial real estate securitization process.

If progress can be made in understanding why standardization of commercial real estate mortgages has not occurred, then possibly a market will develop through the private sector.

FEDERAL HOUSING ADMINISTRATION [FHA]

Jump starting the homebuilding industry will help the economy rebound and increase construction jobs. This can best be addressed by bringing more first-time home buyers into the market.

The fundamental impediment for first-time home buyers is the downpayment. Most private sector mortgages want at least 20 percent in a downpayment or private mortgage insurance. However, for FHA borrowers the downpayment can be as little as 3 percent.

This bill stimulates the housing market by increasing the FHA mortgage amount of $125,000 for first-time home buyers in high cost areas. Nearly 33 percent of all first-time home buyers take advantage of a Federal guarantee to obtain a mortgage. This bill allows borrowers in high-cost areas to take advantage of the FHA Government guarantee.

These are three bills. The first is sponsored by Senators MACK, SEYMOUR, and DANFORTH, the second by Senators MACK, SEYMOUR, and DANFORTH, and the third by Senators MACK, SEYMOUR, DANFORTH, and RUDMAN.

These three bills address issues between the real estate industry and the banking businesses that we think need attention. Credit availability to the real estate endeavors in the country. And yes, a very exciting proposal: the creation of a secondary market for commercial real estate.

I think my friend from California will remember that two of the things most adamantly recommended by the California home builders and real estate experts was the creation of a secondary market for commercial real estate. The other was the availability of pension funds, under appropriate safeguards, for investment in real estate. We have both suggestions in our legislation. This is a banking one, and it is one of the smaller bills.

In addition, we have a Federal Housing Administration bill to address the fact that FHA loans are restricted in high cost areas by the $125,000 ceiling.

One of the ideas from the task force, through the Senator from California, is to provide an exemption from the $125,000 FHA cap for first-time home buyers in high cost areas.

Our $125,000 cap for FHA home financing, one of the finest tools for letting people finance housing. Few first-time home buyers in California qualify for an FHA mortgage because there is little housing that costs $125,000 or less.

Incidentally, 33 percent of all first-time home buyers use a Federal guarantee. But much of California can not use the FHA guarantee because of the ceiling. This bill writes in California and other high-cost States.

I thank the Senator from California for giving us this information and permitting us to be as clear on the subject as this bill is.

I send to the desk the bill which I first referred to, and I ask that it be referred to the appropriate committee. I believe it is Finance.

I send the other three en bloc to the desk to be referred, and I believe they are referrable to the Banking Committee. But that is the Parliamentarian's job; not mine.

I also ask unanimous consent that a detailed explanation of the bills be printed in the RECORD.

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

S. 2273

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

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Real Estate Market Improvement Act of 1992".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; amendment of 1986 code; table of contents.
Sec. 2. Findings and purposes.
TITLE I—INCENTIVES FOR REAL ESTATE INVESTMENT
Subtitle A—Incentives for Acquisition of Capital Assets
PART I—REDUCTION IN CAPITAL GAINS TAX FOR INDIVIDUALS
Sec. 101. Reduction in capital gains tax for individuals.
PART II—INFLATION ADJUSTMENT FOR INVESTMENTS
Sec. 102. Indexing of certain investments for purposes of determining gain.
Subtitle B—First-Time Homebuyers
Sec. 111. Penalty-free withdrawals from pension plans during 1992 for first-time homebuyers.
Sec. 112. Credit for first-time homebuyers.
Sec. 113. Casualty loss on sale of home; basis adjustment.
Sec. 114. Permanent extension of qualified mortgage bonds.
Sec. 115. Permanent extension of low-income housing credit.
TITLE II—INCENTIVES TO ENCOURAGE A STRENGTHENED REAL ESTATE MARKET AND TO ENCOURAGE FINANCING
Subtitle A—Reforms to End Discrimination Against Real Estate Professionals
Sec. 201. Passive loss equity for real estate professionals.
Subtitle B—Provisions Relating to Real Estate Investments by Pension Funds to Provide Capital and Credit for Long-Term Real Estate Investment
Sec. 211. Real property acquired by a qualified organization.
Sec. 212. Special rules for investments in partnerships.
Subtitle C—Other Provisions
Sec. 221. Treatment of contributions in aid of construction.
Sec. 222. Treatment of nonaccruing loans for tax purposes.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the real estate market is responsible for 25 percent of the gross domestic product, and is a vital sector for a healthy economy;

(2) two-thirds of all American families' wealth is in the form of real estate;

(3) real estate is America's greatest tangible asset and is valued at $12 trillion;

(4) the real estate industry employs more than eight million people, and produces about $575 billion in goods and services every year;

(5) the real estate industry provides over 70 percent of the tax revenues for local governments;

(6) according to some estimates, the provisions of the Tax Reform Act of 1986 lowered real estate values as much as 18 percent; and

(7) policies are needed now to stabilize the real estate market, including—

(A) a capital gains differential to increase the value of real estate, to unlock capital in a sluggish market, and to provide incentives for investment,

(B) allowing penalty-free withdrawals from individual retirement accounts (IRAs) to help first-time homebuyers to overcome one of the most significant barriers to homeownership—insufficient funds to make downpayments and to pay closing costs,

(C) allowing real estate professionals the same tax treatment as other individuals running small businesses to eliminate discrimination in the tax code against real estate professionals and to encourage people to retain, rather than default on, properties with depressed values,

(D) allowing a temporary $5,000 first-time homebuyer credit will help 1,200,000 families and will provide 415,000 new jobs in 1992 and 180,000 new jobs in 1993,

(E) making permanent the mortgage revenue bond program to help State and local governments run an even more efficient program than the one which has already helped 130,000 first-time homebuyers every year finance their first home at below market rates, and to provide, along with the extension of the low-income housing tax credit, between 100,000 and 120,000 new jobs,

(F) making permanent the low-income housing tax credit to recognize that since 1986 such credit has been used to help finance more than 365,000 low-income rental units and has been responsible for creating almost all low-income multifamily units renting for less than $450 per month,

(G) repealing the requirement to capitalize "costs in aid of construction" to lower the cost of homes in new subdivisions by as much as $2,000,

(H) modifying provisions relating to real estate investments by pension funds to provide a needed and logical source of capital and credit for long-term real estate investment, and modifying the casualty loss deduction to reflect current real estate market conditions, and

(I) providing treatment of interest on nonaccrual loans which is the same as bank regulatory treatment to avoid costly and unnecessary litigation with the Internal Revenue Service and to enhance credit opportunities for worthy real estate industry borrowers.

(b) PURPOSE.—The purpose of this Act is to revitalize the real estate market by—

(1) providing a capital gains differential,

(2) allowing penalty-free withdrawals from individual retirement accounts to aid first-time homebuyers with their downpayments,

(3) allowing a temporary $5,000 first-time homebuyer credit,

(4) extending mortgage revenue bond authority and the low-income housing tax credit,

(5) eliminating discriminatory tax treatment of taxpayers actively involved in the rental real estate business,

(6) revising provisions relating to real estate investments by pension plans and deductions for casualty losses,

(7) repealing the requirement to capitalize certain "costs in aid of construction", and

(8) providing uniform treatment of interest on nonaccrual loans.

TITLE I—INCENTIVES FOR REAL ESTATE INVESTMENT

Subtitle A—Incentives for Acquisition of Capital Assets

SEC. 101. REDUCTION IN CAPITAL GAINS TAX FOR INDIVIDUALS.

(a) GENERAL RULE.—Part I of subchapter P of chapter 1 (relating to treatment of capital gains) is amended by adding at the end thereof the following new section:

"SEC. 1202. DEDUCTION IN CAPITAL GAINS TAX FOR NONCORPORATE TAXPAYERS.

"(a) DEDUCTION ALLOWED FOR CAPITAL GAINS.—

"(1) IN GENERAL.—If a taxpayer other than a corporation has a net capital gain for any taxable year, there shall be allowed as a deduction an amount equal to the sum of the applicable percentages of the applicable capital gain.

"(2) ESTATES AND TRUSTS.—In the case of an estate or trust, the deduction under paragraph (1) shall be computed by excluding the portion (if any) of the gains for the taxable year from sales or exchanges of capital assets which, under sections 652 and 662 (relating to inclusions of amounts in gross income of beneficiaries of trusts), is includible by income beneficiaries (other than corporations) as gain derived from the sale or exchange of capital assets.

"(b) APPLICABLE PERCENTAGES.—For purposes of this subsection, the applicable percentages shall be the percentages determined in accordance with the following table:

"In the case of:	The applicable percentage is:
1-year gain	15
2-year gain	30
3-year gain	45.

"(c) GAIN TO WHICH DEDUCTION APPLIES.—For purposes of this section—

"(1) APPLICABLE CAPITAL GAIN.—The term 'applicable capital gain' means 1-year gain, 2-year gain, or 3-year gain determined by taking into account only gain which is properly taken into account on or after February 1, 1992.

"(2) 3-YEAR GAIN.—The term '3-year gain' means the lesser of—

"(A) the net capital gain for the taxable year, or

"(B) the long-term capital gain determined by taking into account only gain from the sale or exchange of qualified assets held more than 3 years.

"(3) 2-YEAR GAIN.—The term '2-year gain' means the lesser of—

"(A) the net capital gain for the taxable year, reduced by 3-year gain, or

"(B) the long-term capital gain determined by taking into account only gain from the sale or exchange of qualified assets held more than 2 years but not more than 3 years.

"(4) 1-YEAR GAIN.—The term '1-year gain' means the net capital gain for the taxable year determined by taking into account only—

"(A) gain from the sale or exchange of assets held more than 1 year but not more than 2 years, and

"(B) losses from the sale or exchange of assets held more than 1 year.

"(5) SPECIAL RULES FOR GAIN ALLOCABLE TO PERIODS BEFORE 1994.—For purposes of this section—

"(A) GAIN ALLOCABLE TO PERIODS BEGINNING ON OR AFTER FEBRUARY 1, 1992, AND BEFORE 1993.—In the case of any gain from any sale or exchange which is properly taken into account for the period beginning on February 1, 1992, and ending on December 31, 1992, gain which is 1-year gain or 2-year gain (without regard to this subparagraph) shall be treated as 3-year gain.

"(B) GAIN ALLOCABLE TO 1993.—In the case of any gain from any sale or exchange which is properly taken into account for periods during 1993, gain which is 1-year gain or 2-year gain (without regard to this subparagraph) shall be treated as 2-year gain and 3-year gain, respectively.

"(6) SPECIAL RULES FOR PASS-THRU ENTITIES.—

"(A) IN GENERAL.—In applying this subsection with respect to any pass-thru entity, the determination of when a sale or exchange has occurred shall be made at the entity level.

"(B) PASS-THRU ENTITY DEFINED.—For purposes of subparagraph (A), the term 'pass-thru entity' means—

"(i) a regulated investment company,

"(ii) a real estate investment trust,

"(iii) an S corporation,

"(iv) a partnership,

"(v) an estate or trust, and

"(vi) a common trust fund.

"(7) RECAPTURE OF NET ORDINARY LOSS UNDER SECTION 1231.—For purposes of this subsection, if any amount is treated as ordinary income under section 1231(c) for any taxable year—

"(A) the amount so treated shall be allocated proportionately among the section 1231 gains (as defined in section 1231(a)) for such taxable year, and

"(B) the amount so allocated to any such gain shall reduce the amount of such gain."

(b) TREATMENT OF COLLECTIBLES.—

(1) IN GENERAL.—Section 1222 is amended by inserting after paragraph (11) the following new paragraph:

"(12) SPECIAL RULE FOR COLLECTIBLES.—

"(A) IN GENERAL.—Any gain or loss from the sale or exchange of a collectible shall be treated as a short-term capital gain or loss, as the case may be, without regard to the period such asset was held. The preceding sentence shall apply only to the extent the gain or loss is taken into account in computing taxable income.

"(B) TREATMENT OF CERTAIN SALES OF INTEREST IN PARTNERSHIP, ETC.—For purposes of subparagraph (A), any gain from the sale or exchange of an interest in a partnership, S corporation, or trust which is attributable to unrealized appreciation in the value of collectibles held by such entity shall be treated as gain from the sale or exchange of a collectible. Rules similar to the rules of section 751(f) shall apply for purposes of the preceding sentence.

"(C) COLLECTIBLE.—For purposes of this paragraph, the term 'collectible' means any capital asset which is a collectible (as defined in section 408(m) without regard to paragraph (3) thereof)."

(2) CHARITABLE DEDUCTION NOT AFFECTED.—

(A) Paragraph (1) of section 170(e) is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph, section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles)."

(B) Clause (iv) of section 170(b)(1)(C) is amended by inserting before the period at the end thereof the following: "and section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles)".

(c) MINIMUM TAX.—Section 56(b)(1) is amended by adding at the end thereof the following new subparagraph:

"(G) CAPITAL GAINS DEDUCTION DISALLOWANCE.—Except with respect to gains realized on the sale, exchange, or other disposition of a direct or indirect interest in real estate or a closely held business, the deduction under section 1202 shall not be allowed."

(d) CONFORMING AMENDMENTS.—

(1) Section 62(a) is amended by inserting after paragraph (13) the following new paragraph:

"(14) CAPITAL GAINS DEDUCTION.—The deduction allowed by section 1202."

(2) Clause (ii) of section 163(d)(4)(B) is amended by inserting ", reduced by the amount of any deduction allowable under section 1202 attributable to gain from such property" after "investment".

(3)(A) Subparagraph (B) of section 170(e)(1) is amended by inserting "the nondeductible percentage" before "the amount of gain".

(B) Paragraph (1) of section 170(e) is amended by adding at the end thereof the following new sentence: "For purposes of subparagraph (B), the term 'nondeductible percentage' means 100 percent in the case of a corporation and 100 percent minus the applicable percentage with respect to such property under section 1202(b) in the case of any other taxpayer."

(4)(A) Paragraph (2) of section 172(d) (relating to modifications with respect to net operating loss deduction) is amended to read as follows:

"(2) CAPITAL GAINS AND LOSSES OF TAXPAYERS OTHER THAN CORPORATIONS.—In the case of a taxpayer other than a corporation—

"(A) the amount deductible on account of losses from sales or exchanges of capital assets shall not exceed the amount includible on account of gains from sales or exchanges of capital assets; and

"(B) the deduction provided by section 1202 shall not be allowed."

(B) Subparagraph (B) of section 172(d)(4) is amended by inserting ", (2)(B)," after "paragraph (1)".

(5)(A) Section 220 is amended to read as follows:

"SEC. 220. CROSS REFERENCES.

"(1) For deductions for net capital gains in the case of a taxpayer other than a corporation, see section 1202.

"(2) For deductions in respect of a decedent, see section 691."

(B) The table of sections for part VII of subchapter B of chapter 1 is amended by striking "reference" in the item relating to section 220 and inserting "references".

(6) Paragraph (4) of section 642(c) is amended to read as follows:

"(4) ADJUSTMENTS.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain from the sale or exchange of capital assets held for more than 1 year, proper adjustment shall be made for any deduction allowable to the estate or trust under section 1202 (relating to deduction for net capital gain). In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income)."

(7) Paragraph (3) of section 643(a) is amended by adding at the end thereof the following new sentence: "The deduction under section 1202 (relating to deduction for net capital gain) shall not be taken into account."

(8) Subparagraph (C) of section 643(a)(6) is amended—

(A) by inserting "(i)" before "there", and

(B) by inserting ", and (ii) the deduction under section 1202 (relating to deduction for excess of capital gains over capital losses) shall not be taken into account" before the period at the end thereof.

(9) Paragraph (4) of section 691(c) is amended by striking "1202, and 1211" and inserting "1201, 1202, and 1211".

(10) The second sentence of paragraph (2) of section 871(a) is amended by inserting "such gains and losses shall be determined without regard to section 1202 (relating to deduction for net capital gain) and" after "except that".

(11) Paragraph (1) of section 1402(i) is amended to read as follows:

"(1) IN GENERAL.—In determining the net earnings from self-employment of any options dealer or commodities dealer—

"(A) notwithstanding subsection (a)(3)(A), there shall not be excluded any gain or loss (in the normal course of the taxpayer's activity of dealing in or trading section 1256 contracts) from section 1256 contracts or property related to such contracts, and

"(B) the deduction provided by section 1202 shall not apply."

(12)(A) Subparagraph (A) of section 7518(g)(6) is amended by striking the last sentence.

(B) Subparagraph (A) of section 607(h)(6) of the Merchant Marine Act of 1936, is amended by striking the last sentence.

(e) CLERICAL AMENDMENT.—The table of sections for part I of subchapter P of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 1202. Reduction in capital gains tax for noncorporate taxpayers."

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years ending on or after February 1, 1992.

(2) TREATMENT OF COLLECTIBLES.—

(A) IN GENERAL.—The amendment made by subsection (b) shall apply to taxable years beginning on or after February 1, 1993.

(B) SPECIAL RULE FOR 1992 TAXABLE YEAR.—In the case of any taxable year which includes February 1, 1992, for purposes of section 1202 of the Internal Revenue Code of 1986 and section 1(h) of such Code, any gain or loss from the sale or exchange of a collectible (within the meaning of section 1222(12) of such Code) shall be treated as gain or loss from a sale or exchange occurring before such date.

PART II—INFLATION ADJUSTMENT FOR INVESTMENTS

SEC. 102. INDEXING OF CERTAIN INVESTMENTS FOR PURPOSES OF DETERMINING GAIN.

(a) IN GENERAL.—Part II of subchapter O of chapter 1 (relating to basis rules of general application) is amended by inserting after section 1021 the following new section:

"SEC. 1022. INDEXING OF INVESTMENTS FOR PURPOSES OF DETERMINING GAIN.

"(a) GENERAL RULE.—

"(1) INDEXED BASIS SUBSTITUTED FOR ADJUSTED BASIS.—Solely for purposes of determining gain on the sale or other disposition by an individual of an indexed asset which has been held for more than 1 year, the indexed basis of the asset shall be substituted for its adjusted basis.

"(2) SPECIAL RULE FOR RECAPTURE GAIN.—

"(A) IN GENERAL.—Paragraph (1) shall not apply for purposes of determining the amount of recapture gain on the sale or other disposition of an indexed asset, but the amount of any such recapture gain shall increase the adjusted basis of the asset for purposes of applying paragraph (1) to determine the amount of other gain on such sale or other disposition.

"(B) RECAPTURE GAIN.—For purposes of subparagraph (A), the term 'recapture gain' means any gain treated as ordinary income under section 1245, 1250, or 1254.

"(b) INDEXED ASSET.—

"(1) IN GENERAL.—For purposes of this section, the term 'indexed asset' means—

"(A) any stock in a corporation, and

"(B) any tangible property (or any interest therein),

which is a capital asset or property used in the trade or business (as defined in section 1231(B)) and the holding period of which begins after the date of enactment of the Real Estate Market Improvement Act of 1992.

"(2) CERTAIN PROPERTY EXCLUDED.—For purposes of this section, the term 'indexed asset' does not include—

"(A) CREDITOR'S INTEREST.—Any interest in property which is in the nature of a creditor's interest.

"(B) COLLECTIBLES.—Any collectible (as defined in section 408(m)(2) without regard to section 408(m)(3)).

"(C) OPTIONS.—Any option or other right to acquire an interest in property.

"(D) NET LEASE PROPERTY.—In the case of a lessor, net lease property (within the meaning of subsection (i)(3)).

"(E) CERTAIN PREFERRED STOCK.—Stock which is fixed and preferred as to dividends and does not participate in corporate growth to any significant extent.

"(F) STOCK IN FOREIGN CORPORATIONS.—Stock in a foreign corporation.

"(G) STOCK IN S CORPORATIONS.—Stock in an S corporation.

"(3) EXCEPTION FOR STOCK IN FOREIGN CORPORATION, WHICH IS REGULARLY TRADED ON NATIONAL OR REGIONAL EXCHANGE.—Paragraph (2)(F) shall not apply to stock in a foreign corporation, the stock of which is listed on the New York Stock Exchange, the American Stock Exchange, or any domestic regional exchange for which quotations are published on a regular basis or is authorized for trading on the national market system operated by the National Association of Securities Dealers other than—

"(A) stock of a foreign investment company (within the meaning of section 1246(b)),

"(B) stock in a passive foreign investment company (as defined in section 1296), and

"(C) stock in a foreign corporation held by a United States person who meets the requirements of section 1248(a)(2).

"(c) INDEXED BASIS.—For purposes of this section—

"(1) INDEXED BASIS.—The indexed basis for any asset is—

"(A) the adjusted basis of the asset, multiplied by

"(B) the applicable inflation ratio.

"(2) APPLICABLE INFLATION RATIO.—The applicable inflation ratio for any asset shall be determined by dividing—

"(A) the CPI for the calendar year preceding the calendar year in which the disposition takes place, by

"(B) the CPI for the calendar year preceding the calendar year in which the taxpayer's holding period for such asset began.

The applicable inflation ratio shall not be taken into account unless it is greater than 1. The applicable inflation ratio for any asset shall be rounded to the nearest one-hundredth.

"(3) CONVENTIONS.—For purposes of paragraph (2), if any asset is disposed of during any calendar year—

"(A) such disposition shall be treated as occurring on the last day of such calendar year, and

"(B) the taxpayer's holding period for such asset shall be treated as beginning in the same calendar year as would be determined for an asset actually disposed of on such last day with a holding period of the same length as the actual holding period of the asset involved.

"(4) CPI.—For purposes of this subsection, the CPI for any calendar year shall be determined under section 1(f)(4).

"(d) SHORT SALES.—

"(1) IN GENERAL.—In the case of a short sale of an indexed asset with a short sale period in excess of 1 year, for purposes of this title, the amount realized shall be an amount equal to the amount realized (determined without regard to this paragraph) multiplied by the applicable inflation ratio. In applying subsection (c)(2) for purposes of the preceding sentence, the date on which the property is sold short shall be treated as the date on which the holding period for the asset begins and the closing date for the sale shall be treated as the date of disposition.

"(2) SHORT SALE OF SUBSTANTIALLY IDENTICAL PROPERTY.—If the taxpayer or the taxpayer's spouse sells short property substantially identical to an asset held by the taxpayer, the asset held by the taxpayer and the substantially identical property shall not be treated as indexed assets for the short sale period.

"(3) SHORT SALE PERIOD.—For purposes of this subsection, the short sale period begins on the day after property is sold and ends on the closing date for the sale.

"(e) TREATMENT OF REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—

"(1) ADJUSTMENTS AT ENTITY LEVEL.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the adjustment under subsection (a) shall be allowed to any qualified investment entity (including for purposes of determining the earnings and profits of such entity).

"(B) EXCEPTION FOR CORPORATE SHAREHOLDERS.—Under regulations, in the case of a distribution by a qualified investment entity (directly or indirectly) to a corporation—

"(i) the determination of whether such distribution is a dividend shall be made without regard to this section, and

"(ii) the amount treated as gain by reason of the receipt of any capital gain dividend shall be increased by the percentage by which the entity's net capital gain for the taxable year determined without regard to this section exceeds the entity's net capital gain for such year determined with regard to this section.

For purposes of the preceding sentence, any amount includable in gross income under section 852(b)(3)(D) shall be treated as a capital gain dividend and an S corporation shall not be treated as a corporation.

"(C) EXCEPTION FOR QUALIFICATION PURPOSES.—This section shall not apply for purposes of sections 851(b) and 856(c).

"(D) EXCEPTION FOR CERTAIN TAXES IMPOSED AT ENTITY LEVEL.—

"(i) TAX ON FAILURE TO DISTRIBUTE ENTIRE GAIN.—If any amount is subject to tax under section 852(b)(3)(A) for any taxable year, the amount on which tax is imposed under such section shall be increased by the percentage determined under subparagraph (B)(ii). A similar rule shall apply in the case of any amount subject to tax under paragraph (2) or (3) of section 857(b) to the extent attributable to the excess of the net capital gain over the deduction for dividends paid determined with reference to capital gain dividends only. The first sentence of this clause shall not apply to so much of the amount subject to tax under section 852(b)(3)(A) as is designated by the company under section 852(b)(3)(D).

"(ii) OTHER TAXES.—This section shall not apply for purposes of determining the amount of any tax imposed by paragraph (4), (5), or (6) of section 857(b).

"(2) ADJUSTMENTS TO INTERESTS HELD IN ENTITY.—

"(A) IN GENERAL.—Stock in a qualified investment entity shall be an indexed asset for any calendar month in the same ratio as the fair market value of the assets held by such entity at the close of such month which are indexed assets bears to the fair market value

of all assets of such entity at the close of such month.

"(B) RATIO OF 90 PERCENT OR MORE.—If the ratio for any calendar month determined under subparagraph (A) would (but for this subparagraph) be 90 percent or more, such ratio for such month shall be 100 percent.

"(C) RATIO OF 10 PERCENT OR LESS.—If the ratio for any calendar month determined under subparagraph (A) would (but for this subparagraph) be 10 percent or less, such ratio for such month shall be zero.

"(D) VALUATION OF ASSETS IN CASE OF REAL ESTATE INVESTMENT TRUSTS.—Nothing in this paragraph shall require a real estate investment trust to value its assets more frequently than once each 36 months (except where such trust ceases to exist). The ratio under subparagraph (A) for any calendar month for which there is no valuation shall be the trustee's good faith judgment as to such valuation.

"(3) QUALIFIED INVESTMENT ENTITY.—For purposes of this subsection, the term 'qualified investment entity' means—

"(A) a regulated investment company (within the meaning of section 851), and

"(B) a real estate investment trust (within the meaning of section 856).

"(f) OTHER PASS-THRU ENTITIES.—

"(1) PARTNERSHIPS.—

"(A) IN GENERAL.—In the case of a partnership, the adjustment made under subsection (a) at the partnership level shall be passed through to the partners (but only for purposes of determining the income of partners who are individuals).

"(B) SPECIAL RULE IN THE CASE OF SECTION 754 ELECTIONS.—In the case of a transfer of an interest in a partnership with respect to which the election provided in section 754 is in effect—

"(i) the adjustment under section 743(b)(1) shall, with respect to the transferor partner, be treated as a sale of the partnership assets for purposes of applying this section, and

"(ii) with respect to the transferee partner, the partnership's holding period for purposes of this section in such assets shall be treated as beginning on the date of such adjustment.

"(2) S CORPORATIONS.—In the case of an S corporation, the adjustment made under subsection (a) at the corporate level shall be passed through to the shareholders. This section shall not apply for purposes of determining the amount of any tax imposed by section 1374 or 1375.

"(3) COMMON TRUST FUNDS.—In the case of a common trust fund, the adjustment made under subsection (a) at the trust level shall be passed through to the participants (but only for purposes of determining the income of participants who are individuals).

"(g) DISPOSITIONS BETWEEN RELATED PERSONS.—This section shall not apply to any sale or other disposition of property between related persons (within the meaning of section 465(b)(3)(C)) if such property, in the hands of the transferee, is of a character subject to the allowance for depreciation provided in section 167.

"(h) SPECIAL RULES.—For purposes of this section—

"(1) TREATMENT AS SEPARATE ASSET.—In the case of any asset, the following shall be treated as a separate asset:

"(A) A substantial improvement to property.

"(B) In the case of stock of a corporation, a substantial contribution to capital.

"(2) ASSETS WHICH ARE NOT INDEXED ASSETS THROUGHOUT HOLDING PERIOD.—The applicable inflation ratio shall be appropriately reduced for periods during which the asset was not an indexed asset.

"(3) NET LEASE PROPERTY DEFINED.—The term 'net lease property' means leased property where—

"(A) the term of the lease (taking into account options to renew) was 50 percent or more of the useful life of the property, and

"(B) for the period of the lease, the sum of the deductions with respect to such property which are allowable to the lessor solely by reason of section 162 (other than rents and reimbursed amounts with respect to such property) is 15 percent or less of the rental income produced by such property."

(b) GAINS AND LOSSES FROM INDEXED ASSETS NOT TAKEN INTO ACCOUNT UNDER LIMITATION ON INVESTMENT INTEREST.—Subparagraph (B) of section 163(d)(4) (defining investment income) is amended by adding at the end thereof the following new sentences:

"Gain from the sale or other disposition of an indexed asset (as defined in section 1022) held for more than 1 year shall not be taken into account for purposes of the preceding sentence. The preceding sentence shall not apply to gain from the sale or other disposition of any such asset if the taxpayer elects to waive the benefits of section 1022 in determining the amount of such gain."

(c) CLERICAL AMENDMENT.—The table of sections for part II of subchapter O of chapter 1 is amended by inserting after the item relating to section 1021 the following new item:

"Sec. 1022. Indexing of investments for purposes of determining gain."

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to dispositions of any property the holding period of which begins after the date of the enactment of this Act.

(2) EXCEPTION FOR CERTAIN TRANSACTIONS BETWEEN RELATED PERSONS.—The amendments made by subsections (a) and (b) shall not apply to any property acquired after the date of the enactment of this Act, from a related person (as defined in section 465(b)(3)(C) of the Internal Revenue Code of 1986) if—

(A) such property was so acquired for a price less than the property's fair market value, and

(B) the amendments made by this section did not apply to such property in the hands of such related person.

Subtitle B—First-Time Homebuyers

SEC. 111. PENALTY-FREE WITHDRAWALS FROM PENSION PLANS DURING 1992 FOR FIRST-TIME HOMEBUYERS.

(a) IN GENERAL.—In the case of any qualified withdrawal—

(1) no additional tax shall be imposed under section 72(t)(1) of the Internal Revenue Code of 1986 with respect to such qualified withdrawal, and

(2) any amount includible in gross income by reason of such qualified withdrawal (determined without regard to this section) shall be includible ratably over the 4-taxable year period beginning with the taxable year in which such qualified withdrawal occurs.

(b) LIMITATION BASED ON ADJUSTED GROSS INCOME.—

(1) IN GENERAL.—Subsection (a) shall not apply to any taxpayer if the adjusted gross income of the taxpayer for the taxpayer's first taxable year beginning in 1991 exceeds—

(A) $100,000 in the case of married individuals filing a joint return,

(B) $50,000 in the case of a married individual filing a separate return, and

(C) $75,000 in the case of any other taxpayer.

(2) SPECIAL RULE FOR GRANDPARENTS AND PARENTS.—If a withdrawal is used to pay qualified acquisition costs of a first-time homebuyer who is the child or grandchild of a taxpayer, paragraph (1) shall be applied by reference to the adjusted gross income of the child or grandchild (and, if applicable, their spouse).

(c) QUALIFIED WITHDRAWAL.—For purposes of this section—

(1) IN GENERAL.—The term "qualified withdrawal" means any payment or distribution—

(A) which is made to an individual during the period beginning February 1, 1992, and ending on December 31, 1992,

(B) which is made from—

(i) an individual retirement plan (as defined in section 7701(a)(37) of the Internal Revenue Code of 1986) established for the benefit of the individual, or

(ii) amounts attributable to employer contributions made on behalf of the individual pursuant to elective deferrals described in section 402(g)(3) (A) or (C) or 501(c)(18)(D)(iii) of such Code, and

(C) which is used by the individual, not later than the earlier of—

(i) the date which is 6 months after the date of such payment or distribution, or

(ii) the date on which the individual files the individual's income tax return for the taxable year in which such payment or distribution occurs,

to pay qualified acquisition costs with respect to a principal residence of a first-time homebuyer who is such individual or the child or grandchild of such individual.

(2) DOLLAR LIMITATION.—The aggregate amount which may be treated as qualified withdrawals under paragraph (1) with respect to all plans and amounts of an individual described in paragraph (1)(B) shall not exceed $10,000.

(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

(A) QUALIFIED ACQUISITION COSTS.—The term "qualified acquisition costs" means the costs of acquiring, constructing, or reconstructing a residence. Such term includes any usual or reasonable settlement, financing, or other closing costs associated with such qualified acquisition costs.

(B) FIRST-TIME HOMEBUYER; OTHER DEFINITIONS.—

(i) FIRST-TIME HOMEBUYER.—The term "first-time homebuyer" means any individual if such individual (and if married, such individual's spouse) had no present ownership interest in a principal residence during the 3-year period ending on the date of acquisition of the principal residence to which this paragraph applies.

(ii) PRINCIPAL RESIDENCE.—The term "principal residence" has the same meaning as when used in section 1034.

(iii) DATE OF ACQUISITION.—The term "date of acquisition" means the date—

(I) on which a binding contract to acquire the principal residence to which this subsection applies is entered into, or

(II) on which construction or reconstruction of such a principal residence is commenced.

(C) SPECIAL RULE WHERE DELAY IN ACQUISITION.—If—

(i) any amount is paid or distributed from an individual retirement plan to an individual for purposes of being used as provided in paragraph (1), and

(ii) by reason of a delay in the acquisition of the residence, the requirements of paragraph (1) cannot be met,

the amount so paid or distributed may be paid into an individual retirement plan as provided in section 408(d)(3)(A)(i) of the Internal Revenue Code of 1986 without regard to section 408(d)(3)(B) of such Code, and, if so paid into such other plan, such amount shall not be taken into account in determining whether section 408(d)(3)(A)(i) of such Code applies to any other amount.

(D) DISTRIBUTION RULES.—Any qualified withdrawal shall not be treated as failing to meet the requirements of sections 401(k)(2)(B)(i) or 403(b)(11) of such Code.

(d) ORDERING RULES FOR INCOME TAX PURPOSES.—For purposes of the Internal Revenue Code of 1986—

(1) all plans and amounts described in subsection (c)(1)(B) with respect to an individual shall be treated as one plan, and

(2) qualified withdrawals from such plan shall be treated as made—

(A) first from amounts which are includible in gross income of the individual when distributed to such individual, and

(B) then from amounts not so includible.

SEC. 112. CREDIT FOR FIRST-TIME HOMEBUYERS.

(a) IN GENERAL.—Subpart A of part IV of chapter 1 is amended by inserting after section 22 the following new section:

"SEC. 23. PURCHASE OF PRINCIPAL RESIDENCE BY FIRST-TIME HOMEBUYER.

"(a) ALLOWANCE OF CREDIT.—If an individual who is a first-time homebuyer purchases a principal residence (within the meaning of section 1034), there shall be allowed to such individual as a credit against the tax imposed by this subtitle an amount equal to 10 percent of the purchase price of the principal residence.

"(b) LIMITATIONS.—

"(1) MAXIMUM CREDIT.—The credit allowed under subsection (a) shall not exceed $5,000.

"(2) LIMITATION TO ONE RESIDENCE.—The credit under this section shall be allowed with respect to only one residence of the taxpayer.

"(3) MARRIED INDIVIDUALS FILING JOINTLY.—In the case of a husband and wife who file a joint return under section 6013, the credit under this section is allowable only if both the husband and wife are first-time homebuyers, and the amount specified under paragraph (1) shall apply to the joint return.

"(4) OTHER TAXPAYERS.—In the case of individuals to whom paragraph (3) does not apply who together purchase the same new principal residence for use as their principal residence, the credit under this section is allowable only if each of the individuals is a first-time homebuyer, and the sum of the amount of credit allowed to such individuals shall not exceed the lesser of $5,000 or 10 percent of the total purchase price of the residence. The amount of any credit allowable under this section shall be apportioned among such individuals under regulations to be prescribed by the Secretary.

"(5) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the amount of the tax imposed by this chapter for the taxable year, reduced by the sum of any other credits allowable under this chapter.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) PURCHASE PRICE.—The term 'purchase price' means the adjusted basis of the principal residence on the date of the acquisition thereof.

"(2) FIRST-TIME HOMEBUYER.—

"(A) IN GENERAL.—The term 'first-time homebuyer' means any individual if such individual has not had a present ownership interest in any residence (including an interest in a housing cooperative) at any time within the 36-month period ending on the date of acquisition of the residence on which the credit allowed under subsection (a) is to be claimed. An interest in a partnership, S corporation, or trust that owns an interest in a residence is not considered an interest in a residence for purposes of this paragraph except as may be provided in regulations.

"(B) CERTAIN INDIVIDUALS.—Notwithstanding subparagraph (A), an individual is not a first-time homebuyer on the date of purchase of a residence if on that date the running of any period of time specified in section 1034 is suspended under subsection (h) or (k) of section 1034 with respect to that individual.

"(3) SPECIAL RULES FOR CERTAIN ACQUISITIONS.—No credit is allowable under this section if—

"(A) the residence is acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under section 267 or 707(b), or

"(B) the basis of the residence in the hands of the person acquiring it is determined—

"(i) in whole or in part by reference to the adjusted basis of such residence in the hands of the person from whom it is acquired, or

"(ii) under section 1014(a) (relating to property acquired from a decedent).

"(d) RECAPTURE FOR CERTAIN DISPOSITIONS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), if the taxpayer disposes of property with respect to the purchase of which a credit was allowed under subsection (a) at any time within 36 months after the date the taxpayer acquired the property as his principal residence, then the tax imposed under this chapter for the taxable year in which the disposition occurs is increased by an amount equal to the amount allowed as a credit for the purchase of such property.

"(2) ACQUISITION OF NEW RESIDENCE.—If, in connection with a disposition described in paragraph (1) and within the applicable period prescribed in section 1034, the taxpayer purchases a new principal residence, then the provisions of paragraph (1) shall not apply and the tax imposed by this chapter for the taxable year in which the new principal residence is purchased is increased to the extent the amount of the credit that could be claimed under this section on the purchase of the new residence (determined without regard to subsection (e)) is less than the amount of credit claimed by the taxpayer under this section.

"(3) DEATH OF OWNER; CASUALTY LOSS; INVOLUNTARY CONVERSION; ETC.—The provisions of paragraph (1) do not apply to—

"(A) a disposition of a residence made on account of the death of any individual having a legal or equitable interest therein occurring during the 36-month period to which reference is made under paragraph (1),

"(B) a disposition of the old residence if it is substantially or completely destroyed by a casualty described in section 165(c)(3) or compulsorily or involuntarily converted (within the meaning of section 1033(a)), or

"(C) a disposition pursuant to a settlement in a divorce or legal separation proceeding where the residence is sold or the other spouse retains the residence as a principal residence.

"(e) PROPERTY TO WHICH SECTION APPLIES.—

"(1) IN GENERAL.—The provisions of this section apply to a principal residence if—

"(A) the taxpayer acquires the residence on or after February 1, 1992, and before January 1, 1993, or

"(B) the taxpayer enters into, on or after February 1, 1992, and before January 1, 1993, a binding contract to acquire the residence, and acquires and occupies the residence before July 1, 1993."

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of chapter 1 is amended by inserting after section 22 the following new item:

"Sec. 23. Purchase of principal residence by first-time homebuyer."

(c) EFFECTIVE DATE.—The amendments made by this section are effective on February 1, 1992.

SEC. 113. CASUALTY LOSS ON SALE OF HOME; BASIS ADJUSTMENT.

(a) CASUALTY LOSS.—Paragraph (3) of section 165(c) is amended by striking the period and inserting ", or from the sale of a principal residence (within the meaning of section 1034)."

(b) $100 LIMITATION TO APPLY.—Paragraph (1) of section 165(h) is amended by inserting "or from each sale of a principal residence," after "theft,".

(c) BASIS ADJUSTMENT.—Section 1016 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) INCREASE IN BASIS OF NEW PRINCIPAL RESIDENCE.—

"(1) IN GENERAL.—If—

"(A) the taxpayer sells property used by the taxpayer as his principal residence (within the meaning of section 1034) ('the old principal residence') and realizes a loss on the sale, and

"(B) the taxpayer purchases a new principal residence (within the meaning of section 1034) within the time period described in section 1034(a) (and taking into account any suspension of such period under section 1034 (h) or (k)),

the basis of the new principal residence shall be increased by the amount of the loss realized on the sale of the old principal residence, less the amount treated under regulations prescribed by the Secretary as a casualty loss arising from the sale of the old principal residence.

"(2) REGULATIONS.—The Secretary shall prescribe regulations for determining the amount that shall be treated as a casualty loss arising from the sale of the old principal residence."

(d) CROSS REFERENCES.—

(1) Subsection (m) of section 165 is amended by adding at the end thereof the following new paragraph:

"(6) For adjustments to basis of a new principal residence where a loss is claimed under this section on sale of a principal residence, see section 1016(e) and section 1034."

(2) Subsection (l) of section 1034 is amended by adding at the end thereof the following new sentence: "For adjustments to basis of the new principal residence on sale of the old principal residence at a loss, see section 1016(e)."

(3) The heading of paragraph (1) of section 1034 is amended by striking "REFERENCE" and inserting "REFERENCES".

(e) EFFECTIVE DATE.—

(1) CASUALTY LOSS.—The amendments made by subsections (a) and (b) apply to sales of principal residences on or after February 1, 1992.

(2) BASIS ADJUSTMENT.—The amendments made by subsections (c) and (d) apply to sales of principal residences on or after January 1, 1991.

SEC. 114. PERMANENT EXTENSION OF QUALIFIED MORTGAGE BONDS.

(a) IN GENERAL.—Paragraph (1) of section 143(a) (defining qualified mortgage bond) is amended to read as follows:

"(1) QUALIFIED MORTGAGE BOND DEFINED.—For purposes of this title, the term 'qualified mortgage bond' means a bond which is issued as part of a qualified mortgage issue."

(b) MORTGAGE CREDIT CERTIFICATES.—Section 25 is amended by striking subsection (h) and by redesignating subsection (i) as subsection (h).

(c) EFFECTIVE DATES.—

(1) BONDS.—The amendment made by subsection (a) shall apply to bonds issued after June 30, 1992.

(2) CERTIFICATES.—The amendment made by subsection (b) shall apply to elections for periods after June 30, 1992.

SEC. 115. PERMANENT EXTENSION OF LOW-INCOME HOUSING CREDIT.

(a) IN GENERAL.—Section 42 (relating to low-income housing credit) is amended by striking subsection (o).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to periods after June 30, 1992.

TITLE II—INCENTIVES TO ENCOURAGE A STRENGTHENED REAL ESTATE MARKET AND TO ENCOURAGE FINANCING

Subtitle A—Reforms To End Discrimination Against Real Estate Professionals

SEC. 201. PASSIVE LOSS EQUITY FOR REAL ESTATE PROFESSIONALS.

(a) RENTAL REAL ESTATE ACTIVITIES OF PERSONS IN REAL PROPERTY BUSINESS NOT AUTOMATICALLY TREATED AS PASSIVE ACTIVITIES.—Section 469(c) (defining passive activity) is amended by adding at the end thereof the following new paragraph:

"(7) RULES FOR TAXPAYERS IN REAL PROPERTY BUSINESS TO END DISCRIMINATION.—

"(A) IN GENERAL.—If this paragraph applies to any taxpayer for a taxable year—

"(i) paragraph (2) shall not apply to any rental real estate activity of such taxpayer for such taxable year, and

"(ii) this section shall be applied as if each interest of the taxpayer in rental real estate were a separate activity.

Notwithstanding clause (ii), a taxpayer may elect to treat all interests in rental real estate as one activity.

"(B) TAXPAYERS TO WHOM PARAGRAPH APPLIES.—This paragraph shall apply to a taxpayer for a taxable year if more than one-half of the personal services performed in trades or businesses by the taxpayer during such taxable year are performed in real property trades or businesses in which the taxpayer materially participates.

"(C) SPECIAL RULES FOR SUBPARAGRAPH (B).—

"(i) CLOSELY HELD C CORPORATIONS.—In the case of a closely held C corporation, the requirements of subparagraph (B) shall be treated as met for any taxable year if more than 50 percent of the gross receipts of such corporation for such taxable year are derived from real property trades or businesses in which the corporation materially participates.

"(ii) PERSONAL SERVICES AS AN EMPLOYEE.—For purposes of subparagraph (B), personal services performed as an employee (other than as an owner-employee) shall not be treated as performed in real property trades or businesses."

(b) CONFORMING AMENDMENT.—Section 469(c)(2) is amended by striking "The" and inserting "Except as provided in paragraph (7), the".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after February 1, 1992.

Subtitle B—Provisions Relating to Real Estate Investments by Pension Funds To Provide Capital and Credit for Long-Term Real Estate Investment

SEC. 211. REAL PROPERTY ACQUIRED BY A QUALIFIED ORGANIZATION.

(a) INTERESTS IN MORTGAGES.—The last sentence of subparagraph (B) of section 514(c)(9) is hereby transferred to subparagraph (A) of section 514(c)(9) and added at the end thereof.

(b) MODIFICATIONS OF EXCEPTIONS.—Paragraph (9) of section 514(c) is amended by adding at the end thereof the following new subparagraph:

"(G) SPECIAL RULES FOR PURPOSES OF THE EXCEPTIONS.—For purposes of subparagraph (B), except as otherwise provided by regulations, the following additional rules apply—

"(i) IN GENERAL.—

"(I) For purposes of clauses (iii) and (iv) of subparagraph (B), a lease to a person described in clause (iii) or (iv) shall be disregarded if no more than 10 percent of the leasable floor space in a building is covered by the lease and if the lease is on commercially reasonable terms.

"(II) Clause (v) of subparagraph (B) shall not apply to the extent the financing is commercially reasonable and is on substantially the same terms as loans involving unrelated persons; for this purpose, standards for determining a commercially reasonable interest rate shall be provided by the Secretary.

"(ii) QUALIFYING SALES OUT OF FORECLOSURE BY FINANCIAL INSTITUTIONS.—In the case of a qualifying sale out of foreclosure by a financial institution, clauses (i) and (ii) of subparagraph (B) shall not apply. For this purpose, a 'qualifying sale out of foreclosure by a financial institution' exists where—

"(I) a qualified organization acquires real property from a person (a 'financial institution') described in section 581 or 591(a) (including a person in receivership) and the financial institution acquired the property pursuant to a bid at foreclosure or by operation of an agreement or of process of law after a default on indebtedness which the property secured ('foreclosure'), and the financial institution treats any income realized from the sale or exchange of the property as ordinary income,

"(II) the amount of the financing provided by the financial institution does not exceed the amount of the financial institution's outstanding indebtedness (determined without regard to accrued but unpaid interest) with respect to the property at the time of foreclosure,

"(III) the financing provided by the financial institution is commercially reasonable and is on substantially the same terms as loans between unrelated persons for sales of foreclosed property (for this purpose, standards for determining a commercially reasonable interest rate shall be provided by the Secretary), and

"(IV) the amount payable pursuant to the financing that is determined by reference to the revenue, income, or profits derived from the property ('participation feature') does not exceed 25 percent of the principal amount of the financing provided by the financial institution, and the participation feature is payable no later than the earlier of satisfaction of the financing or disposition of the property."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to debt-financed acquisitions of real estate made on or after February 1, 1992.

SEC. 212. SPECIAL RULES FOR INVESTMENTS IN PARTNERSHIPS.

(a) MODIFICATION TO ANTI-ABUSE RULES.—Paragraph (9) of section 514(c) (as amended by section 131 of this Act) is amended by adding at the end thereof the following new subparagraph:

"(H) PARTNERSHIPS NOT INVOLVING TAX AVOIDANCE.—

"(i) DE MINIMIS RULE FOR CERTAIN LARGE PARTNERSHIPS.—The provisions of subparagraph (B) shall not apply to an investment in a partnership having at least 250 partners if—

"(I) investments in the partnership are organized into units that are marketed primarily to individuals expected to be taxed at the maximum rate prescribed for individuals under section 1,

"(II) at least 50 percent of each class of interests is owned by such individuals,

"(III) the partners that are qualified organizations owning interests in a class participate on substantially the same terms as other partners owning interests in that class, and

"(IV) the principal purpose of partnership allocations is not tax avoidance.

"(ii) EXCEPTION WHERE TAXABLE PERSONS OWN A SIGNIFICANT PERCENTAGE.—In the case of any partnership, other than a partnership to which clause (i) applies, in which persons who are expected (under the regulations to be prescribed by the Secretary), at the time the partnership is formed, to pay tax at the maximum rate prescribed in section 1 or 11 (whichever is applicable) throughout the term of the partnership own at least a 25-percent interest, the provisions of subparagraph (B) shall not apply if the partnership satisfies the requirements of subparagraph (E)."

(b) PUBLICLY TRADED PARTNERSHIPS; UNRELATED BUSINESS INCOME FROM PARTNERSHIPS.—Subsection (c) of section 512 is amended by striking paragraph (2) (relating to publicly traded partnerships), by redesignating paragraph (3) as paragraph (2), and by striking "paragraph (1) or (2)" in paragraph (2) (as so redesignated) and inserting "paragraph (1)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership interests acquired on or after February 1, 1992.

Subtitle C—Other Provisions

SEC. 221. TREATMENT OF CONTRIBUTIONS IN AID OF CONSTRUCTION.

(a) IN GENERAL.—Section 118 is amended by redesignating subsection (c) as subsection (d) and by striking subsection (b) and inserting the following new subsections:

"(b) CONTRIBUTIONS IN AID OF CONSTRUCTION.—

"(1) GENERAL RULE.—For purposes of this section, the term 'contribution to the capital of the taxpayer' includes any amount of money or other property received from any person (whether or not a shareholder) by a regulated public utility which provides electric energy, gas (through a local distribution system or transportation by pipeline), water, or sewerage disposal services if—

"(A) such amount is a contribution in aid of construction,

"(B) where the contribution is in property which is other than electric energy, gas, steam, water, or sewerage disposal facilities, such amount meets the requirements of the expenditure rule of paragraph (2), and

"(C) such amount (or any property acquired or constructed with such amount) are not included in the taxpayer's rate base for rate-making purposes.

"(2) EXPENDITURE RULE.—An amount meets the requirements of this paragraph if—

"(A) an amount equal to such amount is expended for the acquisition or construction of tangible property described in section 1231(b)—

"(i) which was the purpose motivating the contribution, and

"(ii) which is used predominantly in the trade or business of furnishing electric energy, gas, steam, water, or sewerage disposal services,

"(B) the expenditure referred to in subparagraph (A) occurs before the end of the second taxable year after the year in which such amount was received, and

"(C) accurate records are kept of the amounts contributed and expenditures made on the basis of the project for which the contribution was made and on the basis of the year of contribution or expenditure.

"(3) DEFINITIONS.—For purposes of this section—

"(A) CONTRIBUTIONS IN AID OF CONSTRUCTION.—The term 'contribution in aid of construction' shall be defined by regulations prescribed by the Secretary; except that such term shall not include amounts paid as customer connection fees (including amounts paid to connect the customer's line to an electric line, a gas main, a steam line, or a main water or sewer line and amounts paid as service charges for starting or stopping services).

"(B) PREDOMINANTLY.—The term 'predominantly' means 80 percent or more.

"(C) REGULATED PUBLIC UTILITY.—The term 'regulated public utility' has the meaning given such term by section 7701(a)(33); except that such term shall not include any such utility which is not required to provide electric energy, gas, water, or sewerage disposal services to members of the general public (including in the case of a gas transmission utility, the provision of gas services by sale for resale to the general public) in its service area.

"(4) DISALLOWANCE OF DEDUCTIONS AND INVESTMENT CREDIT; ADJUSTED BASIS.—Notwithstanding any other provision of this subtitle, no deduction or credit shall be allowed for, or by reason of, the expenditure which constitutes a contribution in aid of construction to which this subsection applies. The adjusted basis of any property acquired with contributions in aid of construction to which this subsection applies shall be zero.

"(c) STATUTE OF LIMITATIONS.—If the taxpayer for any taxable year treats an amount as a contribution to the capital of the taxpayer described in subsection (b), then—

"(1) the statutory period for the assessment of any deficiency attributable to any part of such amount shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may prescribe) of—

"(A) the amount of the expenditure referred to in subparagraph (A) of subsection (b)(2),

"(B) the taxpayer's intention not to make the expenditures referred to in such subparagraph, or

"(C) a failure to make such expenditure within the period described in subparagraph (B) of subsection (b)(2); and

"(2) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to amounts received after the date of the enactment of this Act.

SEC. 222. TREATMENT OF NONACCRUING LOANS FOR TAX PURPOSES.

The Secretary of the Treasury or his delegate, in consultation with the Comptroller of the Currency or his designee, shall, not later than 90 days after the date of the enactment of this Act, take such actions as are necessary so that any loan of a financial institution shall, during any period such loan is on nonaccrual status for Federal bank regulatory and financial accounting purposes, be treated in a uniform manner for purposes of the Internal Revenue Code of 1986 and Federal regulatory and financial accounting.

DESCRIPTION OF PROVISIONS IN THE REAL ESTATE MARKET IMPROVEMENT ACT

Section 101. Capital gains.

Purpose: A capital gains differential would increase the value of real estate, unlock capital in a sluggish market and provide incentives for investment.

Eligibility: All individual taxpayers.

Other specific provisions:

Provides a sliding-scale exclusion that is phased in over three years.

	Exclusion	Tax brackets	
		28 percent	15 percent
Holding period:			
3-yr gain	45	15.4	8.3
2-yr gain	30	19.6	10.5
1-yr gain	15	23.8	12.8

Provides prospective indexing for inflation for assets acquired after date of enactment.

No change in current law recapture rules. No recapture of straightline depreciation. Recapture would only apply to accelerated depreciation.

The sale, exchange of real estate or a closely-held business is not treated as a preference item for Alternative Minimum Tax purposes.

Effective date: Generally for dispositions of qualified assets after the date of enactment.

For the balance of 1992, the full 45 percent exclusion would apply to assets held more than 1 year.

For dispositions in 1993, assets would be required to have been held for more than 2 years to be eligible for the 45 percent exclusion and more than 1 year to be eligible for the 30 percent exclusion.

For dispositions in 1994 and thereafter, assets would be required to have been held more than 3 years to be eligible for the 45 percent exclusion.

Section 111. Penalty-free withdrawals from pension plans during 1992 for first-time homebuyers.

Purpose: Allowing homebuyers, parents and grandparents of homebuyers a penalty free withdrawal from IRAs would help first time homebuyers over come one of the most significant barriers to homeownership—making down payments and paying closing costs.

Eligibility: First time homebuyers with AGI less than:

$100,000 for married individuals filing jointly.

$50,000 for married individuals filing separately.

$75,000 for any other individual.

Other specific provisions:

Allows up to $10,000 penalty free withdrawals from IRAs, 401(k)s and other pensions by individuals, parents and grandparents to be used as a down payment of first time home.

Regular income tax due can be paid over a four-year period.

Effective date: Withdrawals made between February 1, 1992 and December 31, 1992.

Sec. 112. $5,000 non-refundable credit for first-time homebuyers.

Purpose: The tax credit would assist first-time homebuyers in entering the housing market to purchase homes. By encouraging such purchases during 1992, the credit would stimulate the housing industry.

Eligibility: All first-time homebuyers.

Including anyone who has not owned a home during the 3-year period prior to the date of purchase.

Other specific provisions:

Credit equal to 10 percent of the purchase price, up to a maximum of $5,000.

One-half of the credit allowed in 1992 and one-half in 1993.

Applicable to existing and new construction.

Effective date: Closing on or after February 1, 1992, and for all binding contracts entered into before December 31, 1992, and closed by June 30, 1993.

Section 113. Casualty loss on sale of home; basis adjustment.

Purpose: Gains and losses are not treated equally in the tax code. In a period of declining real estate values the tax code makes it even more painful for a family forced to sell their principal residence at a loss because the code denies a deduction. Allowing a casualty loss deduction would make it easier on the family budget to sell a house at a loss. The proposal would also update the tax code to recognize current real estate conditions.

Eligibility: individuals who itemize, and sell a primary residence at a loss.

Other specific provisions:

Allow homeowners who sell homes at a loss to treat the capital loss as a casualty loss, thus allowing a partial deduction.

The marital deduction is:

Loss reduced by $100, and

Loss further reduced by 10 percent of the taxpayer's adjusted gross income.

The nondeductible portion of the loss may be added to the tax basis of a new residence purchased within a 2-year roll-over period.

Effective date: For sales on or after February 1, 1992.

Special rule for 1991 sales: Homeowners who sustained a loss on or after January 1, 1991 but before February 1, 1992, would be permitted to add the entire loss basis to the basis of a new principal residence purchased within the rollover period.

Section 114. Make permanent the mortgage revenue bond provisions.

Purpose: The mortgage revenue bond program has helped millions of first time homebuyers finance their first homes at reduced rates. A permanent extension would help state and local governments run more efficient programs.

Specific provisions:

State and local governments may use the proceeds of tax-exempt bonds to make loans to certain low and middle income families and individuals for the purpose of purchasing a home.

Authority is also granted to state and local government to issue mortgage credit certificates (MCCs), which provide individuals with a tax credit equal to a portion of the home mortgage interest paid by the purchaser.

Making this authority permanent will help states and local governments to run better programs.

Section 115. Make permanent the low income housing tax credit.

Purpose: The low income housing tax credit has helped finance more than 365,000 low-income rental units since 1986 and is responsible for creating between 95 and 100 percent

of low-income multifamily units that rent for less than $450 per month. Provides needed incentives to create apartments for families with incomes below 60 percent of area median family income.

Encourages the private sector to construct and rehabilitate the nation's rental housing stock.

Specific provisions:

Owners of qualified low-income apartment buildings may claim the low-income housing tax credit in equal annual installments over a 10-year period as long as the buildings continue to provide low-income housing over a 15 year period.

The discounted present value of the installments of the credit is generally: 70 percent of the depreciable costs of new construction and substantial rehabilitations; and 30 percent of the cost of acquiring existing buildings which have been substantially rehabilitated.

The annual credit available for a building cannot exceed the amount allocated to the building by the designated State or local housing agency.

States are given the authority to allocate the credit at $1.25 per state resident.

Section 201. Passive loss reform to end discrimination against real estate professionals.

Purpose: Allowing real estate professionals the same tax treatment as other small businesspersons would eliminate the tax code's discrimination against real estate professionals and would encourage people to retain ownership, rather than default on depressed properties.

Eligibility: All real estate professionals.

Other specific provisions:

Repeals the irrebuttable presumption that real estate rental activities, are *per se* passive regardless of the taxpayer's participation.

Allows real estate activities to be treated like other trade or business activities which can be either passive or active. A trade or business is passive investment unless the taxpayer "materially participates."

Allows losses from the rental of real property to offset income from the taxpayer's nonrental real estate operations that are part of the same real estate development business.

Section 211. Real property acquired by pension funds and other qualified organizations.

Purpose: Removes overly broad restrictions on pension funds investing in real estate.

Increases the potential number of investors and the amount of capital invested in the real estate market thereby increasing liquidity. This should help stabilize real estate values.

Pension funds and educational institutions are a major source of investment capital for real estate. The debt-financing rules, which were designed to prevent abuses in transactions between taxable and tax-exempt persons are modified to enhance the efficient flow of capital.

Specific provisions:

Pensions, and educational institutions are generally subject to the unrelated business income tax (UBIT) for income earned from debt-financed investments like real estate.

Modifies these debt financing rules to permit pensions, other qualified trusts and educational institutions to invest in debt-financed real estate investments on commercially reasonable terms without being subject to the UBIT.

Provides a general exception to the sale and leaseback prohibition to allow a certain amount of flexibility by allowing a de minimis leaseback if no more than 10 percent of the leasable floor space in a building is leased back to the seller (or related party) and the lease is on commercially reasonable terms.

Provides modifications to allow seller financing on terms that are commercially reasonable.

Provides special rules for investments in real estate partnerships and provides a special exemption for property foreclosed on by financial institutions.

Section 231. Costs in aid of construction.

Purpose: To lower the price of new homes by as much as $2,000.

Specific provisions:

Builders extend gas, water and electric lines to new subdivisions. Builders either pay the utilities to install these lines, or the builders put in the lines and turn the property over to the utilities without charge.

Under current law, utilities must treat these CIACs as taxable income.

Restore the tax-exempt status of contributions in aid of construction.

Section 232. Treatment of nonaccruing loans for tax purposes.

Purpose: To conform the regulatory treatment of nonaccrual loans and the accrual of interest for federal income tax purposes. This would help reduce the taxpayers' disputes with the IRS thereby avoiding unnecessary and expensive litigation.

Specific provisions:

Requires the Treasury and the OCC to establish uniform procedures for allowing banks to treat nonaccrual loans for tax purposes in the same way that regulators require them to be treated for regulatory and financial reporting purposes.

Mr. RUDMAN. Mr. President, I am pleased today to introduce the Real Estate Market Improvement Act of 1992 along with my colleagues on the Republican Task Force on Real Estate. I would like to offer my special thanks to the chairman of the task force, Senator DOMENICI, for all of the time and hard work he has devoted to the task force and in developing this proposal.

The task force, appointed by the minority leader Senator DOLE last October, was charged with reviewing the current real estate industry in the United States. Of particular concern was the effect of the depressed real estate market on the economy, especially the construction and the banking industries. I should note that real estate has been one of the prime engines that has pulled the United States out of every economic slowdown since World War II. After numerous meetings with leaders from Government and industry, the task force released a list of interim recommendations in November. By the time our final report was completed in January, the task force had accomplished seven of its legislative and regulatory policy changes. Although some of the successes are relatively small in nature, I believe that as a whole, they will have a positive effect on the economy.

The Real Estate Market Improvement Act we are introducing today consists of 10 of the legislative reforms the task force believes would have the greatest stimulative effect on the economy and real estate market. Among the provisions in the bill are a cut in the capital gains tax rate, penalty free withdrawals from pension plans during 1992 for first-time home buyers, a $5,000 nonrefundable credit for first-time homebuyers, and overdue changes in the passive loss rules which discourage investment in real estate. If these proposals are enacted, they would have a stimulative effect on the entire economy and provide more stability in the real estate market.

Mr. President, the economy in my home State of New Hampshire is in shambles. Every day I receive numerous letters and phone calls from individuals in New Hampshire seeking action by Congress to provide some sort of relief from the bleak economy.

As of December, the New Hampshire unemployment rate has remained above the national rate for the 10th consecutive month. The national unemployment rate was 6.4 percent, while New Hampshire's was 7.8 percent. In the area of construction employment alone, New Hampshire has seen a drop of over 53 percent over the last 3 years compared to a nationwide drop of 8 percent. Over the last 2 years, New Hampshire has had the greatest welfare caseload increase, with a 133.7-percent increase in the Food Stamp Program and a 98.1-percent increase in the Aid to Families With Dependent Children [AFDC] Program. Clearly, something needs to be done to stimulate the economy and create jobs. I believe that the proposals embodied in this bill will begin to address many of the economic problems that face New Hampshire and this economy.

However, as the old phrase goes, "nothing in life is free." All of the economic packages that have been introduced come with a price tag, and this proposal is no different. The Real Estate Market Improvement Act is estimated to cost between $21.9 and $42.3 billion.

Although the task force has not recommended possible offsets to meet the pay-as-you-go requirements of the Budget Enforcement Act of 1991, clearly some spending of revenue offsets will be necessary. I firmly believe that the record deficits in the last decade are a main reason for the current recession. A reduction in the Federal budget deficit would be the greatest long-term stimulant to the economy. Indeed, reducing the Federal budget deficit has been one of my highest priorities during the past 10 years that I have served as a U.S. Senator. As a coauthor of the Gramm-Rudman-Hollings law, I believe it would be irresponsible and counterproductive to pass any sort of package that simply adds to the deficit. Although I do not support all of the offsets that the administration recommends, I believe that there are a number of possible options open for dis-

cussion. While it will not be easy to work out a compromise that is agreeable to everyone, I believe that it is possible to engineer an economic plan that will stimulate the economy and not add further to the Federal deficit.

It is my understanding that the Senate Finance Committee is marking up an economic bill today and I am hopeful they will give careful consideration to the items included in the Real Estate Market Improvement Act. I look forward to working with my colleagues on both sides of the aisle on this issue.

S. 2274

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 "Target FHA to 1st-Time Homebuyers Act".

SEC. 2. PURPOSE.

The purpose of this Act is to target the resources of the FHA single family mortgage insurance program better to meet the needs of first-time homebuyers, low-income families, and minorities.

SEC. 3. INCREASE IN MORTGAGE LIMIT.

Section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended by striking "For purposes of the preceding sentence," the first place it appears and inserting the following: "Notwithstanding the limitations contained in subparagraphs (A) and (B) of the preceding sentence, the Secretary may increase the maximum dollar amount limitations applicable to first-time homebuyers, as defined by the Secretary, in areas to which the preceding sentence applies, to an amount not to exceed the median one-family house price in the area. For the purposes of this paragraph,".

SEC. 4. NEW PROGRAMS.

(a) DEVELOPMENT OF PROGRAMS.—The Secretary of Housing and Urban Development (hereafter in this Act referred to as the "Secretary") shall develop programs designed to increase the percentage of mortgages insured under the National Housing Act (12 U.S.C. 1701 et seq.) that are executed by low-income, minority, and first-time homebuyers.

(b) REPORT.—Within 1 year after the date of enactment of this Act, the Secretary shall report to the Congress on the development and future implementation of the programs described in subsection (a).

(c) INTERIM PERIOD.—During the 2-year period beginning on the date of enactment of this Act, the Secretary shall take appropriate actions to increase the percentage of mortgages insured under the National Housing Act that are executed by low-income or minority homebuyers to 30 percent of all mortgages insured under such Act.

FEDERAL HOUSING ADMINISTRATION [FHA] SECTION-BY-SECTION ANALYSIS

SECTION 1: SHORT TITLE

Target FHA to First-Time Homebuyers Act

SECTION 2: PURPOSE

The purpose of this act is to target the resources of the FHA single family mortgage insurance program better to meet the needs of first-time homebuyers, low-income families, and minorities.

SECTION 3: INCREASE THE MAXIMUM MORTGAGE LIMIT

This section gives the Secretary of HUD the authority to increase the maximum mortgage amount for high-cost areas from $125,000 up to the median home price for a metropolitan statistical area (MSA). Only first-time homebuyers would be able to get an FHA guarantee at the higher ceiling level.

SECTION 4: NEW PROGRAMS

This section requires FHA to develop new programs to improve its ability to better serve low-income, minorities, and first-time homebuyers. HUD will be required to report to Congress within one year on how it plans to implement new programs. In the interim, FHA will have a goal of increasing its share of low-income and minority housing business from 15 percent to 30 percent within two years.

S. 2275

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 "Secondary Market for Commercial Real Estate Mortgages Act of 1992".

SEC. 2. PURPOSE.

The purpose of this Act is to provide for a means to better understand the market impediments to developing a secondary market for commercial real estate mortgages.

SEC. 3. FINDINGS.

The Congress finds that—

(1) the secondary market for residential real estate mortgages has created liquidity and diversified risk in the home mortgage lending market, has maintained an adequate flow of mortgage credit to homebuyers, and has stabilized mortgage prices across the country;

(2) a secondary market for commercial real estate mortgages has not developed despite the apparent benefits for lenders and homeowners in the residential market;

(3) the major impediment to the creation of a secondary market for commercial real estate mortgages is the lack of a standardized securities product; and

(4) if progress can be made in the standardization of commercial real estate mortgages and securities, then possibly a market can be developed through the private sector.

SEC. 4. STUDY BY THE FNMA, FHLMC, AND FHFB.

(a) IN GENERAL.—The chairmen of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Federal Housing Finance Board shall each conduct a study of the possibility of developing a secondary market for commercial real estate mortgages. In conducting the study, the chairmen shall focus in particular on—

(1) understanding market perceptions and the market's hesitancy to develop a secondary market for commercial real estate mortgages;

(2) the acquisition, development, and construction phases of the commercial real estate market; and

(3) ways to standardize security products for retail, office space, and other segments of the commercial real estate market.

(b) REPORT—Not later than 1 year after the date of enactment of this Act, the chairmen referred to in subsection (a) shall transmit to the Congress a report on the results of the study under subsection (a). The report shall include recommendations for legislation to develop a secondary market for commercial real estate mortgages.

SEC. 5. REPORT AND STUDY BY THE RTC.

(a) IN GENERAL.—The chief executive officer of the Resolution Trust Corporation (hereafter in this Act referred to as the "RTC") shall conduct a study that focuses on—

(1) efforts by the RTC to standardize its products:

(2) the success of the RTC in marketing its securities; and

(3) the reaction of the market to the commercial real estate mortgage secondary market.

(b) REPORT.—Within 1 year after the date of enactment of this Act, the chief executive officer of the RTC shall transmit a report to the Congress on the impact of its commercial real estate securitization program. Such report shall also contain the results of the study under subsection (a).

COMMERCIAL REAL ESTATE SECONDARY MARKET ACT OF 1992, SECTION-BY-SECTION ANALYSIS

SECTION 1: SHORT TITLE

Secondary Market for Commercial Real Estate Mortgages Act of 1992

SECTION 2: PURPOSE

The purpose of this Act is to provide for a means to better understand the market impediments to developing a secondary market for commercial real estate mortgages.

SECTION 3: FINDINGS

The secondary market for residential real estate has created liquidity and diversified risk in the home mortgage lending market, has maintained an adequate flow of mortgage credit to homebuyers, and has stabilized mortgage prices across the country.

A secondary market for commercial real estate has not developed despite the apparent benefits for lenders and homeowners in the residential market.

The number one impediment to the creation of a secondary market for commercial real estate is the standardization of the securities product. If progress can be made in understanding why standardization of commercial real estate mortgages has not occurred, then possibly a market will develop through the private sector.

SECTION 4: ANALYSIS BY FANNIE MAE, FREDDIE MAC, AND THE FEDERAL HOME LOAN BANKS

This Act requires Fannie Mae, Freddie Mac, and the Federal Housing Finance Board to study how to standardize a security product to help develop a secondary market for commercial real estate. The agencies will complete the studies within one year and report to Congress on the results.

The studies should focus on understanding market perceptions and hesitancy to develop a secondary commercial real estate market.

The study must divide the commercial real estate market into acquisition, development, and construction phases.

It should also look at ways to standardize security products for retail, office space, and other segments of commercial real estate.

The agencies should make recommendations on whether additional legislative authorities are needed to develop a secondary commercial real estate market.

SECTION 5: REPORT AND STUDY BY THE RESOLUTION TRUST CORPORATION

This bill requires the Resolution Trust Corporation (RTC) to study the impact of its commercial real estate securitization program. The study must force on its efforts to standardize its products, its success in marketing the securities, and the markets reaction to the commercial real estate secondary market.

S. 2276

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 "Credit Availability Act of 1992".

SEC. 2. CAPITAL REQUIREMENT EXCEPTION FOR SOUND INSTITUTIONS.

Section 5(t)(5)(D) of the Home Owners' Loan Act (12 U.S.C. 1464(t)(5)(D)) is amended by striking clause (iii) and inserting the following:

"(iii) EXCEPTION FOR SOUND INSTITUTIONS.—Notwithstanding clause (ii), for purposes of clause (i) the percentages listed in clause (iv) shall apply to any savings association that—

"(I) is either 'adequately capitalized' or 'well capitalized' as defined in section 38 of the Federal Deposit Insurance Act;

"(II) has a current MACRO rating from its primary regulator of 1, 2, or 3;

"(III) is an 'eligible savings association' as defined in paragraph (3)(B); and

"(IV) supports the credit needs of the communities it serves.

"(iv) APPLICABLE PERCENTAGES.—For purposes of clause (iii), the applicable percentage is as follows:

"For the following period:	*Applicable percentage: Applicable percentage:*
July 1, 1991-June 30, 1994	75
July 1, 1994-June 30, 1995	60
July 1, 1995-June 30, 1996	40
Thereafter	0.

"(v) DISCRETIONARY APPLICATION OF EXCEPTION.—The Director may, in his or her discretion—

"(I) restrict the exception provided by clause (iii) to savings associations that have a current MACRO rating of 3 from the primary regulator of the institution; or

"(II) included certain savings associations located in economically distressed communities among those savings associations to which clause (iii) applies.".

CREDIT AVAILABILITY ACT OF 1992, SECTION-BY-SECTION ANALYSIS

SECTION 1: SHORT TITLE

Credit Availability Amendment Act of 1992

SECTION 2: CAPITAL REQUIREMENT EXCEPTION FOR HEALTH THRIFTS

This bill provides a two year freeze to meet the capital requirements against real estate development subsidiaries for well capitalized and adequately capitalized thrifts.

The capital exemption will only apply to thrifts with MACRO ratings of 1, 2, or 3.

This bill will not change the standard that thrifts already meet the 25 percent capital requirement.

SECTION 3: DISCRETIONARY APPLICATION OF EXCEPTION

This bill gives the Director of the Office of Thrift Supervision the authority to deny the exception for MACRO level 3 thrifts or to apply the exemption for certain thrifts in economically distressed communities.

Mr. MACK. Mr. President, it is my purpose to support the previous comments with respect to this legislation. The proposal, I believe, is an excellent one. I have just returned from several hearings in my State over the past weekend where it was presented to me in very vivid and strong terms with respect to the problems the people of the State of Florida are facing as a result of present economic conditions.

There is a deep sense of concern for the future. Families are hurting. People have lost their jobs. Th[illegible] future does not look bright. There is a sense of anger about what is happening in the economy. And I think that this legislation that a group of us have worked on for some months now with respect to the economy is an excellent one. There are many different points to it. It is geared toward real estate.

I happen to be one of those who believes the real estate problem is, in fact, the economic factor that is driving down our economy and, if we are going to solve our economic problems, in fact a plan has to be geared to support real estate values or encourage investment in real estate.

So I will pick just two areas of the plan that has been put forward this morning.

Capital gains. This plan, I think, will be of great aid to real estate with a 15-percent rate. But one of the things is, it does not provide a negative incentive, if you will, in treatment of depreciation. It allows people to use the capital gains tax rate on all of their gain, as opposed to some other plans that have been put forward to treat depreciation in a different way an probably would put people in a 30-to-31 percent range instead of the 15 percent. So I think this is an excellent plan that has been put forward.

One other area I would stress is the treatment of passive loss. The passive loss rules that have been proposed in some other plans would not allow those incentives to go toward existing property. I make the claim that I think most of us in both the House and the Senate believe that tax incentives should not necessarily be done for the purpose of constructing additional buildings in our economy today. But we ought to see whatever incentive we provide under these new passive loss rules—that those incentives could go to encourage people to buy existing properties.

Just yesterday we had oversight hearings on the RTC, where we had a discussion about passive loss treatment. Under plans that have been proposed in the last several weeks, passive loss incentives would not be available for existing buildings. When we want to see that there is a sale of RTC properties, or FDIC properties, it seems to me it is vitally important that we have these passive loss rules apply to those kinds of purchases and those kinds of investments.

So, again, I rise for the purpose of strongly supporting the initiatives that have been put forward in this plan. The capital gains and passive loss rules are vitally important. There are many, many other aspects here that should strengthen real estate. That is the underlying cause for the economic problems we are dealing with today. Passage of this legislation would go a long way to get our economy moving again.

Mr. SEYMOUR. Mr. President, thank you very much.

I do not want to repeat Senator DOMENICI's very fine description of the legislation we are introducing today. But I do want to commend him; I want to thank him for his leadership on a matter very critical to our Nation's economic health.

As chairman of the Senate's Republican Task Force on Real Estate, the Senator from New Mexico has displayed extraordinary courage and leadership. And I say courage, Mr. President, because as Senator DOMENICI stated at the outset of his remarks, in 1986, well-meaning as the U.S. Senate might be, the Senate passed the 1986 Tax Refrom Act, hoping that they would achieve equity in such a reform.

I can recall that time very clearly, Mr. President. As a State senator in the California State Legislature, we were trying to conform California's tax laws to the tax reform legislation passed by this body. On the floor of the California State Senate I argued that the Tax Reform Act of 1986 was a tax shift and a tax shaft.

In fact, I am mindful of attending the hearing of the Supreme Court the day before yesterday on California's proposition 13. Proposition 13, as Senators will recall was a property tax revolt to save California homeowners their property because property taxes were rising out of sight. One of the Judges said: "Now, there is not anything fair about taxation. There is nothing fair about it." In fact, he used an analogy: "If we taxed milk and you are a milk drinker, that is not fair to your."

So the notion that embodied the 1986 Tax Reform Act, in my opinion, was wrong. In fact it has contributed greatly to the recession we are now experiencing.

Real estate many times is thought about as, well, that is something that is owned by the rich guy, and the rich are the ones that benefit from real estate. Senator DOMENICI, correctly so, reminded us that 20 to 25 percent of our gross domestic product, our economy, is tied up in real estate.

I would argue, Mr. President, that real estate—specifically housing—is the most important asset that Americans have. It is their retirement. It is their nest egg. It is the American dream to own your own home. And typically, as statistics show, when it comes time to retire you take a look: What have I got? I have my pension; I have my Social Security; I have the equity in my home, the greatest asset I could possibly have.

In today's economy, with so many people about to go into retirement, many are taking a look at that equity in their home. And they see it going down. They are scared, and they should be scared, because two-thirds of this Nation's assets is in real estate and it has been threatened mightily.

So my point is, it is not the rich guy; as usual, it is the little person that

drives this economy. And their investment in their home is threatened as is their investment in maybe a small rental property. Do you know what the 1986 Tax Reform Act did to owners of rental property? It said we do not care whether you really lose money. And losing money is pretty easy to define.

I pay my mortgage; I pay my bills; I make my repairs; I pay the rent. And whatever is left over, I have either a loss or I made a profit. So the 1986 Tax Reform Act says we do not care if you lose in that transaction. You cannot take your losses and deduct them from your income, as are able to do if you were in any other business.

Well, that is wrong. So fancy words, like passive losses, might seem to apply to the rich. But I suggest to you, Mr. President, that what we are talking about is the little guy, the individuals or family with a dream of retirement and having made an investment, they worked and saved very hard to protect that investment. It is now threatened.

Let me say also, Mr. President, that I had the opportunity to speak a little earlier about the economic growth package. One of the provisions in the bills we introduce here is the tax credit for first-time homebuyers. And why is that so important? It is so important because it will stimulate the economy and create jobs.

Every dollar invested into the construction industry, the construction of a home generates two and a half dollars in economic activity. That same dollar is turned seven times in the economy over a decade. You see, when you build a home, there is a lot that comes with it. You buy carpets; you buy drapes; you buy a refrigerator; you buy a washer; you buy a dryer; and maybe you buy some new furniture. You put in a lawn; you might build a wall around your property that gives you privacy and protection. As time goes on, you make repairs and general maintenance. You make all those investments. That creates jobs.

I was talking to a beer distributor yesterday from California. I said, "How is business?" He said, "Oh, gee, John; it is off 15 percent." I said, "No kidding? Where at?" He told me about the areas. He said, "You know, what really is wrong here is the construction industry is off, and the folks that work in the construction industry do not have as much money. Some of them are unemployed, and they are not drinking beer."

So my point is that it has an effect, a very major effect, when housing construction goes down. In fact, for 17 years, as a businessman myself—for 17 years—my economic predictor was rather simple. I do not think it took a Ph.D. to figure it out. When housing construction goes down, you are headed into a recession; when housing construction picks up, you are headed out of a recession. I also believe in a rather simple philosophy: If you want more of something, do not tax it; if you want less of something, tax it.

So with a tax credit, really what we are saying is that we want more people to own their home; we want more people to build up their nest egg for their retirement.

Let me close, Mr. President, by saying this is an extraordinarily important package.

Just one last thing on the capital gains tax because that, again, is perceived as something for the rich. There is a lot of Japan-bashing going on, and a lot of bashing of Americans by Japanese leaders, which I think is totally wrong. But one of the reasons our entrepreneurs, our business people, are having such a tough time competing with Japan is that in Japan the capital gains tax is 1 percent; 1 percent. And we are fighting here to get ours down to 15.4 percent. And so when the cost of capital is 4 times greater in this country than it is in Japan, it is no wonder we are having a tough time competing.

This is a good package. It commends Senator DOMENICI and I look forward to early consideration of the package by the Senate.

Thank you very much, Mr. President.

By Mr. COHEN (for himself, Mr. BOND, Mr. BROWN, Mr. SIMPSON, Mr. CHAFEE, Mr. MCCAIN, Mr. NICKLES, and Mr. SEYMOUR):

S. 2277. A bill to amend the Public Health Service Act to facilitate the entering into of cooperative agreements between hospitals for the purpose of enabling such hospitals to share expensive medical or high technology equipment or services, and for other purposes; to the Committee on Labor and Human Services.

HOSPITAL COOPERATIVE AGREEMENT ACT

Mr. COHEN. Mr. President, the Commerce Department recently predicted that an estimated $817 billion will be spent on health care this year—a record 14 percent of our estimated gross national product. The United States currently spends more than any other nation in the world on health care—both as a percentage of GNP and on a per capita basis.

Ironically, at a time when American health care expenditures are skyrocketing, more and more Americans are going without needed care. As economist Lester Thurow has observed, "health care is becoming wealth care," as costs spin out of control and out of reach for millions of Americans.

The U.S. health care system is the most innovative and most technologically advanced in the world. It is also the most expensive. Advances in medical technology have dramatically improved methods for diagnosing and treating disease, saving millions of lives and dazzling health care professionals and consumers alike.

Unfortunately, however, this proliferation of expensive medical equipment has also contributed to an equally dazzling explosion in health care expenditures. In fact, the Institute of Medicine estimates that the use of new technologies and the overuse of existing technologies account for as much as 50 percent of our annual increase in health care costs.

More health care is not necessarily better health care, and we need to find a more efficient and cost-effective way to deliver these important but costly high-tech services.

Critics often cite lack of access to "big ticket" medical technologies as a major weakness of the Canadian health care system. However, while it may be true that Canada does not have enough Magnetic Resonance Imaging machines [MRI's] or open heart surgery centers to adequately serve its population, it is equally true that the U.S. may have too many.

America's health care providers are currently engaged in what amounts to a high-tech medical arms race. Every hospital in America wants to have the latest in high-tech machinery and sophisticated hardware, and then must make sure that the equipment is in constant use in order to pay for it.

This high-tech arms race has been a boon to what might be called the medical-industrial complex that manufactures and supplies the equipment.

And while greater production may hold down unit costs, the cost of operating the units is helping to push our system into bankruptcy.

The legislation I am introducing today with my colleagues Senators BOND, BROWN, SIMPSON, and CHAFEE, is intended to encourage hospitals to call a halt to the high-tech arms race and work together to build down their medical arsenals.

Entitled the Hospital Cooperative Agreement Act, the bill is intended to encourage hospitals to collaborate in order to develop more rational health care delivery systems built around the needs of the community, not the needs of the provider. It is also intended to demonstrate the extent to which cooperation between hospitals can not only help to contain costs, but also increase access and improve the quality of health care available in the community.

The Hospital Cooperative Agreement Act authorizes the Secretary of Health and Human Services, working in consultation with the Administrator of the Agency for Health Care Policy and Research, to award 10 5-year demonstration grants to hospitals wishing to enter into cooperative agreements to share expensive medical equipment or services.

Such agreements have the potential not only to reduce health care costs by eliminating unnecessary duplication of high-tech services or equipment, but

also to enable smaller hospitals to share expensive equipment that couldn't be supported by one hospital alone—for instance a mobile CAT-scan or lithotriptor, which uses shock waves to dissolve kidney stones—thus increasing access to such services in rural areas. At least three of the demonstration grants authorized by my legislation are to be used to improve access or quality of care in rural areas.

The legislation also specifies that the grant funding may only be used to facilitate the cooperative agreements, not to purchase equipment. Finally, the bill provides an exemption from Federal antitrust law for each of the demonstrations so that hospitals will be able to enter freely into the cooperative agreements, as set out in the legislation.

Mr. President, hospitals across the country have begun to recognize that we simply cannot afford to sustain the 1980's era of unrestrained competition that promised a CAT-scan in every clinic and an MRI in every community hospital.

In my home State, the Maine Hospital Association has embarked upon a future directions project to determine how hospitals throughout the State can work together to share services and contain costs. Similar efforts are being undertaken in other areas of the country.

Seven hospitals in Denver have formed a consortium to study the feasibility of collaborating on the provision of cardiology services for the region. Ten hospitals in Rhode Island have created a network to share the costs and services of four MRI units, and several hospitals in Montana have joined forces to develop a mobile lithotripsy network.

However, while there is growing support for such efforts, hospitals still face significant obstacles to successful collaboration. Cautious administrators are fearful of antitrust implications, and collaboration on even the simplest of projects requires months of negotiation and trustbuilding to overcome such problems as turf battles and bruised institutional egos.

Enactment of my bill will help encourage hospitals to engage in cooperative agreements by clearly demonstrating the potential that collaboration holds not only for containing health care costs, but also for increasing access and improving quality of care. It will also facilitate the development of models or prototypes, making it easier for hospitals wishing to enter into such agreements in the future.

Mr. President, I urge my colleagues to join me in cosponsoring the Hospital Cooperative Agreement Act, and ask unanimous consent to include a summary of the bill as well as the text of the legislation in the RECORD.

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

S. 2277

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 "Hospital Cooperative Agreement Act".

SEC. 2. PURPOSE.

It is the purpose of this Act to encourage cooperation between hospitals in order to contain costs and achieve a more efficient health care delivery system through the elimination of unnecessary duplication and proliferation of expensive medical or high technology services or equipment.

SEC. 3. HOSPITAL TECHNOLOGY AND SERVICES SHARING DEMONSTRATION PROGRAM.

Part D of title VI of the Public Health Service Act (42 U.S.C. 291k et seq.) is amended by adding at the end thereof the following new section:

"SEC. 647. HOSPITAL TECHNOLOGY AND SERVICES SHARING DEMONSTRATION PROGRAM.

"(a) ESTABLISHMENT.—The Secretary shall establish a demonstration program under which the Secretary shall in fiscal year 1993 award ten 5-year grants to eligible applicants to facilitate collaboration among two or more hospitals with respect to the provision of expensive, capital-intensive services. Such program shall be designed to demonstrate the extent to which such agreements result in a reduction in costs, an increase in access to care, and improvements in the quality of care with respect to the hospitals involved.

"(b) ELIGIBLE APPLICANTS.—

"(1) IN GENERAL.—To be eligible to receive a grant under subsection (a), an entity (or entities) shall be a licensed hospital (or hospitals) and shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

"(A) a statement that such hospital (or hospitals) desires to negotiate and enter into a voluntary cooperative agreement under which such hospital (or hospitals) is operating in one State or region for the sharing of medical technology or services;

"(B) a description of the nature and scope of the activities contemplated under the cooperative agreement;

"(C) a description of the financial arrangement between the hospitals that are parties to the agreement; and

"(D) any other information determined appropriate by the Secretary.

"(2) DEVELOPMENT OF EVALUATION GUIDELINES.—Not later than 90 days after the date of enactment of this section, the Administrator of the Agency for Health Care Policy and Research shall develop evaluation guidelines with respect to applications submitted under paragraph (1).

"(3) EVALUATIONS OF APPLICATIONS.—The Secretary, in consultation with the Administrator of the Agency for Health Care Policy and Research, shall evaluate applications submitted under paragraph (1). In determining which applications to approve for purposes of awarding grants under subsection (a), the Secretary shall consider whether the cooperative agreement described in each such application meets guidelines developed under paragraph (2) and is likely to result in—

"(A) the enhancement of the quality of hospital or hospital-related care;

"(B) the preservation of hospital services in geographical proximity to the communities traditionally served by the applicant hospital (or hospitals);

"(C) improvements in the cost-effectiveness of high-technology services by the hospitals involved;

"(D) improvements in the efficient utilization of hospital resources and capital equipment;

"(E) the provision of services that would not otherwise be available; or

"(F) the avoidance of duplication of hospital resources.

"(c) ALLOCATION OF GRANT FUNDS.—

"(1) IN GENERAL.—Amounts provided under a grant awarded under this section shall be used only to facilitate collaboration among hospitals and may not be used to purchase facilities or capital equipment. Such permissible uses may include reimbursements for the expenses associated with specialized personnel, administrative services, support services, and instructional programs.

"(2) GRANT AWARD AMOUNT.—Hospitals applying for grants under subsection (b) shall specify the desired grant award amount. The Secretary shall determine the appropriate amount in granting such awards.

"(3) CARE IN RURAL AREAS.—

"(A) IN GENERAL.—Not less than three of the grants awarded under subsection (a), shall be used to demonstrate the manner in which cooperative agreements of the type described in such subsection may be used to increase access to or quality of care in rural areas.

"(B) DEFINITION.—As used in subparagraph (A), the term 'rural areas' means those areas located outside of metropolitan statistical areas.

"(d) MEDICAL TECHNOLOGY AND SERVICES.—

"(1) IN GENERAL.—Cooperative agreements facilitated under this section shall provide for the sharing of medical technology or eligible services among the hospitals which are parties to such agreements.

"(2) MEDICAL TECHNOLOGY.—For purposes of this section, the term 'medical technology' shall include the drugs, devices, equipment and medical and surgical procedures utilized in medical care, and the organizational and support systems within which such care is provided, that—

"(A) have high capital costs or extremely high annual operating costs; and

"(B) are technologies with respect to which there is a reasonable expectation that shared ownership will avoid a significant degree of the potential excess capacity of such service in the community or region to be served under such agreement.

"(3) ELIGIBLE SERVICES.—With respect to services that may be shared under an agreement entered into under this section, such services shall—

"(A) either have high capital costs or extremely high annual operating costs; and

"(B) be services with respect to which there is a reasonable expectation that shared ownership will avoid a significant degree of the potential excess capacity of such services in the community or region to be served under such agreement.

Such services may include mobile services.

"(e) TERM.—The demonstration program established under this section shall continue for a term of 5 years.

"(f) REPORTS.—

"(1) IN GENERAL.—Grantees shall submit annual reports to the Secretary containing information on the demonstration projects funded under this section, as required by the Secretary.

"(2) TO CONGRESS,.—On the date that occurs 5 years after the establishment of the

demonstration program under this section, the Secretary shall prepare and submit to the appropriate committees of Congress, a report concerning the potential for cooperative agreements of the type entered into under this section to—

"(1) contain health care costs;

"(2) increase the access of individuals to medical services; and

"(3) improve the quality of health care.

Such report shall also contain the recommendations of the Secretary with respect to future programs to facilitate cooperative agreements.

"(g) RELATION TO OTHER LAWS.—

"(1) IN GENERAL.—Notwithstanding any provision of the antitrust laws, it shall not be considered a violation of the antitrust laws for a hospital to enter into, and carry out activities under, a cooperative agreement in accordance with this section.

"(2) DEFINITION.—For purposes of this subsection, the term 'antitrust laws' means—

"(A) the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890, commonly known as the "Sherman Act" (26 Stat. 209; chapter 647; 15 U.S.C. 1 et seq.);

"(B) the Federal Trade Commission Act, approved September 26, 1914 (38 Stat. 717; chapter 311; 15 U.S.C. 41 et seq.);

"(C) the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914, commonly known as the "Layton Act" (38 Stat. 730; chapter 323; 15 U.S.C 12 et seq.; 18 U.S.C. 402, 660 3285, 3691; 29 U.S.C. 52, 53); and

"(D) any State antitrust laws that would prohibit the activities described in paragraph (1).

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $2,500,000 for each of the fiscal years 1993 through 1997.

"(i) EFFECTIVE DATE.—If Agency for Health Care Policy and Research fails to establish guidelines pursuant to subsection (b)(2), the Secretary shall award grants under this section based on the criteria contained in subsection (b)(3).

By Mr. SHELBY:

S. 2278. A bill to amend section 801 of the act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901, to require life imprisonment without parole, or the death penalty, for first degree murder; to the Committee on Governmental Affairs.

REQUIRED PENALTIES FOR FIRST DEGREE MURDER

Mr. SHELBY. Mr. President, today I introduced a bill to allow for the imposition of the death penalty or, in the alternative, to allow for the imposition of a sentence of life imprisonment, without parole, for first degree murder in Washington, DC.

I recently read an excellent article in the Washington Post written by U.S. Attorney Jay Stevens concerning current D.C. laws on the first degree murder. Mr. Stevens pointed out that while Washington, DC, has the highest murder rate in the Nation it also has "one of the country's most lenient penalties for first degree murder." Under the current law, the maximum sentence for a person convicted of first degree murder is life with parole after 20 years.

Mr. Stevens went on to point out that currently 40 States including Virginia and Maryland and the Federal Government authorize the death penalty or life imprisonment without parole for first degree murder. I believe that the Congress must get more actively involved in stopping the wave of violence afflicting our Nation's Capital. By implementing the death penalty or life imprisonment as the sentence for first degree murder, Congress can send a strong message to the ruthless killers living only blocks from this very floor—if you kill someone you will be justly punished.

Mr. President, the U.S. Congress has certain legal and constitutional responsibilities with regard to Washington, DC. The Federal Government provided over $699 million in direct Federal assistance to the District last year. The Framers of the Constitution created the District of Columbia in the U.S. Constitution under the auspices of the U.S. Congress. Regardless of home rule—the U.S. Congress has a major responsibility to protect the welfare of the District's residents and those who visit our Capital City.

Mr. President, I am sure you are aware that I have been personally touched by violence in this city. Tom Barnes, a personal friend and a member of my staff, was brutally murdered outside his house only 7 blocks from the Capitol just over a month ago. But, my reason for introducing this bill goes beyond Tom Barnes. I am offering this legislation on behalf of the 490 men, women, and children who were senselessly murdered in Washington, DC last year. This bill will provide hope that criminals will think twice before killing someone. I believe that justice should be swift and appropriate. The current justice system in the District of Columbia is neither swift nor sure. If criminals believe that they can commit heinous crimes and only receive slaps on the wrists, we will never be able to reduce crime on DC's streets. While some may doubt this, I believe that this bill will save lives. The time to act is now. I urge my colleagues to support this legislation. Mr. President, I ask unanimous consent that an article by Jay Stevens be printed following my remarks. Mr. President, I yield the floor.

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

S. 2278

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

SECTION 1. DEATH PENALTY OR LIFE IMPRISONMENT WITHOUT PAROLE FOR FIRST DEGREE MURDER IN THE DISTRICT OF COLUMBIA.

Section 801 of the Act entitled "An Act to establish a code of law for the District of Columbia," approved March 3, 1901 (D.C. Code 22-2404(a)), is amended—

(1) in subsection (a) by inserting ", without possibility of parole, or death" before the period at the end;

(2) by striking subsection (b); and

(3) by redesignating subsection (c) as subsection (b).

[From The Washington Post]

TOUGHER PENALTIES FOR MURDERERS

(By Jay B. Stephens)

After yet another record-breaking year of homicides in the nation's capital, the D.C. Council continues to ponder legislation introduced a year ago that would increase the current 20-year penalty for first-degree murder to life without parole. Although tougher murder penalties are only a partial response to the city's human carnage, they are needed to punish murderers more justly, to deter armed violence more effectively and to reflect more appropriately the value law-abiding citizens of this community place on human life. After a year of deliberation and a mounting body count, it is time to act.

Washington holds the dubious distinction of having both the highest murder rate in the nation and one of the country's most lenient penalties for first-degree murder. The District's per capita murder rate is more than 78 per 100,000 people; that is more than double the rate of New York City, Los Angeles, Houston or Philadelphia and more than 10 times the murder rate of most states. Homicides in our nation's capital reached 490 last year, outpacing the previous year's record of 483. And tragically, the District's 1991 homicide toll included nearly 50 victims who had not even reached their 18th birthday.

It is not just the number of homicides, but the cold, callous way in which many of them are committed—with total disregard for the value of human life—that compels stricter sanctions for first-degree murderers. Included in last year's grisly toll was a growing number of blameless citizens whose lives were snuffed out simply because they unfortunately crossed into the path of wanton, senseless violence.

Patricia Lexie was gunned down from a passing car as she drove through Washington on I-295 with her husband. Marcia Williams was killed in a hail of gunfire as she drove along North Capitol Street with her three young children. Jeanette Jenkins was abducted in Southeast Washington while returning from the grocery store to get diapers for her baby; she was raped, tied to a tree and beaten to death by two attackers who returned two days later to make sure she was dead.

The brutality of many of the killings we encounter as prosecutors defies belief. In one case prosecuted last year, Shardeen Britt and Urcella O'Connor were executed, and two other young mothers were shot at point-blank range by an assailant who broke into their apartment looking for his drug contact—all in view of their four terrorized young children. In another case, Evelyn Spanos, a 21-year-old college student, was abducted, raped, and because her abductor thought she might identify him, executed with a shotgun—while on her knees pleading for her life. And 18-year-old Marcus Herring, the witness to a murder who refused to take a bribe not to testify, was himself executed. These examples offer only a glimpse of the gruesome inhumanity encountered daily in this community.

The District of Columbia's current response to this carnage is to imprison for a mere 20 years those convicted of premeditated, first-degree murder. While capital

punishment would be an appropriate sanction for many of these inhuman slayings, the District should, at a minimum, enact a mandatory sentence of life without parole for first-degree murder.

Washington is one of the few jurisdictions in the nation where a first-degree murderer is subject neither to the death penalty nor to life in prison without parole. Currently, 40 states—including Virginia and Maryland—and the federal government authorize the death penalty or a mandatory sentence of life without parole for first-degree killers. And in federal court in Washington, as well as in every other federal court in the nation, major narcotics traffickers face a mandatory sentence of life without parole. Surely cold-blooded killers convicted of ruthlessly taking the life of a human being deserve nothing less. It is time for the District's leaders to express this community's collective moral outrage over the city's violent death toll by enacting tough murder penalties here.

As prosecutors, we witness daily the quest for justice of grieving mothers and father left to pick up the pieces after their child is senselessly gunned down in an argument over a girlfriend, a radio or disrespectful words. We see the anger and frustration of friends and neighbors of victims shot down on our streets. And we understand the terrible dilemma of witnesses to brutal killings who want to do the right thing, but fear for their own lives. The government owes all these people a greater sense of justice and more respect for human life than that reflected in the District of Columbia's current 20-year penalty for first-degree murder.

Enactment of a tough penalty for first-degree murder would send a powerful and important message to law-abiding citizens that this community values human life, that convicted murders who have effectively sentenced their innocent victims to death will receive a just punishment. A tougher penalty for first-degree murder would also instill in the law-abiding people of this community a greater sense of confidence that with their help the criminal justice system can make a difference.

Not only does the District's 20-year sentence fail to punish adequately those who deliberately and with premeditation kill another human being, it fails effectively to deter crime and protect the safety of the people of this community. A mandatory sentence of life without parole would send a message to the gunmen who terrorize our neighborhoods that this community will not tolerate their violence. To those responsible for the human carnage the message would be unequivocal: If you are convicted of the ultimate crime, you can count on spending the rest of your life in prison.

This is not a time for indecision, inaction or political paralysis. Washington cannot expect to relinquish its title of murder capital of the nation as long as its penalty for first-degree murderers remains among the most lenient in the nation. Tougher murder penalties should be enacted now before Washington becomes mired in yet another record-breaking year of counting bodies.

By Mr. LEVIN:

S. 2279. A bill to provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes; to the Committee on Governmental Affairs.

LOBBYING DISCLOSURE ACT OF 1992

Mr. LEVIN. Mr. President, we have heard over and over again in recent years that the American public is losing confidence in our Government. One poll shows public approval of the Congress is down to 27 percent; another shows that it is all the way down to 18 percent. We don't have poll results on public confidence in political appointees in the executive branch, but chances are that it isn't much higher.

One of the reasons for this lack of confidence is the widespread belief that government today is too susceptible to the influence of well-connected and highly paid lobbyists. This belief has been fed by recent influence-peddling scandals—the Wedtech scandal, the HUD scandal, the savings and loan scandal, and others. As a result of these events, a recent New York Times poll revealed that more than 70 percent of Americans now believe that our Government is controlled by special interests. In short, lobbyists are seen as part of "the problem in Washington"—as representatives of special interests who are paid well to place their own narrow constituencies above the public interest.

Lobbying—that is, seeking to influence legislation and government policy—is a vital part of our participatory democracy. We deal every day with lobbyists for cities, counties, and States; lobbyists for public hospitals and private relief groups; lobbyists for police organizations and lobbyists for the Girl Scouts. Some lobbyists try to protect the jobs and benefits of our workers; others seek to improve the competitiveness of our industry. Some lobbyists work to keep our streets safe; some want to keep our air and water clean; others seek to reduce taxes.

As a 1986 report of the Senate Governmental Affairs Committee explains:

> [L]obbying is a tangible manifestation of the First Amendment freedom of petition for redress of grievances. Lobbyists provide information that government officials find important in the policymaking process.* * * [Lobbying] permits citizen participation in not only legislative affairs but also in administrative matters.

The fact that we cannot and would not want to ban or restrict lobbying does not mean that general information about paid lobbying activities shouldn't be disclosed. One of the reasons why the public is suspicious and distrustful of the relationship between lobbyists and Government officials is the cloak of secrecy that currently covers too many lobbyists and their activities. All too often, the public is informed about a lobbying effort only in the context of a scandal. All the beneficial, appropriate lobbying efforts don't make the news. So it is not surprising that many believe scandals to be typical of the conduct of lobbyists and public officials.

Effective public disclosure of lobbying activities can ensure that the public, Federal officials, and other interested parties are aware of the pressures that are brought to bear on public policy by paid lobbyists. Such public awareness should inform the public of the broad array of lobbying efforts on all sides of an issue. In some cases, it may alert other interested parties of the need to provide their own views and information to decisionmakers. It also may encourage lobbyists and their clients to be sensitive to even the appearance of improper influence.

Unfortunately, the lobbying disclosure laws on the books today are woefully inadequate to this task. Last year, the Subcommittee on Oversight of Government Management, which I chair, held a series of hearings on the lobbying disclosure laws.

In our first hearing, we learned that unclear statutory language and an absence of guidance as to who is required to register and what they are required to disclose have combined to prevent effective disclosure under the Foreign Agents Registration Act [FARA]. One witness succinctly described FARA as "anachronistic, incomprehensible, and unenforceable."

At our second hearing, we learned that the Lobbying Regulation Act has generally been unenforced and unenforceable almost since its enactment 45 years ago. The General Accounting Office reported that of 13,500 individuals and organizations listed in the book "Washington Representatives," only 3,700 were registered. Three-quarters of the unregistered representatives interviewed by GAO said that they contact Members and staff, deal with Federal legislation, and seek to influence actions of either Congress or the executive branch. Witnesses from groups as diverse as the ACLU, Common Cause, the Chamber of Commerce, and the American League of Lobbyists all agreed that this statute is seriously flawed.

At a third hearing, we learned that the lobbying laws basically don't cover executive branch lobbying—despite testimony from a number of lobbyists that they engage in extensive—and similar—lobbying efforts in both the legislative and executive branches. Moreover, numerous exceptions and limitations on coverage have severely limited disclosure even in the narrow areas of executive branch lobbying that are covered by existing provisions.

In short, we learned that the lobbying disclosure laws are badly broken and need to be fixed.

For these reasons, Mr. President, I am pleased to introduce the Lobbying Disclosure Act of 1992. If enacted, the Lobbying Disclosure Act would address the problems with the existing lobbying disclosure laws by replacing them with a single, uniform statute, covering the paid lobbying of Congress and the executive branch on behalf of both domestic and foreign persons.

The new statute would replace the Federal Regulation of Lobbying Act, the disclosure requirements of the so-

called Byrd amendment, the provisions of the Foreign Agents Registration Act which apply to private persons and companies; and the HUD disclosure statutes. The provisions of the Byrd amendment prohibiting lobbying with appropriated funds would be left intact, as would the FARA provisions applicable to representatives of foreign governments and political parties.

This bill has three essential features: it would broaden the coverage of existing disclosure statutes to ensure that all professional lobbyists are registered; streamline disclosure requirements to make sure that only meaningful information is disclosed and needless burdens are avoided; and create a new, more effective and equitable system for administering and enforcing these requirements.

On the first point, the bill would require registration of all professional lobbyists—that is, anyone who is paid to make lobbying contacts with either the legislative or the executive branch of the Federal Government. People whose lobbying activities are only incidental to, and not a significant part of, their jobs would not be covered.

The bill would define lobbying contacts to include communications with Members of Congress and their staff, officers and employees in the Executive Office of the President, and ranking officials in other Federal agencies. Activities that don't constitute lobbying—such as communications by public officials and media organizations; requests for appointments or for the status of an action and other ministerial communications; communications with regard to ongoing judicial or law enforcement proceedings; testimony before congressional committees and public meetings; participation in agency adjudicatory proceedings; the filing of written comments in rulemaking proceedings; and routine negotiations of contracts, grants, loans, and other Federal assistance—are exempted from coverage.

On the second point, the bill would significantly streamline lobbying disclosure requirements by consolidating filing in a single form and a single location—one-stop shopping—replacing quarterly reports with semiannual reports; and authorizing the development of computer-filing systems and simplified forms. The bill would require a single registration by each organization whose employees lobby, instead of separate registrations by each employee-lobbyist. The names of the employee-lobbyists would simply be listed in the employer's registration forms.

In addition, the bill would simplify reporting of receipts and expenditures by substituting estimates of total receipts or expenditures by category of dollar value for the current requirement to provide a detailed accounting of all receipts and expenditures. This reporting would be more meaningful than the current system, because the types of receipts and expenditures to be disclosed would be more broadly defined. The bill would also eliminate the requirement of FARA and the Byrd amendment to list each official contacted and substitute a simpler requirement to identify the Federal agencies and offices, and the Houses and committees of Congress, that were contacted.

At the same time, the bill would close a loophole in existing law by requiring the disclosure of the identity of coalition members who are, in effect, clients, in that they contribute substantially—more than $5,000 in a semiannual period—to the coalition, help supervise its lobbying activities, and are likely to benefit directly if the coalition's lobbying efforts are successful. The bill would also enhance the effectiveness of public disclosure by requiring the disclosure of any foreign entity which supervises, directs, or controls the client, or which has a direct interest in the outcome of the lobbying activity. Any foreign entity with a 10-percent equitable ownership of a client would have to be disclosed.

Finally, the bill would improve the administration of the lobbying disclosure laws by designating the Office of Government Ethics as the responsible agency; requiring the issuance of new rules, forms, and procedural regulations after notice and an opportunity for public comment; making guidance and assistance, including published advisory opinions, available to the public; authorizing the creation of computer systems to enhance public access to filed materials; avoiding intrusive audits or inspections through an informal dispute resolution process; and substituting a system of administrative fines, subject to judicial review, for the existing criminal penalties for noncompliance.

Mr. President, a number of the key terms in this bill have definitions that are subjective, rather than objective, in nature. For example, a person whose lobbying activities "are only incidental to, and are not a significant part of," the services for which he or she is paid, is not a lobbyist and is not required to register.

This use of subjective standards is unavoidable, because many of the issues we are trying to address are simply not susceptible to simplistic legislative formulas. The path we have chosen is not to legislate every detail, but to create for the first time an administrative mechanism to provide full and effective guidance on how to comply. We anticipate the issuance of detailed regulations, advisory opinions, and published decisions to inform the lobbying community of what is expected.

Let me talk about how we intend the exception for incidental and insignificant lobbying activities to work. "Incidental," in my view, means that the activities are not a regular part of the person's responsibilities on behalf of the client. "Not a significant part of" the services provided means that lobbying activities are an insignificant part of the overall activities on behalf of the client.

What does this mean in practice? Let me give some examples of what is intended:

If you are a lawyer, and almost all of your work is litigation and counseling, but you have one client for whom you regularly contact officials, you would be required to register, because the definition works on a client-by-client basis. If your lobbying activities on behalf of a single client are significant, you are required to register for that client, regardless of the activities you may undertake on behalf of others.

If you are a lawyer, and you provide multiple services to a single client, including both lobbying activities and other services, you may well be required to register. If your lobbying activities are a regular part of your function—for example, if you regularly handle lobbying matters for the client, along with other matters—these activities are not "incidental" to the services you provide, and you are required to register.

If you are the Washington representative of a national organization, and only 5 percent of your time is spent on lobbying activities, you are required to register, because lobbying activities are a regular part of your job and would not qualify as "incidental to" the services you provide.

If you are a financial officer or an engineer in a corporation and you are brought to Washington on a one-time basis to explain a technical issue to covered officials, you are not required to register, because this lobbying activity would not be considered a regular or significant part of your services. However, if you were brought to Washington for an extended period—for example, to work on a specific piece of legislation over a period of several months—this would become a significant activity and registration would be required.

If you are with the regional affiliate of a national organization and come to Washington once a year to meet with your Congressman and others as part of a "week in Washington" program, you are not required to register, because this activity would not constitute a significant part of your overall responsibilities.

If you are the CEO of a corporation and you pick up the phone to call your Member of Congress, you would not be required to register, because a few contacts would not be considered a regular or significant part of the services you provide. However, if you work with covered officials on a regular or extended basis and become, in effect, your company's chief lobbyist, you would be required to register.

If you are a Washington lawyer and a client hires you specifically to make a single telephone call to a Congressman, you would be required to register, because unlike the CEO who makes a single phone call, you have been hired for the purpose of making this phone call. For this reason, the contact would be a significant part of the services provided, and you would be required to register.

If you are the Director of a local charity with no Washington office, and you come to Washington for a few days to lobby on a single issue—but do not engage in other lobbying activities—you would not be required to register, because that activity would not constitute a regular or significant part of your overall responsibilities.

Mr. President, this bill is the product of three public hearings; more than a year of investigation into the deficiencies in the existing disclosure statutes; and extensive comments from both government officials and the lobbying community about the proposed requirements. In the last month alone, my staff has received comments on the draft bill from more than 50 interested parties, many of which have been incorporated into the bill.

Overall, I am pleased to report that the reaction to the bill has been overwhelmingly favorable. The bill that we are introducing today achieves an important balance among the many interests involved. This bill takes a huge step in the right direction—the direction of government in the sunshine, the direction of public disclosure and accountability—without impinging on first amendment rights. I hope that my colleagues will join me in supporting this bill and taking this important step.

I ask unanimous consent that a copy of the section-by-section analysis and the bill be printed in the RECORD immediately following my remarks.

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

THE LOBBYING DISCLOSURE ACT OF 1992
SECTION-BY-SECTION ANALYSIS

The Lobbying Disclosure Act of 1992 contains the following provisions:

Section 1 states the short title of the Act.

Section 2 contains the findings and purpose of the Act. The purpose of the Act is to provide for the disclosure of efforts by paid lobbyists to influence Federal officials, without in any way restricting the right of the public to express their opinions freely to such officials.

Section 3 provides definitions of the key terms used in the Act.

Five definitions—the definitions of "lobbyist", "lobbying contact", "lobbying activity", "covered legislative branch official" and "covered executive branch official" govern the basic applicability of the Act.

The term "lobbyist" is defined in subsection (9) to mean any individual who is paid by another to make "lobbying contacts"; it does not include individuals whose "lobbying activities" are "only incidental to, and not a significant part of" the services for which they are paid.

The term "lobbying contacts" is defined in subsection (8) to mean a communication with a "covered legislative or executive branch official" made on behalf of a client with regard to the formulation, adoption, modification, or implementation, of Federal legislation, regulations, or policies, or the position of the U.S. Government on any other matter in which it has or may have an interest, subject to certain exclusions, as described below.

The term "lobbying activities" is defined in subsection (7) to mean lobbying contacts and efforts in support of such contacts, including preparation and planning activities, research and other background work that is intended for use in contacts, and coordination with the lobbying activities of others. Although grass roots communications are not "lobbying contacts" and do not by themselves require registration, they are included in the definition of "lobbying activities" if they are made in support of lobbying contacts by the registrant. Accordingly, the costs of such activities would be included in estimates of total costs.

Grass roots communications have the same definition in this statute as in regulations implementing 26 U.S.C. 4911(c)(3). These regulations, codified at 26 C.F.R. 4911, define grass roots lobbying communications as communications with the general public that refer to specific legislation, reflect a view on such a legislation, and encourage the recipients to take action with respect to such legislation.

The term "covered legislative branch official" is defined in subsection (3) to mean any Member of Congress, any employee of a Member of Congress or a Congressional Committee; and any other employee in the legislative branch who is compensated at the GS-16 level or higher.

The term "covered executive branch official" is defined in subsection (2) to include the President, the Vice President, any officer or employee of the Executive Office of the President, any other employee in the executive branch who is compensated at the GS-16 level or higher.

The following types of communications are excluded from the definition of "lobbying contacts": (A) communications made by "public officials" acting in their official capacity; (B) communications made by the media, except where representatives of a media organization seek to influence government actions directly affecting the interests of that organization; (C) communications made in speeches, articles, or through the media; (D) communications regarding individual casework on matters such as an individual's benefits or employment; (E) communications that are disclosed under the Foreign Agents Registration Act; (F) ministerial communications, such as requests for appointments or for the status of a Federal action; (G) communications with regard to ongoing judicial proceedings, criminal law enforcement proceedings, and any other proceedings that are required by statute to be conducted on a confidential basis (such as communications regarding so-called "black" programs); (H) testimony at congressional hearings and written responses to congressional requests for information; and (I) specified communications with executive branch officials.

Communications with executive branch officials that are excluded from the definition of "lobbying contacts" pursuant to paragraph (I) include: (1) participation in formal adjudications; (2) comments filed in public dockets and participation in public meetings; (3) written responses to written requests for information; (4) participation in federal advisory committees; (5) comments directed to officials designated in the Federal Register or the Commerce Business Daily to receive such comments; and (6) certain communications with officials (other than Executive Level I-V officials) serving in an agency component regarding routine matters within the jurisdiction of the component, such as communications regarding the negotiation, award, or administration of a contract, grant or loan; communications regarding the implementation of an ongoing program; communications regarding compliance with or the enforcement of an existing statute or regulation within the jurisdiction of the agency component; and other communications that are made on the record, in compliance with published agency procedures. Executive Level I-V positions are listed in 5 U.S.C. Sections 5312-5317, and include the ranking positions (such as Secretaries and Assistant Secretaries, Directors, Administrators and Commissioners) in Federal agencies.

As noted above, a person who makes lobbying contacts is not a lobbyist if his or her lobbying activities are "only incidental to, and not a significant part of" the services for which he or she is paid. This is a two-part test. "Incidental to" the services provided means that lobbying activities are not a regular part of the person's responsibilities on behalf of the client. "Not a significant part of" the services provided means that lobbying activities constitute an insignificant portion of a person's overall activities on behalf of the client. Both parts of the test must be met to qualify for the exemption.

Other key terms used in the Act are also defined in Section 3.

The term "client" is defined in subsection (1) to mean any person who employs or retains another person to lobby on its behalf. An organization whose employees conduct lobbying activities on its own behalf (so-called in-house lobbyists) is both the client and the employer of the lobbyists.

The term "Director" is defined in subsection (4) to mean the Director of the Office of Government Ethics.

The term "employee" is defined in subsection (5) to mean any officer, employee, partner, director, or proprietor of an organization, other than volunteers and independent contractors who are not regular employees.

The term "foreign entity" is defined in subsection (6) to mean a foreign country or a foreign political party, a person outside the United States (other than a U.S. citizen or a U.S. corporation), and a foreign partnership, association, corporation, or organization.

The term "organization" is defined in subsection (10) to mean a corporation, company, foundation, association, labor organization, firm, partnership, society, or joint stock company.

The term "public official" is defined in subsection (11) to mean an elected or appointed official of a Federal, State, or local unit of government, any organization of State or local elected or appointed officials, any Indian tribe, any national or State political party, or any Federal, State, or local unit of a foreign government.

Section 4 provides for the registration of lobbyists.

Subsection (a) requires lobbyists (or, as provided in subsection (d)(2), their employing organizations) to register with the Office

of Government Ethics within 30 days after a lobbying contact is made.

Subsection (b) sets forth the contents of the registration. Each registration is to include: (1) basic information identifying the registrant; (2) basic information identifying the client; (3) the name of any organization, other than the client, that makes a substantial contribution (in excess of $5,000 in a semiannual period) toward the lobbying, exercises significant supervision or control over the lobbying, and stands to benefit directly if the lobbying is successful; (4) basic information regarding any foreign entity that supervises, controls or finances the lobbying activities, in whole or in major part; (5) a general statement of the issues on which the registrant expects to lobby; and (6) the name of each employee of the registrant who is expected to engage in lobbying contracts. The requirement in Paragraph (3) to disclose certain organizational contributors is intended to avoid evasion of the statutory disclosure requirements through the creation of lobbying coalitions which could mask the identity of the real parties in interest.

Subsection (c) requires registrants to terminate their registrations when they cease to represent a client. If a registrant fails to terminate, and can no longer be located or identified, the Director may terminate the registration.

Subsection (d) provides guidelines for the registration process.

Paragraph (1) provides that in the case of a registrant representing more than one client, a separate registration must be filed for each client represented.

Paragraph (2) provides that any organization that has one or more employees who are lobbyists is required to file a single registration covering all of its employee-lobbyists. This organizational filing is in lieu of individual registrations by each employee-lobbyist and should streamline the registration process.

Paragraph (3) provides guidance on compliance with subsection (b)(4), which requires the disclosure of any foreign entity that controls activities of the client in whole or in major part. Under Paragraph (3), a foreign entity is deemed to control the activities of a client in major part if the foreign entity holds at least 10 percent equitable ownership in the client.

Section 5 provides for the filing of semi-annual reports by registrants.

Subsection (a) requires each registrant to file a report on its lobbying activities during a semiannual period no later than 30 days after the end of such period.

Subsection (b) sets forth the contents of semiannual reports. Semiannual reports are to include: (1) the name of the registrant, the name of the client, and any changes or updates to the information provided in the initial registration; (2) a list of the specific issues that were the subject of significant lobbying activities during the semiannual period; (3) for each issue listed, specified information about the issue and the lobbying contacts; and a good faith estimate of either (4) total receipts from the client, or (5) total costs incurred in connection with lobbying activities.

The list of specific issues to be disclosed pursuant to Paragraph (2) is intended to be more specific than the general statement of issues provided at the time of initial registration. For example, a general statement of issues might refer to "tax legislation", but the specific list should indicate whether the issues lobbied included the capital gains tax or the luxury tax.

The information to be provided on an issue-by-issue basis, pursuant to Paragraph (3), includes (A) a list of bill numbers and reference to specific executive branch actions that were the subject of the lobbying; (B) a statement of the Houses and Committees of Congress and the Federal agencies and agency components contacted; (C) a list of the individual employees who engaged in lobbying contacts; and (D) a description of the interest of a foreign affiliate in the issue. Unlike the Byrd Amendment and the Foreign Agents Registration Act, this provision would not require registrants to name any specific official who has been lobbied.

Paragraph (4) requires organizations that lobby on behalf of others (so-called "outside lobbyists") to provide a good faith estimate of total receipts from the client, "other than receipts for matters that are unrelated" to lobbying activities."

Paragraph (5) requires organizations that engage in lobbying activities on their own behalf, through their own employees (so-called "in-house lobbyists") to provide a good faith estimate of the total costs incurred in connection with such activities, by category of dollar value. This provision is intended to obviate the need for extensive accounting systems tracking every hour of time spent by a lobbyist, every messenger used, and every page of material xeroxed. As long as a registrant has a reasonable estimating system in place, and complies in good faith with that system, the requirements of the provision are met.

Subsection (c) sets forth specific rules regarding estimates of costs and receipts.

Paragraph (1) provides that estimates of costs and receipts of $200,000 or less shall be made by category of dollar value, and sets forth the categories to be used.

Paragraph (2) provides that estimates of costs and receipts in excess of $200,000 are to be estimated and rounded to the nearest $100,000.

Paragraph (3) provides that any registrant whose total costs or receipts are less than $500 in a semiannual period is deemed to be inactive and may comply with the reporting requirements by so notifying the Director.

Paragraph (4) provides that registrants who are already required to disclose their lobbying costs under the Internal Revenue code are not required to make a separate estimate under this statute, and may comply with the requirements of subsections (b)(4) or (b)(5) by including in their reports the same amount disclosed to the IRS.

Paragraph (5) provides that estimates of total costs or receipts are not required to include the value of contributed (i.e., volunteer) services. The cost of services provided by an independent contractor or agent of the registrant who is separately registered under the Act are also excluded, to avoid double-counting.

Section 6 establishes the administrative duties of the Office of Government Ethics. This Section requires the Director to (1) prescribe rules, forms, penalty schedules, and procedural regulations necessary for the implementation of the Act; (2) provide guidance and assistance on the registration and reporting requirements of the Act, including published decisions and advisory opinions; (3) make supplemental verifications and inquires to ensure the completeness, accuracy, and timeliness of registrations and reports; (4) develop filing, coding, and cross-indexing systems to minimize the burden of filing and maximize public access to information filed; (5) make copies of registrations and reports available to the public as soon as practicable; (6) preserve copies of registrations and reports for a specified period; (7) maintain a computer record of the information contained in such registrations and reports; (8) compile and summarize the information contained in such reports; (9) make compilations and summaries available to the public; (10) provide copies of all registrations, reports, compilations and summaries available to the Secretary of the Senate and the Clerk of the House for disclosure to the public by those offices; and (11) report to the President and the Congress on the implementation of the Act.

Section 7 establishes procedures for the informal resolution of alleged noncompliances.

Subsection (a) provides that whenever the Office of Government Ethics has reason to believe that a person may be in noncompliance with the requirements of the Act, the Director is required to notify the person in writing of the alleged noncompliance and provide the person with an opportunity to respond.

Subsection (b) provides for the informal handling of responses received pursuant to subsection (a).

If the person provides adequate information or explanation to determine that it is unlikely that a noncompliance exists, paragraph (1) provides that the Director shall not take any further action.

If the person agrees that there was a noncompliance and corrects the noncompliance, paragraph (2) provides that the Director shall treat the noncompliance as a minor noncompliance and assess a penalty, if appropriate.

If the information provided indicates that a noncompliance may exist, paragraph (3) provides for the Director to make a determination pursuant to Section 8.

Subsection (c) provides that if a person fails to respond to a notice under subsection (a), or if the response is inadequate to determine whether a noncompliance exists, the Director may make a formal request for specific additional information that is reasonably necessary for the Director to make a determination. Any request for information under subsection (c) must contain: (1) a description of the alleged noncompliance; (2) a sufficient description of the documentary material requested to permit such material to be readily identified; and (3) a reasonable return data.

Subsection (d) provides that information provided under subsection (c) shall not be made available to the public without the consent of the person providing the information, except to the extent that such information is (1) included in a new or amended report or registration; or (2) included in a written decision that is published after appropriate redaction to ensure that confidential information is not disclosed.

Section 8 establishes procedures for determinations of noncompliance in cases where information provided to OGE under section 7 indicates that a noncompliance may exist.

Subsection (a) requires the Director to notify the person in writing of his finding that a noncompliance may exist and, if appropriate, a proposed penalty assessment. In the case of a minor noncompliance, the Director must also afford the person a 30-day period in which to request an oral hearing and grant such a request for good cause shown. In the case of a significant noncompliance, the Director must afford the person an opportunity for a hearing on the record under the provisions of the Administrative Procedure Act, if requested within 30 days.

Subsection (b) provides that, upon the receipt of a written response, the completion

of a hearing, or the expiration of the response period, the Director shall review the information received and make a final determination whether there was a noncompliance and a final determination of the penalty, if any.

Subsection (c) provides that if the Director makes a final determination that there was a noncompliance, he shall issue a written decision. Any such written decision shall: (1) include the noncompliance in a publicly available list of noncompliances, to be reported to the Congress on a semi-annual basis; (2) direct the person to correct the noncompliance; and (3) assess an appropriate civil monetary penalty. In the case of a minor noncompliance, the civil monetary penalty may not exceed $10,000, depending on the nature and extent of the noncompliance. In the case of a significant noncompliance, the amount of the civil monetary penalty must be more than $10,000, but no more than $100,000, depending on the nature and extent of the noncompliance.

Subsection (d) provides that if a person fails to comply with a directive to correct a noncompliance under subsection (c), the Director shall refer the case to the Department of Justice to seek civil injunctive relief. The relief to be sought in such a case is compliance with the statute—i.e., the filing of a compliant registration and/or report.

Subsection (e) provides guidelines for penalty assessments.

Under paragraph (1), no penalty may be assessed unless the Director finds that the person subject to the penalty knew or should have known that he or she was in noncompliance. In determining the amount of a penalty, the Director is to take into account the totality of the circumstances, including the extent and gravity of the noncompliance and such other matters as justice may require.

Paragraph (2) requires the Director to define minor and significant noncompliances. Significant noncompliances include a knowing failure to register and any other knowing noncompliance that is extensive or repeated.

Section 9 establishes procedures for addressing (1) registrations and filings that are more than 30 days late; and (2) failures to provide information. The procedures in this section parallel the procedures established for noncompliances under Section 8.

Subsection (a) requires the Director to provide any person who is alleged to have filed late or failed to provide information with notice and an opportunity to respond to the allegation.

Subsection (b) provides for the Director to make a final determination on the basis of the information received.

Subsection (c) provides for the Director to issue a written decision of any final determination of noncompliance. In the case of a late filing, the written decision must assess a civil monetary penalty of $200 for each week by which the filing was late, with a total penalty not to exceed $10,000. In the case of a failure to provide information, the decision must include the noncompliance in a publicly available list of noncompliances and assess a civil monetary penalty in an amount not to exceed $10,000.

Subsection (d) provides that in addition to the penalties under this Section, the Director may refer the case to the Department of Justice to seek civil injunctive relief. Such a referral might be made in a case where a person refuses to provide requested information, notwithstanding a penalty assessed under this provision. The relief to be sought in such a case would be compliance with the request for information.

Section 10 provides for judicial review of written decisions issued by the Office of Government Ethics under sections 8 and 9.

Subsection (a) states that any such written decision becomes final 60 days after notice is provided, unless it is appealed under subsection (b).

Subsection (b) states that any person adversely affected by a written decision may appeal such decision to the appropriate U.S. Court of Appeals within 60 days of receiving notice of the decision. In any such appeal, the findings of fact of the Director are conclusive, unless found to be unsupported by substantial evidence. Any penalty assessed or other action taken in the decision are to be stayed during the pendency of the appeal.

Subsection (c) provides for the recovery in an appropriate U.S. District Court of any penalty assessed in a final written decision. In any such action, no matter that could have been raised before OGE or on judicial review pursuant to subsection (b) may be raised as a defense, and the determination of amounts of penalties and assessments is not subject to review.

Subsection (d) provides for the recovery of attorneys fees by any person who substantially prevails on the merits in any appeal under this Section.

Section 11 provides two important rules of construction.

Subsection (a) provides that nothing in the Act shall be construed to prohibit, or to authorize the Director to prohibit, lobbying activities or lobbying contacts by any person, regardless of whether such person is in compliance with the requirements of the Act. The remedies for noncompliance with the Act include the assessment of an appropriate penalty; placement on a list of noncompliant persons; and directives to comply through the filing of new or amended registrations or reports or the disclosure of required information to OGE. No prohibition or bar on lobbying is intended or authorized.

Subsection (b) provides that nothing in the Act shall be construed to grant to OGE any general audit or investigative authority. The Director is authorized to request and receive information about possible noncompliances pursuant to the procedures established in Sections 7, 8 and 9. No other investigative authority is contemplated.

Section 12 repeals the Federal Regulation of Lobbying Act.

Section 13 amends the Foreign Agents Registration Act (22 U.S.C. 6121 et seq.) in three ways: (1) the applicability of FARA is limited to representatives of foreign governments and political parties; (2) the applicability of the so-called "lawyers' exemption" is clarified by establishing that the exemption applies to communications with agency officials only in the context of agency proceedings required by statute or regulation to be conducted on the record; and (3) the term "political propaganda" is eliminated from the Act, and replaced by the term "informational materials".

Section 14 amends the Byrd Amendment (31 U.S.C. 1352) to eliminate separate lobbying disclosure provisions in that provision. Applicants for Federal contracts, grants, and loans would still be required to certify that they had not lobbied for the contract, grant, or loan with appropriated funds. In addition, they would be required to name any registrant under the Lobbying Disclosure Act who had made lobbying contacts with regard to such contract, grant, or loan, on behalf of the applicant.

Section 15 would repeal the HUD lobbying disclosure provisions (42 U.S.C. 1490p(d) and 3537b).

Section 16 would establish that if any provision of the Lobbying Disclosure Act is found to be unconstitutional, such provision would be treated as severable, and the remainder of the Act would remain in effect.

Section 17 authorizes appropriations that are necessary to carry out the Act.

Section 18 provides effective dates for the Act.

Subsection (a) provides that the Act shall take effect one year after the date of enactment.

Subsection (b) provides that the repeals made in Sections 12, 13, 14, and 15 shall not effect ongoing proceedings or Federal recordkeeping requirements under the repealed provisions.

Subsection (c) provides that proposed regulations must be published for public comment not later than 270 days after the date of enactment.

S. 2279

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 "Lobbying Disclosure Act of 1992".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) responsible representative Government requires public awareness of the efforts of paid lobbyists to influence the public decisionmaking process in both the legislative and executive branches of the Federal Government;

(2) existing lobbying disclosure statutes have been ineffective because of unclear statutory language, weak investigative and enforcement provisions, and an absence of clear guidance as to who is required to register and what they are required to disclose; and

(3) the effective public disclosure of the identity and extent of the efforts of paid lobbyists to influence Federal officials in the conduct of Government actions will increase public confidence in the integrity of Government.

(b) PURPOSE.—The purposes of this Act are to—

(1) provide for the disclosure of the efforts of paid lobbyists to influence Federal legislative or executive branch officials in the conduct of Government actions; and

(2) afford the fullest opportunity to the people of the United States to exercise their constitutional right to petition their Government for a redress of grievances, to express their opinions freely to their Government, and to provide information to their Government.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) The term "client" means any person who employs or retains another person for financial or other compensation to conduct lobbying activities on its own behalf. An organization whose employees conduct lobbying activities on its behalf is both a client and an employer of the lobbyists. In the case of a coalition or association that employs or retains others to conduct lobbying activities on behalf of its membership, the client is the coalition or association and not its individual members.

(2) The term "covered executive branch official" means—

(A) the President;

(B) the Vice President;

(C) any officer or employee of the Executive Office of the President; and

(D) any other official serving in a position described under section 101(f) (3) through (6) of the Ethics in Government Act of 1978 (5 U.S.C. App.).

(3) The term "covered legislative branch official" means—

(A) a Member of Congress;

(B) an employee of the Senate as defined under section 207(e)(7)(D) of title 18, United States Code;

(C) an employee of the House of Representatives as defined under section 207(e)(7)(C) of title 18, United States Code; and

(D) any other legislative branch employee serving in a position described under section 109(13) of the Ethics in Government Act of 1978 (5 U.S.C. App.).

(4) The term "Director" means the Director of the Office of Government Ethics.

(5) The term "employee" means any individual who is an officer, employee, partner, director, or proprietor of an organization, but does not include—

(A) independent contractors or other agents who are not regular employees; or

(B) volunteers who receive no financial or other compensation from the organization for their services.

(6) The term "foreign entity" means—

(A) a government of a foreign country or a foreign political party (as such terms are defined in section 1 (e) and (f) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 (e) and (f)));

(B) a person outside the United States, other than a United States citizen or an organization that is organized under the laws of the United States or any State and has its principal place of business in the United States; and

(C) a partnership, association, corporation, organization, or other combination of persons that is organized under the laws of or has its principal place of business in a foreign country.

(7) The term "lobbying activities" means lobbying contacts and efforts in support of such contacts, including preparation and planning activities, research and other background work that is intended for use in contacts, and coordination with the lobbying activities of others. Lobbying activities include grass roots lobbying communications (as defined in regulations implementing section 4911(c)(3) of the Internal Revenue Code of 1986) to the extent that such activities are made in direct support of lobbying contacts.

(8) The term "lobbying contact" means any oral or written communication with a covered legislative or executive branch official made on behalf of a client with regard to the formulation, adoption, modification, or implementation of United States Government legislation, regulations, or policies, or the position of the United States Government on any other matter in which the United States Government has or may have an interest, other than—

(A) communications made by public officials acting in their official capacity;

(B) communications made by the media, except where representatives of a media organization seek to influence covered legislative or executive branch officials on a matter directly affecting the interests of such organization;

(C) communications made in a speech, article or other publication, or through the media;

(D) communications made on behalf of an individual with regard to such individual's benefits, employment, or other similar matters involving only that individual;

(E) communications made on behalf of a foreign principal and disclosed under the Foreign Agents Registration Act (22 U.S.C. 611 et seq.);

(F) requests for appointments, requests for the status of a Federal action, or other similar ministerial contacts, provided that there is no attempt to influence covered legislative or executive branch officials;

(G) communications with regard to ongoing judicial proceedings, criminal law enforcement proceedings, and any other proceedings that are required by statute to be conducted on a confidential basis, provided that such communications are limited to matters that are subject to the proceedings;

(H)(i) testimony given before a committee, subcommittee or office of Congress or submitted for inclusion in the public record of a hearing conducted by such committee, subcommittee or office; and

(ii) written communications in response to specific written requests from such committee, subcommittee, or office; and

(I) communications with officials of a Federal agency if they are—

(i) made in compliance with written agency procedures regarding an adjudication conducted by the agency under section 554 of title 5, United States Code;

(ii) limited to written comments filed in a public docket and participation in public meetings open to all interested parties;

(iii) made in writing in response to specific written requests from such officials;

(iv) made in the course of participation in an advisory committee subject to the Federal Advisory Committee Act (5 U.S.C. App.);

(v) directed to officials specifically designated by the agency in the Federal Register, the Commerce Business Daily, or other similar publication, to receive such communications; or

(vi) limited to officials serving in an agency component (other than officials in Executive level I, II, III, IV, or V positions, as designated in statute or Executive order) and related exclusively to—

(I) the negotiation, award, or administration of a Federal contract, grant, loan, permit, license or patent for which the agency component is responsible;

(II) actions implementing an ongoing agency program for which the agency component is responsible;

(III) compliance with, or enforcement of, an existing statute or regulation for which the agency component is responsible; or

(IV) any other action for which the agency component is responsible, if such communications are made on the record, in compliance with published agency procedures.

(9) The term "lobbyist" means any individual who is employed or retained by another for financial or other compensation to perform services that include lobbying contacts, other than an individual whose lobbying activities are only incidental to, and are not a significant part of, the services for which such individual is paid.

(10) The term "organization" means any corporation (excluding a Government corporation), company, foundation, association, labor organization, firm, partnership, society, joint stock company, or group of organizations. Such term shall not include any Federal, State, or local unit of government (other than a State college or university as described under section 511(a)(2)(B) of the Internal Revenue Code of 1986), organization of State or local elected or appointed officials, any Indian tribe, any national or State political party and any organizational unit thereof, or any Federal, State, or local unit of any foreign government.

(11) The term "public official" means any elected or appointed official who is a regular employee of a Federal, State, or local unit of government (other than a State college or university as described under section 511(a)(2)(B) of the Internal Revenue Code of 1986), an organization of State or local elected or appointed officials, an Indian tribe, a national or State political party or any organizational unit thereof, or a Federal, State, or local unit of any foreign government.

SEC. 4. REGISTRATION OF LOBBYISTS.

(a) REGISTRATION.—No later than 30 days after a lobbyist first makes a lobbying contact, such lobbyist (or, as provided under subsection (d)(2), the organization employing such lobbyist), shall register with the Office of Government Ethics.

(b) CONTENTS OF REGISTRATION.—Each registration under this section shall be in such form as the Director shall prescribe by regulation and shall contain—

(1) the name, address, business telephone number and principal place of business of the registrant, and a general description of its business or activities;

(2) the name, address, and principal place of business of the registrant's client, and a general description of its business or activities (if different from paragraph (1));

(3) the name of any organization, other than the client, that—

(A) contributes more than $5,000 toward the lobbying activities in a semiannual period;

(B) significantly participates in the supervision or control of the lobbying activities; and

(C) has a direct financial interest in the outcome of the lobbying activities;

(4) the name, principal place of business, and approximate percentage of equitable ownership in the client (if any) of any foreign entity that directly or indirectly, in whole or in major part, supervises, controls, directs, finances, or subsidizes the activities of the client, and any other foreign affiliate of the client that has a direct interest in the outcome of the lobbying activity;

(5) a general statement of issues on which the registrant expects to engage in lobbying activities on behalf of the client and, to the extent practicable, a list of specific issues that have already been addressed or are likely to be addressed; and

(6) the name of each employee of the registrant whom the registrant expects to engage in lobbying contacts on behalf of the client.

(c) TERMINATION OF REGISTRATION.—Each registrant that ceases to represent a client shall terminate its registration as soon as practicable thereafter in a manner prescribed by the Director. Regulations developed under section 6 may provide for the termination by the Director of the registration of persons who have ceased to exist or cannot be located.

(d) GUIDELINES FOR REGISTRATION.—(1) In the case of a registrant representing more than one client, a separate registration shall be filed for each client represented.

(2) Any organization that has one or more employees who are lobbyists shall file a single registration for each client on behalf of its employees who engage in lobbying activities on behalf of such client.

(3) For purposes of subsection (b)(4), a foreign entity shall be deemed to control the activities of a client in major part if the foreign entity holds at least 10 percent equitable ownership in the client.

SEC. 5. REPORTS BY REGISTERED LOBBYISTS.

(a) SEMIANNUAL REPORT.—No later than 30 days after the end of the semiannual period beginning on the first day of each January

and the first day of July of each year in which it is registered, each registrant shall file a report with the Office of Government Ethics on its lobbying activities during such semiannual period.

(b) CONTENTS OF REPORT.—Each semiannual report filed under this section shall be in such form as the Director shall prescribe by regulation and shall contain—

(1) the name of the registrant, the name of the client, and any changes or updates to the information provided in the initial registration;

(2) a list of the specific issues upon which the registrant engaged in significant lobbying activities on behalf of the client during the semiannual filing period;

(3) for each issue listed under paragraph (2)—

(A) a list of bill numbers and references to specific regulatory actions, programs, projects, contracts, grants and loans, to the maximum extent practicable;

(B) a statement of the Houses and Committees of Congress and the Federal agencies and agency components contacted on behalf of the client during the semiannual filing period;

(C) a list of the employees of the registrant who engaged in lobbying contacts on behalf of the client; and

(D) a description of the interest in the issue, if any, of any foreign entity identified under section 4(b)(4);

(4) in the case of a registrant lobbying on behalf of a client other than the registrant, a good faith estimate of the total amount of all receipts from the client (and any payments to the registrant by any other person to lobby on behalf of the client) during the semiannual period, other than receipts for matters that are unrelated to lobbying activities; and

(5) in the case of a registrant lobbying on its own behalf, a good faith estimate of the total costs that the organization and its employees incurred in connection with lobbying activities during the semiannual filing period.

(c) ESTIMATES OF COSTS.—For the purpose of this section, estimates of receipts or costs shall be made as follows:

(1) Receipts and costs of $200,000 or less shall be estimated by the following categories:

(A) At least $500 but not more than $10,000.

(B) More than $10,000 but not more than $20,000.

(C) More than $20,000 but not more than $50,000.

(D) More than $50,000 but not more than $100,000.

(E) More than $100,000 but not more than $200,000.

(2) Receipts or costs in excess of $200,000 shall be estimated and rounded to the nearest $100,000.

(3) Any registrant whose total receipts or total costs are less than $500 in a semiannual period (as estimated under subsection (b) (4) or (5), or (c)(4), as applicable) is deemed to be inactive during such period and may comply with the reporting requirements of this section by so notifying the Director, in such form as the Director may prescribe.

(4) In the case of registrants that are required to report or identify lobbying receipts or costs under sections 6033 and 6104 of the Internal Revenue Code of 1986, regulations developed under section 6 shall provide that the amounts required to be disclosed under such statutes may be reported (by category of dollar value) to meet the requirements of subsection (b) (4) and (5) of this section.

(5) In estimating total costs or receipts under this section, a registrant is not required to include—

(A) the value of contributed services for which no payment is made; or

(B) the cost of services provided by an independent contractor or agent of the registrant who is separately registered under this Act.

(d) EXTENSION FOR FILING.—The Director may grant an extension of time of not more than 30 days for the filing of any report under this section, on the request of the registrant, for good cause shown.

SEC. 6. ADMINISTRATIVE DUTIES OF THE OFFICE OF GOVERNMENT ETHICS.

The Director of the Office of Government Ethics shall—

(1) after notice and an opportunity for public comment, and consultation with the Secretary of the Senate, the Clerk of the House, and the Administrative Conference of the United States, prescribe such rules, forms, penalty schedules, and procedural regulations as are necessary for the implementation of this Act;

(2) provide guidance and assistance on the registration and reporting requirements of this Act, including, to the extent practicable, the issuance of published decisions and advisory opinions;

(3) review and make such supplemental verifications or inquiries as are necessary to ensure the completeness, accuracy, and timeliness of registrations and reports;

(4) develop filing, coding, and cross-indexing systems to carry out the purposes of this Act, including computerized systems designed to minimize the burden of filing and maximize public access to materials filed under the Act;

(5) make copies of each registration and report filed under this Act available to the public in electronic and hard copy formats as soon as practicable after the date on which such registration or report is received;

(6) preserve the originals or accurate reproduction of registrations until such time as they are terminated, and of reports for a period of no less than 2 years from the date on which the report is received;

(7) maintain a computer record of the information contained in registrations and reports for no less than 5 years after the date on which such registrations and reports are received;

(8) compile and summarize, with respect to each semiannual period, the information contained in registrations and reports filed during such period in a manner which clearly presents the extent and nature of expenditures on lobbying activities during such period;

(9) make information compiled and summarized under paragraph (8) available to the public in electronic and hard copy formats as soon as practicable after the close of each semiannual filing period;

(10) provide copies of all registrations and reports received under this Act and all compilations, cross-indexes and summaries of such registrations and reports to the Secretary of the Senate and the Clerk of the House of Representatives by computer telecommunication and other means as soon as practicable (but not later than 5 working days) after such material is received or created; and

(11) transmit to the President and the Congress periodic reports describing the implementation of this Act, together with recommendations for such legislative or other action as the Director considers appropriate.

SEC. 7. INFORMAL RESOLUTION OF ALLEGED NONCOMPLIANCE.

(a) ALLEGATION OF NONCOMPLIANCE.—Whenever the Office of Government Ethics has reason to believe that a person may be in noncompliance with the requirements of this Act, the Director shall notify the person in writing of the nature of the alleged noncompliance and provide an opportunity for the person to respond in writing to the allegation within 30 days or such longer period as the Director may determine appropriate in the circumstances.

(b) INFORMAL RESOLUTION.—If the person responds within 30 days or other time limit set by the Director, the Director shall—

(1) take no further action, if the person provides adequate information or explanation to determine that it is unlikely that a noncompliance exists;

(2) treat the noncompliance as a minor noncompliance and (if appropriate) assess a penalty under section 8, if the person agrees that there was a noncompliance and corrects such noncompliance; or

(3) make a determination under section 8, if the information or explanation provided indicates that a noncompliance may exist.

(c) FORMAL REQUEST FOR INFORMATION.—If the person fails to respond in writing within 30 days or other time limit set by the Director, or the response is not adequate to determine whether a noncompliance exists, the Director may make a formal request for specific additional information that is reasonably necessary for the Director to determine whether the alleged noncompliance in fact exists. Each such request shall be structured in a way to minimize the burden imposed, consistent with the need to determine whether the person is in compliance, and shall—

(1) state the nature of the conduct constituting the alleged noncompliance which is the basis for the inquiry and the provision of law applicable thereto;

(2) describe the class or classes of documentary material to be produced thereunder with such definiteness and certainty as to permit such material to be readily identified; and

(3) prescribe a return date or dates which provide a reasonable period of time within which the material so requested may be assembled and made available for inspection and copying or reproduction.

(d) NONDISCLOSURE OF INFORMATION.—Information provided to the Office of Government Ethics under this section shall not be made available to the public without the consent of the person providing the information, except that—

(1) any new or amended report or registration filed in connection with an inquiry under this section shall be made available to the public in the same manner as any other registration or report filed under sections 4 and 5; and

(2) written decisions issued by the Director under sections 8 and 9 may be published after appropriate redaction to ensure that confidential information is not disclosed.

SEC. 8. DETERMINATIONS OF NONCOMPLIANCE.

(a) NOTIFICATION AND HEARING.—If the information provided to the Office of Government Ethics under section 7 indicates that a noncompliance may exist, the Director shall—

(1) notify the person in writing of this finding and (if appropriate) a proposed penalty assessment and provide such person with an opportunity to respond in writing within 30 days;

(2)(A) in the case of a minor noncompliance, afford the person a 30-day period in

which to request an oral hearing before an independent presiding official; and

(B) grant such a request made during such period for good cause shown; and

(3) in the case of a significant noncompliance, afford the person an opportunity for a hearing on the record under the provisions of section 556 of title 5, United States Code, if requested by such person within 30 days.

(b) DETERMINATION.—Upon the receipt of a written response, the completion of a hearing, or the expiration of 30 days, the Director shall review the information received under this section and section 7 and make a final determination whether there was a noncompliance and a final determination of the penalty, if any. If no written response or request for a hearing was received under this section within the 30-day period provided, the determination and penalty assessment shall constitute a final and nonappealable order.

(c) WRITTEN DECISION.—If the Director makes a final determination that there was a noncompliance, the Director shall issue a written decision—

(1) including the noncompliance in a publicly available list of noncompliances, to be reported to the Congress on a semiannual basis;

(2) directing the person to correct the noncompliance; and

(3) assessing a civil monetary penalty in an amount determined as follows:

(A) In the case of a minor noncompliance, the amount shall be no more than $10,000, depending on the nature and extent of the noncompliance.

(B) In the case of a significant noncompliance, the amount shall be more than $10,000, but no more than $100,000, depending on the nature and extent of the noncompliance.

(d) CIVIL INJUNCTIVE RELIEF.—If a person fails to comply with a directive to correct a noncompliance under subsection (c), the Director shall refer the case to the Department of Justice to seek civil injunctive relief.

(e) PENALTY ASSESSMENTS.—(1) No penalty shall be assessed under this section unless the Director finds that the person subject to the penalty knew or should have known that such person was not in compliance with the requirements of this Act. In determining the amount of a penalty to be assessed, the Director shall take into account the totality of the circumstances, including the extent and gravity of the noncompliance and such other matters as justice may require.

(2) Regulations prescribed by the Director under section 6 shall define minor and significant noncompliances. Significant noncompliances shall be defined to include a knowing failure to register and any other knowing noncompliance that is extensive or repeated.

SEC. 9. OTHER VIOLATIONS.

(a) LATE REGISTRATION OR FILING; FAILURE TO PROVIDE INFORMATION.—If a person registers or files more than 30 days after a registration or filing is required under this Act, or fails to provide information requested by the Office of Government Ethics under section 7(c), the Director shall—

(1) notify the person in writing of the noncompliance and a proposed penalty assessment and provide such person with an opportunity to respond in writing within 30 days; and

(2)(A) afford the person a 30-day period in which to request an oral hearing before an independent presiding official; and

(B) grant such a request made during such period for good cause shown.

(b) DETERMINATION.—Unless the Director determines that the late filing or failure to provide information was justified, the Director shall make a final determination of noncompliance and a final determination of the penalty, if any. If no written response or request for a hearing was received under this section within the 30-day period provided, the determination and penalty assessment shall constitute a final and unappealable order.

(c) WRITTEN DECISION.—If the Director makes a final determination that there was a noncompliance, the Director shall issue a written decision—

(1) in the case of a late filing, assessing a civil monetary penalty of $200 for each week by which the filing was late, with the total penalty not to exceed $10,000; or

(2) in the case of a failure to provide information—

(A) including the noncompliance in a publicly available list of noncompliances, to be reported to the Congress on a semiannual basis; and

(B) assessing a civil monetary penalty in an amount not to exceed $10,000.

(d) CIVIL INJUNCTIVE RELIEF.—In addition to the penalties provided in this section, the Director may refer the noncompliance to the Department of Justice to seek civil injunctive relief.

SEC. 10. JUDICIAL REVIEW.

(a) FINAL DECISION.—A written decision issued by the Office of Government Ethics under section 8 or 9 shall become final 60 days after the date on which the Office of Government Ethics provides notice of the decision, unless such decision is appealed under subsection (b) of this section.

(b) APPEAL.—Any person adversely affected by a written decision issued by the Office of Government Ethics under section 8 or 9 may appeal such decision, except as provided under section 8(b) or 9(b), to the appropriate United States court of appeals. Such review may be obtained by filing a written notice of appeal in such court no later than 60 days after the date on which the Office of Government Ethics provides notice of its decision and by simultaneously sending a copy of such notice to the Director. The Director shall file in such court the record upon which the decision was issued, as provided under section 2112 of title 28, United States Code. The findings of fact of the Director shall be conclusive, unless found to be unsupported by substantial evidence, as provided under section 706(2)(E) of title 5, United States Code. Any penalty assessed or other action taken in the decision shall be stayed during the pendency of the appeal.

(c) RECOVERY OF PENALTY.—Any penalty assessed in a written decision which has become final under this Act may be recovered in a civil action brought by the Attorney General in an appropriate United States district court. In any such action, no matter that was raised or that could have been raised before the Office of Government Ethics or pursuant to judicial review under subsection (b) may be raised as a defense, and the determination of liability and the determination of amounts of penalties and assessments shall not be subject to review.

(d) ATTORNEYS' FEES.—In any appeal brought under this section, in which the person who is the subject of such action substantially prevails on the merits, the court may assess against the United States attorneys' fees and other litigation costs reasonably incurred in the administrative proceeding and the appeal.

SEC. 11. RULES OF CONSTRUCTION.

(a) PROHIBITION OF ACTIVITIES.—Nothing in this Act shall be construed to prohibit, or to authorize the Director to prohibit, lobbying activities or lobbying contacts by any person, regardless of whether such person is in compliance with the requirements of this Act.

(b) AUDIT AND INVESTIGATIONS.—Nothing in this Act shall be construed to grant general audit or investigative authority to the Director, or to authorize the Director to review the files of a registrant, except in accordance with the requirements of section 7 regarding the informal resolution of alleged noncompliances and formal requests for information.

SEC. 12. REPEAL OF THE FEDERAL REGULATION OF LOBBYING ACT.

The Federal Regulation of Lobbying Act (2 U.S.C. 261 et seq.) is repealed.

SEC. 13. AMENDMENTS TO THE FOREIGN AGENTS REGISTRATION ACT.

The Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.) is amended—

(1) in section 1—

(A) by amending subsection (b) to read as follows:

"(b) The term 'foreign principal' includes a government of a foreign country and a foreign political party."; and

(B) by striking out subsection (j);

(C) in subsection (o), by striking out "the dissemination of political propaganda and any other activity which the person engaging therein believes will, or which he intends to, prevail upon, indoctrinate, convert, induce, persuade, or in any other way influence" and inserting in lieu thereof "any activity which the person engaging in believes will, or which he intends to, in any way influence";

(D) in subsection (p) by striking out the semicolon and inserting in lieu thereof a period; and

(E) by striking out subsection (q);

(2) in section 2 (22 U.S.C. 612), by striking out "or by any other foreign principal" each place it occurs;

(3) in section 3(g) (22 U.S.C. 613(g)), by striking out "established agency proceedings, whether formal or informal." and inserting in lieu thereof "agency proceedings required by statute or regulation to be conducted on the record.";

(4) in section 4(a) (22 U.S.C. 614(a))—

(A) by striking out "political propaganda" and inserting in lieu thereof "informational materials"; and

(B) by striking out "and a statement, duly signed by or on behalf of such an agent, setting forth full information as to the places, times and extent of such transmittal";

(5) in section 4(b) (22 U.S.C. 614(b))—

(A) by striking out "political propaganda" and inserting in lieu thereof "informational materials"; and

(B) by striking "(i) in the form of prints or" and all that follows through the end of the subsection and inserting in lieu thereof "without placing in such informational materials a conspicuous statement that the materials are distributed by the agent on behalf of the foreign principal, and that additional information is on file with the Department of Justice, Washington, District of Columbia. The Attorney General may by rule define what constitutes a conspicuous statement for the purposes of this section.";

(6) in section 4(c) (22 U.S.C. 614(c)), by striking out "political propaganda" and inserting in lieu thereof "informational materials";

(7) in section 6 (22 U.S.C. 616)—

(A) in subsection (a), by striking out "and all statements concerning the distribution of political propaganda";

(B) in subsection (b), by striking out ", and one copy of every item of political propaganda"; and

(C) in subsection (c), by striking out "copies of political propaganda";

(8) in section 8 (22 U.S.C. 618)—

(A) in subsection (a)(2), by striking out "or in any statement under section 4(a) hereof concerning the distribution of political propaganda"; and

(B) by striking out subsection (d); and

(9) in section 11 (22 U.S.C. 621), by striking out ", including the nature, sources, and content of political propaganda disseminated or distributed.".

SEC. 14. AMENDMENTS TO THE BYRD AMENDMENT.

Section 1352(b) of title 31, United States Code, is amended—

(1) in paragraph (2), by striking out subparagraphs (A), (B), and (C) and inserting in lieu thereof:

"(A) the name of any registrant under the Lobbying Disclosure Act of 1992 who has made lobbying contacts on behalf of the person with respect to that Federal contract, grant, loan, or cooperative agreement; and

"(B) a certification that the person making the declaration has not made, and will not make, any payment prohibited by subsection (a).";

(2) in paragraph (3), by striking out all that follows "loan shall contain" and inserting in lieu thereof "the name of any registrant under the Lobbying Disclosure Act of 1992 who has made lobbying contacts on behalf of the person in connection with that loan insurance or guarantee"; and

(3) by striking out paragraph (6) and redesignating paragraph (7) as paragraph (6).

SEC. 15. REPEAL OF PROVISIONS RELATING TO HOUSING LOBBYIST ACTIVITIES.

(a) REGISTRATION OF HOUSING CONSULTANTS.—Section 13 of the Department of Housing and Urban Development Act (42 U.S.C. 3537b) is repealed.

(b) REGULATION OF HOUSING LOBBYISTS AND CONSULTANTS.—Section 536(d) of the Housing Act of 1949 (42 U.S.C. 1490p(d)) is repealed.

SEC. 16. SEVERABILITY.

If any provision of this Act, or the application thereof, is held invalid, the validity of the remainder of this Act and the application of such provision to other persons and circumstances shall not be affected thereby.

SEC. 17. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

SEC. 18. EFFECTIVE DATES.

(a) EFFECTIVE DATE.—The provisions of this Act (other than the authorization to publish proposed regulations for public comment) shall take effect 1 year after the date of the enactment of this Act.

(b) REPEALS AND AMENDMENTS.—The repeals and amendments made under sections 12, 13, 14, and 15 of this Act shall take effect as provided under subsection (a), except that such repeals and amendments—

(1) shall not affect any proceeding or suit commenced before the date this Act takes effect, and in all such proceedings or suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this Act had not been enacted; and

(2) shall not affect the requirements of Federal agencies to compile, publish, and retain information filed or received before the effective date of such repeals and amendments.

(c) REGULATIONS.—Proposed regulations required to implement this Act shall be published for public comment no later than 270 days after the date of the enactment of this Act.

By Mr. BRADLEY (for himself and Mr. LAUTENBERG):

S. 2280. A bill to extend until January 1, 1995, the suspension of duties on certain chemicals; to the Committee on Finance.

S. 2281. A bill to extend duty-free treatment to certain chemicals; to the Committee on Finance.

EXTENSION OF DUTIES ON CERTAIN CHEMICALS

• Mr. BRADLEY. Mr. President, I rise to introduce legislation that will temporarily suspend the duties on a compilation of imported chemicals on behalf of Lonza, Inc., a company based in Fair Lawn, NJ. Joining me is my friend and colleague, Senator LAUTENBERG. Identical legislation has been introduced on the House side as H.R. 1529 and H.R. 1530 by Representative TORRICELLI.

Lonza manufactures and markets a diverse line of chemicals tailored to the performance requirements of specific segments of the chemical industry, principally inorganic, organic, and specialty chemicals. The chemicals have a wide range of usage; from serving as a nutrient supplement in baby food, to an antibacterial wound cleanser, to a combatant of alcoholism.

According to the International Trade Commission, no domestic producers have registered objections to the proposed suspension. The legislation enables Lonza, Inc., to import the chemicals at reasonable prices making its products more competitive in the international market and ultimately more affordable for consumers in the domestic market.

Mr. President, I ask unanimous consent that the bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 2280

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

SECTION 1, SUSPENSION OF DUTIES ON CERTAIN CHEMICALS.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by striking "12/31/92" and inserting "12/31/94" in each of the following headings:

(1) Heading 9902.29.49 (relating to benzethonium chloride).

(2) Heading 9902.29.59 (relating to 2,2-Bis(4-cyanatophenyl)propane).

(3) Heading 9902.29.62 (relating to paraldehyde, USP grade).

(4) Heading 9902.29.63 (relating to aminomethylphenylpyrazole (Phenylmethylamino-pyrazole).

(5) Heading 9902.29.67 (relating to 3-Methyl-1-(p-tolyl)-2-pyrazolin-5-one (p-Tolylmethylpyrazolone)).

(6) Heading 9902.29.69 (relating to 3-Methyl-5-pyrazolone).

(7) Heading 9902.29.71 (relating to barbituric acid).

(8) Heading 9902.30.13 (relating to 4,4'-Methylenebis-(2,6-dimethly-phenylcyanate)).

(9) Heading 9902.30.29 (relating to 4,4'-Methylenebis-(3-chloro-2,6-diethylaniline)).

(10) Heading 9902.30.30 (relating to 4,4'-Methylenebis-(2,6-diisoprophylaniline)).

(11) Heading 9902.30.57 (relating to L-Carnitine).

(12) Heading 9902.30.59 (relating to acetoacetpara-toluidide).

(13) Heading 9902.30.63 (relating to acetoacetsulfanilic acid, potassium salt).

(14) Heading 9902.30.72 (relating to 1,1-Ethylidenebis-(phenyl-4-cyanate)).

(15) Heading 9902.73 (relating to 2,2'-Bis(4-cyanatophenyl)-1,1,1,3,3,3-hexafluoropropane (CAS No. 32728-27-1)).

(16) Heading 9902.30.74 (relating to 4,4'-Thiodiphenyl cyanate).

(17) Heading 9902.30.86 (relating to 6-Methyluracil).

(18) Heading 9902.30.92 (relating to ethyl 2-(2-aminothiazol-4-yl)-2-hydroxyiminoacetate).

(19) Heading 9902.30.93 (relating to ethy 2-(2-aminothizaol-4-yl)-2-methoxyiminoacetate).

(20) Heading 9902.36.06 (relating to metaldehyde).

(21) Heading 9902.39.11 (relating to hydrocarbon novolac cyanate ester).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

S. 2281

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

SECTION 1. DUTY-FREE TREATMENT OF CERTAIN CHEMICALS.

(a) IN GENERAL.—Subchapter II of chapter 99 of the harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new headings:

9902.31.12	Malonic acid (provided for in subheading 2917. 19.50)	Free	No change	No change.	On or before 12/31/94
9902.31.13	4,4,4-Trifluoroacetoacetic esters (provided for in subheading 2910.30.50)	Free	No change	No change.	On or before 12/31/94
9902.31.14	Calcium lactobionate (provided for in subheading 2918.90.50)	Free	No change	No change.	On or before 12/31/94
9902.31.15	Methyl-3-amino crotonate (provided for in subheading 2921.19.50)	Free	No change	No change.	On or before 12/31/94
9902.31.16	2-Chloro-N,N-dimethylethylamine HCl (DMC) (provided for in subheading 2921.19.50)	Free	No change	No change.	On or before 12/31/94

9902.31.17	(Diethylamino) ethylchloride HCl (DEC) (provided for in subheading 2921.19.50)	Free	No change	No change.	On or before 12/31/94
9902.31.18	Dimethylamino isopropylchloride HCl (DMIC) (provided for in subheading 2921.19.50)	Free	No change	No change.	On or before 12/31/94
9902.31.19	4,4'-Methylenebis-(2,6-diethylaniline) lonzacure MDEA (provided for in subheading 2921.42.50)	Free	No change	No change.	On or before 12/31/94
9902.31.20	2-Amino-5-chlorobenzophenone (ACB) (provided for in subheading 2922.30.30)	Free	No change	No change.	On or before 12/31/94
9902.31.21	Tetramethylguanidine (provided for in subheading 2925.20.50)	Free	No change	No change.	On or before 12/31/94
9902.31.22	Cyanic acid-1,3-phenylenebis-(1-methylethylidenebis)-4,1-phenylene ester (provided for in subheading 2929.10.40)	Free	No change	No change.	On or before 12/31/94
9902.31.23	2-Methyl-5-ethyl pyridine (provided for in subheading 2933.39.20)	Free	No change	No change.	On or before 12/31/94
9902.31.24	Piperidinoethylchloride HCl (PIPEC) (provided for in subheading 2933.39.47)	Free	No change	No change.	On or before 12/31/94
9902.31.25	2-Amino-4-chloro-6-methoxy pyrimidine (provided for in subheading 2933.59.50)	Free	No change	No change.	On or before 12/31/94
9902.31.26	2-Amino-4,6-dimethoxy pyrimidine (provided for in subheading 2933.59.50)	Free	No change	No change.	On or before 12/31/94
9902.31.27	Morpholinoethylchloride HCl (MOCPRF) (provided for in subheading 2934.90.50)	Free	No change	No change.	On or before 12/31/94
9902.31.28	Chlorthalidone (provided for in subheading 2935.00.45)	Free	No change	No change.	On or before 12/31/94
9902.31.29	Eserine salicylate (provided for in subheading 2939.90.10)	Free	No change	No change.	On or before 12/31/94
9902.31.30	Lobeline (sulphate) (provided for in subheading 2939.90.50)	Free	No change	No change.	On or before 12/31/94
9902.31.31	D-Arabinose (provided for in subheading 2940.00.00)	Free	No change	No change.	On or before 12/31/94

(b) EFFECTIVE DATE.—The amendment made by this section applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.●

By Mr. HEFLIN:

S. 2282. A bill to direct the Secretary of Transportation to carry out a limited access highway project in the vicinity of Dothan, AL; to the Committee on Commerce, Science, and Transportation.

DOTHAN, AL, HIGHWAY PROJECT

Mr. HEFLIN. Mr. President, I am pleased to rise today to introduce legislation directing the Secretary of Transportation to provide preliminary funding for a limited access highway project in the vicinity of Dothan, AL. This much-needed project will promote highway safety, economic development, and job creation while reducing fuel consumption, transportation costs, and commuting time for those traveling through this area.

When the Interstate System was created 36 years ago, Dothan was not included and as the system nears completion, this step toward linking the city with the rest of the United States through the Interstate System is vitally important for the future of the area.

Specifically, this bill directs the Secretary of Transportation to fund a preliminary study of a planned, four-lane, limited access highway from Ross Clark Circle in Dothan south to I-10 in northwest Florida. By fully expanding current U.S. Highway 231 south of Dothan to four lanes and upgrading it to interstate standards, there will ultimately exist a 35-mile interstate highway from Dothan to I-10. Another connector would link I-10 with Panama City.

For tourists traveling in the area, military service people driving to bases in the region, business people interested in locating here, and, of course, for local residents, this interstate spur promises to be an extremely valuable and wise investment in the future.

The bill follows:

S. 2282

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

SECTION 1. DOTHAN, ALABAMA, HIGHWAY PROJECT.

(a) PROJECT DESCRIPTION.—The Secretary of Transportation shall carry out a highway project in the vicinity of Dothan, Alabama, for construction of a 4-lane, limited access highway of approximately 35 miles in length connecting Ross Clark Circle at its junction with United States Route 231 to Interstate Route 10 for the purpose of demonstrating methods by which connecting Dothan, Alabama, to the Interstate System will—

(1) increase highway safety by appreciably reducing congestion;

(2) increase safety by providing a route for necessary evacuation of individuals in emergency weather conditions;

(3) foster significant economic development and job creation by providing high speed, limited access motor vehicle transportation to an area in dynamic economic transition;

(4) appreciably decrease the use of local roads by through traffic, particularly by heavy trucks, and thereby promote highway safety;

(5) increase the efficiency and optimize the value of military installations in the region; and

(6) reduce transportation costs, fuel consumption, and employee commuter time by decreasing intraregional and interregional travel time.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated, out of the Highway Trust Fund (other than the Mass Transit Account), for preliminary engineering and design under subsection (a) $6,014,975 for Fiscal Year 1993.

(c) APPLICABILITY OF TITLE 23.—Funds authorized by this section shall be available for obligation in the same manner if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of the project under this section shall be 100 percent and such funds shall remain available until expended. Such funds shall not be subject to any obligation limitation.

By Mr. HEFLIN:

S. 2283. A bill to authorize appropriations for the purposes of carrying out the activities of the State Justice Institute for fiscal years 1993, 1994, 1995, and 1996, and for other purposes; to the Committee on the Judiciary.

STATE JUSTICE INSTITUTE REAUTHORIZATION ACT OF 1992

Mr. HEFLIN. Mr. President, I rise today to introduce legislation that would reauthorize the State Justice Institute for 4 years through fiscal year 1996. Congress originally authorized SJI for 4 years in the State Justice Institute Act of 1984, then reauthorized it for another 4 years through fiscal year

1992. The bill I introduce today would authorize annual appropriations for SJI of $20 million in fiscal year 1993 and fiscal year 1994, and $25 million in fiscal years 1995 and 1996.

The mission of the Institute is to award grants to improve the administration of justice in the State courts. I had the privilege of introducing the original legislation establishing the Institute and its reauthorization legislation as well. I am delighted to introduce this new bill extending the Institute's life again. Since the time SJI actually became operational in early 1987, it has awarded approximately $50 million in grants to support nearly 500 projects to meet its congressional mandate.

SJI grants support educational programs for judges and court staff, demonstrations of new procedures and new technologies in the courts, research on important emerging issues in the law and the administration of justice, and technical assistance to help State and local courts discharge their responsibilities with both greater efficiency and greater justice.

SJI has taken a leadership role in helping the State courts cope with the overwhelming burden of their drug-related cases. Last November, in collaboration with the Department of Justice's Bureau of Justice Assistance, SJI convened a National Conference on Substance Abuse and the Courts. Teams from 33 States came to Washington to learn how to develop successful case management programs, design effective diversion, treatment and sentencing programs, and establish critically important working relationships with criminal justice agencies, treatment providers, and community resources. The conference enabled justice system leaders and other key officials to meet without the pressure of their day-to-day activities and work together to develop an action plan to implement back in their home jurisdiction. In order to help bring the action plans to fruition, SJI established a special March 1, 1992 deadline solely for proposals seeking funding to begin to implement those plans.

SJI also supported an indepth national search to identify successful court programs to handle drug cases and distribute information about them to judicial leaders nationwide. The Institute has also granted funds to American University to support an ongoing technical assistance program that brings leading experts to local courts to help them develop customized ways to improve the way they handle their drug caseloads.

SJI also plays a critical role in supporting improvements in the working relationship between the State and Federal courts in areas such as habeas corpus review, mass torts, and joint judicial planning. One of SJI's most important contributions in this area is its support of the State Judges Asbestos Litigation Committee. The Institute's grant enables judges hearing a significant portion of the 60,000 asbestos cases pending in the State courts to meet on a regular basis to discuss common issues, including case management practices, new trends in the litigation, and coordination with the asbestos cases pending in Federal court. An SJI grant also supports an analysis of the asbestos judges' case management procedures for the purpose of developing a manual for future State and Federal judges hearing mass tort cases.

The demand for SJI funds has grown significantly each year of its current authorization. The Institute has operated at a very modest funding level, and the bill I introduce today would provide only a limited increase to enable the Institute to respond to the State courts' great need for Federal assistance over the next 4 years. I encourage the Senate to continue its support of the Institute in order to enhance the State courts' ability to deliver effective justice in areas that are critically important to the Federal Government and the American public.

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

S. 2283

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "State Justice Institute Reauthorization Act of 1992".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

Section 215 of the State Justice Institute Act of 1984 (Public Law 98-620; 42 U.S.C. 10713) is amended to read as follows:

"SEC. 215. There are authorized to be appropriated to carry out the purposes of this title $20,000,000 for fiscal year 1993, $20,000,000 for fiscal year 1994, $25,000,000 for fiscal year 1995, and $25,000,000 for fiscal year 1996. Amounts appropriated for each year are to remain available until expended.".

SEC. 3. INTERAGENCY AGREEMENTS.

Section 206(b) of the State Justice Institute Act of 1984 (42 U.S.C. 10705) is amended by—

(1) striking paragraph (3) and inserting the following:

"(3) Upon application by an appropriate State or local agency or institution and if the arrangements to be made by such agency or institution will provide services which could not be provided adequately through nongovernmental arrangements, the Institute may award a grant or enter into a cooperative agreement or contract with a unit of State or local government other than a court.";

(2) redesignating paragraph (4) as paragraph (5); and

(3) adding after paragraph (3) the following new paragraph:

"(4) The Institute shall have authority to enter into contracts with Federal agencies to carry out the purposes of this title.".

By Mrs. KASSEBAUM:

S. 2284. A bill to permit insured banks to elect to forgo deposit insurance, provided such banks are subject to oversight by the Board of Governors of the Federal Reserve System; to the Committee on Banking, Housing, and Urban Affairs.

WHOLESALE BANK DEPOSIT INSURANCE ACT

• Mrs. KASSEBAUM. Mr. President, today I am introducing legislation allowing banks to keep their banking charter and Federal Reserve membership but forgo Federal Deposit Insurance Corporation insurance. In return for moving out of the FDIC safety net, such uninsured banks would be free to engage in a variety of currently prohibited activities.

In general, this legislation allows a bank to terminate voluntarily its federally insured status and affiliate with a securities firm with a minimum amount of firewalls. To avoid any confusion, such an insured bank could not accept deposits of less than $100,000. Such an uninsured bank will likely be called an uninsured wholesale bank because it will not be dealing with retail depositors. These uninsured banks will have to have capital levels that are at least 50 percent higher than the levels of insured banks.

These uninsured wholesale banks will be regulated by the Federal Reserve and subject to all the safety and soundness regulations of insured banks—including the prompt corrective action contained in the Riegle print. Their holding companies will be subject to the Bank Holding Company Act and subject to Federal Reserve oversight.

The Federal Reserve will have discretion over these uninsured wholesale banks' access to the discount window. It could limit the frequency of a wholesale bank's discount window borrowings, charge higher than normal interest rates for such loans, and place limitations on transactions with the bank's securities affiliate.

These uninsured wholesale banks would be able to affiliate and share personnel with a securities firm with a minimum amount of firewalls. The Federal Reserve would be free to establish any firewalls it deems necessary to protect the integrity of the discount window.

In terminating its insurance, the wholesale bank would be subject to an exit fee which the FDIC believes reflects the bank's pro rata share of the BIF fund's contingent liabilities.

At this time, it is unlikely many banks would be interested in giving up their insured status. Only those banks which do not now rely on insured retail deposits for their funding and which are highly capitalized are likely to seek to take advantage. To do so they will have to increase significantly their capital ratio.

Mr. President, this legislation was accepted by the Senate Committee on Banking, Housing, and Urban Affairs as part of last year's comprehensive banking bill and approved by the Senate. If we are going to debate banking reform

seriously, we must confront squarely Federal deposit insurance. This bill addresses directly this difficult issue. Moreover, this bill provides a workable framework for our largest, best capitalized, and most sophisticated banks to compete shoulder to shoulder in the international capital markets, without threatening the network of small community retail banks that serve as the backbone of this Nation's economy.•

By Ms. MIKULSKI:

S. 2285. A bill to amend the Public Health Service Act to revitalize the intramural research program of the National Institutes of Health, and for other purposes; to the Committee on Labor and Human Resources.

NATIONAL INSTITUTES OF HEALTH REVITALIZATION ACT OF 1992

• Ms. MIKULSKI. Mr. President, I am pleased to introduce the National Institutes of Health Revitalization Act of 1992.

I am a big fan of the National Institutes of Health [NIH]. I am very proud to have NIH in Maryland. I call it one of America's crown jewels and I want to make sure that NIH's future is a bright one.

I attended a town meeting at NIH last fall and heard the concerns of the people working there. What I learned at the town meeting, I have put together in the bill that I am introducing today. The bill addresses three basic problems NIH faces. First, it will help improve the recruitment and retention of researchers and support personnel. Second, it will start the process of updating the physical infrastructure. And third, it will start the process of improving procurement procedures for NIH.

NIH is one of the engines that drives our country's future competitiveness. It is a leader in biotechnology, contributing billions to our economy by stimulating new ideas and new jobs. We have incredible resources of facilities and people at NIH that are unprecedented in the world.

Our intellectual infrastructure at NIH includes scientists, highly trained doctors, lab technicians, and medical assistants. But we must also remember that a big part of the infrastructure is the clerical, law enforcement, and blue collar workers who keep the computers humming, the physical plant running, and the grounds fit and safe to walk on. They are just as important to the success of NIH and the success of our future as a world leader in medical research.

I went to NIH to hear the ideas and concerns of the folks that work there. It was pretty clear from the comments that the NIH is facing physical fatigue, and intellectual fatigue just keeping up with the everyday requirements that are placed on them. The people that attended the NIH town meeting had some good ideas that need to be incorporated into legislation so that NIH can continue to meet the needs of the nation.

People at the NIH town meeting told me that there is a problem in recruiting and retaining researchers and support personnel. Why is this so difficult? In part, it is because NIH competes with universities. The universities offer benefits packages, free tuition and other attractive benefits. NIH needs to have more flexibility to meet the needs of its own scientists. This bill will encourage the development of a child-care center, a sabbatical program, and other programs that are similar to those at universities.

Also, it is clear from listening to the program directors at NIH that they need more flexibility in using program money. There are currently about 5 different personnel systems for scientists alone that include different compensation systems, pay levels and benefits programs. My legislation will allow NIH to propose a single, simple personnel system that meets the needs of all its employees.

This simplified personnel system will also help in making sure that support personnel—trained procurement officers, firefighters, police and others will get the pay and attention they deserve.

At the same time, there is a program at NIH that has improved the recruitment of new researchers. It is the AIDS Loan Repayment Program. NIH will pay back certain student loans if the researcher agrees to come to NIH. Senator REID thought that expanding this program to all research at NIH would be a good idea, and so do I. This idea has been included in my bill.

Second, it was clear from the town meeting that the physical plant at NIH needs help. As computers and other new technologies have transformed the workplace, NIH's infrastructure, much of which is more than 40 years old, is in need of extensive repair. In many facilities, there is no room for the specialized equipment and large safety hoods that are required for the conduct of modern research. Most crucial is updating the Clinical Center.

The Clinical Center was evaluated in 1988. The choice is very simple. Update the building or build a new one. This bill gives NIH the help it needs in getting the Clinical Center combat ready for the 21st century.

Third, many at the town meeting I attended at NIH mentioned the problems they face getting the tools they need to do their research. This bill tries to address this problem in two ways.

It requires that procurement agencies act on NIH requests or they will be considered approved. This means that NIH will get an answer, either yes or no, in a reasonable amount of time. Requests will not disappear or hang on forever. People shouldn't have to wait half a year for a microscope when lives are at stake.

This bill also requires that GSA work with NIH to develop a streamlined procurement process that meets the requirements of the law. This will help GSA understand the needs of NIH better, and give NIH a more direct way of improving its procurement efforts.

Finally, I heard a great deal about the ethics rules that limit Federal employees from getting paid for speeches, writing textbooks, and other activities which they engage in on their own time. Congress is still trying to fix this problem. I promised at the town meeting that I would be working with Senator GLENN, chairman of the Governmental Affairs Committee as the Senate wrestles with how to solve the problem without making it worse. I have not included a provision on honoraria on this bill because I know that Senator GLENN intends to bring the issue to the Senate soon. But I want this issue to be resolved this year. Federal employees should not have to sit in limbo any longer.

I am proud to represent the NIH as the Senator from Maryland. I am proud of its contribution to our international competitiveness and its work in saving lives. I will work to get this bill passed so that NIH will continue to be one of America's crown jewels.

I ask unanimous consent that the text of the bill and a summary of its provisions be included in the RECORD at the conclusion of these remarks.

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

S. 2285

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

SECTION 1. SHORT TITLE, TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "National Institutes of Health Revitalization Act of 1992".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title, table of contents.
Sec. 2. Purpose.
Sec. 3. Findings.
TITLE I—AUTHORITIES OF THE DIRECTOR OF THE NATIONAL INSTITUTES OF HEALTH
Sec. 101. Findings.
Sec. 102. Management of the intramural program.
Sec. 103. Expedited administration.
TITLE II—PERSONNEL
Sec. 201. Findings.
Sec. 202. Model integrated personnel system for NIH.
Sec. 203. Sabbatical and tuition reduction program.
Sec. 204. Expansion of loan repayment programs for research with respect to AIDs.
Sec. 205. Honoraria exemption.
TITLE III—WARREN GRANT MAGNUSON CLINICAL CENTER
Sec. 301. Findings.
Sec. 302. Renovation and replacement program.
TITLE IV—ACQUISITION OF LAND AND FACILITIES
Sec. 401. Findings.

Sec. 402. Acquisition of land and facilities
TITLE V—PROCUREMENT
Sec. 501. Study.
TITLE VI—GENERAL PROVISIONS
Sec. 601. Findings.
Sec. 602. Day care.

SEC. 2. PURPOSE.

It is the purpose of this Act to provide additional authorities to the Director of the National Institutes of Health to enable the National Institutes of Health to improve the functioning of its intramural research program, and to redress shortcomings and make needed improvements in its physical facilities and infrastructure.

SEC. 3. FINDINGS.

Congress finds that—

(1) for more than a century, the National Institutes of Health has provided health benefits to the American people and contributed significantly to mankind's knowledge about the life sciences;

(2) the intramural research program of the National Institutes of Health is a critical component of the Nation's biomedical research establishment;

(3) the continuance of excellence at the National Institutes of Health is in the Nation's interest, in that the intramural research program's efforts have resulted in innumerable contributions to the understanding of human health, and basic biological processes and disease states;

(4) the intramural research program is unique, unlike those of universities, in that it can respond in rapid fashion to public health emergencies without the delay inherent in preparation of applications for research funding;

(5) the intramural research program serves as a training ground for the most renowned scientists, who now form the cadre of biomedical researchers in universities and medical centers nationwide;

(6) the biomedical research priorities established in the intramural research program influence the research that is conducted at both public and private institutions, and research in certain areas would not be conducted if the National Institutes of Health intramural research program did not set the standard; and

(7) the National Institutes of Health is at the forefront of the Federal Governments involvement with the private sector in the endeavor to enhance our Nation's competitiveness in the world of science.

TITLE I—AUTHORITIES OF THE DIRECTOR OF THE NATIONAL INSTITUTES OF HEALTH

SEC. 101. FINDINGS.

Congress finds that—

(1) in order to maintain the integrity and ensure the future of the intramural research program of the National Institutes of Health, there must be clear direction, supervision, and support of that program by the Director;

(2) the intramural research program serves as the first line of scientific inquiry into areas of major public health consequences, and the initiation of research in the intramural program often serves as the impetus for initiation of similar or complementary research in the academic and industry setting;

(3) strong, visionary leadership from the Director of the National Institutes of Health, acting through the intramural research program, can shape the nature and future direction of biomedical research across the country and worldwide; and

(4) concerned Federal agencies should expedite requests from the National Institutes of Health pursuant to the implementation of this Act.

SEC. 102. MANAGEMENT OF THE INTRAMURAL PROGRAM.

Section 402(b) of the Public Health Service Act (42 U.S.C. 282(b)) is amended—

(1) in paragraph (10), by striking out "and" at the end thereof;

(2) by redesignating paragraph (11) as paragraph (12); and

(3) by inserting after paragraph (10), the following new paragraph:

"(11) exercise supervision, through the directors of the national research institutes, over the intramural research program of the National Institutes of Health; and".

SEC. 103. EXPEDITED ADMINISTRATION.

(a) REQUIREMENT.—The Secretary of Health and Human Services, Administrator of General Services, Director of the Office of Personnel Management, and Director of the Office of Management and Budget shall provide for the prompt handling of requests from the Director of the National Institutes of Health made pursuant to this Act, or an amendment made by this Act.

(b) APPROVAL.—Requests of the Director of the National Institutes of Health made pursuant to this Act, or an amendment made by this Act, and clearly identified as so by the Director who shall submit a copy of such request to the Secretary, if not acted upon within 90 days of the receipt of such request, shall be considered to be approved.

TITLE II—PERSONNEL

SEC. 201. FINDINGS.

Congress finds that—

(1) if the National Institutes of Health is to continue to meet the research challenges of the future, its ability to recruit and retain the highest quality scientists for its research programs must not be compromised;

(2) personnel mechanisms currently available within the Federal Government do not always provide the most suitable alternatives for ensuring that the National Institutes of Health can retain the best scientists and other staff; and

(3) employees at the National Institutes of Health are covered by a variety of personnel systems (including the Commissioned Corps of the Public Health Service, the Senior Executive Service, SBRS, the General Schedules under title 5 of the United States Code and a variety of National Institutes of Health excepted appointment authorities) which offer a complex and often confusing array of available compensation systems, pay levels, and benefits programs.

SEC. 202. MODEL INTEGRATED PERSONNEL SYSTEM FOR NIH.

Part A of title IV of the Public Health Service Act (42 U.S.C. 281 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 404. MODEL INTEGRATED PERSONNEL SYSTEM FOR NIH.

"(a) ESTABLISHMENT OF PERSONNEL SYSTEM.—Not later than 1 year after the date of enactment of this section the Secretary, acting through the Director of NIH, shall develop a proposed model integrated personnel system with respect to the personnel of the National Institutes of Health to enable the National Institutes of Health to recruit and retain the highest quality personnel to promote the conduct of efficient, effective and high quality research for the American public. The Director of NIH shall work with appropriate employee organizations and representatives to develop such a system.

"(b) REQUIREMENTS OF SYSTEM.—

"(1) IN GENERAL.—The proposed system developed under subsection (a) shall be designed as an integrated, excepted service system that would provide one type of appointment authority for all employees of the National Institutes of Health, including firefighters, security personnel and procurement officers, with salaries comparable to those prevailing in the private sector for comparable positions.

"(2) TRANSFER RIGHTS AND OTHER FEATURES.—The proposed system developed under subsection (a) shall include—

"(A) provisions to enable employees of the National Institutes of Health currently covered under other personnel systems to transfer to the new system without penalty;

"(B) a flexible benefits program that can be tailored to the needs of the employee; and

"(C) a performance management system (including promotions, portable retirement benefits from universities, rewards, and penalties) that is suitable to the research environment.

"(c) DIRECTOR'S STAFFING AUTHORITY.—Under the proposed system developed under subsection (a), the Director of NIH shall have authority for the staffing of the intramural research program of the Institutes. Such authority may be delegated by the Director of NIH to the directors of the national research institutes.

"(d) LOAN REPAYMENT PROGRAM.—As part of the proposed system developed under subsection (a), the Secretary may enter into agreements with appropriately qualified health professionals under which such health professionals agree to conduct, as employees of the National Institutes of Health, biomedical or clinical research in those areas of need so identified by the Director of the Institutes, in consideration of the Federal Government agreeing to repay, for each year of service, not more than $20,000 of the principal and interest of the educational loans of such health professionals.

"(e) SUBMISSION TO CONGRESS.—Not later than 1 year after the date of enactment of this section, the Secretary shall prepare and submit to the appropriate committees of Congress a report containing the proposed system developed under subsection (a) together with the recommendations of the Secretary concerning the enactment of legislation to apply the proposed system to the National Institutes of Health.".

SEC. 203. SABBATICAL AND TUITION REDUCTION PROGRAM.

Part F of title IV of the Public Health Service Act (42 U.S.C. 288 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 490. SABBATICAL AND TUITION REDUCTION PROGRAMS.

"(a) ESTABLISHMENT.—The Secretary, acting through the Director of NIH, may with the approval of the chief executive officer of a State, establish and implement a scientific personnel exchange program with such State.

"(b) OPERATION.—The program established under paragraph (1) for a State shall permit National Institutes of Health scientists to elect to take sabbaticals at State institutions of higher learning, while continuing to be paid as employees of the Federal Government. To be eligible to permit a State institution to accept a scientist on such a sabbatical, the State involved shall offer the children of all intramural scientists at the National Institutes of Health the opportunity to attend such institutions in the State at the rate of tuition applicable to in-State students.

"(c) PLAN.—The chief executive officer of a State desiring to have a program of the type

described in subsection (a) implemented in the State shall prepare and submit to the Secretary a plan for such program that shall include—

"(1) a description of the program to be implemented;

"(2) the limitations, if any, on sabbaticals under the program;

"(3) the limitations, if any, on the opportunity of children to attend State institutions; and

"(4) any other information determined appropriate by the Secretary.".

SEC. 204. EXPANSION OF LOAN REPAYMENT PROGRAMS FOR RESEARCH WITH RESPECT TO AIDS.

Section 487A of the Public Health Service Act (42 U.S.C. 288-1) is amended—

(1) in subsection (a), by adding at the end thereof the following new paragraph:

"(3) CONTRACTS FOR THE CONDUCT OF OTHER RESEARCH.—The Secretary, subject to paragraph (2), may enter into agreements with appropriately qualified health professionals under which such health professionals agree to conduct, as employees of the National Institutes of Health, biomedical or clinical research in those areas of need so identified by the Director of the Institutes, in consideration of the Federal Government agreeing to repay, for each year of service, not more than $20,000 of the principal and interest of the educational loans of such health professionals."; and

(2) in subsection (c)—

(A) by redesignating paragraph (2) as paragraph (3); and

(B) by inserting after paragraph (1), the following new paragraph:

"(2) CONDUCT OF OTHER RESEARCH.—There are authorized to be appropriated to enter into agreements under subsection (a)(3), $3,000,000 for each of the fiscal years 1992 through 1996.".

TITLE III—WARREN GRANT MAGNUSON CLINICAL CENTER

SEC. 301. FINDINGS.

Congress finds that—

(1) the proximity of the laboratory research and clinical investigations to the associated patient care at the Warren Grant Magnuson Clinical Center is unique and provides an indispensable biomedical research setting;

(2) such Clinical Center has been the site of major advances in the treatment and care of patients with chronic or life-threatening illnesses;

(3) an in-depth study of such Clinical Center utility infrastructure revealed a variety of serious deficiencies throughout the building;

(4) critical mechanical and electrical systems that provide electrical power, heating, air conditioning, and plumbing are old and do not meet today's research needs, with systems exceeding their useful life, becoming unsafe and functionally obsolete; and

(5) corrective action, while minimizing the impact on the research programs contained therein, will require many years, substantial new construction, and nearly complete renovation or abandonment of the existing facility.

SEC. 302. RENOVATION AND REPLACEMENT PROGRAM.

Title IV of the Public Health Service Act (42 U.S.C. 281 et seq.) is amended by adding at the end thereof the following new part:

"PART I—RESTORATION AND RENOVATION OF FACILITIES AND INFRASTRUCTURE

"Subpart 1—Warren Grant Magnuson Clinical Center

"SEC. 499B. WARREN GRANT MAGNUSON CLINICAL CENTER RENOVATION AND REPLACEMENT PROGRAM.

"(a) ESTABLISHMENT.—To address the problems existing at the Warren Grant Magnuson Clinical Center (hereafter referred to as the 'Clinical Center'), the Director of NIH may establish and implement a program for the renovation of the existing Clinical Center facility or the construction of a replacement facility. The Director may conduct feasibility studies to determine the appropriate action to be taken concerning the Clinical Center.

"(b) TRANSFER OF LAND.—

"(1) IN GENERAL.—The Secretary, acting through the Director of NIH, is authorized to accept the transfer to the National Institutes of Health of not less than 25 acres of land from other Federal agencies. Such land shall be suitable for the construction of a new research hospital and clinical center. Such land may include land obtained from the Secretary of the Navy, located on the reservation of the National Naval Medical Center, in Bethesda, Maryland.

"(2) USE AGREEMENT AND MEMORANDUM OF UNDERSTANDING.—The Secretary, acting through the Director of NIH, may enter into a Use Agreement and a Memorandum of Understanding with the Administrators, Director, or Secretaries of the appropriate executive branch entity, to accomplish the transfer of property pursuant to paragraph 1.

"(c) REQUIREMENTS.—

"(1) FACILITIES.—Any facility renovated or constructed under this section shall be equipped with a state-of-the-art capacity for beds and necessary laboratories and be comparable to the current Clinical Center complex, with necessary amenities for employees, volunteers, research subjects and visitors, including cafeteria and vehicle parking facilities.

"(2) TRANSFER OF PERSONNEL.—If a new facility is to be constructed under this section, the Secretary may expend amounts necessary to transfer the personnel and administration of the current Clinical Center to the new facility upon its completion.

"(3) COMPLETION.—Notwithstanding any other provisions of law, the renovation or construction performed under this section shall be completed as soon as feasible.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section. Such funds shall be available beginning October 1, 1992, and shall remain available until expended.".

TITLE IV—ACQUISITION OF LAND AND FACILITIES

SEC. 401. FINDINGS.

Congress finds that—

(1) although a program of revitalization of certain of the oldest National Institutes of Health buildings has been initiated, many of these facilities are still in need of replacement or refurbishment, as such buildings are more than 40 years old;

(2) the infrastructure supporting many of the laboratory and clinical facilities of the National Institutes of Health needs replacement or refurbishment;

(3) although imminent collapse is not expected, failure of one or more of the central support or building systems would mean closing down significant elements of the intramural research program for an extended period of time;

(4) many benefits would accrue from redressing the facilities and infrastructure problems at one time rather than trying to address them piecemeal;

(5) infrastructure improvements are required, not only to allow the National Institutes of Health to continue its important role in maintaining United States preeminence in biomedical and behavioral research, but more importantly, to address deteriorating structural, electrical and plumbing problems that have the potential for affecting the safety and well-being of laboratory personnel and will severely hamper the continued conduct of high quality research;

(6) if the extent and pace of future growth is not planned and coordinated with the restoration and expansion of the supporting infrastructure, the ability of the National Institutes of Health to respond rapidly and effectively to new research initiatives will deteriorate; and

(7) construction of a consolidated office building to house the administrative staff of the National Institutes of Health who currently occupy space in a number of rental sites away from the Bethesda, Maryland, campus, should be given high priority and should be expedited.

SEC. 402. ACQUISITION OF LAND AND FACILITIES

Part I of title IV of the Public Health Service Act, as added by section 302, is amended by adding at the end thereof the following new subpart:

"Subpart 2—Acquisition of Land and Facilities

"SEC. 499C. PHYSICAL INFRASTRUCTURE FOR RESEARCH.

"(a) ESTABLISHMENT OF PROGRAM.—The Secretary, acting through the Director of NIH, may establish and implement a comprehensive program that is designed to provide for the replacement or refurbishment of less than adequate buildings, utility equipment and distribution systems (including the resources that provide electrical and other utilities, chilled water, air handling, and other services that the Secretary, acting through the Director, deems necessary), roads, walkways, parking areas, and grounds that underpin the laboratory and clinical facilities of the National Institutes of Health. Such program may provide for the undertaking of new projects that are consistent with the objectives of this section, such as encircling the National Institute of Health Federal enclave with an adequate chilled water conduit.

"(b) REQUIREMENTS.—

"(1) DESIGN OF PROGRAM.—In establishing the program under subsection (a), the Secretary shall ensure that such program is designed to modernize the existing research and clinical laboratory infrastructure of the National Institutes of Health in the shortest possible time consistent with good stewardship of Federal funds.

"(2) FUTURE EXPANSION.—In designing the program under subsection (a), the Secretary may make reasonable allowance for future expansion and usual employee amenities, such as cafeteria services and vehicle parking.

"(3) NONDISRUPTION OF OPERATIONS.—In carrying out the program established under subsection (a), the Director of NIH shall, to the extent feasible, plan renovations and construction in such a manner that significant elements of the research program at the Institutes are not significantly disrupted.

"SEC. 499D. LEASED FACILITIES.

"The Secretary, acting through the Director of NIH, may lease space as necessary to

support the intramural research program of the National Institutes of Health or the related administrative needs in the area near the Bethesda, Maryland, campus or at any satellite facilities without regard to time limit or square foot limit normally required by the Administrator of General Services.

"SEC. 499E. ACQUISITION OF LAND.

"(a) IN GENERAL.—The Director of NIH may purchase not to exceed a total of 300 acres of land for the establishment of a satellite campus in Maryland for the purpose of enhancing the intramural research capacity of the National Institutes of Health.

"(b) STUDY.—Prior to the purchase of land under subsection (a), the Director of NIH shall conduct a study concerning the expansion needs of the National Institutes of Health and the purpose for which the land is to be purchased. A report concerning such study shall be submitted for approval to the Committee on Appropriations of the House of Representatives, the Committee on Appropriations of the Senate, the Committee on Labor and Human Resources of the Senate, and to the other appropriate committees of Congress.

"SEC. 499F. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated such sums as may be necessary to carry out this subpart. Amounts appropriated under this subsection shall remain available until the expiration of the second fiscal year beginning after the fiscal year for which such amounts are appropriated.".

TITLE V—PROCUREMENT

SEC. 501. STUDY.

The Director of the National Institutes of Health and the Administrator of the General Services Administration shall jointly conduct a study to develop a streamlined procurement system for the National Institutes of Health that complies with the requirements of Federal Law.

TITLE VI—GENERAL PROVISIONS

SEC. 601. FINDINGS.

Congress finds that participation of women in the National Institute of Health research enterprise and its undertakings is essential to the continued growth of the intramural program and, to this end, efforts should be directed to provide accommodations such as child care so that more women, particularly at the child-rearing stage, can participate as scientists in the intramural research program and as subjects in research programs conducted at the research hospital and clinical center of the National Institutes of Health.

SEC. 602. DAY CARE.

Part G of title IV of the Public Health Service Act is amended by inserting after section 496 (42 U.S.C. 289e) the following new section:

"SEC. 496A. DAY CARE.

"(a) PROVISION OF FUNDS.—The Director of NIH may establish a program under which the Director will provide assistance to day care providers in amounts equal to the amounts paid by employees of the National Institutes of Health to such providers to enable such employees to afford appropriate day care for their children.

"(b) SLIDING SCALE.—The amount of funds to be provided by the Director of NIH on behalf of an employee under subsection (a) shall be based on a sliding scale developed by the Director that takes into consideration the income and needs of the employee.

"(c) FEES.—The Director of NIH may assess a nominal fee to employees and day care providers who receive assistance under this section to be utilized to offset the cost of the administration, operation and upkeep of the day care assistance program.

"(d) OTHER SERVICES.—The Director of NIH may provide for the availability of day care service on a 24-hour-a-day basis if the Director considers such appropriate to meet the needs of employees. In order to accommodate these needs, the Director is further authorized to enter into a rental or lease purchase agreements as needed.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section. Amounts appropriated under this subsection shall remain available until the expiration of the second fiscal year beginning after the fiscal year for which such amounts are appropriated.".

SUMMARY OF NATIONAL INSTITUTES OF HEALTH REVITALIZATION ACT OF 1992

1. PERSONNEL RETENTION AND RECRUITMENT

Direct NIH & OPM to report back to Congress with a plan to integrate the many different federal employee pay schedules currently used by NIH into one integrated civil service system. Study would cover scientists, support staff, maintenance staff and security.

Create a sabbatical exchange program to state universities that is developed and approved with the Governors of each state.

NIH will repay student loans for scientists who choose to work at NIH—based on AIDS loan repayment program.

Give NIH Director direct control over intramural program.

Require that NIH requests to OPM, OMB, GSA and HHS be handled in 3 months or the request will be considered automatically approved.

2. BUILDINGS AND FACILITIES

Authority to negotiate with the Navy for land at the Bethesda Naval Hospital grounds to build a replacement building for the Magnuson Clinical Center.

Authority to carry out needed improvements to Magnuson Clinical Center.

Create a comprehensive program to replace and refurbish buildings, equipment, systems, roads, walkways, parking, and other infrastructure needs for NIH programs.

Give NIH the authority to purchase 300 acres for a satellite campus.

3. PROCUREMENT

Joint study of NIH and GSA to streamline procurement process.

4. GENERAL PROVISIONS

Authority to start a day care center.●

By Mr. ROCKEFELLER (for himself, Mr. WOFFORD, Mr. LIEBERMAN, and Mr. KERRY of Massachusetts):

S. 2286. A bill to provide support for enterprises engaged in the research, development, application, and commercialization of advanced critical technologies through a private consortium of such enterprises; to the Committee on Commerce, Science and Transportation.

ADVANCED TECHNOLOGIES CAPITAL CONSORTIUM ACT OF 1992

● Mr. ROCKEFELLER. Mr. President, today I am introducing legislation which is one part of a larger strategy designed to help restore America's competitiveness. In introducing the Advanced Technologies Capital Consortium Act of 1992, I am joined by Representative TORRICELLI who is introducing the House version of the bill, and by Senators WOFFORD, LIEBERMAN, and KERRY.

We are taking this step because of our firm belief that America's ability to sustain its role of world leadership in the next century will depend on its economic strength more than its military strength. Economic strength, in turn, will be defined by critical technologies of the future. Indeed, as Desert Storm demonstrated, even military strength itself will depend increasingly on advanced technological capabilities.

Effectively, these technologies will become our infrastructure of tomorrow. They include:

Advanced communications and information technologies like computers, fiber-optics, opto-electronics, flat panel imaging, and new generation semiconductor manufacturing.

Advanced transportation technologies in aeronautics, smart highways, and magnetic levitation.

Advance materials like composites, ceramics and high-performance metals.

Governments have been supporting infrastructure for 5,000 years. Indeed, Mr. President, historians theorize that the development of organized agriculture led to the need for cooperative efforts to control irrigation, which is what started the idea of government. The United States itself is a good example of the use of Government to provide what economists call collective goods. We created a modern and efficient agriculture industry in the 19th century. We did the same thing with civil aviation in the 1920's and aerospace in the 1950's and 1960's. Our definition of infrastructure may change over time, but the Government's responsibility to provide it does not.

At the same time, it is important that Governments approach this responsibility with a coherent strategy rather than piecemeal. Right now, every time we pass a tax bill or an appropriations bill, every time EPA changes its environmental regulations, every time we continue or kill a defense program; we favor some industries or sectors over others. But we have no concept, no priorities beyond the good idea of the moment.

In response to that dilemma, a number of us have begun the process of trying to formulate just such a national economic strategy. It will include tax proposals, which are currently under discussion. I will have more to say about that on another occasion.

In terms of new initiatives, we are proposing a variety of measures to accelerate development and commercialization of critical technologies, including more funds for the Department

of Commerce's Advanced Technology Program and DARPA's dual-use projects.

We will also be proposing funding for a number of items authorized last year in the defense bill, thanks to the efforts of the Senator from New Mexico, Mr. BINGAMAN, but not funded, including a manufacturing extension program cost—shared with the states, and the creation of critical technology application centers with States and industry. The latter would provide infrastructural services to small technology start-up companies.

I will also inform the Senator that I intend this year to press the issue of the so-called Mineta amendment which would provide National Institute of Standards and Technology funds for technology commercialization as well as research and development. I had hoped to add this provision to the NIST authorization that the Senate approved last November but was persuaded not to do so in the interest of enacting the legislation quickly. The administration had threatened to veto the entire authorization on the basis of this $10 million amendment on the grounds that it was industrial policy.

That, of course, is nonsense. The idea that there is in the innovation-manufacturing continuum a bright line, on one side of which lies generic, pre-competitive R&D and on the other side of which lies industrial policy, is ridiculous. There is no magic point at which research suddenly and miraculously becomes product-specific and proprietary. When the Advanced Technology Program of DARPA selected projects to support, they clearly are looking down the line to usable outcomes. To stop the government-support process at an arbitrary point for ideological reasons nullifies the effectiveness of the programs.

Finally, Mr. President, a complete national economic strategy will also address transportation, education, worker training, export promotion, and trade. I will also have more to say about those a the proper time.

The Advanced Technologies Capital Consortium Act, therefore, is only one part of this larger effort to restore American competitiveness, but it is important to see it as part of that coherent whole rather than isolation.

PURPOSE OF THE BILL

Having said that, let me discuss for a few moments the rational behind this particular bill. It is intended to deal with growing deficiencies in the domestic venture capital market:

Venture capital partnerships raised only $1.34 billion in 1991, continuing a consistent decline from the record $4.2 billion in 1987. Similarly experts believe the much larger angel market—private individual investors—estimated at about $41 billion annually between 1985 and 1987, has also been shrinking.

There is also evidence that venture capital investments are becoming more conservative—coming in later when projects are already established. Venture capitalists will doubtless argue that good ideas simply aren't appearing as frequently anymore, but a more objective analysis concludes that venture capitalists are becoming routinized and risk averse. Michael Schrage of the Washington Post has discussed this phenomenon in a column from September 6, 1991. Mr. President, I ask that the column be printed at the conclusion of my remarks.

No doubt, others will argue there is simply less capital available for investment, due to past tax legislation or current economic policies. There may well be some truth to that, Mr. President, and I hope the Finance Committee will address the question it its consideration of tax legislation.

Regardless of who is right in that argument, however, it is clear that domestic funds are not sufficiently available. At the same time, I am also concerned that foreign funds are available, but they come with strings attached, most commonly licensing of any technology developed. Good recent examples of this problem can be found in the biotechnology sector, which is replete with recent Japanese acquisitions.

Mr. President, if we cannot make domestic funds available, we risk literally selling off our innovations and technologies to our competitors, which will have devastating long-term consequences for our competitiveness.

The purpose of this bill is to address that threat by providing a domestic venture capital alternative.

This is not a new idea, although I am not familiar with it previously in the form of legislation. I first ran across it in the first report in 1989 of the National Advisory Committee on semiconductors, which recommended a capital consortium specifically for electronics. Michael Borrus of the Berkeley roundtable on the international economy prepared a paper for the NACS which laid out the spectrum of options for a consortium. Our bill is adapted from his ideas.

STRUCTURE OF THE ADVANCED TECHNOLOGIES CAPITAL CONSORTIUM

Although it utilizes some Federal funds, matched by private funds, the ATCC is organized and run by the private sector.

Its structure and organization is similar to Sematech's. The Secretary of Commerce is authorized to designate a consortium of private parties, including State or local governments, to control the funds and make the investments. This decisionmaking is entirely in the hands of the private consortium—the ATCC. Federal oversight is achieved through an advisory committee, like the one that supervises Sematech, and an annual audit. The advisory committee would set overall policy objectives but would not interfere in investment decisions.

The ATCC would invest in companies engaged in the research, development, application, or commercialization of critical technologies. Critical technologies are those listed by the National Critical Technologies Panel in its biannual report. Mr. President, I ask that the list of critical technologies from the 1991 report be printed at the conclusion of my remarks.

The bill would permit a broad range of investments, including loans, grants, and equity investments. The ATCC would be free to negotiate whatever conditions it thought appropriate with an investment recipient through memoranda of understanding with the recipient.

In that regard, I expect that the most common arrangement would be an equity investment, because it would permit the ATCC to share most fully in any profits.

As I indicated, there is a Federal contribution to the ATCC but the consortium members must collectively contribute an amount equal to the first year's Federal contribution. Since the bill authorizes $100 million for fiscal year 1993 and $200 million for each of fiscal year 1994 and fiscal year 1995, the private contribution would be $100 million, if Congress authorized and appropriated the full amount, and the Secretary allocated it.

Although the intellectual property developed as a result of ATCC investments could be made available to the consortium members, pursuant to the memorandum of understanding that negotiated the investment, it is made available to the Government only for its own use. The Government is precluded from selling it or making it available to others. That should help guarantee that the private parties reap the profits from their innovations.

Participation in the ATCC is limited to U.S.-owned companies or those that are incorporated in the United States and have a parent incorporated in a country that affords U.S.-owned companies comparable opportunities to participate in this kind of consortium, national treatment for local investments, and adequate and effective protection of intellectual property rights. This is the same language included in the NIST authorization recently sent to the President.

It is my expectation that companies will be interested in participating either because of the potential profit—from interest on loans or from equity investment—or the possibility of access to new intellectual property. The bill does not require either but leaves the relationship between investors and recipients to negotiation between the parties.

Mr. President, I believe the advanced technologies capital consortium is an innovative approach to a serious and growing problem. That problem is commonly identified as a competitiveness,

a long, and frankly boring, word. We may be getting tired of the word, but we dare not get tired of the idea, because our ability to sustain our role of world leadership depends on it. To do that will require a national economic strategy—something America has done before, but which has been declared politically incorrect for the past 10 years. The failure of the Reagan and Bush administrations to put our economy on the proper footing to sustain itself into the next century is now becoming obvious to everybody. The public has certainly figured it out, and I do not expect Congress will be far behind. The administration will certainly resist, which means we will have a debate, one which, in my judgment, is long overdue. I look forward to that debate, Mr. President, and can assure Senators that the advanced technologies capital consortium will be an important part of it.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

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

S. 2286

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 "Advanced Technologies Capital Consortium Act of 1992".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the United States does not have adequate institutional means to effectively identify, procure, and deploy needed technologies in a timely fashion;

(2) the United States makes insufficient investment in civilian research and development in comparison with its major foreign competitors;

(3) the United States is lagging behind its foreign competitors in the commercialization and diffusion of new technologies;

(4) in a number of cases, American industry has been overtaken in the international market by innovative products from foreign firms, and American firms have pioneered new technologies only to see their successful commercialization captured by foreign competitors;

(5) the productivity and rate of innovation of many American industries are lagging compared with historical patterns and with the performance of the same industries in other nations and are not sufficient to provide for a healthy economy;

(6) the American venture capital market has failed to provide sufficient funds to support innovation or commercialization of critical technologies;

(7) investment in American critical technologies by American entities is in the interest of American competitiveness and national security;

(8) with the increasingly global trade patterns that accompany world development and the penetration of United States markets by foreign competitors, the United States will have to provide for closer Government-industry cooperation in order to compete successfully; and

(9) Government-industry cooperation should include support for private venture capital investment.

(b) PURPOSE.—The purpose of this Act is to provide Government support for a private consortium that will invest in the research, development, and commercialization of critical technologies.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) the term "Advanced Technologies Capital Consortium" (hereafter referred to as the "ATCC") means a consortium of private enterprises, academic institutions, foundations, and State and local governments designated by the Secretary under section 4(b), and engaged in the research, development, application, and commercialization of critical technologies;

(2) the term "advanced critical technologies" means those technologies on the biannual list required to be issued by the National Critical Technology Panel in accordance with section 603(d) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6683(d));

(3) the term "intellectual property" means any invention or process patentable under title 35, United States Code, or any patent on such an invention; and

(4) the term "Secretary" means the Secretary of Commerce.

SEC. 4. FEDERAL FUNDING.

(a) IN GENERAL.—The Secretary shall make grants and loans to the ATCC to pay the costs of research, development, application, and commercialization of critical technologies through grants, loans, and investments made by the ATCC to enterprises engaged in such activities. Grants and loans to the ATCC shall be made in accordance with a memorandum of understanding entered into under section 5.

(b) DESIGNATION OF ATCC.—The Secretary shall designate 1 consortium as the ATCC.

(c) ELIGIBILITY.—To be eligible for designation as the ATCC, the consortium shall—

(1) be comprised of not less than 4 private sector persons and corporations described in section 3(1);

(2) contribute to the funding of the consortium an amount that is equal to or greater than the amount provided to the consortium by the Secretary in the first fiscal year following the date of enactment of this Act;

(3) consist of persons or corporations that the Secretary finds would serve the economic interest of the United States, as evidenced by—

(A) investments in the United States in research, development, and manufacturing (including the manufacturing of major components or subassemblies in the United States);

(B) significant contributions to employment in the United States; and

(C) agreement with respect to any technology arising from financial support provided under this Act—

(i) to promote the manufacture within the United States of products resulting from that technology (taking into account the goals of promoting the competitiveness of United States industry; and

(ii) to procure parts and materials from competitive suppliers—

(I) made up only of entities that are United States-owned; or

(II) incorporated or chartered in the United States; and

(4) limit corporate membership in the consortium to companies that are either—

(A) United States-owned; or

(B) incorporated or chartered in the United States and have a parent company that is incorporated in a country that affords to United States-owned companies—

(i) opportunities comparable to those afforded to any other company to participate in any joint venture or consortium similar to that designated under this Act;

(ii) local investment opportunities comparable to those afforded to any other company; and

(iii) adequate and effective protection for the intellectual property rights of such United States-owned companies.

SEC. 5. MEMORANDUM OF UNDERSTANDING.

(a) CONTENTS.—The Secretary shall enter into a written memorandum of understanding with the ATCC which shall include the following provisions:

(1) CHARTER AND OPERATING PLANS.—The ATCC shall be required—

(A) to be a business corporation incorporated under the laws of a State or the District of Columbia;

(B) to have a charter agreed to by all participating members of the ATCC;

(C) to have an annual operating plan developed in consultation with the advisory committee established under section 6; and

(D) to appoint an executive director and such other staff as it considers necessary.

(2) PARTICIPATION AMOUNT.—The total amount of grants and loans provided to the ATCC by the Secretary under this Act may not exceed $200,000,000 in any fiscal year.

(3) CONSULTATIONS.—In making grant, loan, and investment decisions, the ATCC shall consult with and draw upon the expertise of the advisory committee established under section 6.

(4) INDEPENDENT AUDITOR.—The ATCC shall retain an independent commercial auditor—

(A) to make an annual determination of the extent to which Federal funding provided to the ATCC under this Act has been used in a manner that is consistent with the purposes of this Act and the ATCC's charter and annual operating plan; and

(B) to prepare and submit to the Secretary and the Comptroller General of the United States an annual report containing the findings and determinations of such auditor.

(5) INTELLECTUAL PROPERTY.—

(A) IN GENERAL.—Title to any intellectual property arising from Federal support provided under this Act shall vest in a company or companies incorporated in the United States. The United States may reserve a nonexclusive, nontransferrable, irrevocable paid-up license, to have practiced for or on behalf of the United States, in connection with any such intellectual property, but shall not, in the exercise of such license, publicly disclose proprietary information related to the license. Title to any such intellectual property shall not be transferred or passed, except to a company incorporated in the United States, until the expiration of the first patent obtained in connection with such intellectual property.

(B) CONSTRUCTION.—Nothing in this paragraph shall be construed to prohibit the licensing to any company of intellectual property rights arising from Federal support provided under this Act.

(6) EXPEDITIOUS TRANSFER OF TECHNOLOGY.—The ATCC shall take all necessary steps to maximize the expeditious transfer of technology owned or developed by the ATCC to its participating members in accordance with the agreement between the ATCC and such members for the purpose of improving manufacturing productivity of United States advanced critical technology firms.

(7) REQUIREMENTS FOR NEW CONSORTIUM MEMBERS.—Following designation of the

ATCC under section 4(b), a person or corporation may only become a member of the ATCC upon the approval of the Secretary. All such persons or corporations seeking membership in the ATCC shall be subject to the eligibility requirements and limitations applicable to original ATCC members under section 4(c).

(b) OTHER AUTHORITY.—Under the terms of the written memorandum of understanding, the ATCC may also—

(1) issue stock in an amount that is equal to not more than 20 percent of the sum of the capital contributed by the Federal Government and by the consortium;

(2) borrow funds from private sources, which borrowing shall be guaranteed by the Federal Government, under terms established by the Secretary and in such amounts as may be approved in an appropriations Act;

(3) make loans or other comparable transfers to or equity investments of not more than 50 percent of its initial startup capital in any company engaged in the research, development, commercialization, or marketing of innovations, goods, or services related to advanced critical technology; and

(4) engage in negotiations with any party to which the ATCC extends credit or in which it makes an equity investment under subsection (c), concerning the ownership or assignment of intellectual property or products developed by such party.

(c) CONSTRUCTION OF MEMORANDUM OF UNDERSTANDING.—A memorandum of understanding entered into under this section shall not be construed to be a contract for the purpose of any law or regulation relating to the formation, content, or administration of contracts awarded by the Federal Government and subcontracts awarded under such contracts, including section 2306a of title 10, United States Code, section 719 of the Defense Production Act of 1950 (50 U.S.C. App. 2168), and the Federal Acquisition Regulation. Such provisions of law and regulation shall not apply with respect to the memorandum of understanding.

SEC. 6. ADVISORY COMMITTEE ON FEDERAL PARTICIPATION.

(a) ESTABLISHMENT.—There is established the Advisory Committee on Federal Participation in the Advanced Technology Capital Consortium (hereafter referred to as the "Advisory Committee").

(b) FUNCTIONS.—The Advisory Committee shall—

(1) advise the ATCC and the Secretary on appropriate technology goals for the activities of the ATCC and a plan to achieve those goals;

(2) conduct an annual review of the activities of the ATCC for the purpose of determining the extent of the progress made by the ATCC in carrying out the plan referred to in paragraph (1);

(3) on the basis of its determinations under paragraph (2), submit to the ATCC any recommendations for modification of the plan or the technological goals in the plan considered appropriate by the Advisory Committee; and

(4) review the activities of the ATCC and submit to the Secretary and the Committees on Commerce of the Senate and the House of Representatives an annual report containing a description of the extent to which the ATCC is achieving its goals.

(c) MEMBERSHIP.—The Advisory Committee shall be composed of 11 members, including—

(1) the Under Secretary of Commerce for Technology, who shall serve as the chairperson of the Advisory Committee;

(2) the Director of Energy Research of the Department of Energy;

(3) the Director of the National Science Foundation;

(4) the Director of the Defense Advanced Research Projects Agency;

(5) the Chairman of the Federal Laboratory Consortium for Technology Transfer; and

(6) 6 private individuals appointed by the President, including—

(A) 4 individuals who are eminent in the field of advanced critical technologies industries; and

(B) 2 individuals who represent small business concerns.

(d) TERMS OF MEMBERSHIP.—Each member of the Advisory Committee appointed under subsection (c)(6) shall be appointed for a term of 3 years, except that of the members first appointed, 2 shall be appointed for a term of 1 year, 2 shall be appointed for a term of 2 years, and 2 shall be appointed for a term of 3 years, as designated by the President at the time of appointment. A member of the Advisory Committee may serve after the expiration of the member's term until a successor has taken office.

(e) INDEPENDENCE.—No member of the Advisory Committee may be a member of the ATCC or be employed by the ATCC in any capacity.

(f) VACANCIES.—A vacancy in the Advisory Committee shall not affect its powers, but, in the case of a member appointed under subsection (c)(6), shall be filled in the same manner as the original appointment was made. Any member appointed to fill a vacancy for an unexpired term shall be appointed for the remainder of such term.

(g) QUORUM.—Six members of the Advisory Committee shall constitute a quorum.

(h) MEETINGS.—The Advisory Committee shall meet at the call of the chairperson or a majority of its members.

(i) COMPENSATION.—

(1) IN GENERAL.—Each member of the Advisory Committee shall serve without compensation.

(2) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of Advisory Committee duties, members of the Advisory Committee shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

(j) FEDERAL ADVISORY COMMITTEE ACT.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App. 2) does not apply to the Advisory Committee.

SEC. 7. LIMITATIONS ON LOAN AND INVESTMENT AUTHORITY.

The aggregate amount of loans and investments by the ATCC to any 1 company may not exceed an amount equal to 50 percent of the total value of the assets of such company.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this Act—

(1) $100,000,000 for fiscal year 1993;

(2) $200,000,000 for fiscal year 1994; and

(3) $200,000,000 for fiscal year 1995.

REPORT OF THE NATIONAL CRITICAL TECHNOLOGIES PANEL, MARCH 1991

MATERIALS

Materials synthesis and processing.
Electronic and photonic materials.
Ceramics.
Composites.
High-performance metals and alloys.

MANUFACTURING

Flexible computer integrated manufacturing.
Intelligent processing equipment.
Micro- and nanofabrication.
Systems management technologies.

INFORMATION AND COMMUNICATIONS

Software.
Microelectronics and optoelectronics.
High-performance computing and networking.
High-definition imaging and displays.
Sensors and signal processing.
Data storage and peripherals.
Computer simulation and modeling.

BIOTECHNOLOGY AND LIFE SCIENCES

Applied molecular biology.
Medical technology.

AERONAUTICS AND SURFACE TRANSPORTATION

Aeronautics.
Surface transportation technologies.

ENERGY AND ENVIRONMENT

Energy technologies.
Pollution minimization, remediation, and waste management.

[From the Washington Post, Sept. 6, 1991]

THE SLOW, SORRY DISAPPEARANCE OF VENTURE CAPITALISM

(By Michael Schroge)

Adam Osborne, the hyperbolic computer entrepreneur whose sense of humor frequently outstrips his business sense, loved to ask friends, "What do you get when you cross a lemming with a sheep?"

The answer: a venture capitalist. During the heady, excessive 1980s—when any fast-talking technologist with an MBA or a legible business plan could get venture funding (and did)—that was a pretty good joke. Now it's out of date.

In the 1990s, a venture capitalist is what you get when you cross a plucked chicken with an invertebrate. Venture Capital has become Wimp Capital.

The industry that helped create Intel Corp., Apple Computer Inc., Genentech Inc., Cetus Corp., Compaq Computer Corp., Lotus Development Corp., Sun Microsystems Inc., Calgene Inc. and dozens of other influential, innovative and vital companies has lost its nerve. Instead of seeding start-ups and nurturing them into new industries, most "venture" capitalists now have retreated into the less risky regions of late-round financing.

Instead of creating value, they've degenerated into portfolio managers. "There's conservative investing in the later rounds," says David Kelley, a partner in the seed capital venture fund called Onset, "but no one's really investing in start-ups."

According to the Venture Capital Journal, venture investments are at their lowest level in nearly a decade. Overall funding dropped by more than 40 percent from $3.4 billion in 1989 to less than $2 billion last year. "It'll be half of that this year, if that," asserts Kevin J. Kinsella, managing general partner of Avalon Ventures, a La Jolla, Calif.-based venture capital firm.

What's worse, start-ups—totally new ventures—are receiving a shrinking share of this resource. Where start-ups once received roughly 20 percent of the venture capital pie, they're now getting closer to 10 percent. So at the very time that dramatic technological change accelerates in fields ranging from biotechnology to new materials to software to new computer architectures, American venture capital is evaporating.

"The attitude has shifted away from start-ups," says Richard Schaffer, whose Computer Letter tracks venture capital investments in the silicon world. "People are more aware of the risk than the romance. The ven-

ture capitalists who still do start-ups do it because they're rich enough to afford it."

Where venture capital once was a high-octane fuel driving the creation and commercialization of new technologies, it is now more like a lawn sprinkler under water rationing. The impact is more on the margins than at the center.

By any measure, venture capital was essential to launching the semiconductor, biotechnology and the personal computer hardware and software industries. It reshaped the global technological landscape of the 1980s. Not only did venture capital bring new technologies and companies to life, those companies and technologies forced existing businesses to transform themselves.

So what happened? "Because of the spectacular successes," says Avalon's Kinsella, "venture capital exhibited all the qualities of Gresham's Law—bad money was chasing out the good. There were a lot of people playing in the game who had no business being there."

These sheep/lemming venture capitalists funded enterprises such as the 36th disk drive company and the 12th electronic spreadsheet software start-up.

"Start-up fratricide," says John Doerr, a partner at Kleiner, Perkins, Caufield & Byers, one of the most successful venture firms. These firms didn't invest; they binged. So returns to investors shriveled.

Conversely, the truly successful venture capitalists—raised huge multimillion-dollar megafunds. Venture capital became more institutionalized.

"It takes just as much time to manage a $150,000 seed investment as a $10 million late-round investment," says Computer Letter's Schaffer. Consequently, investment slid away from the riskier early-round financings to the safer haven of later investments.

Worst of all, the culture of venture capital changed. Instead of going out and helping create companies, too many venture capitalists sat back on their haunches and passively examined the "deal flow"—editing business plans, making phone calls and delegating due diligence to MBAs who thought they could get richer faster in Silicon Valley than on Wall Street.

"It's a damn tough business," says Kinsella, who specializes in start-ups. "You have to work at it. * * * You can't take August off. Most venture capitalists are not combing the halls of MIT, Stanford and Caltech looking for technology," he adds. "They're not reading the primary science journals. * * * They're looking for a nicely packaged, ribboned business plan."

The truly successful venture capitalists—people such as Arthur Rock (who helped launch Intel and Apple Computer) and the partners at Kleiner, Perkins (the firm that created Genentech and seeded Lotus and Sun Microsystems)—always have appreciated that venture capital means more than money. They've understood that the money has to be mixed with insight, operational expertise and the ability to help transform an entrepreneurial team into an organization that can sustain growth.

As Cabot Brown, a partner at Volpe, Welty & Co., a San Francisco-based investment banking firm, points out, the issue isn't the quantity of money in start-ups—it's the quality of those start-ups. "It's better to have fewer, better capitalized and smarter start-ups," he asserts.

Perhaps. But you would think that there would be a lot of older and wiser people given all the venture capital investments of the 1980s. You would think that we would have an emerging generation of venture capitalists who could give us both quantity and quality. The numbers suggest otherwise. Sure, there are still a few investments in biotechnology but, by and large, venture capital is likely to be less of a positive force in this decade than it was in the last.

The change isn't just cyclic; it's structural. Increasingly, aspiring entrepreneurs are forced to look to foreign investors. For Americans concerned about industrial investors. For Americans concerned about industrial competitiveness and economic growth, venture capital's inability to keep pace with technological opportunity offers an excellent reason to worry.•

• Mr. LIEBERMAN. Mr. President, I rise today to join Senator ROCKEFELLER as an original sponsor of the Advanced Technologies Capital Consortium Act of 1992, and would like to commend him for his hard work and continued dedication to increasing U.S. competitiveness through technological advancement. Simply stated, this legislation will help recharge emerging precompetitive American technologies, which have been seriously harmed by a critical lack of patient and cheap equity capital.

Mr. President, this legislation will provide equity capital to fund enterprises engaged in precompetitive basic and applied research, development, application, commercialization of advanced critical technologies through a private consortium, named the "Advanced Technologies Capital Consortium."

The state of U.S. technological superiority, productivity, and manufacturing is clearly in decline and indicators of that decline are actually visible. The U.S. merchandise trade deficit remains stubbornly high despite a significant downward change in the value of the dollar. Growth in productivity continues to be sluggish as compared to our major competitors. And, U.S. manufacturers, including defense manufacturers, are becoming increasingly dependent on foreign companies for an ever-increasing range of technological components and know-how.

Many firms—particularly small firms and startups—find it virtually impossible to obtain debt financing, and are being shut out of equity markets as well. In 1988, Americans invested $20 billion in new equities, but the Japanese invested five times that amount. Increasingly, U.S. high-technology firms engaged in precompetitive R&D, and unable to secure capital in this country, are turning to our major international competitors to fund their activities—funds which often come with significant technology transfer or production strings attached.

Mr. President, technological advancement can not be ignored. Technological advancement can drive an economy by creating new goods, services, industries, jobs, and capital. Technological advancement, when applied to existing systems, can improve productivity and the quality of products. And, Mr. President, technological advancement can help compensate for competitive disadvantages U.S. firms must face including comparatively higher costs of capital and labor.

Until recently it appeared the United States was the world leader in basic research and in many areas of applied research. That may no longer be the case. According to this past Tuesday's New York Times, "Japan has in fact expanded its industrial research so rapidly in the past decade that it now rivals the United States, and perhaps has already pulled ahead."

While this is a critical development, we must understand that research alone does not lead to improved productivity and economic growth. Research and development is merely the first step. It is commercialization—the process of moving products from our laboratories to our factories—that leads to increased productivity, continued economic growth, and the ultimate rise in our standard of living. But, Mr. President, this is also where we fail. We must, as our competitors do, aggressively support emerging technologies—with affordable and patient equity capital—so they can be transformed into commercially viable products for the international marketplace.

Our chief economic competitors are not afraid to do just that. According to the Council on Competitiveness, in 1988 the United States spent 0.2 percent of the total Federal Government R&D budget on industrial development—compared to 4.8 percent in Japan and 14.5 percent in Germany. Additionally, the Ministry of International Trade and Industry [MITI] is the most celebrated example of how the Japanese economic miracle came into being. We may not want to create an American MITI, but we certainly ought to be thinking about long-term blueprints for keeping America ahead of the high-technology curve. Senator ROCKEFELLER's advanced technologies capital consortium will go a long way toward reaching that goal by providing basic precompetitive venture or seed capital for emerging technologies.

Mr. President, at a time when America is struggling to face the economic challenges of the 1990's, the administration is still mired in out-of-date economic theory and conflicting policies. The White House says that the Federal Government has no business picking winners and losers, that the free market should reign supreme. I agree, the free market should reign supreme.

But what the administration seems to forget is that the Government is and always has been deeply involved in the economy. This type of activity is nothing new. That's how the railroads were built. That's how the highways were built. That's how the American aerospace industry and American agriculture have become the standards for

American excellence—all through direct Government support. In fact, the aerospace industry produces a larger trade surplus for the United States than any other manufacturing industry and agriculture is a big contributor to trade surpluses as well.

This legislation does not purport to replace the free market. Nothing could be further from the case. What this legislation says is that there is also a constructive role for the Government to play in technology policy—particularly in the precompetitive, precommercial, developmental stages of technological advancement.

At the same time the administration is pushing its policy of laissez-faire, the President's National Critical Technologies Panel, which is a part of the Office of Science and Technology Policy, has prepared a list if "22 Key Technologies considered essential for the United States to develop in the interests of the Nation's long-term security and economic prosperity." The report goes on to stress "the need for increased cooperation between government and corporations." In the prepared report, the National Critical Technologies Panel stated:

> In an environment of intensifying global competition, deployment of technology is becoming the strategic battlefield of the international marketplace.

If maintaining world class technological superiority—as the administration suggests—is critical to both our national defense and economic security, than we should not be debating whether or not the Federal Government should be supporting technological advancement; rather, we should be asking what is the best way for us to do so? How can we put the resources and leverage capacity of the Federal Government directly behind American industrial technologies to improve our industrial competitiveness over the long term? I believe this legislation directly and appropriately answers these questions.

To conclude, America must regain its lead in the civilian high-technology industry. What is at stake here is both the national and economic security of our Nation, and the standard of living of our people. Government initiatives should not be dismissed as interference. They should be viewed as support for American competitiveness and a strong economy. I appreciate the work Senator ROCKEFELLER has done on this issue, and I'm pleased to be able to join with him as an original sponsor of this important legislation.●

By Mr. GORTON:

S. 2287. A bill to amend the Forest Resources Conservation and Shortage Relief Act of 1990 to modify the basis for a determination by the Secretary of Commerce to increase the volume of unprocessed timber originating from State lands that will be prohibited from export, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

FOREST RESOURCES AMENDMENTS ACT

● Mr. GORTON. Mr. President, the timber supply crisis in the Pacific Northwest shows no sign of subsiding. When that supply dries up, sawmills and pulpmills will shut down and many hard working families will be on the streets of small, rural, timber towns. Many of these towns are dependent, or have been dependent, on timber from public lands. Mills traditionally locate themselves near the forests that produce the type of logs they process and those located near public forests are slowly being suffocated by spotted owl restrictions.

In 1990, Congress passed the Forest Resources Conservation and Shortage Relief Act. That law directed the Secretary of Commerce to restrict the export of State timber and to increase those restrictions periodically if the economic conditions in the region merit an increase. Today, only 75 percent of State logs are restricted from export and the remaining 25 percent are available for export. The Secretary of Commerce has declined to increase the restrictions above 75 percent and I am introducing legislation today that will expand the Secretary's authority.

I remain convinced that the Secretary should use his authority to increase export restrictions on State logs to 100 percent. The entire Washington congressional delegation wrote to the Secretary urging him to take such an action. I will continue to push the Secretary to make this decision administratively. The bill I introduce today, the Forest Resources Amendments Act, will strengthen the Secretary's hand in making that decision and hopefully will serve as a catalyst.

Technically, the Forest Resources Amendments Act will allow the Secretary of Commerce to consider an increase or decrease in the amount of Federal timber under contract in the State of Washington when making his decision to increase the restrictions on State log exports. Currently, the law only allows the Secretary to consider an increase or decrease in the amount of State timber under contract. When considered in the aggregate, the amount of public timber under contract has decreased drastically.

The Forest Resources Amendments Act will also provide a legal extension of Washington State's regulations pertaining to the substitution by wood processors of restricted State logs for exported private logs. This legislation provides that those regulations will be in place in Washington State at least until the end of 1995.

Mr. President, I have long opposed any restrictions on the rights of private property owners to sell the products of their land in open markets. I oppose restrictions on the ability of private forestland owners to sell their logs to the market of their choice. I will oppose any attempt to extend today's legislation to restrict the export of private logs.

The Forest Resources Amendments Act is not the solution to the timber supply crisis in the Pacific Northwest. It is an incremental step intended to give interim relief to the communities and workers who depend on timber from State lands. The solution to this crisis lies solely with the supply of timber from public lands. The measure I introduce today only shuffles approximately 100 million board feet of timber to domestic mills. When we consider that timber sales from Federal land have traditionally averaged approximately 5 billion board feet per year, it becomes obvious that domestic mills need much more than 100 million board feet of timber to survive. The amount involved in today's legislation is important to the mills that will receive it. But it is only a small portion of the amount needed to prevent economic and social devastation in the Pacific Northwest.

Mr. President, I ask unanimous consent that the text of the bill appear in full in the RECORD following my remarks.

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

S. 2287

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 "Forest Resources Amendments Act of 1992".

SEC. 2. BASIS FOR INCREASING VOLUME OF PROHIBITED EXPORTS.

Section 491(c)(2) of the Forest Resources Conservation and Shortage Relief Act of 1990 (16 U.S.C. 620c(c)(2)) is amended by inserting "and Federal lands, in the aggregate," after "public lands".

SEC. 3. REGULATIONS RELATING TO SUBSTITUTION.

Section 491(d)(3) of the Forest Resources Conservation and Shortage Relief Act of 1990 (16 U.S.C. 620c(d)(3)) is amended—

(1) by striking "(A)" and inserting "(A)(i)";

(2) in the second sentence by striking "Such" and inserting "Subject to clause (ii), such"; and

(3) by adding at the end the following:

"(ii) Regulations issued under clause (i) by the Governor of a State (or his designee) that prohibit the substitution of unprocessed timber originating from public lands for unprocessed timber originating from private lands shall, upon the enactment of this clause, remain in effect, throughout the periods referred to in subparagraphs (B) and (C) of subsection (b)(2), as such regulations were in effect on August 16, 1991. After the end of such periods, such regulations shall remain in effect until such time as the legislature of such State enacts such requirements as it deems appropriate to supersede such regulations.".

SEC. 4. CONSISTENCY WITH TRADE AGREEMENTS.

The President is authorized, after suitable notice and a public comment period of not

less than 120 days, to suspend the amendments made by this Act if a panel of experts has reported to the Contracting Parties to the General Agreement on Tariffs and Trade, or a ruling issued under the formal dispute settlement proceeding provided under any other trade agreement finds, that the amendments made by this Act are in violation of, or inconsistent with, United States obligations under that trade agreement.●

By Mr. BROWN:

S. 2288. A bill to amend part F of title IV of the Social Security Act to allow States to assign participants in work supplementation programs to existing unfilled jobs, and to amend such part and the Food Stamp Act of 1977 to allow States to use the sums that would otherwise be expended on food stamp benefits to subsidize jobs for participants in work supplementation programs, and to provide financial incentives for States and localities to use such programs; to the Committee on Finance.

ECONOMIC OPPORTUNITY ACT

Mr. BROWN. Mr. President, I rise today to introduce legislation that would allow Americans to exchange their welfare checks for paychecks.

The Economic Opportunity Act of 1992 increases the income of welfare recipients while reducing State costs and increasing Federal revenue. With enactment of this legislation, States would be encouraged to deliver welfare payments in the form of a paycheck by using the Work Supplementation Program.

Specifically, this legislation broadens the grant diversion activities offered in the Job Opportunities and Basic Skills Program [JOBS] to facilitate the transition of welfare recipients into long-term-employment positions.

The Work Supplementation Program combines the efforts of Government, business, and industry to bring welfare recipients into the working sector of our society. Unfortunately, there are several unnecessary restrictions on the program which block States from fully using this valuable tool.

The economic opportunity act of 1992 would eliminate barriers to employment through the Work Supplementation Program by:

First, allowing welfare recipients to be hired into existing vacancies through the Work Supplementation Program;

Second, allowing States the option of using food stamps along with AFDC benefits to convert to paychecks in work supplementation;

Third, ensuring welfare recipients will be better off working by requiring that their monthly income from a work supplementation job will be at least 125 percent of the welfare-related benefits they receive; and

Fourth, allowing States greater incentive to operate work supplementation programs by allowing them to share in the savings generated by the program.

Work supplementation has great potential, but that potential is buried under cumbersome restrictions. To date, these restrictions have so dampened State interest that as of 1990, only 17 States participate to varying degrees.

To unleash the human talent that exists in each and every one of us, we must give States more flexibility and incentives to be creative in bringing able-bodies Americans into the work force. The Economic Opportunity Act of 1992 would be an impetus for just such activity at the State and local level.

At a time when the United States needs the full contribution of each American, we must find new ways to bring those who have become economically disenfranchised back into the working sector of America.

By Mr. ROTH:

S. 2289. A bill to establish procedures to disclose to the public the cost to society of Federal programs an regulations, and for other purposes; to the Committee on Rules and Administration.

COMPETITIVENESS ENFORCEMENT ACT

● Mr. ROTH. Mr. President, Federal regulations are designed to result in public benefits. From increases in health and safety to reductions in pollution and market imperfections, the aggregate benefits from regulations developed in effective, efficient, and rational manner without imposing unnecessary restrictions upon the competitiveness, productivity, or economic growth in this country is substantial.

Unfortunately, a rational and efficient balancing between the benefits and costs of Federal regulations often eludes regulators, thus producing a devastating impact on the American economy. While much attention, of late, has been given in this body to proposals for tax relief, not enough has been paid to the hidden tax of Federal regulations which affect American workers in the form of reduced wages and employment, and households in the form of higher prices for goods and services.

There is a great deal of rhetoric regarding unfair trade practices by the Japanese but no one speaks of burdensome Federal regulations that place American enterprises and workers at a competitive disadvantage with respect to foreign businesses that are not subject to such constraints and burdens.

Efforts are also underway to resurrect an investment tax credit in order to rejuvenate the creative impulses of American businesses. Yet we do nothing about the current stranglehold by Federal regulations on existing and emerging technologies and markets that undermine the Nation's competitiveness, productivity, employment, and economic growth.

We talk ad nauseum about the need to reduce the deficit but find it politically difficult to cut Government waste and spending. Meanwhile, American businesses and consumers are racking up annual expenses of more than $400 billion or $4,000 per household in compliance costs with Federal regulations. If the Federal Government had to finance that cost borne by American taxpayers out of Federal revenues, individual income taxes would have to be doubled or corporate income taxes quintupled.

As I have previously mentioned in introducing S. 2172, this is not to suggest that every regulation is bad. It may be that every regulation by itself is good but that all the good regulations together produce the unintended consequence of frustrating our economy.

The key is being able to measure the costs and benefits and delete those regulations which are not cost effective. Since information is critical to an efficient and rational balancing of the costs and benefits or the decision to delete a particular regulation, I am introducing legislation today to establish procedures by which the cost to society of Federal programs and regulations are disclosed to the public.

First, my legislation would amend the standing rules of both the Senate and the House of Representatives to require every report accompanying a bill or joint resolution to contain two detailed evaluations—one prepared by the reporting committee and one by the administration—of the cost and benefits of any Federal program and related regulations by the appropriate committee. Although Senate rules already contain a requirement for estimates of affected individual and businesses and estimates of the economic impact of such regulations on the economy, the rules do not require an assessment of the economic impact of such legislation on competitiveness, productivity, employment, and growth of the Nation. Any Member could object to the consideration of a reported bill if the requirements of the rule are not met.

Second, my legislation would provide that the House of Representatives be governed by an identical rule.

Third, for any significant rule issued by an agency, one that will impose a cost to society of $10 million or more, would require an estimate of the total costs to society of such a rule, including costs for individuals, businesses, and State and local governments, for each year in which the rule would be in effect.

This provision will be enforced in the following manner: an agency proposing a significant rule, would be required to apply for a clearance number from the Director of the Office of Management and Budget. Only upon the determination by the Director that the agency has substantially complied with the requirements of this section would a

clearance number be issued and the rule be allowed to take effect. For rules subject to a statutory or other deadline, the agency would be required to provide the Director at least 30 days to make the determination as to whether the agency has substantially complied with the evaluation requirements.

Mr. President, the quality of life in America depends on achieving national goals in a variety of areas that affects both individuals and American enterprises—health, safety, environment, civil rights, and a host of other areas. But all too often efforts to promote competitiveness, productivity, and economic growth are undermined by well-intentioned regulations that have unintended consequences. By requiring a cost-benefit evaluation of the cost to society of well-intentioned legislation and regulations that may have unintended consequences, my legislation will allow the public to make a determination for itself of costs that are ultimately borne by them.

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. 2289

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Competitiveness Enforcement Act of 1992".

SEC. 2. Congress finds—

(1) that excessive federal regulation imposes a hidden tax upon American workers in the form of reduced wages and employment, and upon households in the form of higher prices for goods and services;

(2) that excessive federal regulation places American enterprises and workers at a competitive disadvantage with respect to foreign businesses that are not subject to such constraints and burdens;

(3) that federal regulation which imposes unnecessary constraints on existing and emerging technologies and markets undermines the nation's competitiveness, productivity, employment, and economic growth;

(4) that the annual cost of compliance with federal regulations is estimated in excess of $400 billion, or $4000 per household;

(5) that if the federal government had to finance the cost of federal regulations out of federal revenues, individual income taxes would have to be doubled or corporate income taxes quintupled;

(6) that federal regulations imposed on State and local governments cause uncontrollable increases in State and local taxes,

(7) that federal regulations have a disproportionate and substantial impact on small businesses, which historically have been the primary source of new jobs;

(8) that the risk to our nation's competitiveness, productivity, employment and economic growth caused by excessive federal regulations requires that the Congress, the Administration, and independent agencies adopt on-going procedures by which the societal costs of regulations may be estimated; and

(9) that the quality of life in America depends on achieving national goals in health, safety, environment, civil rights, and other areas in an effective, efficient, and rational manner and without imposing unnecessary restrictions upon our competitiveness, productivity, or economic growth.

SEC. 3. Rule 26.11 of the standing rules of the Senate are amended by striking subparagraphs (b) and (c) and inserting in lieu thereof the following:

"(b) Each such report (except those by the Committee on Appropriations) shall also contain—

"(1) a comprehensive evaluation, made by such committee, of the regulatory impact which would be incurred in carrying out the bill or joint resolution, which shall include (A) an estimate of the numbers of individuals and businesses who would be regulated and a determination of the groups and classes of such individuals and businesses, (B) estimates of the economic impact of such regulation on the individuals, consumers, and businesses affected, (C) a determination whether the economic impact of the legislation would be favorable or unfavorable to competitiveness, productivity, employment, and economic growth of the nation, including an estimate of how significant such impact would be; (D) a determination of the impact on the personal privacy of the individuals affected, and (E) an estimate of the amount of additional paperwork that will result from the regulations to be promulgated pursuant to the bill or joint resolution, which estimate may include, but need not be limited to, estimates of the amount of time and financial costs required of affected parties, showing whether the effects of the bill or joint resolution could be substantial, as well as reasonable estimates of the recordkeeping requirements that may be associated with the bill or joint resolution; and also

"(2) a comprehensive evaluation, prepared by the affected agencies under the direction of the Office of Management and Budget, which meets the requirements of clause (1); or

"(3) in lieu of such comprehensive evaluations, a statement of the reasons why compliance with the requirements of clause (1) or clause (2) is impracticable.

"(c) It shall not be in order for the Senate to consider any such bill or joint resolution if the report of the committee on such bill or joint resolution does not comply with the provisions of subparagraphs (a) and (b) on the objection of any Senator."

SEC. 4. Rule XI of the rules of the House of Representatives is amended by adding at the end thereof a new clause 7 as follows:

"7. "(a) Each such report (except those by the Committee on Appropriations) shall also contain—

"(1) a comprehensive evaluation, made by such committee, of the regulatory impact which would be incurred in carrying out the bill or joint resolution, which shall include (A) an estimate of the numbers of individuals and businesses who would be regulated and a determination of the groups and classes of such individuals and businesses, (B) estimates of the economic impact of such regulation on the individuals, consumers, and businesses affected, (C) a determination whether the economic impact of the legislation would be favorable or unfavorable to competitiveness, productivity, employment, and economic growth of the nation, including an estimate of how significant such impact would be; (D) a determination of the impact on the personal privacy of the individuals affected, and (E) an estimate of the amount of additional paperwork that will result from the regulations to be promulgated pursuant to the bill or joint resolution, which estimate may include, but need not be limited to, estimates of the amount of time and financial costs required of affected parties, showing whether the effects of the bill or joint resolution could be substantial, as well as reasonable estimates of the recordkeeping requirements that may be associated with the bill or joint resolution; and also

"(2) a comprehensive evaluation prepared by the affected agencies under the direction of the Office of Management and Budget, which meets the requirements of clause (1); or

"(3) in lieu of such comprehensive evaluations, a statement of the reasons why compliance with the requirements of clause (1) or clause (2) is impracticable.

"(b) It shall not be in order for the House of Representatives to consider any such bill or joint resolution if the report of the committee on such bill or joint resolution does not comply with the provisions of subparagraph (a) on the objection of any Member."

SEC. 5. Sections 3 and 4 shall be deemed adopted pursuant to the rule-making powers of the Senate and House of Representatives granted under Article I of the Constitution.

SEC. 6. (a) Each agency of the federal government shall, in connection with every significant rule it proposes, prepare an estimate of the total costs to society of such rule, including costs for individuals, businesses, and State and local governments, for each year in which the rule would be in effect.

(b) The Director of the Office of Management and Budget is authorized to promulgate regulations to carry out this section and may grant waivers from the requirements of subsection (a) consistent with the purposes of this Act.

(c) The term "agency" shall have the meaning given in section 3502 title 44, United States Code.

(d) The term "significant rule" means any regulation that is likely to result in:

(1) An annual cost to society of $10 million or more;

(2) A significant increase in costs or prices for consumers, individual industries, State and local government agencies, or geographic regions; or

(3) Significant effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-bases enterprises in domestic or export markets.

(e) Each agency shall apply to the Director of the Office of Management and Budget for a clearance number for every rule it proposes. Upon the Director's determination that the agency has substantially complied with the requirements of this section, the Director shall issue such a clearance number. Notwithstanding any other provision of law, no rule may take effect without a clearance number. For any rule subject to a statutory or other deadline, the agency shall provide the Director at least 30 days to make a determination under this subsection.

(f) This section shall take effect 90 days after the rule of enactment; provided, however, that this section shall not apply to any rule for which a general notice of proposed rule making was published prior to the effective date.●

By Mr. WIRTH (for himself, Mr. KERREY, Mr. RIEGLE, Mr. HARKIN, Mr. SIMON, Mr. BRYAN, Mr. CONRAD, Mr. SHELBY, Mr. REID, Mr. LEVIN, Mr. DECONCINI, Mr.

LAUTENBERG, Mr. BINGAMAN, Mr. DASCHLE, Mr. PRYOR, Mr. ADAMS, Mr. ROCKEFELLER, Mr. FOWLER, and Mr. GLENN):

S. 2290. A bill to require public disclosure of examination reports of certain failed depository institutions; to the Committee on Banking, Housing and Urban Affairs.

BANK AND THRIFT DISCLOSURE ACT OF 1992

Mr. WIRTH. Mr. President, along with 17 of my colleagues, I am today introducing the Bank and Thrift Disclosure Act of 1992, legislation that would give the public access to more information about bank and thrift failures that are resolved at taxpayer expense.

Taxpayers are being forced to provide billions of dollars to resolve problems in the savings and loan industry. This spring, we will again have to consider a request for additional resources to fund the Resolution Trust Corporation's efforts to resolve thrift failures. The estimated cost of the S&L crisis has increased steadily in recent years, from $19 billion in August 1988, to more than $216 billion today. We may see it increase further before we're through. Even if the current estimates hold, we'll still have to pay hundreds of billions of dollars more to pay the interest on the funds borrowed to resolve the problem.

Fundamentally, I believe taxpayers are entitled to know why an expenditure of this scale became necessary. But today, when taxpayer money is spent on a failed thrift or bank, the taxpayers often have no idea why the institution failed, and have no means to obtain that information. We have an obligation to taxpayers to make more information available about bank and thrift failures that are resolved with public funds.

I made several efforts to do so last year. These efforts focused on settlements of lawsuits filed by the Government against individuals and businesses involved in an institution's failure and the examination reports of banks and thrifts. This material can provide valuable insight into why an institution failed and why tax dollars were needed to cover the institution's losses. Unfortunately, under current law, this important information is not available to the public. I sought to make settlements and examination reports available in order to shed some light on how the S&L crisis developed.

Senator GARN and I debated this issue on the floor last year. We also discussed it in the Banking Committee and in several private meetings. We both wanted to make more information about financial institution failures available to taxpayers. We both wanted to protect the privacy of individuals who did not contribute to a failure. However, we disagreed on the best way to balance those concerns.

Near the end of last year's session, Senator GARN and I succeeded in reaching an agreement on the public disclosure issue. Neither of us thought it was perfect. But it is a good compromise and I think it would advance the goals we both sought. Our compromise was included in the Senate's version of the bank reform legislation. However, the provisions were dropped in conference.

I continue to believe disclosure is needed. Today I am introducing the Bank the Thrift Disclosure Act of 1992. This legislation is identical to the compromise that Senator GARN and I reached last fall and which the Senate passed as part of the bank reform legislation on November 21. It is also similar to an amendment I offered to the HUD, VA, and independent agencies appropriations bill that drew the support of a majority of the Senate on a cloture vote.

The public disclosure legislation has two principal parts. First, the legislation requires regulators to make available prior examination reports of a failed thrift or bank if taxpayer funds are used to cover the institution's losses or otherwise assist the institution. Second, the legislation prohibits the FDIC and RTC from entering into secret agreements to settle lawsuits arising from the failure of a bank or thrift if the deposit insurance system requires public funds.

The requirements of the legislation only apply when the deposit insurance system has received taxpayer funds. When the insurance fund is healthy and failures are addressed with the industry's deposit insurance premiums, the disclosure requirements would not apply. If a bank or thrift goes out of business, but it does not involve taxpayer funds, the requirements do not apply. Thus, disclosure is only required if taxpayer funds are used to rescue a bank or thrift.

Much of my discussions with Senator GARN centered on the need to protect the privacy of individuals who may be mentioned in examination reports of a failed bank or thrift but who did not contribute to an institution's failure. Although information about specific individual customers does not routinely appear in an examination report, I thought it was important that we go the extra mile and ensure that we protect the privacy of bank customers.

Information about individual customers such as their account balances, deposits, home loan, and so forth is not routinely included in examination reports. The reports that I have seen do not include this kind of material. Reports are far more likely to discuss overall problems in an institutions lending practices and controls than they are to single out individuals loans. The General Accounting Office currently has access to examination reports. I have a letter from the GAO that outlines the contents of examination reports. I would be happy to provide any Senator interested in an overview of what is included in a report with a copy of that letter and I ask unanimous consent that it be entered into the RECORD.

Nevertheless, in order to be absolutely sure that privacy is protected, a number of privacy safeguards are included in the legislation. First, regulators are directed to remove the names and other identifying information from an examination report for any customers who are not affiliated with the bank. So if you're a non-insider, in the unlikely event you happen to be named in an examination report, you're assured that your name will be deleted. Second, any information about insiders that is included in an examination report will be removed from the report before it is made public if that information is not relevant to the relationship between the institution and the insider.

Several important safeguards in other areas are also included in the legislation. For example, regulators will not be required to release information that could affect open insured depository institutions. Regulators will also be able to delay release of a portion of an examination report to avoid hindering an ongoing criminal investigation. In addition, the legislation allows regulators to delay release of portions of examination reports to avoid interference with a civil or administrative action.

Settlements of lawsuits filed by the Government against individuals and businesses involved in an institution's failure and a financial institution's examination reports can provide valuable insight into why an institution failed and why tax dollars were needed to cover the institution's losses. Unfortunately, in many cases, the Government has entered into secret settlements and examination reports are kept secret even after an institution has failed.

FDIC and RTC lawsuits offer an important window into the actions of management, directors, legal representatives, and auditors and how they contributed to a bank or thrift failure. Even a public settlement partially closes that window as witnesses do not testify and documents are not filed as evidence as they would if the suit went to trial. But regulators should be able to settle these lawsuits to avoid costly and time-consuming litigation that often has an uncertain outcome and free up FDIC or RTC resources to pursue other cases.

Settlements can be in the best interests of taxpayers. And partially closing the window is the price we pay for pursuing settlements. But we shouldn't bring the shades down completely. That's why I think settlements should be available to the public. The public has a right to know about settlements if they are footing the bill for a bailout.

As long as settlements can be kept secret, public suspicion is inevitable.

The public doesn't have a high degree of confidence in our banking regulators right now and are unlikely to trust secret settlements that offer the appearance of backroom deals. Although the FDIC is no longer able to enter into secret settlements, the RTC faces no such prohibition and past FDIC settlements can remain secret. I believe taxpayers have a right to know about these settlements. But, just as importantly, I think disclosure of both settlements and examination reports will help stem the loss of public confidence in our financial regulators.

When this legislation becomes law, the public will be able to learn more about the S&L crisis and other financial institution failures that taxpayers are forced to resolve. This kind of disclosure requirement is important. The taxpayer has a right to know and that is reason enough to support the legislation. However, disclosure is more than just an obligation to the taxpayer, it offers important benefits as well. Public disclosure can act as a forceful deterrent. Both bankers and regulators should know that the public will examine their actions when banks fail and hold them accountable.

I am not surprised that some banking regulators have opposed this proposal. Some examination reports will, in retrospect, look bad after an institution has failed. I'm sure that there are reports that regulators hope will never see the light of day. Other reports, no doubt, will show examiner warnings that should have been heeded.

Lax supervision did play a role in the S&L crisis—the combination of deregulation of thrift activities and relaxed supervision of thrifts was perhaps the greatest mistake of the 1980's. But the blame for that shouldn't lie with the regulators. They were overworked at the time and requests for additional staff were ignored by an administration that felt a deregulated industry didn't need supervision, acting as if there were no such thing as Federal deposit insurance.

Some regulators have opposed similar disclosure efforts in the past, arguing that disclosure will lead to bank runs. For example, regulators opposed the change in FIRREA that required the bank, regulators to publish their final orders on enforcement actions. They said there would be bank runs; they said the sky would fall in. It did not. And regulators opposed the change in the Crime Control Act of 1990 that required the bank regulators to publish all of their enforcement orders and agreements. They said there would be bank runs; they said the sky would fall in. It did not.

Other administration officials have understood the importance of the sunshine of public disclosure in regulation of the financial industry. For example, Securities and Exchange Commission, Chairman Richard Breeden, the White House's point man on the S&L cleanup when President Bush first took office has said:

> I would hope, we would learn from the disastrous experience of the thrift crisis as we move forward in developing both accounting and disclosure standards. *** I think public disclosure is the greatest disinfectant, one of the greatest disinfectants ever invented.

Last summer, I discussed this issue with Chairman Breeden during a Banking Committee hearing. He indicated that disclosure was an important issue well worth consideration and noted that he wasn't quite sure why examination reports are guarded more carefully than CIA documents. He concluded his comments with:

> I think the legacy of the thrift failures, 2,400 bank and thrift failures in the last decade has been too much secrecy and not enough sunlight. I think the pendulum needs to move somewhat in a measured way, the pendulum needs to move in the direction of greater disclosure.

Chairman Breeden also raised the issue of the value of disclosure of examination reports to securities underwriters in that it would help them meet their statutory obligations and perform due diligence in preparing a stock issue. While these benefits would only result from disclosure of reports for solvent institutions—which my legislation does not contemplate—it is important to note that investors, most of whom may have played no role in a thrift's failure, lose funds in bank and thrift failures and have a legitimate interest in what happened to the institution as well. Finally, Chairman Breeden noted that disclosure could also provide information that would help litigants to bring fraud actions under the securities laws.

Mr. Marshall Breger, the Chairman of the Administrative Conference of the United States, an independent agency that develops recommendations to improve the administration of Federal programs, including regulatory efforts, has said:

> The traditional approach to the oversight of financial institutions—namely heavy reliance on informal or "quiet" procedures to achieve legislative and regulatory policy goals—was satisfactory because the workload was under control and there was no apparent systemic problems that needed to be solved. But when significant failures erupt among regulated entities, and the day-to-day workings of the Federal agencies become front page news, traditional informal, nonadversarial, backroom approaches are no longer sufficient. Enhanced decisional regularity, procedural openness, and greater public accountability are now demanded. * * * I think sunlight, to quote Justice Brandeis, is indeed the best disinfectant.

I think Mr. Breeden, Mr. Breger, and Justice Brandeis are right. Sunlight is the best disinfectant. The prospect of disclosure offers a check against dangerous practices.

We should remember that banks are not a typical private business. They receive significant benefits from taxpayer support and guarantees. Deposit insurance and access to credit through Federal institutions such as the Federal Reserve and Federal Home Loan Banks are examples of the special support we give depository institutions. With this kind of Government backing, thrift and bank problems are a legitimate public concern.

When the insurance funds are healthy, losses are covered by private funds—the insurance premiums paid by banks and thrifts—and a degree of privacy is appropriate. But when the so-called safety net breaks down and tax dollars are tapped, we are in a different situation. Taxpayers have a right to know. And if a desire to avoid disclosure gives a thrift or bank another incentive to avoid excessive risks and fight harder to stay solvent, we will all benefit.

The disclosure requirements included in this legislation will introduce an important check into the bank and thrift regulatory process. At a time when taxpayer funds are being used to resolve bank and thrift failures, the public deserves and expects access to greater information about failed institutions than would ordinarily be available. My legislation would provide that increased access.

I have prepared a summary of the legislation and ask that it be printed in the RECORD for the information of interested Senators. A majority of the Senate has already voted in favor of disclosure of the type of information that the legislation requires to be released. The Senate has also already approved the legislation in its present form as part of a broader package. I urge my colleagues to join me in working to see the proposal enacted into law.

I would like to thank my colleagues who have cosponsored this legislation and I encourage others to join in the effort. I particularly appreciate Senator RIEGLE's past support of my efforts in this area and look forward to working with him on this and other matters before the Banking Committee.

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

SUMMARY: BANK AND THRIFT DISCLOSURE ACT OF 1992

NEED FOR THE LEGISLATION

Settlements of lawsuits filed by the government against individuals and businesses involved in an institution's failure and the examination reports of financial institutions can provide valuable insight into why an institution failed and why tax dollars were needed to cover the institution's losses.

Unfortunately, under current law, this important information is often not available to the public. The legislation would correct that and shed some light on how the S&L crisis developed. With the cost of resolving the S&L crisis now more than $200 billion plus interest, the public should have access to that information.

WHAT THE LEGISLATION DOES

The public disclosure legislation has two principal parts. First, the legislation requires regulators to make available prior examination reports of a failed insured depository institution if taxpayer funds are used to cover the institution's losses. Second, the legislation prohibits the FDIC and RTC from entering into secret agreements to settle lawsuits arising from the failure of an institution if the deposit insurance system requires public funds.

The requirements only apply when the deposit insurance system has received taxpayer funds. When the insurance fund is healthy and failures are addressed with the industry's deposit insurance premiums, the disclosure requirements would not apply.

If a financial institution goes out of business, but it does not involve taxpayer funds, the requirements of this legislation do not apply. The requirements also do not apply to open healthy institutions. Thus, disclosure is only required if taxpayer funds are used to rescue an insured financial institution.

PRIVACY EXEMPTIONS

As a practical matter, in most cases, examination reports do not contain information on individual customers. However, the legislation includes several exceptions in order to protect privacy.

Regulators are directed to remove the names and other identifying information of customers not affiliated (non-insiders) with the institution from an examination report.

Any information about institution-affiliated parties (insiders) will be removed from examination reports if it is not relevant to the relationship between the insider and the institution.

Regulators will also remove from examination reports the names of examiners and of any whistleblowers who provide information to federal banking agencies.

DISCLOSURE OF ADDITIONAL INSIDER INFORMATION

In most all cases, examination reports will not include a complete accounting of bad loans or losses. However, the FDIC and RTC will become aware of insider-caused losses as they dispose of assets acquired through financial institution failures. The legislation would require the FDIC and RTC to identify insider borrowers who have defaulted on loans made by a failed institution.

Regulators will also compile a list of all pending and settled lawsuits brought against parties that caused a material loss to the insurance funds or to a failed financial institution.

ADDITIONAL SAFEGUARDS

Safety and Soundness: Regulators can delay release of an examination report in order to protect the health of open insured institutions.

Ongoing Criminal and Administrative Proceedings: Regulators can delay release of portions of reports for up to five years to avoid hindering an ongoing criminal investigation, and for up to two years to avoid interference with a civil or administrative proceeding.

GENERAL ACCOUNTING OFFICE,
Washington, DC, October 18, 1991.

Hon. TIMOTHY WIRTH,
U.S. Senate.

DEAR SENATOR WIRTH: Since my testimony during the September 19, 1991, banking committee hearing on the Bank of New England, our staffs have been working together to better understand the implications of your proposal to publicly disclose examination reports on banks that have failed. We appreciate your objectives to apprise the public of (1) the regulator's assessment of the safety and soundness of a bank's operations prior to its failure; and (2) the names of those borrowers—particularly insiders—whose loans have caused losses to the bank, Bank Insurance Fund, and ultimately the taxpaying public.

We believe your first objective would be served through disclosure of the examination reports on failed banks. However, we do not believe publicly releasing examination reports would serve your second objective because they are exception reports—not a complete accounting of bad loans or bank losses.

Examination reports differ slightly among federal bank regulators, but basically reflect concerns regulators have identified during an examination about the safety and soundness of a bank's operations. The regulators' concerns may be based, for example, on their review of a sample of loans out of a bank's portfolio. The examination report would then include a narrative discussion of the deficient bank practices or conditions found from reviewing the sampled loans. The only loan information that would be included in the report would relate to those sampled loans with the deficient condition to illustrate the adverse effects of the deficiency on bank operations.

Federal bank regulators' examination reports typically contain the following:

(1) Letter to the Board of Directors: This two to three page letter briefly summarizes the examination results. The summary generally describes the examiners' overall conclusions relative to the safety and soundness of the bank's operations. The letter also usually includes the composite CAMEL rating assigned to the bank as a result of the examination.

(2) Summary of Findings: This detailed summary generally describes the extent of examination coverage and the examiners' conclusions related to each of the CAMEL components. The conclusions may include both positive and negative comments about the safety and soundness of bank operations. They may also include a discussion of improvements needed in bank operations. Narrative comments for each CAMEL component are usually complemented with various ratios relative to bank operations and the examiners' numerical rating.

(3) Appendixes: The appendixes generally include listings and descriptions of specific deficiencies found in bank operations. For example, the appendix relative to asset quality typically includes a description of sampled loans reviewed and found to be improperly valued or classified by the bank. The appendixes also include specific violations of law or regulation found by examiners including violations of Regulation O relating to insider activities.

As you can tell from what we described as typically being in an examination report, it includes specific concerns examiners have about the safety and soundness of bank operations, but does not provide a complete accounting of all bank problems. Further, the specific loans listed in the appendixes do not account for all problem loans and those listed may not necessarily result in losses to the bank. Likewise, law or regulation violations, like preferential loan terms to bank insiders, cited in the appendixes involve only those loans with violations that were identified by the examiners.

In view of the shortcomings of examination reports in identifying insiders whose loans have caused losses to failed banks, you might wish to consider requiring the FDIC to disclose the names of all directors, executive officers, major stockholders and their related interests, including family members and controlled organizations whose loans are 30 days or more past due. The FDIC strikes us as the most appropriate agency for this type of disclosure, since as part of its efforts to liquidate or sell failed institutions it identifies loans in non-performing status.

We hope this information about federal bank regulators' examination reports and the additional disclosure we suggest will be helpful to you in deciding how best to satisfy your objectives. If we can be of any further assistance, please call me.

Sincerely yours,

RICHARD L. FOGEL,
Assistant Comptroller General.

By Mr. SEYMOUR (for himself, Mr. CRANSTON, and Mr. LIEBERMAN):

S. 2291. A bill to revise the eligibility requirements applicable to emergency and extended unemployment compensation benefits; to the Committee on Financing.

EMERGENCY BENEFITS FLEXIBILITY ACT OF 1992

• Mr. SEYMOUR. Mr. President, I rise today to introduce the Emergency Benefits Flexibility Act of 1992. This legislation is designed to correct a serious deficiency in the operation of the Federal Emergency Unemployment Compensation [EUC] Program, a deficiency that has resulted in the denial of extended benefits to thousands of workers in my home State of California and in States across the Nation.

As my colleagues well know, last November we finally reached an agreement on the EUC Program, and it has brought much-needed relief to those hardest hit by the current recession. And as my colleagues know, given the diverse eligibility requirements for regular unemployment benefits that exist in each State, the EUC Program was not meant to guarantee extended benefits to each and every American who had exhausted their regular benefits. However, I strongly believe when we passed the temporary EUC Program, we intended to give the States the optimum flexibility to use this important program to reach out to as many people as possible to do the most good to the most people.

Unfortunately, the EUC Program has not lived up to our intent, and the result has been thousands of jobless being denied much-needed assistance, and State and local governments left trying to pick up the slack.

The failure of the EUC Program to fulfill its mission rests partly with Department of Labor regulations that interpret a provision in the Federal-State Emergency Unemployment Compensation Act of 1970 [FSEUCA]. This provision, section 202(A)(5) of the FSEUCA, sets out three different Federal wage eligibility standards that an unemployed person must meet to receive extended benefits. According to Department of Labor regulations, each

State must select only one of the three Federal wage eligibility standards.

California, for example, operates under the 40 times weekly benefit amount in the previous year. In other words, an unemployed worker is eligible for emergency benefits if he has earned 40 times his weekly benefit amount.

Like any standard of eligibility, there will be those that fall short, but no one realized just how many Americans be denied assistance because this is the first time that California and many other States have administered emergency benefits under the Labor Department's regulations. And in the case of California, we're talking about more than 12 percent of those who applied for emergency benefits being turned away. And that 12 percent consists mainly of seasonal workers in the agricultural and construction industries.

Mr. President, let me give an example of this deficiency: Leobuardo Guerrero is a Californian who resides in the Central Valley. Like many in this region, he is a farm worker without employment. For him, this recession hasn't been about declines in output or consumer confidence. Instead, his plight has been about Mother Nature at her worst behavior: It's been about 6 years of drought, a freeze in December 1990, and last year's white fly infestation.

Leobuardo has exhausted his regular unemployment benefits, and like thousands of his fellow coworkers, he applied for emergency benefits under the EUC Program we passed last November. But he was turned away because he didn't meet the Federal standard selected by California. He did not earn 40 times his weekly benefit amount during the previous year. His story is representative of thousands of seasonal workers who can't meet this standard.

However, Leobuardo would be able to receive Federal emergency assistance under the other Federal standard of one and a half times high quarter wages. But because California is restricted to choosing only one standard, he and thousands more must seek assistance under other State and local programs, and believe me they have. For example, Sacramento County officials reported that welfare demands are 64 percent higher than originally projected, and many of those applying are jobless construction workers who have been denied Federal emergency assistance.

In short, Mr. President, the inability of States to choose more than one Federal wage eligibility standard is not just working against thousands of America's jobless, it's also contributing to the already weakened fiscal strength of State and local governments. And let me emphasize that this problem is not unique to California. I have been informed that States including Connecticut, Texas, Oregon, and Illinois are also adversely affected by the current "one-standard only" limitation.

Mr. President, over the last 2 months C-SPAN has devoted a portion of its programming to many state-of-the-State addresses by our Nation's Governors, and there was a grim commonality to their messages. The roll-call of States experiencing budget deficits and declining revenues is more than 30. Hundreds of local governments are flirting with bankruptcy. Yes, all levels of government have an obligation to work in partnership to help the long-term unemployed. On that, all agree. However, I believe in these difficult times, it rests with the Federal Government to give States the flexibility to use the temporary EUC Program in a manner that is consistent with our partnership and in consideration of the difficult times our State and local partners face.

Given this, my friend and colleague from California, Senator CRANSTON, and most of the Members of the California delegation in the House of Representatives had strongly hoped that the Department of Labor would relax the current regulations limiting States to choose only one Federal wage eligibility standard, especially in light of the congressional intent behind the EUC bill we passed in November. However, Secretary Martin informed me that she lacked the power to make such a change, that the regulations reflected the intent of Congress when it passed the FSEUCA.

Therefore, I am here today to introduce legislation to amend the FSEUCA, to alter a previous Congress' intent to meet the intent of the current Congress, to do the most good for the most people.

My legislation, cosponsored by Senators CRANSTON and LEIBERMAN, simply allows the State to select more than one Federal wage eligibility standard, to give the States the flexibility to ensure that as many people as possible can participate in the EUC Program.

It is my understanding that at this time my good friend in the House of Representatives, Congressman BILL THOMAS, has introduced companion legislation, which already has 19 cosponsors.

Mr. President, it is also my understanding that the leadership of both the House Ways and Means Committee and the Senate Committee on Finance are committed to reforming the FSEUCA to ensure that it is more responsive to varying economic downturns and the diverse work force we have in our country. The inability of that system to respond to the current recession more than underscores the need of reform. It is my hope that such reform will be a priority during this session of Congress and if so, the respective committees seriously consider including this or similar legislation to provide for greater State flexibility.

However, my greatest concern is time, because that's one thing that people like Leobuardo Guerrero don't have. Economic recovery is not going to happen overnight. Despite signs of hope that recovery is on the horizon, many Americans need assistance now. So it is my hope that if a FSEUCA reform bill is not taken up soon, Congress will at least live up to its intent and give the States the flexibility to help, and the aid thousands need in these perilous times.

Mr. President, I wish to thank my colleagues from California and Connecticut, Senators CRANSTON and LEIBERMAN, and the Members of the California delegation and others who have cosponsored Congressman Thomas' legislation. I also want to express my thanks to the Governor of California, and the leadership of the California Employment Development Department for bringing this important matter to my attention.•

By Mr. ROTH (for himself and Mr. SYMMS):

S. 2292. A bill to amend the Internal Revenue Code of 1986 to allow an incremental investment tax credit on a permanent basis, and for other purposes; to the Committee on Financing.

INVEST TO COMPETE ACT OF 1992

• Mr. ROTH. Mr. President, the current recession is not going to go away by itself. And, it is without a doubt that since the days of the steam engine, the cotton gin, and the Model T Ford, America has relied upon mechanization and production equipment to fuel the creation of jobs. In our country's short income tax history since 1913, the Congress has often reenacted or reinvigorated some form of the investment tax credit—most recently in 1969 only to be repealed in the Tax Reform Act of 1986 in order to speed the growth of the economy. Today I rise to address and connect these two intertwined subjects—jobs and our investment in machinery—and introduce a new kind of investment tax credit. Indeed, a more efficient investment tax credit, designed to bring about the same kind of incentives to invest in our country at a fraction of the cost of the old program.

My approach is simple, but its effects would be dramatic on the current economy. For small businesses, the credit would be a flat credit—of 15 percent the first year and 10 thereafter—that would be both generous and very simple. Larger businesses would use the "incremental investment tax credit" similar to the one I first proposed last October. This credit would be modeled after the highly successful and proven formula that is known as the "research and experimentation credit" and is embodied in section 41 of the Internal

Revenue Code. By using this model, I believe that the Government will get the "most bang for the buck." In short, rather than providing for a flat 10-percent credit on all property as before—an expensive proposition—this proposal provides a 10-percent credit—15 percent in the first year to boost the economy—but only on the amount by which your business increases its investment in manufacturing and productive equipment. Thus, an "incremental investment tax credit." This idea would create a tremendous incentive for American companies to invest in their future. A future that includes a bright prospect for increasing technology and productivity in our ever-increasing global economy.

The primary difference between this new credit and the research and development credit is the kind of property that it applies to. The research credit applies to research expenses while this credit applies to equipment investment. The proper question to ask is "why encourage business to invest in equipment."

Let me turn to some important evidence. Lawrence H. Summers, former professor of political economy at Harvard University and currently the chief economist at the World Bank, together with Prof. J. Bradford DeLong of Harvard, have concluded that a close relationship exists between investment and growth. More specifically, they have concluded that, for a broad cross-section of nations, every 1 percent of gross domestic product [GDP] that is invested in equipment is associated with an increase in the GDP growth rate itself of one-third of 1 percent—a very substantial rate of return. Summers and DeLong conclude that investment in equipment is perhaps the single most important factor in economic growth and development. They have written that there are "at least three grounds for suspecting that equipment investment may have higher social returns than other forms of investment."

First, historical accounts of economic growth invariably assign a central role to mechanization. In other words, nations have been defined through economic history depending upon their industries' ability to seize the opportunity in manufacturing—and grow rapidly, or fail to continue to invest in manufacturing and stagnate and decline.

Second, is external economies or linkages as causes of growth. In other words, what particular nerves in the economy can be pinched in order to stir economic growth. Summers and DeLong note that manufacturing accounts for 95 percent of private-sector research and development in America, and within manufacturing the equipment sector accounts for more than half of research and development. Thus, these economists argue that it is plausible that equipment investment will give rise to especially important external economies.

Third, a number of countries have succeeded in growing rapidly by pursuing a government-led "developmental state" approach to development. In short, the argument is that countries that invest more heavily in and enjoy lower equipment prices should enjoy more rapid growth than those that do not.

After an extensive analysis of the correlations, Dr. Summers and J. Bradford DeLong, conclude in their paper that there is a strong association between rates of equipment investment and growth. And in the final analysis that is what is important. Without a strong and vibrant economy that can compete on the international level, we will slip into being a country of inefficiencies and mediocrity. What the Congress should be concentrating on is creating jobs by passing legislation that will stimulate the economy. It makes no sense to me for the Congress to pass higher taxes, like the luxury excise taxes passed last year, only to throw hard-working Americans, that want to work, into the unemployment line. What we should be doing, is repealing those taxes that cost jobs and tie Americans to a Government payment program that they do not want, and instead concentrate on passing high growth tax incentives, like this one.

I would like to emphasize the important role that taxes play in investment decisions that are made. Estimates by Stanford University Prof. John B. Shoven show that taxes account for up to one-third of U.S. capital costs. The Tax Reform Act of 1986 raised effective tax rates on equipment and structures for corporate taxpayers largely through the repeal of the investment tax credit, lengthening of recovery periods and a new alternative minimum tax system. In addition, an analysis by the accounting firm Arthur Andersen shows that for equipment that is technologically innovative or crucial to U.S. economic strength, our capital cost recovery lags badly behind our major competitors. Am I alone in noting that the United States is falling seriously behind Japan in savings and investing? Comparing the period from 1985-89 Japan invested a much larger portion of its GNP, 29.2 percent, as compared with only 17.2 percent in the United States. Even worse is the fact that in Japan, where the economy is just over one-half that of the United States, they are investing more in absolute dollar amounts than is the United States. In 1990, Japan's nonresidential fixed investment equalled $675 billion, while the comparable United States figure was only $524 billion, with a gross domestic product [GDP] equal to about twice that of Japan. Worse yet, from 1973 to 1988 saving and investment as a percent of GDP was lower for the United States than for any of our major competitors with the exception of the United Kingdom.

Even more dismal statistics were developed by Dr. Charles Steindel of the Federal Reserve Bank of New York to compare U.S. investment in productive manufacturing equipment over recent decades. The results are depressing. Dr. Steindel's figures show an average increase in industrial equipment of 4 to 5 percent for the thee decades ending in 1979, but falling to an abysmally low level of 1.6 percent for the decade of the eighties. This low level of productive equipment investment marks an era of slower growth and reduced U.S. competitiveness.

It is time that the Congress concentrate on the real problem at hand—the creation of new Jobs, rather than allowing more Americans to suffer the consequences of a Congress that is willing to stimulate only higher taxes and more income redistribution in a misdirected effort to somehow make the poor richer. Such schemes only serve to make the entire country poorer. Let's do something about the U.S. competitiveness problem that so many spend so much time talking about, but spend little time really trying to solve. I ask that my colleagues join me in my efforts to improve the United States ability to complete by cosponsoring this legislation. Mr. President, I ask unanimous consent that an explanation of the bill and the bill itself be included in the RECORD.

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

S. 2292

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

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Invest To Compete (ITC) Act of 1992".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. INCREMENTAL INVESTMENT TAX CREDIT.

(a) ALLOWANCE OF CREDIT.—Section 46 (relating to amount of investment credit) is amended—

(1) by inserting before paragraph (1) the following new paragraph:

"(1) the regular credit,", and

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

(b) DETERMINATION OF REGULAR CREDIT.—Subpart E of part IV of subchapter A of chapter 1 (relating to rules for computing investment tax credit) is amended by inserting after section 46 the following new section:

"SEC. 46A. REGULAR CREDIT.

"(a) DETERMINATION OF CREDIT.—For purposes of section 46—

"(1) IN GENERAL.—The regular credit for any taxable year is an amount equal to 10 percent of the excess (if any) of—

"(A) the taxpayer's qualified net investment, over

"(B) the base amount.

"(2) SIMPLIFIED RULE FOR SMALL COMPANIES.—In the case of an eligible small business (as defined in subsection (h)), the regular credit for any taxable year is an amount equal to 10 percent of the lesser of—

"(A) the taxpayer's qualified investment, or

"(B) $100,000.

"(3) SPECIAL RULE FOR 1992.—In the case of taxable years beginning before January 1, 1993, paragraphs (1) and (2) shall be applied by substituting '15 percent' for '10 percent'.

"(b) REGULAR CREDIT PROPERTY.—For purposes of this subpart—

"(1) IN GENERAL.—The term 'regular credit property' means any property—

"(A) which is tangible property to which section 168 applies,

"(B) which is placed in service after December 31, 1991, and

"(C)(i) the construction, reconstruction, or erection of which is completed by the taxpayer, or

"(ii) which is acquired by the taxpayer if the original use of such property commences with the taxpayer.

"(2) EXCEPTIONS.—The term 'regular credit property' does not include—

"(A) any residential rental or nonresidential real property (as defined in section 168(e)(2)),

"(B) any property to which the alternative depreciation system under section 168(g) applies (determined without regard to section 168(g)(1)(E)), or

"(C) any public utility property (within the meaning of section 168(i)(10)) if the taxpayer does not use the normalization method of accounting described in subsection (i)(2)(A).

"(3) REGULAR CREDIT PROPERTY TO INCLUDE PRE-EFFECTIVE DATE AND USED PROPERTY FOR CERTAIN PURPOSES.—For purposes of subsections (c)(1)(B) and (d)(5), the determination as to whether property is regular credit property shall be made without regard to subparagraphs (B) and (C) of paragraph (1) and subparagraph (C) of paragraph (2).

"(4) SPECIAL RULES FOR CERTAIN PROPERTY.—For purposes of paragraph (1), section 168 shall be applied—

"(A) without regard to subsection (f)(1) thereof, and

"(B) in the case of aircraft which is manufactured in the United States, owned by a United States person, and used predominantly in international traffic, without regard to subsection (g)(1)(A) thereof.

For purposes of subparagraph (B), aircraft shall be considered to be predominantly used in international traffic if less than 50 percent of its total use is in any single foreign country.

"(c) QUALIFIED NET INVESTMENT.—For purposes of this section—

"(1) IN GENERAL.—The qualified net investment for any taxable year is the excess (if any) of—

"(A) qualified investment, over

"(B) the sum of the amounts determined by multiplying the amount realized from each regular credit property disposed of during the taxable year by the applicable percentage for the property.

"(2) QUALIFIED INVESTMENT.—

"(A) IN GENERAL.—The term 'qualified investment' means the applicable percentage of the basis of each regular credit property placed in service by the taxpayer during the taxable year.

"(B) APPLICABLE PERCENTAGE.—For purposes of paragraph (1)(B) and subparagraph (A), the applicable percentage shall be determined under the following table:

"In the case of property which is:	The applicable percentage is:
3-year property	33⅓ percent
5-year property	66⅔ percent
All other property	100 percent.

For purposes of this subparagraph, the terms '3-year property' and '5-year property' have the meanings given such terms by section 168(e).

"(C) COORDINATION WITH OTHER CREDITS.—Qualified investment shall not include—

"(i) the basis of any energy property, or

"(ii) the basis of any property which is attributable to qualified rehabilitation expenditures.

"(D) RECONSTRUCTION.—In the case of regular credit property the reconstruction of which is completed by the taxpayer, qualified investment shall only include that portion of the basis which is properly attributable to the reconstruction by the taxpayer.

"(E) COORDINATION WITH PROGRESS EXPENDITURES.—The amount which (but for this subparagraph) would be taken into account with respect to any regular credit property shall be reduced by the excess (if any) of—

"(i) the qualified investment taken into account under subsection (e) by the taxpayer or a predecessor of the taxpayer, over

"(ii) any portion of the qualified investment described in clause (i) taken into account under paragraph (1)(B).

"(3) CERTAIN EVENTS TREATED AS DISPOSITIONS.—For purposes of paragraph (1)(B)—

"(A) IN GENERAL.—If, during any taxable year—

"(i) regular credit property ceases to be regular credit property with respect to the taxpayer, or

"(ii) any property to which subsection (e) applied ceases (by reason of sale or other disposition, cancellation or abandonment of contract, or otherwise) to be, with respect to the taxpayer, property which will be regular credit property when placed in service,

such property shall be treated as having been disposed of during the taxable year.

"(B) SPECIAL RULES FOR LEASES.—

"(i) IN GENERAL.—A taxpayer shall be treated as having disposed of regular credit property if the taxpayer leases such property in a lease to which paragraph (2) of subsection (g) does not apply.

"(ii) LESSEES.—If the regular credit is allowed to a lessee with respect to any property under subsection (g)(3), the lessee shall be treated as having disposed of such property if the lease terminates or the lessee sublets the property.

"(4) AMOUNT REALIZED.—For purposes of paragraph (1)(B), the amount realized shall be equal to—

"(A) in the case described in paragraph (3)(A)(i) or (B)(i), the fair market value of the property as of the time of cessation or lease,

"(B) in the case described in paragraph (3)(A)(ii), the increase in qualified investment with respect to the property for preceding taxable years under subsection (e), or

"(C) in the case described in paragraph (3)(B)(ii), an amount which bears the same ratio to the fair market value of the property as of the time of the disposition as the ratio determined under subsection (g)(3)(A)(ii).

"(5) EXCEPTIONS FOR CERTAIN CASES.—

"(A) IN GENERAL.—Paragraph (1)(B) shall not apply to—

"(i) a transfer by reason of death,

"(ii) a transaction to which section 381(a) applies,

"(iii) a disposition with respect to which gain is not recognized under section 1031 or 1033, but only to the extent of an amount which bears the same ratio to the amount realized as the gain not recognized bears to the gain realized, or

"(iv) a transfer described in section 1041(a).

"(B) CHANGES IN FORM OF BUSINESS.—For purposes of paragraph (1)(B), property shall not be treated as ceasing to be regular credit property with respect to the taxpayer by reason of a mere change in the form of conducting the trade or business so long as the property is retained in such trade or business as regular credit property and the taxpayer retains a substantial interest in such trade or business.

"(6) SPECIAL RULES FOR EXPENDITURES BEFORE 1992.—Qualified investment shall not include—

"(A) the basis of any property attributable to construction, reconstruction, or erection before January 1, 1992,

"(B) in the case of progress expenditure property, any qualified investment attributable to expenditures incurred before January 1, 1992, or

"(C) the basis of any property which is not progress expenditure property and which was acquired before January 1, 1992, but placed in service on or after such date.

"(d) BASE AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—The term 'base amount' means the product of—

"(A) the fixed-base percentage, and

"(B) the average annual gross receipts of the taxpayer for the 2 taxable years immediately preceding the taxable year for which the credit is being determined (hereafter in this subsection referred to as the 'credit year').

"(2) MINIMUM BASE AMOUNT.—In no event shall the base amount be less than 50 percent of the qualified net investment for the credit year.

"(3) FIXED-BASE PERCENTAGE.—

"(A) IN GENERAL.—The fixed-base percentage is the percentage which the aggregate amount of adjusted depreciation allowances of the taxpayer for taxable years beginning after December 31, 1986, and before January 1, 1992, is of the aggregate amount of gross receipts of the taxpayer for such taxable years.

"(B) ROUNDING.—The percentage determined under subparagraph (A) shall be rounded to the nearest 1/100th of 1 percent.

"(C) SPECIAL RULES.—For purposes of this paragraph, rules similar to the rules of section 41(c)(4)(B) and (c)(5) shall apply.

"(4) SPECIAL BASE AMOUNTS FOR START-UP COMPANIES.—

"(A) IN GENERAL.—If there are fewer than 3 taxable years beginning after December 31, 1986, and before January 1, 1992, in which a taxpayer had both depreciation allowances and gross receipts, the base amount for the taxpayer shall be equal to 75 percent of the qualified net investment of the taxpayer for the credit year.

"(B) SUBSEQUENT TAXABLE YEARS.—If, for any 5-consecutive taxable year period ending after December 31, 1991, a taxpayer has both depreciation allowances and gross receipts in 3 of the taxable years in such period, then for the last taxable year in such period and any subsequent taxable year—

"(i) this paragraph shall not apply, and

"(ii) such period shall be substituted for the 5-taxable year period described in paragraph (3)(A).

"(C) DE MINIMIS AMOUNTS.—The Secretary may prescribe regulations providing that de

minimis amounts of adjusted depreciation allowances and gross receipts shall be disregarded for purposes of this paragraph.

"(5) ADJUSTED DEPRECIATION ALLOWANCE.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'adjusted depreciation allowance' means the applicable percentage (as defined in subsection (c)(2)(B)) of any amount allowable as a deduction under section 168 for depreciation with respect to regular credit property.

"(B) SPECIAL RULE FOR QUALIFIED LEASES.—In the case of any lessor or lessee of regular credit property subject to a qualified lease—

"(i) the adjusted depreciation allowances of the lessor shall be reduced by the portion of the lease payments received with respect to all qualified leases during the 5-taxable year period described in paragraph (3)(A) which, under regulations, is allocable to depreciation on regular credit property, and

"(ii) the adjusted depreciation allowances of the lessee shall be increased by the portion of the lease payments with respect to all qualified leases paid during such period which is so allocable.

"(C) QUALIFIED LEASE.—For purposes of this paragraph, the term 'qualified lease' means a lease of regular credit property to which subsection (g)(3) applies.

"(6) COORDINATION WITH RECAPTURE PROVISIONS.—

"(A) IN GENERAL.—If the amount under subsection (f)(1)(A) for the taxable year preceding the credit year exceeds the amount determined under subsection (f)(1)(B) for such preceding taxable year, the base amount for the credit year shall be increased by an amount equal to 10 times such excess.

"(B) SPECIAL RULE.—For purposes of subparagraph (A), the excess described in subsection (f)(1) shall be computed without regard to any increase in the base amount for the preceding taxable year by reason of this paragraph.

"(e) PROGRESS EXPENDITURES.—For purposes of this section—

"(1) IN GENERAL.—Except as provided in paragraph (3), if an election under paragraph (5) is in effect for any taxable year, the qualified investment of the taxpayer for the taxable year shall be increased by the applicable percentage (as defined in subsection (c)(2)(B)) of—

"(A) in the case of progress expenditure property which is self-constructed property, the amount which is properly chargeable to capital account during such taxable year with respect to such property, and

"(B) in the case of any other progress expenditure property, the amount paid during the taxable year to another person for the construction of the property.

For purposes of this paragraph, the applicable percentage shall be determined (as of the close of the taxable year) on the basis of a reasonable expectation of what the character of the property will be when placed in service.

"(2) PROGRESS EXPENDITURE PROPERTY.—

"(A) IN GENERAL.—The term 'progress expenditure property' means any property which is being constructed by or for the taxpayer if—

"(i) the normal construction period for such property is 2 years or more, and

"(ii) it is reasonable to expect that such property will be regular credit property in the hands of the taxpayer when it is placed in service.

Clauses (i) and (ii) shall be applied on the basis of facts known as of the close of the taxable year of the taxpayer in which the construction begins (or, if later, at the close of the first taxable year to which an election under this subsection applies).

"(B) NORMAL CONSTRUCTION PERIOD.—For purposes of subparagraph (A), the term 'normal construction period' means the period reasonably expected to be required for the construction of the property—

"(i) beginning with the date on which physical work on the construction begins (or, if later, the first day of the first taxable year to which an election under this subsection applies), and

"(ii) ending on the date on which it is expected that the property will be available for placing in service.

"(3) SPECIAL RULES FOR APPLYING PARAGRAPH (1).—For purposes of paragraph (1)—

"(A) COMPONENT PARTS, ETC.—Property which is to be a component part of, or is otherwise to be included in, any progress expenditure property shall be taken into account—

"(i) at a time not earlier than the time at which it becomes irrevocably devoted to use in the property, and

"(ii) as if (at the time referred to in clause (i)) the taxpayer had expended an amount equal to that portion of the cost to the taxpayer of such component or other property which, for purposes of this subpart, is properly chargeable (during such taxable year) to capital account with respect to such property.

"(B) CERTAIN BORROWING DISREGARDED.—Any amount borrowed directly or indirectly by the taxpayer from the person constructing the property for the taxpayer shall not be treated as an amount expended for such construction.

"(C) LIMITATION FOR PROPERTY WHICH IS NOT SELF-CONSTRUCTED.—

"(i) IN GENERAL.—In the case of progress expenditure property which is not self-constructed property, the amount taken into account under paragraph (1)(B) for any taxable year shall not exceed the amount which represents the portion of the overall cost to the taxpayer of the construction which is properly attributable to the portion of the construction which is completed during such taxable year.

"(ii) CARRY-OVER OF CERTAIN AMOUNTS.—In the case of property described in clause (i), if, for the taxable year—

"(I) the amount which (but for clause (i)) would have been taken into account under paragraph (1)(B) exceeds the limitation of clause (i), then the amount of such excess shall be taken into account under paragraph (1)(B) for the succeeding taxable year, or

"(II) the limitation of clause (i) exceeds the amount taken into account under paragraph (1)(B), then the amount of such excess shall increase the limitation of clause (i) for the succeeding taxable year.

"(D) DETERMINATION OF PERCENTAGE OF COMPLETION.—The determination under subparagraph (C)(i) of the portion of the overall cost to the taxpayer of the construction which is properly attributable to construction completed during any taxable year shall be made, under regulations prescribed by the Secretary, on the basis of engineering or architectural estimates or on the basis of cost accounting records. Unless the taxpayer established otherwise by clear and convincing evidence, the construction shall be deemed to be completed not more rapidly than ratably over the normal construction period.

"(E) NO PROGRESS EXPENDITURES FOR CERTAIN PRIOR PERIODS.—No amount shall be taken into account under this subsection for any period before the first day of the first taxable year to which an election under this subsection applies.

"(F) NO PROGRESS EXPENDITURES FOR PROPERTY FOR YEAR IT IS PLACED IN SERVICE, ETC.—In the case of any progress expenditure property, no amount shall be taken into account under this subsection for the earlier of—

"(i) the taxable year in which the property is placed in service, or

"(ii) the taxable year in which such property is treated as disposed of under subsection (c)(3),

or for any taxable year thereafter.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) SELF-CONSTRUCTED PROPERTY.—The term 'self-constructed property' means any property if it is reasonable to believe that more than half of the construction expenditures for such property will be made directly by the taxpayer.

"(B) CONSTRUCTION.—The term 'construction' includes reconstruction and erection and the term 'reconstructed' includes reconstructed and erected.

"(C) ONLY REGULAR CREDIT PROPERTY.—Construction shall be taken into account for purposes of subsection (a) only to the extent that expenditures for such construction are properly chargeable to capital account with respect to regular credit property.

"(5) ELECTION.—This subsection shall apply to any taxpayer only if such taxpayer has made an election under this paragraph. Such an election shall apply to the taxable year for which made and all subsequent taxable years. Such an election, once made, may be revoked only with the consent of the Secretary.

"(f) RECAPTURE RULES.—

"(1) IN GENERAL.—If, for any taxable year, the base amount exceeds the qualified net investment of the taxpayer, then the tax under this chapter for such taxable year shall be increased by the lesser of—

"(A) 10 percent of such excess, or

"(B) the balance in the credit recapture account as of the close of the taxable year.

"(2) CREDIT RECAPTURE ACCOUNT.—

"(A) OPENING BALANCE.—The opening balance of the credit recapture account for its first taxable year shall be zero.

"(B) ACCOUNT INCREASED BY CREDIT ALLOWED.—The credit recapture account shall be increased each taxable year by the regular credit determined under this section for the taxable year.

"(C) VESTING OF CREDIT.—

"(i) IN GENERAL.—If the credit recapture account is increased under subparagraph (B) for any taxable year, the account shall be reduced in each of the 5 succeeding taxable years by an amount equal to 20 percent of such increase.

"(ii) CREDIT STOPS BEING VESTED WHEN RECAPTURED.—If an increase in tax under paragraph (1) for any taxable year is properly allocable to any portion of credit to which clause (i) applies, no reduction shall be made under clause (i) with respect to such portion for any succeeding taxable year. Any such increase shall be allocated to credits on a first-in first-out basis.

"(D) REDUCTION FOR TAX INCREASE.—The credit recapture account as of the beginning of any taxable year shall be equal to the balance as of the close of the preceding taxable year, reduced by any increase in tax for the preceding taxable year under paragraph (1).

"(3) CARRYBACKS AND CARRYOVERS ADJUSTED.—The carrybacks and carryovers under section 39 shall be adjusted by reason of any increase in tax under paragraph (1).

"(4) QUALIFIED NET INVESTMENT.—If the qualified net investment for any taxable

year is less than zero, such investment shall be taken into account as a negative number in determining the excess under paragraph (1).

"(5) SPECIAL RULE FOR PROGRESS EXPENDITURES.—For purposes of paragraph (2)(C), any credit allowed under subsection (e) shall be treated as allowed in the taxable year in which the property is placed in service.

"(6) TAX.—Any increase in tax under paragraph (1) shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit allowable under subpart A, B, D, or G.

"(g) SPECIAL RULES RELATING TO LEASED PROPERTY.—

"(1) IN GENERAL.—Except as provided in this subsection, qualified investment shall be determined without regard to the basis of any regular credit property subject to a lease.

"(2) EXCEPTION FOR SHORT-TERM LEASES.—

"(A) IN GENERAL.—In the case of a qualified short-term lease of regular credit property, the qualified investment of the lessor shall be determined by taking into account the basis of such property.

"(B) QUALIFIED SHORT-TERM LEASE.—For purposes of this subsection, the term 'qualified short-term lease' means any lease the term of which is less than the greater of 1 year or 30 percent of the property's present class life.

"(3) EXCEPTION FOR LONGER TERM LEASES.—

"(A) IN GENERAL.—If regular credit property is subject to a lease other than a qualified short-term lease, and the original use of the property begins with the lessee—

"(i) the property shall be treated as regular credit property of the lessee, and

"(ii) in determining qualified investment, the lessee shall be treated as having acquired such property for an amount which bears the same ratio to the fair market value of the property as the period of the lease bears to the present class life of the property.

"(B) SPECIAL RULES.—For purposes of subparagraph (A)(ii)—

"(i) if the ratio for any property is 80 percent or greater, the ratio shall be treated as if it were 100 percent, and

"(ii) if any property is leased by a corporation which is a component member of a controlled group to another corporation which is a member of such group, the basis of the property shall be substituted for its fair market value.

"(4) DETERMINATION OF LEASE TERM.—For purposes of this subsection, the rules of section 168(i)(3) (relating to options and successive leases) shall apply in determining a lease term.

"(5) EXCEPTION FOR CERTAIN AIRCRAFT.—This subsection shall not apply to the leasing of any aircraft described in subsection (b)(4)(B).

"(h) DEFINITIONS AND RULES RELATING TO ELIGIBLE SMALL BUSINESSES.—For purposes of this section—

"(1) ELIGIBLE SMALL BUSINESS.—

"(A) IN GENERAL.—The term 'eligible small business' means, with respect to any taxable year, a taxpayer with qualified investment not greater than $200,000.

"(B) DISQUALIFICATION.—If the qualified investment of a taxpayer for any taxable year ending after December 31, 1991, exceeds $200,000, such taxpayer shall not be treated as an eligible small business for such taxable year or any subsequent taxable year.

"(C) PREDECESSORS.—Any reference in this paragraph to a taxpayer shall include a reference to any predecessor.

"(2) SPECIAL RULES FOR APPLYING SECTION.—If the credit for any taxable year is determined under subsection (a)(2) with respect to any regular credit property—

"(A) any disposition of such property shall not be taken into account for purposes of subsection (c)(1)(B) (relating to qualified net investment),

"(B) such credit shall not increase the credit recapture account under subsection (f)(2)(B), and

"(C) rules similar to the rules of section 50(a) shall apply to any disposition of such property, except that any lease treated as a disposition under subsection (c)(3)(B) shall be treated as a disposition for purposes of section 50(a).

"(i) SPECIAL RULES.—For purposes of this section—

"(1) RESEARCH CREDIT RULES APPLICABLE.—Rules similar to the rules of section 41 (f) and (g) shall apply.

"(2) CERTAIN RULES NOT TO APPLY.—

"(A) NORMALIZATION RULES.—Section 50(d)(2) shall not apply, but the regular credit under subsection (a) shall be allocated to public utility property (as defined in section 168(i)(10)) of the taxpayer on a pro rata basis and normalized under rules similar to the rules of section 168(i)(9).

"(B) ELIGIBLE PROPERTY.—Section 50(b) shall not apply.

"(C) LEASING RULES.—Section 50(d)(5) shall not apply, except that the rules of section 48(d)(6) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990) shall apply."

(c) INCREASE IN INCOME TO REFLECT CREDIT.—

(1) IN GENERAL.—Part II of subchapter B of chapter 1 (relating to items specifically included in gross income) is amended by adding at the end the following new section:

"SEC. 91. REGULAR INVESTMENT TAX CREDIT.

"(a) GENERAL RULE.—The amount of the credit allowed by section 38 for any taxable year which is attributable to the regular credit determined under section 46A shall be included in gross income ratably over the 5-taxable-year period beginning with such taxable year.

"(b) RECAPTURED AMOUNTS.—If any increase in tax under section 46A(f)(1) or 50(a) is properly allocable (as determined under section 46A(f)(2)(C)(ii) or 50(a)) to any portion of any credit described in subsection (a) for any taxable year, subsection (a) shall cease to apply to such portion for any succeeding taxable year."

(2) CONFORMING AMENDMENT.—Paragraph (1) of section 50(c) (relating to basis adjustment) is amended by inserting "(other than regular credit property)" after "any property".

(d) CREDIT ALLOWED AGAINST MINIMUM TAX.—Section 38(c) (relating to limitation based on amount of tax) is amended by adding at the end the following new paragraph:

"(3) REGULAR CREDIT MAY OFFSET 25 PERCENT OF MINIMUM TAX.—

"(A) IN GENERAL.—In the case of a C corporation, the amount determined under paragraph (1)(A) shall be reduced by the lesser of—

"(i) the portion of the regular credit not used against the normal limitation, or

"(ii) the sum of—

"(I) 25 percent of the taxpayer's tentative tax for the taxable year, plus

"(II) 25 percent of the amount determined under clause (i).

"(B) PORTION OF REGULAR CREDIT NOT USED AGAINST NORMAL LIMIT.—For purposes of subparagraph (A), the portion of the regular credit for any taxable year not used against the normal limitation is the excess (if any) of—

"(i) the portion of the credit under subsection (a) which is attributable to the regular credit determined under section 46A, over

"(ii) the limitation of paragraph (1) (without regard to this paragraph) reduced by the portion of the credit under subsection (a) which is not so attributable.

"(C) LIMITATION.—In no event shall this paragraph permit the allowance of a credit which would result in a net chapter 1 tax less than an amount equal to 10 percent of the amount determined under section 55(b)(1)(A) without regard to the alternative tax net operating loss deduction. For purposes of the preceding sentence, the term 'net chapter 1 tax' means the sum of the regular tax liability for the taxable year and the tax imposed by section 55 for the taxable year, reduced by the sum of the credits allowable under this part for the taxable year (other than under section 34)."

(e) APPLICATION OF OTHER RULES.—

(1) AT-RISK RULES.—

(A) Clause (ii) of section 49(a)(1)(C) (defining credit base) is amended by inserting "or regular credit property" after "energy property".

(B) Section 49(b)(1) is amended by adding at the end the following new sentence: "For purposes of section 46A(c)(1)(B), any increase during any taxable year in nonqualified nonrecourse financing with respect to any regular credit property shall be treated as an amount realized during such taxable year with respect to the disposition of such property."

(2) RECAPTURE RULES.—Subparagraph (A) of section 50(a)(5) (defining investment credit property) is amended by adding at the end the following new sentence: "Such term does not include regular credit property."

(f) CONFORMING AMENDMENTS.—

(1) Section 38(d)(3)(B)(i) is amended by striking "paragraph (1)" and inserting "paragraph (2)".

(2) Section 55(c)(1) is amended by striking "49(b)" and inserting "46A(f), 49(b),".

(3)(A) Section 280F(a) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) INVESTMENT TAX CREDIT.—The amount of the basis taken into account in determining qualified investment under section 46A with respect to any passenger automobile shall not exceed $12,800."

(B) Section 280F(b)(1) is amended—

(i) by inserting "and such property shall not be treated as regular credit property for purposes of section 46A for such taxable year" before the period, and

(ii) by inserting "OR CREDIT" after "DEPRECIATION" in the heading.

(C)(i) The heading for section 280F is amended by inserting "and credit" after "depreciation".

(ii) The item relating to section 280F in the table of contents for part IX of subchapter B of chapter 1 is amended by inserting "and credit" after "depreciation".

(4) Section 1033(g)(3)(A) is amended by inserting "with respect to which the regular credit determined under section 46A is or has been claimed or," before "with respect to which".

(5) Section 1371(d)(3) is amended by striking "49(b)" and inserting "46A(f), 49(b),".

(6) The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by adding after the item relating to section 46 the following new item:

"Sec. 46A. Regular credit."

(7) The table of sections for part II of subchapter B of chapter 1 is amended by adding at the end the following new item:

"Sec. 91. Regular investment tax credit."

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to property placed in service after December 31, 1991.

(2) TRANSITION PROPERTY.—The amendments made by this section shall not apply to—

(A) any transition property (as defined in section 49(e)) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990),

(B) any property with respect to which qualified progress expenditures were previously taken into account under section 46(d) of such Code (as so in effect), and

(C) any property described in section 46(b)(2)(C) of such Code (as so in effect).

This paragraph shall not apply for purposes of section 46A (c)(1)(B) and (d)(4) of the Internal Revenue Code of 1986.

(3) COMPUTATION OF BASE AMOUNT.—In the case of a taxable year beginning before January 1, 1992, and ending after December 31, 1991, the base amount under section 46A of the Internal Revenue Code of 1986 (as added by this section) shall be the amount which bears the same ratio to the base amount determined without regard to this paragraph as the number of days in the taxable year before January 1, 1992, bears to the total number of days in the taxable year.

INCREMENTAL INVESTMENT TAX CREDIT

(Proposal by Senator William V. Roth, Jr.)

CURRENT LAW

The investment tax credit was repealed as part of the 1986 Tax Reform Act. Prior to that, a regular investment tax credit of ten percent was available for a taxpayer's investment in tangible personal property and certain other tangible property, but not for buildings and structural components of buildings. In the case of ACRS three year property, the amount of the credit was generally equal to six percent. In addition, a reduction of the property's depreciable basis equal to fifty percent of the regular investment tax credit applied to the property. As an alternative to the basis reduction of fifty percent, an election could be made to decrease the regular investment tax credit percentage by two points. The total costs of new eligible property qualified for the credit, while used property could not exceed $125,000 in a single taxable year. In addition special rules applied for the "at-risk limitation," leased property and recapture of the credit. The amount of tax liability that could be offset by the investment tax credit in any year could not exceed $25,000 plus 85 percent of the tax liability in excess of $25,000. Credit in excess of this limitation could be carried back three years and forward 15 years.

REASONS FOR CHANGE

Real investment in machinery and equipment has declined since repeal of the investment tax credit in 1986. The economy has experienced three consecutive quarters of decline, after having over 90 consecutive months of unprecedented peacetime growth following the tax cuts of the Kemp-Roth Tax Act in 1981. Encouraging investment in new equipment and modernization of existing equipment will improve the long-term ability of the economy to achieve economic growth consistent with past rates of growth without inflationary pressures. Also, increasing aggregate demand by increased investment incentives constitutes an important element in a balanced program of economic recovery.

EXPLANATION OF PROVISION

Overview

The short title of the bill shall be "The Invest To Compete (ITC) Act of 1992." The bill provides for a permanent incremental investment tax credit that can also be used to reduce up to 25 percent of alternative minimum tax liability. In order to stimulate growth and investment in 1992, the credit would equal 15 percent of a taxpayer's qualified net investment over its base amount. This credit would be reduced to 10 percent for 1993 and succeeding years. The credit would generally be available for all types of tangible property which qualified for ITC prior to its repeal in 1986. Additionally, the bill contains specific provisions that would provide substantial benefits to small businesses.

Eligible property

Property eligible for the investment tax credit is defined as tangible property placed in service after December 31, 1991 to which the depreciation rules of section 168 apply. The property must be a self-constructed asset or acquired by the taxpayer where the original use of the asset begins with this taxpayer. Therefore, the credit would not apply to used property. Certain types of property which are excluded from the bill are: (1) residential rental or nonresidential real property; (2) property subject to the alternative depreciation system (e.g. property used predominantly outside the U.S. or by a tax exempt entity); and (3) any public utility property where the taxpayer is not using normalization.

Computation of the credit

The credit is computed by multiplying either 15 or 10 percent times the excess of the qualified net investment over the base amount. The concept of an incremental credit and the computations involved in this bill are similar to those already utilized in current law for the R&D credit. The qualified net investment basically represents a taxpayer's additions (net of disposals) of eligible property. The credit amount would be reduced for 3 to 5 year property to 33⅓ percent and 66⅔ percent respectively.

The base amount is the product of the fixed base percentage times a taxpayer's average gross receipts for the immediately preceding 2 years. The fixed base percentage is a fraction whereby the numerator is a taxpayer's depreciation for the years 1987 through 1991, and the denominator is the gross receipts of a taxpayer for the same period. The base amount cannot be less than 50 percent of a taxpayer's qualified net investment. Thus, the fraction to determine the base is described below:

1987-91: Avg. Depreciation 5 yrs. divided by Total Sales times Average Sales from previous 2 years equals Base Period Amount or 50% Qualified Net Investment

The base period amount is then subtracted from the amount of eligible investment property purchased that year to determine the amount which qualifies for the credit. The creditable amount is then multiplied by 10 percent (15 percent the first year) to determine the total tax credit.

Small business provisions

For a "small business" the credit is a flat credit and is greatly simplified. A small business is defined as a taxpayer with qualified investments (i.e. purchases of ITC property) that do not exceed $200,000. For a small business, the investment tax credit would equal the lesser of 15 percent (10 percent after 1992) times the qualified investment or $100,000. If a taxpayer's investments are greater than $200,000 in any taxable year after December 31, 1991, then it will no longer qualify as a small business.

Leasing provisions

To the extent property is subject to a short term lease, it will be included as part of the qualified investment for the lessor. A short term lease is defined as having a term of less than one year or 30 percent of the property's class life. If the lease term is greater than 80 percent of the property's class life, then the lessee would utilize the basis of this property in its computation of ITC. To the extent the lease term is between 30 and 80 percent of an asset's class life, there is a reduction in the amount of credit that would be available to the lessee.•

By Mr. RIEGLE:

S. 2293. A bill to make emergency supplemental appropriations to provide a short-term stimulus for the economy and meet the urgent needs for the fiscal year ending September 30, 1992, and for other purposes; to the Committee on Appropriations.

S. 2294. A bill to amend the Internal Revenue Code of 1986 to promote long-term investment-led economic growth; to the Committee on Finance.

S. 2295. A bill to amend the Internal Revenue Code of 1986 to promote fairness within the tax code; to the Committee on Finance.

ECONOMIC GROWTH AND RECOVERY LEGISLATION

• Mr. RIEGLE. Mr. President, it is finally becoming clear to all that we have serious structural economic problems in America—problems that have been building over a period of many years. This recession is different from past downturns. We are faced with the long-term decline of important industries. We see living standards stagnating—incomes for American workers have risen only because of longer working hours. We see rising unemployment that is not cyclical but structural—jobs that will never be coming back. My home State of Michigan just learned that General Motors will permanently lay off more than 9,000 workers. We see a deteriorating sense of economic security, both individually and as a nation. We see the plight of the homeless and others who have not shared in the illusionary growth of the 1980's. We see rising inequity in incomes over the past decade. We also see the fraying of the social fabric which has accompanied all of these problems—what I have called the "Clockwork Orange Society."

Not all of these problems are the result of the Bush recession. Most have their beginning decades ago. Yet, this recession, which has not been short and shallow as promised by the Bush administration, has heightened all of our long-term problems and given them new urgency.

LONG-TERM GROWTH STRATEGY

To deal with our current economic problems, we must think long-term and act immediately. Over the long-term our economy will grow to the extent that we actively spur innovation and productivity. We need to create an investment-led growth strategy. We must return our Nation to the path of long-term sustainable growth where investment in human resources, physical infrastructure, technology, and productive capacity leads to higher value added and higher income and national wealth; higher incomes and national wealth must then be plowed back into investment.

Our long-term strategy will require a number of elements. We must have sound macroeconomic policies that stimulate demand and promote price stability. We must have a capital formation policy that promotes savings and investment, without lowering our standard of living. We need policies to channel public and private investment into new products, services, processes, and markets and into the factors which promote innovation and productivity, including human resources, physical infrastructure, and technology development.

We must also have a trade policy and other policies that affect how our domestic market is organized to insure that American products and services can be sold to customers, both at home and abroad, on a competitive basis. This is crucial so that American businesses and workers can reap the benefits of their investments in productivity and innovation.

A long-term strategy also means paying close attention to productivity and innovation in our strategic industries. A general growth strategy is not enough. Without attention to specific industries, the overall economy could grow but the specific goals of high value-added, high standard of living, and economic and national security may not be met.

We must also turn our attention to the issue of fairness. To be viable and sustainable over the long-term any strategy will have to benefit all. We cannot afford another decade like the 1980's, where so-called trickle-down economics benefited only a few.

IMMEDIATE ACTIONS

We must begin immediately to take the first steps toward a long-term growth strategy. These first steps must also provide immediate help to the economy.

There are four principles which has guided my selection of immediate actions. First, any immediate short-term actions to stimulate the economy must lay the foundation for long-term investment-led growth. Second, the peace dividend should be used for investment in the form of both spending and tax incentives. Third, a large portion of spending should be in the form of immediate outlays to stimulate investment and economic growth, as well as addressing the suffering brought about by the Bush recession. Finally, any changes to restore progressivity and equity to the Tax Code should be part of revenue-neutral changes within Tax Code.

Following these principles, I am proposing an economic stimulus and growth package made up of the following items:

New investment spending and tax incentives, paid for with cuts in defense—$100 billion over 5 years—with immediate spending in the first years to be recouped in out-years.

Fifteen billion dollars in fiscal year 1992 for grants to State and local government to stimulate demand.

Twenty billion dollars in fiscal year 1992 supplemental appropriations for several key programs to increase public investment, stimulate demand, and aid victims of the Bush recession.

Twenty-five billion dollars over fiscal years 1993–97 in increased public investment.

Forty billion dollars over fiscal years 1993–97 in tax incentives to spur investment.

Changes in the Tax Code to benefit middle-class taxpayers, paid for through adding millionaire surcharge and fourth tier.

Any other changes to the Tax Code to be paid for by offsets.

Today, I am introducing three pieces of legislation which are central to this package. The first bill is an emergency supplemental for fiscal year 1992 to increase investment, stimulate demand and help those hurt by the Bush recession. I proposed spending $20 billion in supplemental appropriations to increase investments in six key areas: transportation, housing and community development, public works, human resources facilities construction, worker training, and economic conversion—both civilian and military.

Transportation programs will receive a total of $5.7 billion as part of this supplemental appropriations. Highway interstate maintenance will receive $1 billion, bridges will receive $1 billion, and the surface transportation programs established under the new highway bill will receive $500 million. This additional funding for all three of these programs will be exempt for the requirements for a State and local match. Airport improvement projects will receive $1 billion and another $1 billion will be used for FAA facilities and equipment. Transit programs will receive a total of $1.2 billion, including $400 million for rail modernization, $400 million for rolling stock and buses, and $400 million for compliance with the requirements of the Americans with Disabilities Act and the Clean Air Act. The additional funding for these transit programs will also be exempt from the requirements for a State and local match.

Housing and community development will receive a total of $6 billion under this bill. This includes $3.4 billion for Community Development Block Grant programs, $1.5 billion for public housing modernization, $1 billion for Farmers Home programs, and $100 million for low-income households weatherization programs.

Public works programs will receive a total of $4 billion. This includes $3 billion for EPA construction/State-revolving loan funds to build wastewater treatment facilities to meet the Clean Water Act standards, and $1 billion in Farmers Home wastewater loans and grants.

A total of $1 billion will go toward the renovation and repair of facilities used to meet human resources needs. This includes $60 million to the National Science Foundation for renovation of academic research facilities, $300 million to refurbish Job Corps training facilities, $30 million to repair Head Start facilities, $550 million for chapter 1 education facilities, and $60 million for library facilities.

Worker training programs under title III of the Job Training Partnership Act [JTPA] will receive $1.7 billion. This part of JTPA is specifically targeted at dislocated workers and thus will be of immediate help to those who have lost their jobs due to the Bush recession.

A total of $1.2 billion will be used to help spur the conversion of resource from defense to civilian uses. Part of these funds would also be available to communities and small firms hurt by civilian plant closings. To aid communities hurt by the loss of a major employer, either military or civilian, the Economic Development Administration will receive $400 million to be used for planning and adjustment assistance. The Small Business Administration will receive $400 million to help small businesses hurt by such closings. The National Institutes of Science and Technology will receive $200 million for technology research programs to aid scientists, engineers, and technicians in converting their skills from the defense to the civilian sector, while creating new scientific and technological information as a spur to increased innovation and productivity in the civilian economy. A total of $200 million will also go to the Labor Department to promote innovative responses to the dislocation of workers resulting from defense cutbacks.

This supplemental also includes $400 million for emergency aid to the victims of the Bush recession. This includes $300 million for FEMA emergency assistance to provide emergency food and shelter assistance to those who have lost their jobs and homes due to the Bush recession. It also includes $100 million for Community Services Block Grants to support social services for low-income families, which have been overwhelmed due the recession.

The second is a bill to provide tax incentives to promote productive investments by business—the Investment-led Growth Incentives Act of 1992. The cornerstone of my proposal is a 15-percent permanent incremental investment tax allowance targeted to new manufacturing equipment. Coupled with this is alternative minimum tax relief so that those manufacturers who need this allowance the most will be able to use it. One of the most distressing problems over the past two decades has our relatively low levels of investment in new plants and equipment. The United States invests less than the average of the other Group of 7 industrialized nations in a percent of GDP and less than Japan in absolute terms. How do we think we can compete with Japan when they out-invest us? This provision attempts to change that by providing an incentive for business to invest in new manufacturing equipment.

In am also including a venture and risk capital investment program. This provision is the same as S. 1932, as introduced by Senator BUMPERS and of which I am an original cosponsor. These provisions will provide an incentive for venture and seek capital formation, which is critical for long-term growth. We do not need a broad-based capital gains tax cut. We need targeted incentives to channel capital into the areas where it is needed—like starting new businesses. That is what these provisions do. I commend Senator BUMPERS for his leadership on this issue.

In addition, the Investment-led Growth Incentives Act of 1992 also includes a permanent R&E tax credit and an 18-month extension of R&E allocation rules. Research and development is one of the engines of economic growth. These provisions are needed to maintain that engine.

The third piece of legislation I am introducing today is the Tax Progressivity Act of 1992. This bill would grant middle-class Americans needed tax relief by providing a refundable tax credit equal to 20 percent of their Social Security taxes. This credit would be capped at $200 for an individual, $400 for a joint returns. The bill would pay for this credit by adding a fourth tier to the tax rates for those in the upper income brackets and by adding a millionaires surtax. This legislation is identical to H.R. 3730, introduced by Chairman ROSTENKOWSKI last year, except it is temporary.

There are also other proposals I will support as part of this package. I will support legislation to stimulate demand through a one-time $15 billion aid package to State and local governments, as proposed by Senators SASSER and SARBANES. Such an aid package should be targeted to investment activities of State and local governments. It is estimated that this aid package would create 450,000 jobs immediately—which is greater than the entire number of jobs the Bush proposal will create by 1997.

We must also amend the Budget Enforcement Act to remove the budgetary firewalls between defense and discretionary spending. I am an original cosponsor of legislation introduced by Senator SASSER to lift these walls. I support modifying the annual caps in order to take immediate actions to stimulate the economy and encourage investment. We must also modify annual caps. However, we must be sure to keep the 5-year cap in order to maintain budget discipline.

SENATE DEMOCRATIC TASK FORCE ON COMMUNITY AND URBAN REVITALIZATION

I have been speaking today as one U.S. Senator among many who firmly believe that the Federal Government must take immediate action to both jump start our stalled economy and put us on the path to long-term investment-led growth. I would like to close my remarks with some comments made not just in my capacity as Senator from Michigan but more particularly in my capacity as chairman of the Senate Democratic Task Force on Community and Urban Revitalization.

This task force was formed at the start of this year by Majority Leader GEORGE MITCHELL to increase the lines of communication between local political and civic leaders and the Senate and to refocus congressional attention on the challenges facing our local communities. The task force met in January with the members of its advisory committee, some two dozen of our most distinguished mayors, Governors, labor leaders, and business people. At that meeting, we heard from the advisory committee that the No. 1 priority for local communities was enactment of a Federal economic stimulus package that would put their residents back to work, help distressed governments provide needed services, and begin reinvesting in our domestic economy to promote long-term economic health. We resolved at that meeting to work with the advisory committee to push for the enactment of an economic recovery package that takes into account the needs of America's local communities and their residents.

After further consultation with the members of our advisory committee, the eight Senators on the task force agreed upon five basic principles that we believe should guide whatever economic recovery package the Congress enacts. These principles are completely consistent with the principles used to guide my crafting of the proposals I outlined today.

On Thursday, February 20, we sent letters transmitting those principles to Senator MITCHELL, the majority leader; Senator BYRD, chairman of the Appropriations Committee; Senator BENTSEN, chairman of the Finance Committee and Senator SASSER, chairman of the Budget Committee. Mr. President, I ask unanimous consent that copies of these letters be included in the RECORD.

CONCLUSION

To both develop and carry out an economic growth strategy for America will require teamwork—Team America where business, government, labor and citizens work together. Team America will require continuous involvement by many groups and individuals at many levels in an ongoing process.

We all agree that economic growth is primarily created in the private sector. However, creation and implementation of an economic strategy will also require an active role for Government—not the laissez faire ideology of the past decade. The Government is and must be a key participant. It must provide resources to and act as catalyst and facilitator of the process.

The package I have outlined today is only the first step. In the months and years ahead we will need to focus our attention on creating policies to insure long-term investment-led economic growth. It must be growth that benefits all Americans—not like the so-called growth of the 1980's, which benefited only a few. To return long-term sustained economic growth, all of us must play our part and work together to build our common future.

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

U.S. SENATE,
Washington, DC, February 20, 1992.

Senator GEORGE J. MITCHELL,
Majority Leader, U.S. Senate,
Washington, DC.

DEAR SENATOR MITCHELL: We are writing to call your attention to the urgent need for legislation to enable America's local communities and their residents to survive the current recession and to begin reinvesting in our domestic economy.

Unemployment lines continue to grow, and demands for emergency food and shelter are on the rise, but state and local governments are strapped for cash. As a result, they are cutting investments crucial to long-term economic health in order to meet immediate needs. Prompt federal action is necessary to prevent further damage to America's prospects for long-term economic health.

As you know, earlier this year you established a Task Force on Community and urban revitalization, which you asked Senator Riegle to chair. Also serving on the task Force are Senators Dixon, Dodd, Kennedy, Moynihan, Sarbanes, Sasser, and Wofford. The Task Force is assisted by an Advisory Committee composed of leading mayors, governors, labor representatives and business people. The primary purpose of the Task Force is to increase the lines of communication between local political and civic leaders and the Senate so that local leaders can help shape legislation that affects our nation's communities.

At the first meeting of the Task Force and Advisory Committee, discussion focused on the hardships the current recession is inflicting on local communities and their residents and the need for a federal initiative to get the economy moving. Advisory Committee members reported that cities and states are

increasing the downward pressure on the economy because they are forced to raise taxes and cut spending to eliminate budget shortfalls. We also heard that three quarters of America's cities have postponed needed public works projects that would have provided jobs and long-term investment because there is no money to pay for them. Since that time, the U.S. Conference of Mayors has documented 4,543 projects that are "ready to go" if funding is made available.

The members of the Task Force and the Advisory Committee agreed at the conclusion of our first meeting that we should work together towards enactment of economic stimulus legislation that addresses the economic and fiscal crisis confronting local communities. After further discussion, we have agreed on five key principles that should guide an economic recovery package. We are transmitting these principles to you in an addendum to this letter because of the important role you will play in the passage of stimulus legislation.

In addition to these principles, we also call your attention to several bills which are consistent with these principles and should be carefully considered in crafting a stimulus package: S. 2137, introduced by Senator Kennedy; S. 2169, introduced by Senators Lautenberg and Moynihan; S. 2170 introduced by Senator Dodd; and legislation to provide grants and loans to state and local governments, to be introduced jointly by Senators Sasser and Sarbanes. These bills offer concrete plans to jump start the economy in a way that will help retain and create needed jobs and promote long-term investment in infrastructure and human resources.

We thank you for your attention to this important matter and hope we can work together to get America's economy back on track.

Sincerely,

Senators Donald W. Riegle, Jr., Chairman; Edward M. Kennedy; Harris Wofford; Daniel Patrick Moynihan; Alan J. Dixon; Paul S. Sarbanes; Jim Sasser; and Christopher J. Dodd.

SENATE TASK FORCE ON COMMUNITY AND URBAN REVITALIZATION

PRINCIPLES FOR A DEMOCRATIC ECONOMIC RECOVERY PLAN

An economic recovery plan should be sufficient to counter the estimated $35 billion in downward pressure imposed on the economy by state and local spending cuts and revenue increases necessary to meet state and local budget shortfalls.

The economic recovery plan should contain a significant fiscal component, oriented toward job creation and retention and long-term investment in infrastructure and human resources and needs.

The budget agreement should be amended so that the peace dividend can be directed to offset the cost of an economic recovery investment package.

A significant portion of the package should be spent immediately and targeted to distressed state and local governments. This money should be spent on "ready-to-go" programs and projects that create and retain jobs, build infrastructure and human resources, and address structural economic readjustments caused by the decline of major industries and the reduction in defense spending.

The remainder of the package should fund programs that build infrastructure and human resources to promote long-term economic well-being. Such programs include highway, mass-transit, and airport construction, water and environmental projects, housing and community development, health care, public safety, public educational facilities construction and educational services, and job training, especially for dislocated workers.●

By Mr. PRESSLER:

S. 2297. A bill to enable the United States to maintain its leadership in land remote sensing by providing data continuity for the Landsat Program, by establishing a new national land remote sensing policy, and for other purposes; to the Committee on Commerce.

LAND REMOTE SENSING POLICY ACT OF 1992

Mr. PRESSLER. Mr. President, today I am introducing legislation to revamp the Landsat Satellite Program. This legislation will accomplish two important public policy goals.

First, it will provide a permanent home for Landsat within NASA and the Department of Defense. Full commercialization of the Landsat Program cannot be achieved within the foreseeable future. This new home will provide a strong civilian satellite land remote sensing program which is vital to the national security of the United States.

Second, this legislation will define the Federal Government's Landsat data policy. This definition will ensure that data generated from land remote-sensing satellites funded by American taxpayers will be made available to users at prices that do not exceed the marginal cost of filing a specific request.

Mr. President, we need to act soon to correct the current policy of commercialization, or we could lose this priceless environmental research tool forever. In 1984, Congress passed the Land Remote-Sensing Commercialization Act, which was to have subsidized a private company to operate the Landsat system for a transition period, after which it was hoped the system would become commercially viable.

Commercialization was founded on the belief that a large commercial market for Landsat data would develop and commercial demand would then support the development, launching, and operation of future Landsat satellites.

That has never happened.

It was clear to many of us back in the early 1980's that commercialization would not work. But the only other political alternative was to terminate the program altogether. That would have been an even more tragic mistake. So I supported the 1984 act with some amendments even with the expectation and prediction that commercialization would fail. My overriding concern was to protect the technology. That has been preserved. As those of us who urged alternatives to commercialization predicted, the 1984 act caused data prices to skyrocket, scientific applications to decline dramatically, and the program faltered.

Before commercialization there were three general categories of users: private business, defense, and science. The latter has all but disappeared. Private sales have fallen drastically, as well. Defense simply pays the higher prices, adding to taxpayer cost.

We have ended up paying more for Landsat by subsidizing a monopoly. We tax private business to fund Landsat, then turn around and charge them again to purchase data. The Federal Government subsidizes the monopoly and then pays again to use that data. This legislation will restore the emphasis on availability to scientific researchers and other public interest users.

The goal of NASA's mission to planet Earth is to obtain a scientific understanding of the Earth on a global scale. This 15-year program will enable NASA to develop global models of the interaction of the Earth's atmosphere, oceans, and land.

Developing these models will require long-term, repeat measurements. By the time the first EOS platform is launched in 1998, integration of Landsat data could give global change researchers a 26-year head start in developing accurate global change models. Landsat data used as a baseline will improve the predictive global change models to be developed from EOS.

Mr. President, this legislation provides for the continuous civilian collection and utilization of land remote sensing data. This will provide a major benefit in studying and understanding human impacts on the global environment, in managing the Earth's natural resources, and in planning and conducting many other activities of scientific, economic, and social importance.

Mr. President, Senator GORE and I are united in the need to act quickly on this matter, and I look forward to swift Commerce, Science, and Transportation Committee action on this issue. We need action today to preserve this extraordinarily valuable 20-year investment. This legislation will firmly establish the Landsat Program as a complement to NASA's mission to planet Earth while ensuring that the United States preserves its leadership in land remote sensing.

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. 2297

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 "Land Remote Sensing Policy Act of 1992".

TITLE I—DECLARATION OF FINDINGS, PURPOSES, AND POLICIES

SEC. 101. FINDINGS.

The Congress finds and declares that—

(1) the continuous civilian collection and utilization of land remote sensing data from space are of major benefit in studying and understanding human impacts on the global environment, in managing the Earth's natural resources, and in planning and conducting many other activities of scientific, economic, and social importance;

(2) a strong civilian satellite land remote sensing program is vital to the national security of the United States;

(3) the Federal Government's experimental Landsat system established the United States as the world leader in land remote sensing technology;

(4) the national interest of the United States lies in maintaining international leadership in civil satellite land remote sensing and in broadly promoting the beneficial use of remote sensing data;

(5) given the importance of the Landsat program to the United States urgent actions, including expedited procurement procedures, must be followed in order to provide data continuity;

(6) full commercialization of the Landsat program cannot be achieved within the foreseeable future, and thus should not serve as the near-term goal of national policy on land remote sensing;

(7) however, private sector involvement in land remote sensing is in the national interest of the United States;

(8) to maximize the value of Federal satellite land remote sensing programs to the American public, data generated from all land remote sensing satellites funded by the United States Government should be made available to users at prices that do not exceed the marginal cost of filling a specific user request; and

(9) the broadest and most beneficial use of land remote sensing data will result from maintaining policies of open skies and nondiscriminatory access to data.

SEC. 102. PURPOSES.

The purposes of this Act are to—

(1) maintain the United States worldwide leadership in civil satellite land remote sensing, preserve national security, and fulfill international obligations;

(2) provide for a comprehensive civilian program of research, development, and demonstration to enhance both the United States capabilities for remote sensing from space and the application and utilization of such capabilities;

(3) establish a comprehensive and sustainable satellite land remote sensing program that will ensure the routine acquisition and widespread availability of high quality land remote sensing satellite data to meet the needs of national security, global change research, and other interested users;

(4) enhance the scientific use of remote sensing data in studying the Earth and its processes by providing continuity of data which are sufficiently consistent in terms of acquisition geometry, land surface coverage, spatial resolution, and spectral characteristics with previous Landsat data to allow comparisons for change detection and characterization; and

(5) promote, and not preclude, private sector opportunities in civil satellite land remote sensing.

SEC. 103. POLICY OF UNITED STATES.

It shall be the policy of the United States—

(1) to preserve its right to acquire and disseminate unenhanced remote sensing data;

(2) to perpetuate existing United States' open skies and nondiscriminatory access to data civil satellite remote sensing policies;

(3) to preserve our national security, to honor our international obligations, and to retain in the Federal Government those remote sensing functions that are essentially of a public service nature; and

(4) to maintain a permanent, comprehensive Federal Government archive of global Landsat and other land remote sensing data for long-term monitoring and study of the changing global environment.

SEC. 104. DEFINITIONS.

For purposes of this Act:

(1) The term "Landsat system" means Landsats 1, 2, 3, 4, 5, 6, and any successor civil land remote sensing space systems operated by the United States Government, along with any related ground equipment, systems, and facilities.

(2) The term "Secretary" means the Secretary of Commerce.

(3) The term "Administrator" means the Administrator of the National Aeronautics and Space Administration.

(4) The term "nondiscriminatory access to data" means without preference, bias, or any other special arrangement (except on the basis of national security concerns pursuant to section 505) regarding delivery, format, financing, or technical considerations which would favor one buyer or class of buyers over another.

(5) The term "unenhanced data" means land remote sensing data that are subject only to minimal data preprocessing.

(6) The term "data preprocessing" means—

(A) removal of system- and sensor-created distortions in land remote sensing data; and

(B) the very basic calibration of spectral response with respect to such data.

(7) The term "continuity of data" means the continued acquisition and availability of unenhanced data which are, from the point of view of the user, functionally equivalent or superior to the Enhanced Thematic Mapper data to be generated by Landsat 6.

TITLE II—OPERATION AND DATA DISSEMINATION OF LANDSAT SYSTEM

SEC. 201. RESPONSIBILITIES.

(a) OPERATIONS.—The Secretary, in coordination with the Administrator and the Secretary of Defense, shall be responsible for—

(1) completing and launching Landsat 6;

(2) arranging for the continued operation of Landsats 4 and 5 until Landsat 6 becomes operational; and

(3) acting expeditiously and fairly to modify any existing contracts which the Federal Government may have with private companies for the operation of Landsat vehicles and the marketing of unenhanced Landsat data that would otherwise prevent or inhibit the full implementation of this Act.

(b) RESPONSIBILITY OF ADMINISTRATOR AND THE SECRETARY OF DEFENSE.—The Administrator and the Secretary of Defense, jointly, will be responsible for ensuring the continued operation of the Landsat system commencing on the date that Landsat 6 is declared operational. In cooperation with the Secretary under the provisions of paragraph (3) of subsection (a), they shall ensure that any and all modifications to existing contracts and responsibilities required by this Act are accomplished in an expeditious and equitable manner, with the best interest of all parties being considered. Specifically, the Administrator and the Secretary of Defense will—

(1) provide for and oversee the full operation of the Landsat 6 system once the Landsat 6 satellite is declared operational;

(2) provide for the development, launch, and operation of a Landsat 7 system that will provide continuity of data after Landsat 6;

(3) prepare and submit to Congress, within 120 days following the date of the enactment into law of this Act, a comprehensive plan which addresses management and funding responsibilities, systems development and operations, data archiving and dissemination, and commercial considerations associated with the Landsat program. This plan will be consistent with all aspects of this Act, prepared in coordination with other appropriate Government agencies, and reviewed by the National Space Council;

(4) define alternatives and prepare a plan for providing continuity of data beyond Landsat 7; and

(5) with support of the Department of Energy and other appropriate agencies, prepare a coordinated technology plan designed to improve the performance and reduce the cost of future Landsat systems.

(c) DISCLAIMER.—The provisions of this section shall not affect the authority of the Administrator and the Secretary of Defense to contract for the operation of part or all of the Landsat system, so long as the Federal Government retains—

(1) ownership of such system;

(2) ownership of the unenhanced data acquired by the Landsat system; and

(3) authority to make decisions concerning operation of the system.

SEC. 202. DISSEMINATION OF UNENHANCED DATA.

(a) DISSEMINATION POLICY.—The Administrator and the Secretary of Defense shall implement a Landsat data dissemination policy, defined in the plan required by section 201(b)(3), that—

(1) ensures that existing Landsat data and future unenhanced data acquired by the Landsat system are routinely available to Earth and global change research scientists at costs that do not exceed the marginal cost of filling a specific user request;

(2) considers the reasonable and legitimate requirements of all segments of the satellite land remote sensing user community for access to unenhanced Landsat data; and

(3) ensures that copies of all unenhanced data acquired by the Landsat system are provided to the Secretary of the Interior for permanent preservation.

(b) AUTHORITY NOT AFFECTED.—The provisions of this section shall not affect the authority of the Administrator and the Secretary of Defense to contract for the dissemination of data acquired by the Landsat system, so long as—

(1) the Federal Government retains ownership of all unenhanced data acquired by the Landsat system;

(2) no exclusive marketing rights are extended to any contractor;

(3) the Federal Government retains the right to set pricing policy for unenhanced data; and

(4) all other requirements of this section are met.

SEC. 203. FOREIGN GROUND STATIONS.

The Administrator and the Secretary of Defense shall ensure that commitments existing on the date of the enactment into law of this Act to provide Landsat data to foreign ground stations, under terms of agreements between the Federal Government and nations that operate such ground stations are honored and, as appropriate, renewed.

TITLE III—LICENSING OF PRIVATE REMOTE SENSING SPACE SYSTEMS

SEC. 301. GENERAL AUTHORITY.

(a) LICENSES FOR PRIVATE SECTOR.—(1) In consultation with other appropriate Federal

agencies, the Secretary is authorized to license private sector parties to operate private remote sensing space systems for such period as the Secretary may specify and in accordance with the provisions of this title.

(2) In the case of a private space system that is used for remote sensing and other purposes, the authority of the Secretary under this title shall be limited only to the remote sensing operations of such space system.

(b) PROHIBITION.—No license shall be granted by the Secretary unless the Secretary determines in writing that the applicant will comply with the requirements of this Act, any regulations issued pursuant to this Act, and any applicable international obligations and national security concerns of the United States.

(c) REVIEW.—The Secretary shall review any application and make a determination thereon within 120 days of the receipt of such application. If final action has not occurred within such time, the Secretary shall inform the applicant of any pending issues and of actions required to resolve them.

(d) LIMITATION.—The Secretary shall not deny such license in order to protect any existing licensee from competition.

SEC. 302. CONDITIONS FOR OPERATION.

(a) REQUIREMENT TO HAVE LICENSE.—No person who is subject to the jurisdiction or control of the United States may, directly or through any subsidiary or affiliate, operate any private remote sensing space system without a license pursuant to section 301.

(b) LICENSE REQUIREMENTS.—Any license issued pursuant to this title shall specify, at a minimum, that the licensee shall comply with all of the requirements of this Act and shall—

(1) operate the system in such manner as to preserve and promote the national security of the United States and to observe and implement the international obligations of the United States in accordance with section 505;

(2) make unenhanced data available to all potential users on a nondiscriminatory basis;

(3) upon termination of operations under the license, make disposition of any satellites in space in a manner satisfactory to the President;

(4) promptly make available all unenhanced data which the Secretary of the Interior may request pursuant to section 502;

(5) furnish the Secretary with complete orbit and data collection characteristics of the system, obtain advance approval of any intended deviation from such characteristics, and inform the Secretary immediately of any unintended deviation;

(6) notify the Secretary of any agreement the licensee intends to enter with a foreign nation, entity, or consortium involving foreign nations or entities;

(7) permit the inspection by the Secretary of the licensee's equipment, facilities, and financial records;

(8) surrender the license and terminate operations upon notification by the Secretary pursuant to section 303(a)(1); and

(9)(A) notify the Secretary of any "value added" activities (as defined by the Secretary by regulation) that will be conducted by the licensee or by a subsidiary or affiliate; and

(B) if such activities are to be conducted, provide the Secretary with a plan for compliance with the provisions of this Act concerning nondiscriminatory access.

SEC. 303. ADMINISTRATIVE AUTHORITY OF THE SECRETARY.

(a) AUTHORITY OF SECRETARY.—In order to carry out the responsibilities specified in this title, the Secretary may—

(1) grant, terminate, modify, condition, transfer, or suspend licenses under this title, and upon notification of the licensee may terminate licensed operations on an immediate basis, if the Secretary determines that the licensee has substantially failed to comply with any provision of this Act, with any regulation issued under this Act, with any terms, conditions, or restrictions of such license, or with any international obligations or national security concerns of the United States;

(2) inspect the equipment, facilities, or financial records of any licensee under this title;

(3) provide penalties for noncompliance with the requirements of licenses or regulations issued under this title, including civil penalties not to exceed $10,000 (each day of operation in violation of such licenses or regulations constituting a separate violation);

(4) compromise, modify, or remit any such civil penalty;

(5) issue subpoenas for any materials, documents, or records, or for the attendance and testimony of witnesses for the purpose of conducting a hearing under this section;

(6) seize any object, record, or report where there is probable cause to believe that such object, record, or report was used, is being used, or is likely to be used in violation of this Act or the requirements of a license or regulation issued thereunder; and

(7) make investigations and inquiries and administer to or take from any person an oath, affirmation, or affidavit concerning any matter relating to the enforcement of this Act.

(b) RIGHT TO AN ADJUDICATION.—Any applicant or licensee who makes a timely request for review of an adverse action pursuant to subsection (a) (1), (3), or (6) shall be entitled to adjudication by the Secretary on the record after an opportunity for an agency hearing with respect to such adverse action. Any final action by the Secretary under this subsection shall be subject to judicial review under chapter 7 of title 5, United States Code.

SEC. 304. REGULATORY AUTHORITY OF THE SECRETARY.

The Secretary may issue regulations to carry out the provisions of this title. Such regulations shall be promulgated only after public notice and comment in accordance with the provisions of section 553 of title 5, United States Code.

SEC. 305. AGENCY ACTIVITIES.

(a) PRIVATE SYSTEMS.—A private sector party may apply for a license to operate a private remote sensing space system which utilizes, on a space-available basis, a civilian Federal Government satellite or vehicle as a platform for such system. The Secretary, pursuant to the authorities of this title, may license such system if it meets all conditions of this title and—

(1) the system operator agrees to reimburse the Government immediately for all related costs incurred with respect to such utilization, including a reasonable and proportionate share of fixed, platform, data transmission, and launch costs; and

(2) such utilization would not interfere with or otherwise compromise intended civilian missions of the Federal Government as determined by the agency responsible for such civilian platform.

(b) ASSISTANCE.—The Secretary may offer assistance to private sector parties in finding appropriate opportunities for such utilization.

(c) AGREEMENTS.—To the extent provided in advance by appropriation Acts, any Federal agency may enter into agreements for such utilization if such agreements are consistent with such agency's mission and statutory authority, and if such remote sensing space system is licensed by the Secretary before commencing operation.

(d) DISCLAIMER.—The provisions of this section do not apply to activities carried out under title IV.

(e) AUTHORITY OF COMMISSION UNAFFECTED.—Nothing in this title shall affect the authority of the Federal Communications Commission pursuant to the Communications Act of 1934, as amended (47 U.S.C. 151 et seq.).

SEC. 306. TERMINATION.

If, by December 31, 1999, no private sector party has been licensed and continued in operation under the provisions of this title, the authority of this title shall terminate.

TITLE IV—RESEARCH AND DEVELOPMENT

SEC. 401. CONTINUED FEDERAL RESEARCH AND DEVELOPMENT.

(a) DIRECTOR TO CONTINUE PROGRAM.—(1) The Administrator is directed to continue and to enhance such Administration's programs of remote sensing research and development.

(2) The Administrator is authorized and encouraged to—

(A) conduct experimental space remote sensing programs (including applications demonstration programs and basic research at universities);

(B) develop remote sensing technologies and techniques, including those needed for monitoring the Earth and its environment; and

(C) conduct such research and development in cooperation with other Federal agencies and with public and private research entities (including private industry, universities, State and local governments, foreign governments, and international organizations) and to enter into arrangements (including joint ventures) which will foster such cooperation.

(b) ENVIRONMENT.—(1) In order to enhance the United States ability to manage and utilize its renewable and nonrenewable resources and in order to develop remote sensing technologies and techniques required to study the Earth and monitor its changing environment and provide for national security, the Secretary of Agriculture, the Secretary of the Interior, the Secretary of Defense and the Secretary of Energy are authorized and encouraged to conduct programs of research and development in the applications of remote sensing using funds appropriated for such purposes.

(2) Such programs may include basic research at universities, demonstrations of applications, and cooperative activities involving other Government agencies, private sector parties, and foreign and international organizations.

(c) RESEARCH AND DEVELOPMENT.—Other Federal agencies are authorized and encouraged to conduct research and development on the use of remote sensing in fulfillment of their authorized missions, using funds appropriated for such purposes.

(d) REPORTS.—The Administrator and the Secretary of Defense, in cooperation with other appropriate departments and agencies, shall develop and transmit to the Congress biennial reports which include—

(1) a compilation of progress in the relevant ongoing research and development activities of the Federal agencies; and

(2) an assessment of the state of our knowledge of the Earth and its atmosphere, the needs for additional research (including research related to operational Federal remote sensing space programs), and opportunities available for further progress.

TITLE V—GENERAL PROVISIONS

SEC. 501. NONDISCRIMINATORY DATA AVAILABILITY.

(a) MAKING DATA AVAILABLE.—Any unenhanced data generated by the Landsat system, or by any system operator under the provisions of this Act, shall be made available to all users on a nondiscriminatory basis in accordance with the requirements of this Act.

(b) INFORMATION.—The Administrator and the Secretary of Defense and any other system operator shall make publicly available the prices, policies, procedures, and other terms and conditions (but not necessarily the names of buyers or their purchases) upon which the operator will sell such data.

SEC. 502. ARCHIVING OF DATA.

(a) PUBLIC INTEREST.—It is in the public interest for the Federal Government—

(1) to maintain an archive of land remote sensing data for historical, scientific, and technical purposes, including long-term global environmental monitoring;

(2) to control the content and scope of the archive; and

(3) to assure the quality, integrity, and continuity of the archive.

(b) DUTIES OF SECRETARY OF THE INTERIOR.—The Secretary of the Interior shall provide for long-term storage, maintenance, and upgrading of a basic, global, land remote sensing data set (hereinafter referred to as the "basic data set") and shall follow reasonable archival practices to assure proper storage and preservation of the basic data set.

(c) CRITERION AND PROCEDURES.—In consultation with the Secretary of the Interior, the Administrator and the Secretary of Defense will include in the plan required in section 201(b)(3) the criteria and procedures by which—

(1) Landsat and other land remote sensing data will be added to the basic data set; and

(2) data in the archive will be made available to parties requesting data from the archive.

(d) REQUIREMENTS IMPOSED ON SECRETARY OF THE INTERIOR.—In determining the initial content of, or in upgrading, the basic data set, the Secretary of the Interior shall—

(1) use as a baseline the data archived on the date on which Landsat 6 is declared operational;

(2) take into account future technical and scientific developments and needs;

(3) consult with and seek the advice of users and producers of remote sensing data and data products;

(4) consider the need for data which may be duplicative in terms of geographical coverage but which differ in terms of season, spectral bands, resolution, or other relevant factors;

(5) include, as he or she considers appropriate, any and all unenhanced data generated by the Landsat system, which the Administrator and Secretary of Defense will promptly provide to the archive; and

(6) ensure that the content of the archive is developed in accordance with section 505.

(e) FOREIGN OPERATIONS.—Subject to the availability of appropriations, the Secretary of the Interior may request data needed for the basic data set from foreign ground stations, foreign system operators, and private system operators and pay to the providing system operator reasonable costs for reproduction and transmission.

(f) USE OF FEDERAL FACILITIES.—In carrying out the functions of this section, the Secretary of the Interior shall, to the extent practicable and as provided in advance by appropriation Acts, use existing Government facilities.

SEC. 503. NONREPRODUCTION.

Unenhanced data distributed by any private system operator under the provisions under title III of this Act may be sold on the condition that such data will not be reproduced or disseminated by the purchaser.

SEC. 504. RADIO FREQUENCY ALLOCATION.

(a) SPECTRUM.—As necessary and appropriate, the President (or the President's delegate, if any, with authority over the assignment of frequencies to radio stations or classes of radio stations operated by the United States) shall make available for nongovernmental use spectrum presently allocated to Government use, for use by any commercial remote sensing space systems licensed pursuant to title III of the Act. The spectrum to be so made available shall conform to any applicable international radio or wire treaty or convention, or regulations annexed thereto. As necessary and appropriate, the Federal Communications Commission shall utilize appropriate procedures to authorize the use of such spectrum for nongovernmental use. Nothing in this section shall preclude the ability of the Commission to allocate additional spectrum to commercial land remote sensing space satellite system use.

(b) APPLICATIONS.—To the extent required by the Communications Act of 1934 (47 U.S.C. 151 et seq.), an application shall be filed with the Federal Communications Commission for any radio facilities involved with the commercial remote sensing space system.

(c) CONGRESSIONAL INTENT.—It is the intent of Congress that the Federal Communications Commission complete the radio licensing process under the Communications Act of 1934 (47 U.S.C. 151 et seq.), upon the application of any private sector party or consortium operator of any commercial land remote sensing space system subject to this Act, within 120 days of the receipt of an application for such licensing. If final action has not occurred within 120 days of the receipt of such an application, the Federal Communications Commission shall inform the applicant of any pending issues and of actions required to resolve them.

(d) AUTHORITY NOT REQUIRED.—Authority shall not be required from the Federal Communications Commission for the development and construction of any United States land remote sensing space system (or component thereof), other than radio transmitting facilities or components, while any licensing determination is being made.

(e) INTERNATIONAL OBLIGATIONS.—Frequency allocations made pursuant to this section by the Federal Communications Commission shall be consistent with international obligations and with the public interest.

SEC. 505. NATIONAL SECURITY AND INTERNATIONAL OBLIGATIONS.

(a) NATIONAL SECURITY.—The Secretary of Defense shall act on all matters under this Act affecting national security. The Secretary of Defense shall be responsible for determining those conditions, consistent with this Act, necessary to meet national security concerns of the United States and for notifying the Secretary promptly of such conditions.

(b) SECRETARY OF STATE.—(1) The Administrator and the Secretary of Defense shall consult with the Secretary of State on all matters under this Act affecting international obligations. The Secretary of State shall be responsible for determining those conditions, consistent with this Act, necessary to meet international obligations and policies of the United States and for notifying the Administrator and Secretary of Defense promptly of such conditions.

(2) Appropriate Federal agencies are authorized and encouraged to provide remote sensing data, technology, and training to developing nations as a component of programs of international aid.

TITLE VI—PROHIBITION OF COMMERCIAL- IZATION OF WEATHER SATELLITES

SEC. 601. PROHIBITION.

Neither the President nor any other official of the Federal Government shall make any effort to lease, sell, or transfer to the private sector, commercialize, or in any way dismantle any portion of the weather satellite systems operated by the Department of Commerce or any successor agency.

SEC. 602. FUTURE CONSIDERATIONS.

Regardless of any change in circumstances subsequent to the enactment of this Act, even if such change makes it appear to be in the national interest to commercialize weather satellites, neither the President or any other official of the Federal Government shall take any action prohibited by section 601 while this title is in effect.

By Mr. BINGAMAN:

S. 2298. A bill to amend the Federal Food, Drug, and Cosmetic Act to regulate the sale and distribution of tobacco products containing tar, nicotine, additives, carbon monoxide, and other potentially harmful constituents, and for other purposes; to the Committee on Commerce, Science, and Transportation.

TOBACCO HEALTH AND SAFETY ACT

• Mr. BINGAMAN. Mr. President, today I am proud to introduce the Tobacco and Nicotine Health and Safety Act of 1992. My friend and colleague in the House, Representative SYNAR, joins me in taking this important step toward the demise of what may be one of the greatest killers of all time: tobacco.

I urge all my colleagues in the Senate to join this effort, but I know that such an expectation is unrealistic. That is a shame because before this day ends, more than 1,000 people will die from smoking cigarettes or chewing tobacco. Tomorrow another 1,000 or more will die. A thousand or more will die the next day. And they will continue to die until we make a serious commitment to addressing the dangers of tobacco use.

Indeed, the Surgeon General of the United States has named tobacco use the single most preventable cause of death and disability in our country. Every year tobacco products kill more Americans—about 430,000—than does alcohol and drug abuse, accidents, and suicides combined.

But aside from the personal loss of life, the economic and social costs of tobacco use are enormous. Estimates are that tobacco use costs our country

more than $65 billion in lost productivity and health care expenses. And every day, more than 3,000 American teenagers—or 60 percent of all new smokers—start smoking.

Yet the manufacturer and sale of tobacco products remain virtually unregulated, and tobacco products are largely exempted from the laws we have established to protect the public from unsafe consumer products. All of this despite the fact that we now know without question that cigarettes and other tobacco products containing nicotine are highly addictive.

It is time for a change. It is time for the Federal Government to take an active role in regulating the manufacture and sale of tobacco products. It is time for the Federal Government to provide the American public with the facts they need to make informed decisions about the use of tobacco products.

As the Secretary of Health and Human Services, Dr. Louis Sullivan, has said:

[I]f the adult smoking rate continues at present levels, at least five million of the American children who are alive today will die of smoking related diseases. That is a catastrophe which we must prevent.

Well, today is the day for the Federal Government to put its money where its mouth is. It is time for the Secretary, and the President of the United States—who in the past two State of the Union Addresses and on numerous other occasions has advocated for a greater focus on preventive health and pledged to increase the Federal Government's commitment to prevention—to work with us for a healthier, more productive America.

The Tobacco and Nicotine Health and Safety Act of 1992 will lay the foundation for the type of change we need, and it will lead to a healthier, more productive America.

The act will:

Provide the Secretary of the Department of Health and Human Services with the authority to reduce the levels of harmful additives or prohibit the use of those additives entirely;

Provide the Food and Drug Administration with the authority to regulate nontobacco products that contain nicotine, which shall be categorized as drugs;

Require that tobacco manufacturers fully disclose all chemical additives in tobacco products; and

Prohibit the distribution of free samples and coupons for cigarettes.

This is important legislation, and again I urge my colleagues to support it.

Finally, Mr. President, I want to commend the Coalition on Smoking or Health, which is the American Heart Association, the American Lung Association, and the American Cancer Society, and individuals across the country concerned about our Nation's health, for their efforts over the past several years, and today in particular, to bring the problems of tobacco use under control.

Today, the coalition asked Secretary Sullivan and the Congress to make tobacco control a part of our efforts to reform health care in America. I pledge to do all I can toward that laudable objective, and I urge my colleagues in the Congress and the administration to join this effort. I ask that the coalition's press release on their activities today and a statement by Scott Ballin, a member of the Coalition on Smoking or Health's steering committee, be included in the RECORD.

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

HEALTH GROUPS CALL ON ADMINISTRATION, CONGRESS TO MAKE TOBACCO CONTROL POLICY PART OF NATIONAL HEALTH CARE REFORM

WASHINGTON, February 27.—Three major American health organizations today called on the Administration and Congress to take immediate steps to include tobacco control policy measures as part of national health care reform.

The presidents of the American Heart Association, the American Lung Association and the American Cancer Society wrote to President Bush today asking the administration to support legislation that would give the Food and Drug Administration clear authority to take action against tobacco manufacturers and tobacco products for health and safety reasons. "The health of the American people can no longer be sacrificed for the profits of the tobacco industry. If tobacco is to remain on the market, it should be treated for what it is, an addictive drug," the letter stated.

In a joint statement today, W. Virgil Brown, M.D., president of the American Heart Association, John D. White, Ph.D., president of the American Lung Association, and Walter Lawrence, Jr., M.D., president of the American Cancer Society, said, "Our organizations believe that an aggressive federal commitment to tobacco control policies must be part of national health care reform. The president and Congress should not ask Americans to take responsibility for their health until they are willing to stand up to the tobacco industry with specific policy measures that will reduce tobacco-related death and disease in this country."

As part of this effort, The American Cancer Society, the American Heart Association and the American Lung Association, united as the Coalition on Smoking OR Health, today petitioned the Food and Drug Administration and the Federal Trade Commission to use their existing authority to regulate as "drugs" tobacco products that make health claims and use advertising and promotional campaigns to mislead consumers that some cigarettes are safer, healthier or less addictive than others. The Coalition filed petitions to Merit "Ultima," manufactured by the Philip Morris Company, "Jazz" cigarettes, imported from Argentina for sale and distribution in the United States by Bensen International, and all cigarettes which make implied or direct weight loss claims, especially those marketed to women.

"The FDA has said that it will respond to this nation's most serious public health problems, yet tobacco products continue to be the grave omission on the regulatory menu. This country's most important consumer health and safety agency cannot continue to drop the ball on this nation's most preventable cause of death," said Scott D. Ballin, a spokesperson for the Coalition and vice president for public affairs for the American Heart Association.

In its petitions, the Coalition states that, because of the addictive properties of nicotine, tobacco has been recognized as a serious drug abuse problem by the World Health Organization and the U.S. Public Health Service; the National Institute of Drug Abuse (part of the U.S. Department of Health and Human Services) has described cigarettes as the "most widespread example of drug dependence" in our nation.

The Coalition's petition to the FDA on "Ultima" states that, "Merit 'Ultima' is an obvious response to consumer concerns about the dangers associated with cigarette smoking, including nicotine addiction." The petition also says that Philip Morris attempts to play up the safety factors of "Ultima," but it fails to provide important information to consumers, such as chemical additives used to provide flavor, a listing of chemical constituents in tobacco smoke, such as arsenic and benzene, information about the need for smokers to smoke more of the product to satisfy their nicotine addiction, and information about the interaction with birth control pills or with preexisting conditions such as heart disease and stroke. The petition also states that, "Philip Morris has for many years recognized the important role that nicotine plays in the smoking habit." The petition references an internal Philip Morris document, which states that, "Nicotine and an understanding of its properties are important to the continued well being of our cigarette business," and that research into alternative products "is justified ... as a defensive response to the antismoking forces criticisms of nicotine" and is "fundamental" to understanding "how it affects our customers, the smokers." The petition concludes that, if the FDA examines the marketing of "Ultima," "it will agree that Philip Morris intends to, and does, imply that the low-tar, low-nicotine aspects of the product reduce the health risks associated with cigarette smoking."

In its petition to the FDA on "Jazz" cigarettes, the Coalition states that advertisements for the product make claims such as, "No Reason To Quit Smoking," and, "Now You Can Enjoy The Luxury Of Smoking Without Worry." According to the petition, the packets of the so-called "Nicotine-free" cigarettes claim "Non-Tobacco," but the advertisements claim "Real Tobacco." "There is nothing on the packet or the advertisement to support any of the direct or implied health claims made. 'Jazz' cigarettes are marketed and sold with the intended purpose of convincing smokers and potential smokers that these products are safer and less addictive than conventional cigarettes," the petition states. The petition asks the FDA to use its authority to assert jurisdiction over "Jazz." "The Food and Drug Administration would not allow such unregulated, unsubstantiated practices to be carried out for a prescription drug such as Valium or Nicorette gum or the transdermal nicotine patches," the petition states.

In a third petition to the FDA, the Coalition asks that the agency take action against cigarette companies which manufacture, advertise and promote products which imply that use of the product will suppress appetite and help control weight. Petitioning the FDA to classify those products as "drugs" under the Food Drug and Cosmetic

Act, the Coalition states that the tobacco industry promotes such products to keep women smoking and to recruit younger female smokers. The petition references the 1990 Surgeon General's report which found that, lung cancer deaths are increasing steadily among women, smoking during pregnancy poses risks to the developing fetus, and smoking and oral contraceptive use dramatically increase the risk of cardiovascular diseases.

The Coalition on Smoking OR Health was formed in 1982 by the American Cancer Society, the American Heart Association, and the American Lung Association to more effectively inform federal legislators and other public officials of the health consequences of tobacco use. The three health organizations together represent more than six million volunteers throughout the United States.

STATEMENT OF SCOTT D. BALLIN

With the filing of today's petition and the introduction of legislation in both the House and the Senate, we are asking the Food and Drug Administration, the Federal Trade Commission, the Administration and the Congress to take off their political "blinders" and to carry out their role to effectively regulate and control the manufacture, sale, distribution, advertising and promotion of tobacco—this nation's single most preventable cause of death.

Smoking kills more than 430,000 Americans each year. Yet there is no existing public policy strategy to regulate tobacco products. The government can continue to turn a deaf ear to the millions of people who have died and the millions who will continue to die in deference to tobacco political interests. Collectively, tobacco companies represent one of this Nation's most irresponsible industries. Internal documents released during the Cipollone liability case prove that the tobacco industry knew long ago about the addictive effects of cigarette smoking and its relationship to disease. The tobacco industry has embarked on a long history of deception and manipulation to keep its products on the market in spite of the well known, well established fact that smoking kills. We've seen recent action on the part of the FDA with respect to silicone breast implants and food labeling. It's time for action on tobacco products.

How can we as a nation talk seriously about health care reform and controlling health care costs when we refuse to regulate tobacco? The tobacco industry has escaped regulation under every major health and safety law and is costing the country $65 billion a year in health care costs and lost productivity—that's $221 for every American.

The Coalition believes that two things must be accomplished if we are going to have a significant impact on reducing deaths and disability due to the use of tobacco products.

1. The FDA and the FTC must use their existing authorities to regulate cigarettes as "drugs" when implied health claims are made or when the advertising is deemed to be misleading and/or deceptive.

2. Legislation should be enacted that would give the FDA the authority to regulate tobacco products in a manner comparable to the way that other legal products are regulated.

Legislation is being introduced on Capitol Hill today to accomplished the second objective. That legislation has our full support.

Today as part of the effort to achieve the first objective, the Coalition is filing three petitions with the FDA and three with the FTC.

These petitions join a number of petitions currently pending at these two agencies. Today we ask for swift and immediate FDA and FTC action.

Let me outline for you what those petitions are about and what they seek to accomplish.

FOOD AND DRUG ADMINISTRATION

Since the 1930s, the FDA has had broad statutory authority to regulate products which make direct or implied health claims, imply that use of that product will mitigate disease or have an effect on functions or structure of the body. The FDA has only on rare occasions (primarily for political reasons) used that well established authority when it comes to tobacco products. Let me be very clear, the determining factor as to whether the FDA has jurisdiction over cigarette products as "drugs" is not whether the product is a cigarette or whether it contains tobacco, but rather the purpose for which the product is being marketed. If the product is sold with the intention of misleading consumers into believing that its use will guarantee safe smoking, keep them from being addicted, or help them lose weight, then the product is a "drug" under the FDC Act, subject to the FDA's full drug authorities.

The FDA petitions being filed today ask the FDA to take action in three areas.

First: To rule that the recently introduced Philip Morris product, Merit "Ultima," be classified as a "drug" under the FDC Act because of the low tar and low nicotine claims. These claims are nothing more than an attempt to mislead consumers into believing that they can reduce their risks of disease and addiction by smoking these products.

Second: To rule that "Jazz" cigarettes be classified as "drugs" under the FDC Act because of the health claims made about the safety of the product, the lack of nicotine in the product, and the claim that "Cigarettes without nicotine mean no health hazard."

Third: To rule that all cigarettes which convey the notion that use of the product will suppress appetite and help control weight through the use of subtle, but calculated advertising strategies, be classified as "drugs."

The details, both the factual grounds and the legal grounds are spelled out in the petitions.

FEDERAL TRADE COMMISSION

The Federal Trade Commission has the authority under Section 5 of the Federal Trade Commission Act to regulate misleading and deceptive advertising. It is our contention that advertisements for the three product areas I just mentioned are misleading and deceptive.

It is our belief that it is misleading for Merit "Ultima" and "Jazz" cigarettes (as well as other low tar and low nicotine products) to advertise in a manner that will, without scientific substantiation, mislead consumers into believing that they are smoking a "safer" cigarette and therefore reducing their health and addiction risks.

It is likewise misleading for tobacco companies to continue to use glamorous, thin, sexually attractive models and themes that send the message to American women that cigarette smoking will suppress appetite and help control weight gain.

Allowing such deceptions to continue is an insult to the government's mission to protect consumer's health.

Given the significant health hazards of tobacco, we believe that is a health travesty that cigarettes are even allowed to be sold in this country. However, if they are to remain on the market, it is incumbent upon the FDA and the FTC to use their authorities to ensure that consumers are protected to the greatest extent possible.

I want to end with a quote from FDA Commissioner David Kessler, which I think sums up the belief and hopes that our organizations hold and the reasons why we are announcing our actions today.

The Commissioner said:

"Above all we [the FDA] must stand for the principles that breathe life into the Federal Food, Drug and Cosmetic Act.

"Our society has judged that it is the purveyor of goods that must be responsible for ensuring that they are safe, effective and properly labeled.

"Congress has given the FDA the authority to deal with those who would shirk their statutory responsibilities. And I promise you, the FDA will not be a 'paper tiger.'

"The other fundamental principle that gives life to our statute is the FDA's positive duty to promote and protect the public health. This principle requires the agency to act promptly and efficiently in everything we do."•

By Mr. SARBANES (for himself and Mr. SASSER):

S. 2299. A bill to amend title 31, United States Code, to assist State and local governments in financing urgent public needs caused by the recession by providing for Federal payments to those State and local governments, and for other purposes; to the Committee on Banking, Housing and Urban Affairs.

S. 2300. A bill to amend title 31, United States Code, to assist State and local governments in meeting urgent public needs by providing for no-cost Federal loans to State and local governments, and for other purposes; to the Committee on Banking, Housing and Urban Affairs.

By Mr. SASSER (for himself and Mr. SARBANES):

S. 2301. A bill to amend the Intermodal Surface Transportation Efficiency Act of 1991, the Federal Transit Act, and the Federal Water Pollution Control Act to provide assistance to States for certain infrastructure projects, and for other purposes.

STATE AND LOCAL ANTI-RECESSION FISCAL ASSISTANCE ACT OF 1992 AND ANTI-RECESSION LOAN ACT OF 1992 AND INFRASTRUCTURE STIMULUS ACT OF 1992

• Mr. SARBANES. Mr. President, I am pleased to join with my colleague, Senator JIM SASSER, chairman of the Senate Budget Committee, in introducing today three bills designed to bring to an end the longest recession since World War II and lay the foundations for growth in the future.

The recession and the economic stagnation that has persisted for the past few years is unlikely to end without a decisive shift in economic policy. On January 3, Senator SASSER and I outlined a proposal to boost the economy out of recession and help ensure more vigorous long-term growth. The three bills we are introducing today are part of that program.

Governments at all levels are economic actors and have traditionally played an important role as countercyclical stabilizers during recessions. By increasing spending when others are cutting back, governments can blunt the effects of recession and start the economy back on the road to recovery. However, in this recession State and local governments are contracting and therefore working against countercyclical stabilization. At the very least, fiscal policies should do no harm. I am gravely concerned that in this recession, fiscal policies are actually contributing to the downturn rather than helping to alleviate it.

The recession is forcing State and local governments to cut spending and raise taxes, taking money out of the economy when it is already shrinking. States in turn are cutting aid to localities, which are already being squeezed by the downturn. It is illogical for governments to be worsening the situation rather than helping it. Since the Federal Government is the only institution with the flexibility to offset this contractionary effect, we should act promptly.

Our plan would provide a carefully targeted combination of loans, grants, and waivers of Federal matching requirements that will help stem the downward spiral at the State and local level and fund the types of public investments that boost prospects for growth over the longer term.

The first bill, the State and Local Anti-Recession Fiscal Assistance Act of 1992, would provide $20 billion in antirecession grants to State and local governments. The money would be available to fund education, critical infrastructure and public works projects or to prevent layoffs of employees in critical areas; $10 billion would be available to States; $10 billion to local governments. The bill recognizes the critical importance of education to our long-term growth prospects, requiring that at least 30 percent of the money provided to States be used for education.

The second bill, The Anti-Recession Loan Act of 1992, would provide $10 billion in antirecession loans to States, local governments and school districts for calendar year 1992. The loans are intended to fund education, public works and infrastructure projects and to prevent layoff of critical personnel. They will help State and local governments meet urgent public needs. While the formula on which the loans would be allocated is based on population, the bill also specifies that priority should be given to local governments within the State with high unemployment rates, high incidence of poverty, and significant fiscal distress in meeting their public services as a result of the current recession.

The loans would be interest free, and borrowers would have 3 years to repay the principal. The bill recognizes that the current recession has created a temporary fiscal problem for our State and local governments. These governments can use loans to help meet the budgetary difficulties associated with the recession, and as the economy improves over the next 3 years, they will be better able to repay the loans.

The third bill, The Infrastructure Stimulus Act of 1992, would waive the State and local matching requirements on Federal aid to highway, mass transit and wastewater projects for fiscal year 1992 and fiscal year 1993 for governments that do not have the money to make the Federal match. For example, mass transit projects that receive 80 percent Federal funding currently require a local match of 20 percent before the project can proceed. The waiver would enable State and local governments to move forward on these mass transit projects using the 80 percent Federal funding.

Governors, mayors and other local officials say that there are numerous projects that are ready to go, but have been put on hold due to lack of funding. With the assistance provided in these three bills, these projects could begin immediately, putting people to work, generating business, and helping to put the local economies on the road to recovery.

The legislation we are introducing today is temporary, carefully targeted, and would put people to work and keep them on the job. We believe these proposals represent a thoughtful and balanced approach to combating the ongoing economic downturn. I hope others will join us in our effort to provide an effective response to the Nation's economic needs.

I ask unanimous consent that the text of the bills appear in the RECORD.

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

S. 2299

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "State and Local Anti-Recession Fiscal Assistance Act of 1992".

SEC. 2. FINDINGS.

(a) The Congress finds that—

(1) the current recession is the longest on record since the Great Depression;

(2) the unemployment rate is 7.1 percent and more than 16,000,000 Americans are unemployed, underemployed, or have given up looking for work altogether;

(3) 1 out of every 10 Americans now receives food stamps;

(4) State and local governments have, because of the current recession and as a result of constitutional and statutory constraints, raised taxes and cut spending by perhaps as much as $35,000,000,000, and these actions are procyclical in nature and constitute a significant fiscal drag on current economic growth; and

(5) the Federal Government has not provided a fiscal stimulus to combat the current recession nor provided countercyclical aid to distressed State and local governments that are curtailing essential educational, public safety, and public works to their citizens.

SEC. 3. ESTABLISHMENT OF PAYMENT PROGRAM.

Chapter 67 of title 31, United States Code, is amended to read as follows:

"CHAPTER 67—ANTI-RECESSION GRANT PAYMENTS

"SUBCHAPTER A—GENERAL PROVISIONS

"Sec.
"6701. Payments to State and local governments.
"6702. Authorization of appropriations.
"6703. Qualifications.
"6704. State allocations.
"6705. State government allocations.
"6706. County government allocations.
"6707. Other local government allocations.
"6708. Adjustments of county and other local government allocations.
"6709. Information used in allocation formulas.
"6710. Public participation.

"SUBCHAPTER B—PROHIBITIONS ON DISCRIMINATION

"Sec.
"6711. Prohibited discrimination.
"6712. Discrimination proceedings.
"6713. Suspension and termination of payments in discrimination proceedings.
"6714. Compliance agreements.
"6715. Enforcement by the Attorney General of prohibitions on discrimination.
"6716. Civil action by a person adversely affected.
"6717. Judicial review.

"SUBCHAPTER C—OTHER PROVISIONS

"Sec.
"6718. Audits, investigations, and reviews.
"6719. Reports.
"6720. Definitions and application.
"6721. Sunset provisions.

"Subchapter A—General Provisions

"§ 6701. Payments to State and local governments

"(a) PAYMENT.—Each State and unit of general local government shall receive an amount equal to the sum of any amounts allocated to that State or government under this chapter for each payment period. The Secretary of the Housing and Urban Development shall pay such sum out of the State and local anti-recession grants authorized under section 6702.

"(b) TIMING OF PAYMENTS.—Except as provided under the regulations of the Secretary, the Secretary shall determine allocations under this chapter—

"(1) for the first payment period after the date of the enactment of the State and Local Anti-Recession Fiscal Assistance Act of 1992, no later than 10 days after such date, and

"(2) for any subsequent payment period, no later than the 5th day of such period.

"(c) ADJUSTMENTS.—The Secretary shall adjust a payment to any State or unit of general local government to the extent that a prior payment was more or less than the amount required to be paid. However, the Secretary may only increase or decrease a payment to the government when the Secretary or the government demands an increase or decrease within 60 days after the end of the payment period for which the payment is made.

"(d) RESERVATION FOR ADJUSTMENTS.—The Secretary may reserve a percentage (of not more than 0.25 percent) of the amount under this section for payments to States and units

of general local governments when the Secretary determines such a reserve is necessary to ensure the availability of sufficient amounts to pay amounts after a final quarterly allocation to States and units of general local governments in the State.

"§ 6702. Authorization of appropriations

"(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $15,000,000,000 for fiscal year 1992 and $5,000,000,000 for fiscal year 1993 for the purposes of providing anti-recession grants to States and units of general local government.

"(b) RETURN OF UNEXPENDED FUNDS.—Any State or unit of general local government receiving grants allocated under this chapter shall return to the general fund of the Treasury any grant funds not expended as of January 31, 1993.

"(c) FISCAL YEAR 1993 APPROPRIATION.—The $5,000,000,000 authorized to be appropriated under this section for fiscal year 1993 shall be made available to States and units of general local government no later than 10 days after the beginning of the fiscal year.

"§ 6703. Qualifications

"(a) IN GENERAL.—Under regulations of the Secretary of Housing and Urban Development, a State and unit of general local government qualifies for payment under this chapter for a payment period only after establishing to the satisfaction of the Secretary that—

"(1) the government will expend the payments so received in accordance with laws and procedures applicable to the expenditure of revenues of the government;

"(2) if at least 25 percent of the pay of individuals employed by the government in a public employee occupation is paid out of grant funds, individuals in the occupation any part of whose pay is paid out of grant funds will receive pay at least equal to the prevailing rate of pay for individuals employed in similar public employee occupations by the government;

"(3) if at least 25 percent of the costs of a construction project are paid out of grant funds, laborers and mechanics employed by contractors or subcontractors on the project will receive pay at least equal to the prevailing rate of pay for similar construction in the locality as determined by the Secretary of Labor under the Act of March 3, 1931 (46 Stat. 1494 et seq., popularly known as the Davis-Bacon Act), and the Secretary of Labor shall act on labor standards under this paragraph in a way that is in accordance with Reorganization Plan No. 14 of 1950 (64 Stat. 1267) and section 2 of the Act of June 13, 1934 (48 Stat. 948);

"(4) the government will use accounting, audit, and fiscal procedures conforming to guidelines prescribed by the Secretary of Housing and Urban Development (after the Secretary consults with the Comptroller General);

"(5) after reasonable notice to the government, the government will make available to the Secretary of Housing and Urban Development and the Comptroller General, with the right to inspect, records the Secretary reasonably requires to review compliance with this chapter or the Comptroller General reasonably requires to review compliance and operations under section 6718(f);

"(6) the government will make reports the Secretary of Housing and Urban Development reasonably requires, in addition to the annual reports required under section 6719(b);

"(7) the government will comply with the requirements of sections 6708 and 6714; and

"(8) the government will give priority to financing education, public safety, and public works programs that are being adversely affected by spending reductions caused by the 1990-1992 recession.

"(b) SANCTIONS FOR NONCOMPLIANCE.—(1) When the Secretary of Housing and Urban Development decides that a State or a unit of general local government has not complied substantially with subsection (a), or regulations prescribed under subsection (a), the Secretary shall notify the government. The notice shall state that if the government does not take corrective action by the 60th day after the date the government receives the notice, the Secretary will withhold additional payments to the government for the current payment period and later payment periods until the Secretary is satisfied that the government—

"(A) has taken the appropriate corrective action; and

"(B) will comply with subsection (a) and regulations prescribed under subsection (a).

"(2) Before giving notice under paragraph (1), the Secretary shall give the chief executive officer of the State or unit of general local government reasonable notice and an opportunity for a proceeding.

"(3) The Secretary may make a payment to the government notified under paragraph (1) only when the Secretary is satisfied that the government—

"(A) has taken the appropriate corrective action; and

"(B) will comply with subsection (a) and regulations prescribed under subsection (a).

"§ 6704. State allocations

"(a) FORMULA ALLOCATION BY STATE.—For each payment period, the Secretary of the Treasury shall allocate to each State, out of the amount appropriated for the period under the authority of section 6702(a) of this title, an amount bearing the same ratio to the amount appropriated as the amount allocated to the State under this section bears to the total amount allocated to all States under this section. The Secretary shall—

"(1) determine the amount allocated to the State under subsection (b) of this section; and

"(2) allocate the amount allocated to the State as provided under sections 6705 through 6707 of this title.

"(b) GENERAL FORMULA.—(1) The amount allocated to a State under this subsection for a payment period is the amount bearing the same ratio to $5,000,000,000 as—

"(A) the population of the State, multiplied by the need factor of the State (determined under paragraph (2)), multiplied by the relative income factor of the State (determined under paragraph (3)); bears to

"(B) the sum of the products determined under subparagraph (A) of this paragraph for all States.

"(2)(A) The need factor of a State for any payment period is equal to the sum of—

"(i) .5, plus

"(ii) .25, multiplied by the 1991 unemployment ratio, plus

"(iii) .25, multiplied by the net unemployment change.

"(B) For purposes of subparagraph (A)(ii), the 1991 unemployment ratio for any State is a fraction—

"(i) the numerator of which is the rate of total unemployment for the State for calendar year 1991, and

"(ii) the denominator of which is the rate of total unemployment for the United States for calendar year 1991.

"(C) For purposes of subparagraph (A)(iii), the net unemployment change is a fraction—

"(i) the numerator of which is the excess (if any) of the rate of total unemployment for the State for the last calendar quarter of 1991 over such rate for the last calendar quarter of 1988, and

"(ii) the denominator of which is the excess (if any) of the rate of total unemployment for the United States for the last calendar quarter of 1991 over such rate for the last calendar quarter of 1988.

"(D) For purposes of this paragraph, the rate of total unemployment for any period is the average total rate of civilian unemployment for such period (as determined by the Secretary of Labor).

"(3)(A) The income factor of a State for any payment period is equal to—

"(i) 1, minus

"(ii) .5, multiplied by the total taxable resources ratio.

"(B) For purposes of subparagraph (A)(ii), the total taxable resources ratio is a fraction—

"(i) the numerator of which is the average total taxable resources of the State for the most recent 3-calendar year period for which data is available, divided by the population of the State, and

"(ii) the denominator of which is the average total taxable resources for the United States for the period described in clause (i), divided by the population of the United States.

"(C) For purposes of this paragraph, the average total taxable resources for any period shall be the amount determined by the Secretary of the Treasury for statistical purposes.

"(D) In the case of the District of Columbia, this paragraph shall be applied by substituting average personal income for average total taxable resources.

"§ 6705. State government allocations

"(a) IN GENERAL.—The State government shall receive 50 percent of all grant allocations made to a State under section 6704 of this title.

"(b) ALLOCATION TO LOCAL GOVERNMENTS.—The chief executive of a State, with the concurrence of the State legislature, may allocate up to 20 percent of the State government's grant allocation under subsection (a) to units of general local government in the State. Such allocations to units of general local government shall be allocated pursuant to the allocation formula set forth under sections 6706 and 6707 of this title.

"(c) ALLOCATION FOR EDUCATION.—Not less than 30 percent of the State government's grant allocation under subsection (a) shall be used for financing current and capital higher or elementary and secondary educational programs administered by the State government, local school districts, or units of general local government in the State. Priority should be given to maintaining a system of State aid to local educational agencies that will help such agencies offset service reductions caused by the current recession.

"§ 6706. County government allocations

"(a) COUNTY AREA ALLOCATION.—The Secretary of Housing and Urban Development shall first allocate among county areas in a State 20 percent of all grant allocations made to the State under section 6704 of this title. Each county area shall receive an amount bearing the same ratio to 20 percent of the amount allocated to the State as the ratio of population of the county area is to the total population of all county areas in the State.

"(b) COUNTY GOVERNMENT ALLOCATION.—The Secretary shall allocate to the county

government in each county area an amount equal to the allocation determined pursuant to subsection (a) of this section.

"(c) REALLOCATION OF GRANTS.—If a State does not have an established system of general purpose county governments, county government allocations under this section shall be reallocated to units of general local government pursuant to a formula set forth in section 6707 of this title.

"§ 6707. Other local government allocations

"(a) OTHER LOCAL GOVERNMENT ALLOCATIONS.—The Secretary of Housing and Urban Development shall allocate 30 percent of all grant allocations made to the State under section 6704 of this title to units of general local governments of a State for which allocations are not made under section 6706. Each unit of general local government to which an allocation is made under this section shall receive an amount bearing the same ratio to the total amount to be allocated to such other units of general local government as the population of the unit of general local government bears to the population of all such units of general local government in the State.

"§ 6708. Adjustments of county and other local government allocations

"(a) MAXIMUM AMOUNT.—(1) The amount allocated to a unit of general local government for a payment period may be not more than 50 percent of the amount of the—

"(A) adjusted taxes of the unit of general local government; and

"(B) transfers (except transfers under this chapter) of revenue to the unit of general local government from another government as a share in financing, or a reimbursement for, the carrying out of governmental duties and powers, as determined by the Secretary of Commerce for general statistical purposes.

"(2) When the amount allocated to a unit of general local government (except a county government, an Indian tribe, or an Alaska Native village) for a payment period would be less than $10,000 but for this paragraph or is waived by the governing authority of the unit of general local government, the Secretary of Housing and Urban Development shall add the amount for that period to the amount allocated to the county government in the county area in which the unit of general local government is located, instead of paying the amount allocated to the unit of general local government. The Secretary shall add the amount of allocation waived by a governing body of an Indian tribe or an Alaska Native village to the amount allocated to the county government in the county area in which the tribe or village is located.

"(b) PRIORITY OF ADJUSTMENTS.—When the Secretary makes an adjustment in an amount allocated to a county area or unit of general local government, the Secretary shall make adjustments in the following order:

"(1) Under subsection (a)(1) of this section.

"(2) Under subsection (a)(2) of this section.

"(c) FURTHER ADJUSTMENTS.—The Secretary shall make adjustments in the amounts allocated to county governments before adjusting amounts allocated to units of general local government.

"(d) REALLOCATIONS TO COUNTY GOVERNMENT.—(1) When the Secretary makes a reduction under subsection (a)(1) of this section in the amount allocated to a unit of general local government, the amount of the reduction—

"(A) if a unit of general local government (except a county government), shall be added to the amount allocated to the county government in which the unit of general local government is located; and

"(B) if a county government, shall be reallocated under subsection (e) of this section.

"(2) When a county government may not receive an additional amount under paragraph (1)(A) of this subsection because of subsection (a) of this section, the Secretary shall reallocate the amount of the reduction under subsection (e) of this section.

"(e) REALLOCATIONS TO OTHER LOCAL GOVERNMENTS.—The Secretary shall reallocate an amount referred to in subsection (d)(1)(B) or (2) of this section—

"(1) by adding the amount to the amounts allocated to other units of general local government in the State to the extent the units of general local government may receive the additional amount after adjustments under subsection (a) of this section; and

"(2) if a unit of general local government may not receive the reallocated amount because of subsection (a) of this section, by allocating the amount among units of general local government in the State on a prorated basis.

"§ 6709. Information used in allocation formulas

"(a) USE OF MOST RECENT INFORMATION.—Except as provided in this chapter, the Secretary of Housing and Urban Development shall use the most recent available information provided by the Secretary of Commerce and the Secretary of Labor before the beginning of the payment period to determine an allocation under this chapter. When the Secretary of Housing and Urban Development decides that the information is not current or complete enough to provide for a fair allocation, the Secretary may use additional information (including information based on estimates) as provided under regulations of the Secretary of Housing and Urban Development.

"(b) POPULATION DATA.—(1) The Secretary of Housing and Urban Development shall determine population on the same basis that the Secretary of Commerce determines resident population for general statistical purposes.

"(2) The Secretary of Housing and Urban Development shall request the Secretary of Commerce to provide the population information provided to the Secretary of Housing and Urban Development as soon as practicable to include the final estimate of the number of resident individuals counted in the 1990 census or in subsequent revisions of the census. The Secretary of Housing and Urban Development shall use the estimates in determining allocations for the payment period beginning after the Secretary of Housing and Urban Development receives the estimates.

"§ 6710. Public participation

"(a) HEARINGS.—A State or unit of general local government expending payments received under this chapter shall hold at least one public hearing for each fiscal period of the government at which persons are given an opportunity to present written and oral views on the possible uses of the payments. The government shall give adequate notice of the hearing and hold the hearing at least 7 calendar days after receiving its quarterly grant allocation. The government shall hold the hearing at a time and a place that allows and encourages public attendance and participation.

"(b) DISCLOSURE OF INFORMATION.—By the 10th day before a hearing required under subsection (a)(1) is held, a State or unit of general local government shall—

"(1) make available for inspection by the public at the principal office of the government a statement of the proposed use of the payment; and

"(2) publish in at least 1 newspaper of general circulation the proposed use of the payment together with notice of the time and place of the hearing.

"(c) WAIVERS OF REQUIREMENTS.—Under regulations of the Secretary of Housing and Urban Development, a requirement—

"(1) under subsection (a) of this section may be waived when the cost of the requirement would be unreasonably burdensome in relation to the amount allocated to the unit of general local government to amounts available for payment under this chapter; and

"(2) under subsection (b)(2) of this section may be waived if the cost of publishing the information would be unreasonably burdensome in relation to the amount allocated to the government to amounts available for payment under this chapter, or when publication is otherwise impracticable.

"(d) EXCEPTION TO 10-DAY LIMITATION.—When the Secretary is satisfied that the unit of a State or unit of general local government will provide adequate notice of the proposed use of a payment received under this chapter, the 10-day period under subsection (b) may be changed to the greatest extent necessary to comply with applicable State or local law.

"(e) APPLICATION TO GOVERNMENTS WITHOUT BUDGETS.—The Secretary shall prescribe regulations for applying this section to units of general local government that do not adopt budgets.

"Subchapter B—Prohibitions on Discrimination

"§ 6711. Prohibited discrimination

"(a) GENERAL PROHIBITION.—No person in the United States shall be excluded from participating in, be denied the benefits of, or be subject to discrimination under, a program or activity of a State or unit of general local government because of race, color, national origin, or sex if the government receives a payment under this chapter.

"(b) ADDITIONAL PROHIBITIONS.—The following prohibitions and exemptions also apply to a program or activity of a State or unit of general local government if the government receives a payment under this chapter:

"(1) A prohibition against discrimination because of age under the Age Discrimination Act of 1975.

"(2) A prohibition against discrimination against an otherwise qualified handicapped individual under section 504 of the Rehabilitation Act of 1973 or titles I and II of the Americans with Disabilities Act of 1990.

"(3) A prohibition against discrimination because of religion, or an exemption from that prohibition, under the Civil Rights Act of 1964 or title VIII of the Act of April 11, 1968 (popularly known as the Civil Rights Act of 1968).

"(c) LIMITATIONS ON APPLICABILITY OF PROHIBITIONS.—Subsections (a) and (b) do not apply when the government shows, by clear and convincing evidence, that a payment received under this chapter is not used to pay for any part of the program or activity with respect to which the allegation of discrimination is made.

"(d) INVESTIGATION AGREEMENTS.—The Secretary of the Treasury shall try to make agreements with heads of agencies of the United States Government and State agen-

cies to investigate noncompliance with this section. An agreement shall—

"(1) describe the cooperative efforts to be taken (including sharing civil rights enforcement personnel and resources) to obtain compliance with this section; and

"(2) provide for notifying immediately the Secretary of actions brought by the United States Government or State agencies against a State or unit of general local government alleging a violation of a civil rights law or a regulation prescribed under a civil rights law.

"§ 6712. Discrimination proceedings

"(a) NOTICE OF NONCOMPLIANCE.—By the 10th day after the Secretary of Housing and Urban Development makes a finding of discrimination or receives a holding of discrimination about a State or unit of general local government, the Secretary shall submit a notice of noncompliance to the government. The notice shall state the basis of the finding or holding.

"(b) INFORMAL PRESENTATION OF EVIDENCE.—The State or unit of general local government may present evidence informally to the Secretary within 30 days after the government receives a notice of noncompliance from the Secretary of Housing and Urban Development. Except as provided in subsection (e), the government may present evidence on whether—

"(1) a person in the United States has been excluded or denied benefits of, or discriminated against under, the program or activity of the government, in violation of section 6711(a);

"(2) the program or activity of the government violated a prohibition described in section 6711(b); and

"(3) any part of that program or activity has been paid for with a payment received under this chapter.

"(c) TEMPORARY SUSPENSION OF PAYMENTS.—By the end of the 30-day period under subsection (b), the Secretary shall decide whether a State or unit of general local government has not complied with section 6711 (a) or (b), unless the government has made a compliance agreement under section 6714. If the Secretary decides that the government has not complied, the Secretary shall notify the government of the decision and shall suspend payments to the government under this chapter unless, within 10 days after the government receives notice of the decision, the government—

"(1) makes a compliance agreement under section 6714; or

"(2) requests a proceeding under subsection (d)(1).

"(d) ADMINISTRATIVE REVIEW OF SUSPENSIONS.—(1) A proceeding requested under subsection (c)(2) shall begin by the 30th day after the Secretary receives a request for the proceeding. The hearing shall be before an administrative law judge appointed under section 3105 of title 5. By the 30th day after the beginning of the proceeding, the judge shall issue a preliminary decision based on the record at the time on whether a State or unit of general local government is likely to prevail in showing compliance with section 6711 (a) or (b).

"(2) When the administrative law judge decides at the end of a proceeding under paragraph (1) that the State or unit of general local government has—

"(A) not complied with section 6711 (a) or (b), the judge may order payments to the government under this chapter terminated; or

"(B) complied with section 6711 (a) or (b), a suspension under subsection (b) shall be discontinued promptly.

"(3) An administrative law judge may not issue a preliminary decision that the government is not likely to prevail when the judge has issued a decision described in paragraph (2)(A).

"(e) BASIS FOR REVIEW.—In a proceeding under subsections (b) through (d) on a program or activity of a State or unit of general local government about which a holding of discrimination has been made, the Secretary or administrative law judge may consider only whether a payment under this chapter was used to pay for any part of the program or activity. The holding of discrimination is conclusive. If the holding is reversed by an appellate court, the Secretary or judge shall end the proceeding.

"§ 6713. Suspension and termination of payments in discrimination proceedings

"(a) IMPOSITION AND CONTINUATION OF SUSPENSIONS.—(1) The Secretary of Housing and Urban Development shall suspend payment under this chapter to a State or unit of general local government—

"(A) if an administrative law judge appointed under section 3105 of title 5 issues a preliminary decision in a proceeding under section 6712(d)(1) that the government is not likely to prevail in showing compliance with section 6711 (a) and (b);

"(B) except as provided in section 6712(d)(2)(B), when the administrative law judge decides at the end of the proceeding that the government has not complied with section 6711 (a) or (b), unless the government makes a compliance agreement under section 6714 by the 30th day after the decision; or

"(C) when required under section 6712(c).

"(2) Except as provided in section 6712(d)(2), a suspension already ordered under paragraph (1)(A) continues in effect when the administrative law judge makes a decision under paragraph (1)(B).

"(b) LIFTING OF SUSPENSIONS AND TERMINATIONS.—When a holding of discrimination is reversed by an appellate court, a suspension or termination of payments in a proceeding based on the holding shall be discontinued.

"(c) RESUMPTION OF PAYMENTS UPON ATTAINING COMPLIANCE.—The Secretary may resume payment to a State or unit of general local government of payments suspended by the Secretary only—

"(1) at the time and under the conditions stated in—

"(A) the approval by the Secretary of a compliance agreement under section 6714(a)(1); or

"(B) a compliance agreement under section 6714(a);

"(2) when the government complies completely with an order of a United States court, a State court, or administrative law judge that covers all matters raised in a notice of noncompliance submitted by the Secretary under section 6712(a);

"(3) when a United States court, a State court, or an administrative law judge (including a judge in a proceeding under section 6712(d)(1)) decides that the government has complied with sections 6711 (a) and (b); or

"(4) when a suspension is discontinued under subsection (b).

"(d) PAYMENT OF DAMAGES AS COMPLIANCE.—Compliance by the government under subsection (c) may include paying restitution to the person injured because the government did not comply with section 6711 (a) or (b).

"(e) RESUMPTION OF PAYMENTS UPON REVERSAL BY COURT.—The Secretary may resume payment to a State or unit of general local government of payments terminated under section 6712(d)(2) only when the decision resulting in the termination is reversed by an appellate court.

"§ 6714. Compliance agreements

"(a) TYPES OF COMPLIANCE AGREEMENTS.—A compliance agreement is an agreement—

"(1) approved by the Secretary of Housing and Urban Development between the governmental authority responsible for prosecuting a claim or complaint that is the basis of a holding of discrimination and the chief executive officer of the State or unit of general local government that has not complied with section 6711 (a) or (b); or

"(2) between the Secretary and the chief executive officer.

"(b) CONTENTS OF AGREEMENTS.—A compliance agreement—

"(1) shall state the conditions the State or unit of general local government has agreed to comply with that would satisfy the obligations of the government under sections 6711 (a) and (b);

"(2) shall cover each matter that has been found not to comply, or would not comply, with section 6711 (a) or (b); and

"(3) may be a series of agreements that dispose of those matters.

"(c) AVAILABILITY OF AGREEMENTS TO PARTIES.—The Secretary shall submit a copy of the compliance agreement to each person who filed a complaint referred to in section 6716(b), or, if an agreement under subsection (a)(1), each person who filed a complaint with a governmental authority, about a failure to comply with section 6711 (a) or (b). The Secretary shall submit the copy by the 15th day after an agreement is made. However, when the Secretary approves an agreement under subsection (a)(1), the Secretary may submit the copy by the 15th day after approval of the agreement.

"§ 6715. Enforcement by the Attorney General of prohibitions on discrimination

"The Attorney General may bring a civil action in an appropriate district court of the United States against a State or unit of general local government that the Attorney General has reason to believe has engaged or is engaging in a pattern or practice in violation of section 6711 (a) or (b). The court may grant—

"(1) a temporary restraining order;

"(2) an injunction; or

"(3) an appropriate order to ensure enjoyment of rights under section 6711 (a) or (b), including an order suspending, terminating, or requiring repayment of, payments under this chapter or placing additional payments under this chapter in escrow pending the outcome of the action.

"§ 6716. Civil action by a person adversely affected

"(a) AUTHORITY FOR PRIVATE SUITS IN FEDERAL OR STATE COURT.—When a State or unit of general local government, or an officer or employee of a government acting in an official capacity, engages in a practice prohibited by this chapter, a person adversely affected by the practice may bring a civil action in an appropriate district court of the United States or a State court of general jurisdiction. Before bringing an action under this section, the person must exhaust administrative remedies under subsection (b).

"(b) ADMINISTRATIVE REMEDIES REQUIRED TO BE EXHAUSTED.—A person adversely affected must file an administrative complaint with the Secretary of Housing and Urban Development or the head of another agency of the United States Government or the State agency with which the Secretary has an

agreement under section 6711(d). Administrative remedies are deemed to be exhausted after the 90th day after the complaint was filed if the Secretary, the head of the Government agency, or the State agency—

"(1) issues a decision that the government has not failed to comply with this chapter; or

"(2) does not issue a decision on the complaint.

"(c) AUTHORITY OF COURT.—In an action under this section, the court—

"(1) may grant—

"(A) a temporary restraining order;

"(B) an injunction; or

"(C) another order, including suspension, termination, or repayment of, payments under this chapter or placement of additional payments under this chapter in escrow pending the outcome of the action; and

"(2) to enforce compliance with section 6711 (a) or (b), may allow a prevailing party (except the United States Government) a reasonable attorney's fee.

"(d) INTERVENTION BY ATTORNEY GENERAL.—In an action under this section to enforce compliance with section 6711 (a) or (b), the Attorney General may intervene in the action when the Attorney General certifies that the action is of general public importance. The United States Government is entitled to the same relief as if the Government had brought the action and is liable for the same fees and costs as a private person.

"§ 6717. Judicial review

"(a) APPEALS IN FEDERAL COURT OF APPEALS.—A State or unit of general local government receiving notice from the Secretary of Housing and Urban Development about withholding payments under section 6702(b), suspending payments under section 6713(a)(1)(B), or terminating payments under section 6712(d)(2)(A), may apply for review of the action of the Secretary by filing a petition for review with the court of appeals of the United States for the circuit in which the government is located. The petition must be filed by the 60th day after the notice is received. The clerk of the court immediately shall send a copy of the petition to the Secretary and the Attorney General.

"(b) FILING OF RECORD OF ADMINISTRATIVE PROCEEDING.—The Secretary shall file with the court a record of the proceeding on which the Secretary based the action. The court may consider only objections to the action of the Secretary that were presented before the Secretary.

"(c) AUTHORITY OF GRANT.—The court may affirm, change, or set aside any part of the action of the Secretary. The findings of fact by the Secretary are conclusive if supported by substantial evidence in the record. When a finding is not supported by substantial evidence in the record, the court may remand the case to the Secretary to take additional evidence. The Secretary may make new or modified findings and shall certify additional proceedings to the court.

"(d) REVIEW ONLY BY SUPREME COURT.—A judgment of the court under this section may be reviewed only by the Supreme Court under section 1254 of title 28.

"Subchapter C—Other Provisions

"§ 6718. Audits, investigations, and reviews

"(a) INDEPENDENT AUDIT.—(1) Except as provided in this section, a State or unit of general local government receiving a payment under this chapter shall have an independent audit made of the financial statements of the government by January 1, 1994, to determine compliance with this chapter. The audit shall be carried out under generally accepted auditing standards.

"(2) Paragraph (1) of this subsection does not apply to a government for a fiscal year in which the government receives less than $25,000 under this chapter. However, an audit of the financial statements of the government for that fiscal year that is required under State or local law is deemed to be in compliance with paragraph (1).

"(3) An audit of financial statements of government carried out under another law of the United States for a fiscal year is deemed to be in compliance with paragraph (1) for that year when the audit substantially complies with the requirements of paragraph (1).

"(b) WAIVER BY LOCAL GOVERNMENT.—(1) A unit of general local government may elect to waive application of subsection (a)(1) of this section when—

"(A) the financial statements of the government are audited by independent auditors under State or local law at least once every 3 years;

"(B) the government certifies that the audit is carried out under generally accepted auditing standards; and

"(C) the auditing provisions of the State or local law are applicable to the payment period to which the waiver applies.

"(2) The election by the government shall include a brief description of the auditing standards used under the State or local law and specify the payment period to which the waiver applies.

"(c) WAIVER BY SECRETARY.—Under regulations of the Secretary of Housing and Urban Development, the Secretary may waive a requirement of subsections (a)(1) and (b) of this section for a unit of general local government when the Secretary decides that the financial statements of the government for the year—

"(1) cannot be audited, and the government shows substantial progress in making the statements auditable; or

"(2) have been audited by a State agency that does not follow generally accepted auditing standards or that is not independent, and the State agency shows progress in meeting generally accepted auditing standards or in becoming independent.

"(d) AUDIT OPINION.—An opinion of an audit carried out under this section shall be provided to the Secretary in the form and at times required by the Secretary.

"(e) INVESTIGATIONS BY SECRETARY.—(1) The Secretary shall maintain regulations providing reasonable and specific time limits for the Secretary to—

"(A) carry out an investigation and make a finding after receiving a complaint referred to in section 6716(b), a determination by a State or local administrative agency, or other information about a possible violation of this chapter;

"(B) carry out audits and reviews (including investigations of allegations) about possible violations of this chapter; and

"(C) advise a complainant of the status of an audit, investigation, or review of an allegation by the complainant of a violation of section 6711 (a) or (b) or other provision of this chapter.

"(2) The maximum time limit under paragraph (1)(A) is 90 days.

"(f) REVIEWS BY COMPTROLLER GENERAL.—The Comptroller General shall carry out reviews of the activities of the Secretary, State governments, and units of general local government necessary for Congress to evaluate compliance and operations under this chapter.

"§ 6719. Reports

"(a) REPORTS BY SECRETARY TO CONGRESS.—No later than March 31, 1993, the Secretary of Housing and Urban Development personally shall report to Congress on—

"(1) the status and operation of the anti-recession grant program; and

"(2) the administration of this chapter, including a complete and detailed analysis of—

"(A) actions taken to comply with sections 6711 through 6715, including a description of the kind and extent of noncompliance and the status of pending complaints; and

"(B) the extent to which units of general local government receiving payments under this chapter have complied with sections 6703 and 6718 (a) and (b), including a description of the kind and extent of noncompliance and actions taken to ensure the independence of audits conducted under section 6718 (a) and (b).

"(b) REPORTS BY STATES AND UNITS OF GENERAL LOCAL GOVERNMENT TO SECRETARY.—No later than June 30, 1993, each State and unit of general local government receiving a payment under this chapter shall submit a report to the Secretary. The report shall be submitted in the form and at a time prescribed by the Secretary and shall be available to the public for inspection. The report shall state—

"(1) the amounts and purposes for which the payment has been appropriated, expended, or obligated; and

"(2) the relationship of the payment to the relevant functional items in the budget of the government.

"§ 6720. Definitions and application

"(a) DEFINITIONS.—In this chapter—

"(1) 'unit of general local government' means—

"(A) a county, township, city, or political subdivision of a county, township, or city, that is a unit of general local government as determined by the Secretary of Commerce for general statistical purposes; and

"(B) except under sections 6704(b), 6705, and 6706(a), the District of Columbia and the recognized governing body of an Indian tribe or Alaska Native village that carries out substantial governmental duties and powers;

"(2) 'payment period' means—

"(A) the period beginning 10 days after enactment of this chapter and ending on the last day of the calendar quarter in which such 10th day occurs; and

"(B) each subsequent calendar quarter beginning before January 1, 1993;

"(3) 'State' means any of the several States and the District of Columbia;

"(4) 'adjusted taxes of a unit of general local government' means the taxes imposed by the unit of general local government for public purposes (except employee and employer assessments and contributions to finance retirement and social insurance systems and other special assessments for capital outlay) determined by the Secretary of Commerce for general statistical purposes and adjusted (under regulations of the Secretary) to exclude amounts properly allocated to education expenses;

"(5) 'finding of discrimination' means a decision by the Secretary about a complaint described in section 6716(b), a decision by a State or local administrative agency, or other information (under regulations prescribed by the Secretary) that it is more likely than not that a unit of general local government has not complied with section 6711 (a) or (b);

"(6) 'holding of discrimination' means a holding by a United States court, a State court, or an administrative law judge appointed under section 3105 of title 5, that a

unit of general local government expending amounts received under this chapter has—

"(A) excluded a person in the United States from participating in, denied the person the benefits of, or subjected the person to discrimination under, a program or activity because of race, color, national origin, or sex; or

"(B) violated a prohibition against discrimination described in section 6711(b); and

"(7) 'Secretary' means the Secretary of Housing and Urban Development.

"(b) TREATMENT OF SUBSUMED AREAS.—When the entire geographic area of a unit of general local government is located in a larger entity, the unit of general local government is deemed to be located in the larger entity. When only part of the geographic area of a unit is located in a larger entity, each part is deemed to be located in the larger entity and to be a separate unit of general local government in determining allocations under this chapter. Except as provided in regulations prescribed by the Secretary, the Secretary shall make all data computations based on the ratio of the estimated population of the part to the population of the entire unit of general local government.

"(c) BOUNDARY AND OTHER CHANGES.—When a boundary line change, a State statutory or constitutional change, annexation, a governmental reorganization, or other circumstance results in the application of sections 6704 through 6708 in a way that does not carry out the purposes of sections 6701 through 6708, the Secretary shall apply sections 6701 through 6708 under regulations of the Secretary in a way that is consistent with those purposes.

"§ 6721. Sunset provisions

"Anti-recession grants made under this chapter shall not be made for any payment period beginning after December 31, 1992."

S. 2300

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 "Anti-Recession Loan Act of 1992".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the current economic recession is the longest on record since the Great Depression;

(2) State and local governments, because of the current recession, are both raising taxes and curtailing essential spending, thereby following a procyclical fiscal policy which is deepening the recession;

(3) the "fiscal drag" caused by these State and local fiscal policies is conservatively estimated to be in the range of $35,000,000,000 per year;

(4) essential public services, both capital and current programs, are being curtailed as a result of the recession; and

(5) the Federal Government, as it has done in past recessions, should provide a countercyclical fiscal stimulus to offset these problems.

SEC. 3. ESTABLISHMENT OF ANTI-RECESSION LOAN PROGRAM.

Title 31, United States Code, is amended by adding after chapter 67 a new chapter as follows:

"Chapter 68—Anti-Recession Loans to State and Local Governments

"Sec.

"6801. Loan assistance by the Secretary of Housing and Urban Development.
"6802. Loan funds.
"6803. State government allocations.
"6804. Local government allocations.
"6805. School district allocations.
"6806. Loan limits.
"6807. Repayment terms.
"6808. Qualifications.
"6809. Information used in allocation formulas.
"6810. Public participation.
"6811. Prohibited discrimination.
"6812. Discrimination proceedings.
"6813. Suspension and termination of payments in discrimination proceedings.
"6814. Compliance agreements.
"6815. Enforcement by Attorney General of prohibitions on discrimination.
"6816. Civil action by a person adversely affected.
"6817. Judicial review.
"6818. Audits, investigations, and reviews.
"6819. Reports.
"6820. Definitions and application.
"6821. Sunset provisions.
"6822. Economic growth and stabilization study.

"§ 6801. Loan assistance by the Secretary of Housing and Urban Development

"(a) IN GENERAL.—The Secretary of Housing and Urban Development (hereafter referred to as the 'Secretary') is authorized, subject to the terms and conditions of this chapter, to extend no-interest loans to State and local governments to assist them to combat public service reductions and deferment of essential public works projects as a consequence of the 1990–1992 recession.

"(b) TIMING OF LOAN ISSUANCE.—Loans made pursuant to this chapter may be made not earlier than 10 days after the enactment of this chapter, and not later than December 31, 1992.

"(c) ELIGIBILITY FOR LOANS.—States, units of general government, school districts, and State or local instrumentalities created pursuant to State law are eligible to receive loans made under this chapter.

"(d) LOAN PURPOSES.—State and local governments eligible for loans under this chapter may use such loans to enhance State and local economic stability and enhance the commercial, industrial, and employment base of State and local communities. Priority should be given to loans—

"(1) to construct, rehabilitate, substantially repair, or equip critical public works facilities, including highways, bridges, urban and rural mass transit facilities, urban development projects, higher education and local education facilities, waterways, waste water treatment works, jails, prisons, judicial buildings or other general government facilities, or capital projects deferred as a result of the 1990–1992 recession; and

"(2) to employ, at up to 100 percent of salary, critical government personnel who are subject to employment termination as a result of the 1990–1992 recession, including teachers at institutions of higher or elementary and secondary education, public safety personnel, including police, firemen, and corrections personnel, or other critical governmental personnel designated by the chief executive officer of the State or local government or school district receiving loan funds.

"§ 6802. Loan funds

"(a) IN GENERAL.—The Secretary may issue notes and other obligations for purchase by the Secretary of the Treasury for the purpose of making direct loans under this chapter. The notes and obligations issued by the Secretary shall be secured by the obligations of the borrowers and the Secretary's commitments to make contributions under this chapter shall be repaid from the payment of principal only on the obligations of the borrowers and from funds authorized to be appropriated under this chapter. The notes and other obligations issued by the Secretary shall be subject to such terms and conditions as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. The Secretary of the Treasury may at any time sell any of the notes or obligations acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or obligations shall be treated as public debt transactions of the United States.

"(b) LOAN AUTHORIZATION.—The Secretary may guarantee loans authorized under this chapter in an aggregate amount of not more than—

"(1) $7,500,000,000 in fiscal year 1992; and

"(2) $2,500,000,000 in fiscal year 1993.

"(c) APPROPRIATIONS FOR STATE AND LOCAL INTEREST SUBSIDY AND POTENTIAL DEFAULTS.—There are authorized to be appropriated in fiscal years 1992, 1993, 1994, 1995, and 1996 such sums as may be necessary to defray the interest rate costs on bonds issued pursuant to this chapter, as well as the costs on any loans that are in default as a result of nonpayment by State and local governments.

"§ 6803. State government allocations

"(a) IN GENERAL.—Of all loans authorized under this chapter, $3,000,000,000 shall be reserved for State governments or statewide instrumentalities created pursuant to State law to receive such loans.

"(b) ALLOCATION.—States or their instrumentalities shall receive loans under this chapter in an amount that bears the same ratio as their resident population bears to the resident population of the United States.

"(c) WAIVER.—If a State elects not to receive such a loan, it may allocate its loan apportionment to counties, school districts, or other local governments in that State.

"§ 6804. Local government allocations

"(a) IN GENERAL.—Of all loans authorized under this chapter, $5,000,000,000 shall be reserved for counties and general purpose local governments or local instrumentalities created pursuant to State law to receive such loans.

"(b) ALLOCATION.—The amount referred to in subsection (a) shall be allocated among State areas in the same ratio that their resident population bears to the resident population of the United States. Loans approved under this chapter shall be allocated by the Secretary to local governments upon application to the Secretary. The Secretary shall give priority to granting loans to local governments with high unemployment rates, high incidences of family and individual poverty, and fiscal distress in meeting their public services as a result of the current recession.

"§ 6805. School district allocations

"(a) IN GENERAL.—Of all loans authorized under this chapter, $2,000,000,000 shall be available for allocation to local school districts or other instrumentalities created pursuant to State law to receive such loans.

"(b) ALLOCATION.—Loans made available under subsection (a) shall be allocated to school districts in the same ratio that their elementary and secondary school population bears to the total elementary and secondary school population of the United States.

"(c) WAIVER.—Not later than 30 days after the date of enactment of this chapter, a local

school district or instrumentality created to receive school district loans shall notify the Secretary of its intention to apply for a loan authorized pursuant to this chapter. If the school district or instrumentality does not choose to apply for such a loan, its loan allocation shall be made available to other school districts or instrumentalities in the State in which it is located.

"§ 6806. Loan limits

"No State or local government or school district or instrumentality created pursuant to State law to receive loans under this chapter shall receive a loan unless it agrees to comply with the loan repayment terms set forth in section 6807.

"§ 6807. Repayment terms

"(a) IN GENERAL.—A State, local government, or school district applying for a loan shall agree to repay a loan received under this chapter not later than 4 years after receipt of the loan. The recipient of a loan under this chapter shall pay only the principal of the loan and shall not be liable for any interest costs accruing to that loan.

"(b) NOTIFICATION OF NONPAYMENT.—If a recipient of a loan under this chapter determines that it cannot repay its loan within the time allocated pursuant to subsection (a), it shall notify the Secretary not later than December 31, 1995, of its inability to repay the principal of such loan.

"(c) TRANSFER OF FUNDS TO GENERAL FUND.—All loans made under this chapter when repaid shall be transferred to the general fund of the Treasury for the purposes of repurchasing the loan obligations made pursuant to this chapter.

"§ 6808. Qualifications

"(a) IN GENERAL.—Under regulations of the Secretary a unit of government qualifies for a loan under this chapter only after establishing to the satisfaction of the Secretary that—

"(1) the government will establish a trust fund in which the government will deposit all payments received under this chapter;

"(2) the government will use amounts in the trust fund (including interest) during a reasonable period provided in the regulations of the Secretary;

"(3) the government will expend the payments so received, in accordance with laws and procedures applicable to the expenditure of revenues of the government;

"(4) if not less than 25 percent of the pay of individuals employed by the government in a public employee occupation is paid out of the trust fund, individuals in the occupation any part of whose pay is paid out of the trust fund will receive pay at least equal to the prevailing rate of pay for individuals employed in similar public employee occupations by the government;

"(5) if at least 25 percent of the costs of a construction project are paid out of the trust fund, laborers and mechanics employed by contractors or subcontractors on the project will receive pay at least equal to the prevailing rate of pay for similar construction in the locality as determined by the Secretary of Labor under the Act of March 3, 1931 ((46 Stat. 1494 et seq.) popularly known as the Davis-Bacon Act), and the Secretary of Labor shall act on labor standards under this paragraph in accordance with Reorganization Plan No. 14 of 1950 (64 Stat. 1267) and section 2 of the Act of June 13, 1934 (48 Stat. 948);

"(6) the government will use accounting, audit, and fiscal procedures conforming to guidelines prescribed by the Secretary (after the Secretary consults with the Comptroller General);

"(7) after reasonable notice to the government, the government will make available to the Secretary and the Comptroller General, with the right to inspect, records the Secretary reasonably requires to review compliance with this chapter or the Comptroller General reasonably requires to review compliance and operations under section 6814; and

"(8) the government will make such reports as the Secretary reasonably requires, in addition to the reports required under section 6819.

"(b) SANCTIONS FOR NONCOMPLIANCE.—

"(1) IN GENERAL.—If the Secretary decides that a unit of government has not complied substantially with subsection (a) or regulations prescribed under subsection (a), the Secretary shall notify the government. The notice shall state that if the government does not take corrective action by the 60th day after the date on which the government receives the notice, the Secretary will withhold additional loan payments to the government until the Secretary is satisfied that the government—

"(A) has taken the appropriate corrective action; and

"(B) will comply with subsection (a) and regulations prescribed under subsection (a).

"(2) NOTICE PRIOR TO ACTION.—Before giving notice under paragraph (1), the Secretary shall give the chief executive officer of the unit of government reasonable notice and an opportunity for a proceeding.

"§ 6809. Information used in allocation formulae

"(a) USE OF MOST RECENT INFORMATION.—Except as otherwise provided in this section, the Secretary shall use the most recent available information provided by the Secretary of Commerce and the Secretary of Education before the beginning of the loan payment period to determine an allocation under this chapter. When the Secretary decides that the information is not current or complete enough to provide for a fair allocation, the Secretary may use additional information (including information based on estimates) as provided under regulations of the Secretary.

"(b) POPULATION DATA.—

(1) BASIS OF DETERMINATION.—The Secretary shall determine population on the same basis that the Secretary of Commerce determines resident population for general statistical purposes.

"(2) PROVISION OF ESTIMATES.—The Secretary shall request the Secretary of Commerce to provide the final estimates of resident individuals counted in the 1990 census or revisions of the census. The Secretary shall use the data in determining allocations for the payment period beginning after the Secretary receives the data.

"(c) EDUCATIONAL DATA.—The Secretary of Education shall supply to the Secretary the most recent information on the number of elementary and secondary school students in each school district in the United States.

"§ 6810. Public participation

"(a) HEARINGS.—A unit of government expending payments received under this chapter shall hold at least 1 public hearing 10 days after applying for a loan under this chapter, at which persons are given an opportunity to present written and oral views on the possible uses of the loan. The government shall give adequate notice of the hearing.

"(b) DISCLOSURE OF INFORMATION.—Not later than 10 days after a hearing required under subsection (a) is held, a unit of government shall—

"(1) make available for inspection by the public at the principal office of the government a statement of the proposed use of the loan; and

"(2) publish in at least 1 newspaper of general circulation the proposed use of the loan and a notice of the time and place of the hearing.

"(c) WAIVERS OF REQUIREMENTS.—The requirements of subsection (a) may be waived when the cost of the requirements would be unreasonably burdensome in relation to the amount allocated to the unit of government to amounts available for payment under this chapter, as determined by the Secretary.

"§ 6811. Prohibited discrimination

"(a) GENERAL PROHIBITION.—No person in the United States shall be excluded from participating in, be denied the benefits of, or be subject to discrimination under, a program or activity of a unit of general local government because of race, color, national origin, or sex if the government receives a loan under this chapter.

"(b) ADDITIONAL PROHIBITIONS.—The following prohibitions and exemptions also apply to a program or activity of a unit of government if the government receives a loan under this chapter:

"(1) A prohibition against discrimination because of age under the Age Discrimination Act of 1975.

"(2) A prohibition against discrimination against an otherwise qualified handicapped individual under section 504 of the Rehabilitation Act of 1973.

"(3) A prohibition against discrimination because of religion, or an exemption from that prohibition, under the Civil Rights Act of 1964 or title VIII of the Act of April 11, 1968 (popularly known as the Civil Rights Act of 1968).

"(c) LIMITATIONS ON APPLICABILITY OF PROHIBITIONS.—Subsections (a) and (b) do not apply when the government shows, by clear and convincing evidence, that a loan received under this chapter is not used to pay for any part of the program or activity with respect to which the allegation of discrimination is made.

"(d) INVESTIGATION AGREEMENTS.—The Secretary shall undertake to make agreements with heads of agencies of the United States Government and State agencies to investigate noncompliance with this section. Such agreement shall—

"(1) describe the cooperative efforts to be made (including sharing civil rights enforcement personnel and resources) to obtain compliance with this section; and

"(2) provide for immediate notification to the Secretary of actions brought by the United States Government or State agencies against a unit of general local government alleging a violation of a civil rights law or a regulation prescribed under a civil rights law.

"§ 6812. Discrimination proceedings

"(a) NOTICE OF NONCOMPLIANCE.—Not later than 10 days after the Secretary makes a finding of discrimination or receives a holding of discrimination about a unit of government, the Secretary shall submit a notice of noncompliance to the government. The notice shall state the basis of the finding or holding.

"(b) INFORMAL PRESENTATION OF EVIDENCE.—The unit of government may present evidence informally to the Secretary not later than 30 days after the government receives a notice of noncompliance from the Secretary. Except as provided in subsection (e), the government may present evidence on whether—

"(1) a person in the United States has been excluded or denied benefits of, or discriminated against under, the program or activity of the government, in violation of section 6811(a);

"(2) the program or activity of the government violated a prohibition described in section 6811(b); and

"(3) any part of that program or activity has been paid for with a loan received under this chapter.

"(c) TEMPORARY SUSPENSION OF PAYMENTS.—Not later than the end of the 30-day period under subsection (b), the Secretary shall decide whether the unit of general local government has not complied with subsection (a) or (b) of section 6811, unless the government has entered into a compliance agreement under section 6814. If the Secretary decides that the government has not complied, the Secretary shall notify the government of the decision and shall suspend payments to the government under this chapter unless, not later than 10 days after the government receives notice of the decision, the government—

"(1) enters into a compliance agreement under section 6814; or

"(2) requests a proceeding under subsection (d)(1).

"(d) ADMINISTRATIVE REVIEW OF SUSPENSIONS.—

"(1) IN GENERAL.—A proceeding requested under subsection (c)(2) shall begin not later than 30 days after the Secretary receives a request for the proceeding. The hearing shall be before an administrative law judge appointed under section 3105 of title 5, United States Code. Not later than 30 days after the beginning of the proceeding, the judge shall issue a preliminary decision based on the record at the time on whether the unit of general local government is likely to prevail in showing compliance with subsection (a) or (b) of section 6811.

"(2) REMEDIES.—If the administrative law judge decides under paragraph (1) that the unit of general local government has—

"(A) not complied with subsection (a) or (b) of section 6811, the judge may order loans made to the government under this chapter to be terminated; or

"(B) complied with such provisions, a suspension under section 6812(a)(1)(A) shall be discontinued promptly.

"(e) BASIS FOR REVIEW.—In any proceeding under subsection (b), (c), or (d) on a program or activity of a unit of general local government about which a holding of discrimination has been made, the Secretary or administrative law judge may consider only whether a loan made under this chapter was used to pay for any part of the program or activity. The holding of discrimination is conclusive. If the holding is reversed by an appellate court, the Secretary or judge shall end the proceeding.

"§ 6813. Suspension and termination of payments in discrimination proceedings

"(a) IMPOSITION AND CONTINUATION OF SUSPENSIONS.—

"(1) IN GENERAL.—The Secretary shall suspend loan payment or seek loan repayment under this chapter to a unit of general local government—

"(A) if an administrative law judge appointed under section 3105 of title 5, United States Code, issues a preliminary decision in a proceeding under section 6812(d)(1) that the government is not likely to prevail in showing compliance with subsection (a) or (b) of section 6811;

"(B) except as provided in section 6812(d)(2)(B), when the administrative law judge decides at the end of the proceeding that the government has not complied with subsection (a) or (b) of section 6811, unless the government enters into a compliance agreement under section 6814 not later than 30 days after the decision; or

"(C) when required under section 6812(c).

"(2) CONTINUATION OF ORDERS.—Except as provided in section 6812(d)(2), a suspension ordered under paragraph (1)(A) shall continue in effect when the administrative law judge makes a decision under paragraph (1)(B).

"(b) LIFTING OF SUSPENSIONS AND TERMINATIONS.—If a holding of discrimination is reversed by an appellate court, a suspension or termination of loans or loan repayments in a proceeding based on the holding shall be discontinued.

"(c) RESUMPTION OF PAYMENTS UPON ATTAINING COMPLIANCE.—The Secretary may resume payment to a unit of government of loans suspended by the Secretary only—

"(1) at the time and under the conditions stated in a compliance agreement described in paragraph (1) or (2) of section 6814(a);

"(2) when the government complies completely with an order of a United States court, a State court, or administrative law judge that covers all matters raised in a notice of noncompliance submitted by the Secretary under section 6812(a);

"(3) when a United States court, a State court, or an administrative law judge decides (including a judge in a proceeding under section 6812(d)(1)), that the government has complied with subsection (a) or (b) of section 6811; or

"(4) when a suspension is discontinued under subsection (b).

"(d) PAYMENT OF DAMAGES AS COMPLIANCE.—Compliance by the government under subsection (c) may include paying restitution to the person injured because of the government's noncompliance with subsection (a) or (b) of section 6811.

"(e) RESUMPTION OF PAYMENTS UPON REVERSAL BY COURT.—The Secretary may resume loan payments from a unit of government of payments terminated under section 6812(d)(2) only when the decision resulting in the termination is reversed by an appellate court.

"§ 6814. Compliance agreements

"(a) TYPES OF COMPLIANCE AGREEMENTS.—A compliance agreement is an agreement—

"(1) approved by the Secretary between the governmental authority responsible for prosecuting a claim or complaint that is the basis of a holding of discrimination and the chief executive officer of the unit of government that has not complied with subsection (a) or (b) of section 6811; or

"(2) between the Secretary and such chief executive officer.

"(b) CONTENTS OF AGREEMENTS.—A compliance agreement—

"(1) shall state the conditions the unit of government has agreed to comply with that would satisfy the obligations of the government under subsections (a) and (b) of section 6811;

"(2) shall cover each matter that has been found not to comply, or would not comply, with subsection (a) or (b) of section 6811; and

"(3) may be a series of agreements that dispose of those matters.

"(c) AVAILABILITY OF AGREEMENTS TO PARTIES.—The Secretary shall submit a copy of the compliance agreement to each person who filed a complaint referred to in section 6816(b), or, if it is an agreement described in subsection (a)(1), each person who filed a complaint with a governmental authority, about a failure to comply with subsection (a) or (b) of section 6811. The Secretary shall submit such copy not later than 15 days after an agreement is made. However, if the Secretary approves an agreement under subsection (a)(1) after the agreement is made, the Secretary may submit the copy not later than 15 days after approval of the agreement.

"§ 6815. Enforcement by the Attorney General of prohibitions on discrimination

"The Attorney General may bring a civil action in an appropriate district court of the United States against a unit of government that the Attorney General has reason to believe has engaged or is engaging in a pattern or practice in violation of subsection (a) or (b) of section 6811. The court may grant—

"(1) a temporary restraining order;

"(2) an injunction; or

"(3) an appropriate order to ensure enjoyment of rights under section 6811, including an order suspending or terminating loan payments made under this chapter or placing additional payments under this chapter in escrow pending the outcome of the action.

"§ 6816. Civil action by a person adversely affected

"(a) AUTHORITY FOR PRIVATE SUITS IN FEDERAL OR STATE COURT.—If a unit of government, or an officer or employee of a unit of government acting in an official capacity, engages in a practice prohibited by this chapter, a person adversely affected by the practice may bring a civil action in an appropriate district court of the United States or a State court of general jurisdiction. Before bringing an action under this section, the person must exhaust administrative remedies under subsection (b).

"(b) ADMINISTRATIVE REMEDIES REQUIRED TO BE EXHAUSTED.—A person adversely affected must file an administrative complaint with the Secretary or the head of another agency of the United States Government or the State agency with which the Secretary has an agreement under section 6811(d). Administrative remedies are deemed to be exhausted 90 days after the complaint was filed if the Secretary, the head of the Government agency, or the State agency—

"(1) issues a decision that the government has not failed to comply with this chapter; or

"(2) fails to issue a decision on the complaint.

"(c) AUTHORITY OF COURT.—In an action under this section, the court—

"(1) may grant—

"(A) a temporary restraining order;

"(B) an injunction; or

"(C) another order, including suspension or termination of loan payments under this chapter or placement of additional payments under this chapter in escrow pending the outcome of the action; and

"(2) may allow a prevailing party (other than the United States Government) a reasonable attorney's fee to enforce compliance with subsection (a) or (b) of section 6811.

"(d) INTERVENTION BY ATTORNEY GENERAL.—In an action under this section to enforce compliance with subsection (a) or (b) of section 6811, the Attorney General may intervene in the action when the Attorney General certifies that the action is of general public importance. The United States Government is entitled to the same relief as if the Government had brought the action and is liable for the same fees and costs as a private person.

"§ 6817. Judicial review

"(a) APPEALS IN FEDERAL COURT OF APPEALS.—A unit of government receiving no-

tice from the Secretary about withholding loan payments under section 6813(a)(1)(B), may apply for review of the action of the Secretary by filing a petition for review with the court of appeals of the United States for the circuit in which the government is located. Such petition shall be filed not later than 60 days after the notice is received. The clerk of the court shall immediately send a copy of the petition to the Secretary and the Attorney General.

"(b) FILING OF RECORD OF ADMINISTRATIVE PROCEEDING.—The Secretary shall file with the court a record of the proceeding on which the Secretary based the action referred to in subsection (a). The court may consider only objections to the action of the Secretary that were presented before the Secretary.

"(c) AUTHORITY OF GRANT.—The court may affirm, change, or set aside any part of the action of the Secretary. The findings of fact by the Secretary are conclusive if supported by substantial evidence in the record. When a finding is not supported by substantial evidence in the record, the court may remand the case to the Secretary to take additional evidence. The Secretary may make new or modified findings and shall certify additional proceedings to the court.

"(d) REVIEW ONLY BY SUPREME COURT.—A judgment of the court under this section may be reviewed only by the Supreme Court under section 1254 of title 28, United States Code.

"§ 6818. Audits, investigations, and reviews

"(a) INDEPENDENT AUDIT.—

"(1) IN GENERAL.—Except as otherwise provided in this section, a unit of government expecting to receive a loan under this chapter shall have an independent audit made of the financial statements of the government at least once every 3 years to determine compliance with this chapter. The audit shall be carried out under generally accepted auditing standards.

"(2) COMPLIANCE SUBSTITUTE.—An audit of financial statements of government carried out under another law of the United States for a fiscal year shall be deemed to constitute compliance with paragraph (1) for that year when the audit substantially complies with the requirements of paragraph (1).

"(b) WAIVER BY A UNIT OF GOVERNMENT.—

"(1) GROUNDS FOR WAIVER.—A unit of government may elect to waive application of subsection (a)(1) in writing if—

"(A) the financial statements of the government are audited by independent auditors under State or local law at least once every 3 years;

"(B) the government certifies that the audit is carried out under generally accepted auditing standards; and

"(C) the auditing provisions of the State or local law are applicable to the payment period to which the waiver applies.

"(2) ADDITIONAL INFORMATION.—The election by the government under paragraph (1) shall include a brief description of the auditing standards used under the State or local law and specify the payment period to which the waiver applies.

"(c) SERIES OF AUDITS.—A series of audits carried out over a period of not more than 3 years covering the total amount in the financial accounts of a unit of general local government is deemed to be a single audit under subsections (a)(1) and (b).

"(d) AUDIT OPINION.—An opinion of an audit carried out under this section shall be provided to the Secretary in the form and at times required by the Secretary.

"(e) INVESTIGATIONS BY SECRETARY.—

"(1) REGULATIONS.—The Secretary shall promulgate regulations providing reasonable and specific time limits for the Secretary to—

"(A) carry out an investigation and make a finding after receiving a complaint referred to in section 6816(b), a determination by a State or local administrative agency, or other information about a possible violation of this chapter;

"(B) carry out audits and reviews (including investigations of allegations) about possible violations of this chapter; and

"(C) advise a complainant of the status of an audit, investigation, or review of an allegation by the complainant of a violation of subsection (a) or (b) of section 6811 or other provision of this chapter.

"(2) TIME LIMIT.—The actions of the Secretary referred to in paragraph (1)(A) shall be completed not later than 90 days after the complaint is received.

"(g) REVIEWS BY COMPTROLLER GENERAL.—The Comptroller General shall carry out reviews of the activities of the Secretary, State governments, and units of general local government and school districts necessary for Congress to evaluate compliance and operations under this chapter.

"§ 6819. Reports

"(a) REPORTS BY THE SECRETARY TO CONGRESS.—Not later than January 31, 1993, the Secretary shall report to Congress on—

"(1) the status and operation of the Anti-Recession Loan Act of 1992 during calendar year 1992; and

"(2) the administration of this chapter, including a complete and detailed analysis of—

"(A) actions taken to comply with sections 6811 through 6815, including a description of the kind and extent of noncompliance and the status of pending complaints;

"(B) the extent to which units of government receiving loans under this chapter have complied with sections 6813 and subsections (a), (b), and (d) of section 6818, including a description of the kind and extent of noncompliance and actions taken to ensure the independence of audits conducted under subsections (a), (b), and (d) of section 6818;

"(C) the way in which loans made under this chapter have been used in the jurisdictions receiving them; and

"(D) any significant problems in carrying out this chapter and recommendations for legislation to remedy the problems.

"(b) REPORTS BY UNITS OF GOVERNMENT TO SECRETARY.—

"(1) IN GENERAL.—At the end of each fiscal year during which loan funds are expended, each unit of government receiving a loan under this chapter shall submit a statement to the Secretary. The statement shall—

"(A) be submitted in the form and at a time prescribed by the Secretary;

"(B) note the amounts and purposes for which the loan has been expended or obligated during the fiscal year; and

"(C) be made available to the public for inspection.

"(2) PROVISION OF COPIES.—The Secretary shall provide a copy of a statement submitted under paragraph (1) by a unit of government to the chief executive officer of the State in which the government is located. The Secretary shall provide the report in a manner and form prescribed by the Secretary.

"§ 6820. Definitions and application

"(a) DEFINITIONS.—For purposes of this chapter—

"(1) the term 'unit of general local government' means a county, township, city, or political subdivision of a county, township, or city, that is a unit of general local government as determined by the Secretary of Commerce for general statistical purposes;

"(2) the term 'State' means any of the several States and the District of Columbia, and the recognized body of an Indian tribe or Alaska Native village that carries out substantial duties and powers;

"(3) the term 'finding of discrimination' means a decision by the Secretary about a complaint described in section 6816(b), a decision by a State or local administrative agency, or other information (under regulations prescribed by the Secretary) that it is more likely than not that a unit of general local government has not complied with subsection (a) or (b) of section 6811; and

"(4) the term 'holding of discrimination' means a holding by a United States court, a State court, or an administrative law judge appointed under section 3105 of title 5, United States Code, that a unit of general local government expending amounts received under this chapter has—

"(A) excluded a person in the United States from participating in, denied the person the benefits of, or subjected the person to discrimination under a program or activity because of race, color, national origin, or sex; or

"(B) violated a prohibition against discrimination described in section 6811(b).

"§ 6821. Sunset provisions

"Authority to make loans pursuant to this chapter shall expire on December 31, 1992.

"§ 6822. Economic growth and stabilization study

"(a) IN GENERAL.—The Secretary shall conduct a study of the economic impact of the 1990–92 recession on the ability of State and local governments to maintain their economic stability, provide essential public services, and provide for the human and capital infrastructure to maintain and expand commerce and industry within their jurisdictions.

"(b) STATE AND LOCAL CONSULTATION.—In the course of conducting the study required by subsection (a), the Secretary shall consult with the public interest organizations representing the nation's States, cities, counties, townships, and school districts as to their views of the impact of the 1990–1992 recession on their respective jurisdiction's ability to provide essential public services.

"(c) REPORT TO CONGRESS.—Not later than July 1, 1993, the Secretary shall—

"(1) complete the study required by subsection (a); and

"(2) transmit a report of such study to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives.".

• Mr. SASSER. Mr. President, earlier this year the distinguished chairman of the Joint Economic Committee, Senator SARBANES and I proposed an economic recovery program to get the economy moving again and to put the country on a course for strong economic growth. Today, I rise to sponsor and introduce the legislation needed to implement that program.

Mr. President, when we announced our economic recovery proposal at the beginning of January the administration had just acknowledged that the recession was not ending and that something needed to be done. But even as

59-059 O—96 Vol. 138 (Pt. 3) 35

the administration made this admission, it held out the hope that things were getting better and that a full scale economic growth package might be unnecessary.

Well I'm sorry to say, Mr. President, that we stand here today, 2 months and two administration proposals later, and the economy isn't much better. On Monday, General Motors made good on its pledge to cut back by announcing the first 12 of a planned 21 plant closings. Yesterday we learned that consumer confidence is at an 18-year low. Unemployment stands at 7.1 percent and other economic indicators lagging.

Mr. President, the House Ways and Means Committee and the Senate Finance Committee are currently working to draft an economic growth package on the revenue side. But while we wrestle with the economy's woes, State and local governments have already taken steps to combat recessionary pressures. Unfortunately, many of these steps tend to worsen the economy rather than improve it.

In response to the economic downturn, State and local governments have been forced to cut spending and raise taxes—thus taking money out of the economy when it is already contracting. In addition, States are cutting back severely on aid to local communities that are also feeling the recession's impact.

Mr. President, the Senate Budget Committee held hearings on the impact of the recession on local communities in January. We heard compelling testimony from leading mayors and county executives. Let me just note a few of the highlights of these hearings and later State-local studies.

State and local governments have been forced to raise taxes and cut spending by nearly $35 billion in the current fiscal year in order to balance their budgets.

Nearly 3 out of every 4 counties have had to cut services or employees to offset revenue shortfalls due to the recession. Half of these counties are experiencing severe budget shortfalls.

In a recent U.S. Conference of Mayors survey, 305 cities identified 4,543 capital construction projects that could be started immediately. If these projects were started they could generate some 280,000 new jobs as a result.

Mr. President, the legislation we are introducing here today is designed to address the contractionary nature of State and local government fiscal policies and to assist these governments in responding to the recession. The first proposal would provide antirecession grants to State and local governments who are hard-hit by the downturn. The bill would authorize $20 billion in calendar 1992 for grants to fund key infrastructure projects or prevent layoffs of State and local employees in critical areas.

The second bill would provide $10 billion in antirecession, interest-free loans for State and local governments. Again, the proceeds of these loans would be used for funding critical infrastructure projects and preventing the layoffs of critical personnel in such areas as education, public safety, and critical public works areas. The loans would have to be repaid within 3 years.

The last bill would waive State and local matching requirements for three programs: Federal aid for highways, mass transit, and wastewater treatment projects. The waiver would be in effect for 1992 and 1993 and would be available to governments that can demonstrate they do not have the money to meet the Federal match.

Taken together, these proposals represent a balanced approach to combating the ongoing economic downturn. They are designed to counter the fiscal contraction States and localities impose in the economy when they cut spending and raise taxes. And they will provide a targeted fiscal stimulus to the areas of our Nation that need it most.

Mr. President, the recession is about to enter its 20th month. As Congress considers ways to turn the economy around and put it on the path to solid future growth, I urge my colleagues to consider and cosponsor the bills introduced here today.•

• Mr. SASSER. Mr. President, today I rise to introduce the Infrastructure Stimulus Act of 1992. This measure is a key component of the Sasser-Sarbanes program to put the country back on the road to short-term economic recovery and long-term economic growth.

The Infrastructure Stimulus Act will help the Nation's ailing economy by providing short-term infrastructure grant assistance to State and local governments. The bill will allow them to start badly needed ready-to-go highway, mass transit, and wastewater treatment projects.

Many States and localities have put aside these projects in the current recession because they do not have adequate funding. For example, a recent survey by the American Association of State Highway and Transportation Officials finds that 21 percent of the States surveyed are having difficulty providing matching funds required for highway projects obligated under last year's Surface Transportation Act. In addition, the highway survey finds that 47 States have some ready-to-go projects that need an additional $3.3 billion of Federal funding to get started and put people back to work. Another survey performed by the State water pollution officials reveals that an additional $4 billion of wastewater projects could be initiated in fiscal year 1992 beyond what has already been appropriated. Again, these projects have completed the design and engineering phase and would be ready to construct in 1992. Finally, many transit agencies are teetering close to bankruptcy and are in desperate need of capital grant matching fund requirement waivers.

The Infrastructure Stimulus Act addresses these problems by increasing funding for the Federal aid highway and wastewater treatment grant programs and providing a temporary matching fund waiver for these programs. The bill also waives temporarily matching fund requirements for Federal transit administration capital construction projects.

The act increases the highway obligation ceiling by $3 billion in 1992 and allows each State to receive a 21 percent funding increase to repair the Nation's crumbling roads and bridges. For example, my own State of Tennessee would receive an additional $60.2 million during the current fiscal year to get badly needed bridge and highway projects underway.

Mr. President I request that a copy of S. 2301 be inserted in the RECORD along with a summary of the provisions of S. 2301 and letters of support from the American Public Transportation Association, American Road and Transportation Builders Association, Community Transportation Coalition Association of America, and Association of State and Interstate Water Pollution Control Administrators.

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

S. 2301

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 "Infrastructure Stimulus Act of 1992".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The current recession is the longest recorded economic downturn since the Great Depression.

(2) In the face of legal constraints, State and local governments have had to raise taxes and cut spending by as much as $35,000,000,000 to meet the demands created by the current recession.

(3) As a result of the current recession, many State and local governments have not been able to meet infrastructure grant matching requirements under Federal programs, and have delayed starting highway, mass transit, and wastewater treatment, capital construction and maintenance projects.

SEC. 3. FEDERAL-AID HIGHWAYS.

(a) OBLIGATION CEILING.—Section 1002(a) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 104 note) is amended—

(1) in paragraph (1), by striking "$16,800,000,000" and inserting "$19,800,000,000"; and

(2) in paragraph (2), by striking "$18,303,000,000" and inserting "$20,500,000,000".

(b) TEMPORARY MATCHING FUND WAIVER.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Federal share of

any qualifying project approved by the Secretary of Transportation (hereafter in this subsection referred to as the "Secretary") under title 23, United States Code, shall be the percentage of the construction cost that the State requests, up to and including 100 percent.

(2) QUALIFYING PROJECT DEFINED.—For the purposes of this subsection, the term "qualifying project" means a project approved by the Secretary after the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991, or a project for which the United States becomes obligated to pay after such date of enactment, and for which the Governor of the State submitting the project has certified, in accordance with regulations established by the Secretary, that sufficient funds are not available to pay the cost of the non-Federal share of the project.

(3) APPLICABILITY.—The section applies to any qualifying project with respect to which the United States incurs an obligation, by way of a commitment, contingent commitment, full funding agreement, or otherwise, during the period beginning on October 1, 1991, and ending on September 30, 1993.

SEC. 4. MASS TRANSIT.

Section 12 of the Federal Transit Act (49 U.S.C. app. 1607c) is amended by adding at the end thereof the following new subsection:

"(n) TEMPORARY MATCHING FUND WAIVER.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, the Federal share of any qualifying construction project to be assisted under this Act shall be the percentage of the net project cost that the grantee requests, up to and including 100 percent, but not less than the applicable Federal share, as described in section 4, 9, or 18 of this Act.

"(2) QUALIFYING CONSTRUCTION PROJECT DEFINED.—For the purposes of this subsection, the term 'qualifying construction project' means a construction project approved by the Secretary after the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991, or a project for which the United States becomes obligated to pay after such date of enactment, and for which the Governor of the State or other official submitting the project has certified, in accordance with regulations established by the Secretary, that sufficient funds are not available to pay the cost of the non-Federal share of the project.

"(3) APPLICABILITY.—This subsection applies to any project with respect to which the United States incurs an obligation, by way of a commitment, contingent commitment, full funding agreement, or otherwise, during the period beginning on October 1, 1991, and ending on September 30, 1993.".

SEC. 5. WASTEWATER TREATMENT.

(a) AUTHORIZATION OF APPROPRIATIONS.—Paragraph (3) of section 607 of the Federal Water Pollution Control Act (33 U.S.C. 1387(3)) is amended to read as follows:

"(3) $3,800,000,000 for fiscal year 1992, of which not more than $500,000,000 shall be available for use by States for the purpose of providing assistance to small communities pursuant to this title and section 5(c) of the Infrastructure Stimulus Act of 1992".

(b) TEMPORARY WAIVER OF MATCHING REQUIREMENT.—

(1) In general.—Notwithstanding any other provision of law, the Administrator shall—

(A) with respect to each deposit to a water pollution control revolving fund that would be required to be made for each quarter described in paragraph (2), waive the requirement under section 602(b)(2) of the Federal Water Pollution Control Act (33 U.S.C. 1382(b)(2); relating to deposits of State moneys in the water pollution control revolving fund of the State, and

(B) pay to each State, on a quarterly basis for the quarters described in paragraph (2), for deposit in the water pollution control revolving fund of the State, an amount equal to the amount of State moneys that would otherwise be deposited by the State pursuant to such subsection 602(b)(2).

(2) APPLICABILITY.—This subsection applies to any deposit made to a water pollution control revolving fund by a State for the first full quarter beginning after the date of the enactment of this section, and for the 3 succeeding quarters.

(c) TEMPORARY WAIVER FOR SMALL COMMUNITIES.—

(1) SMALL COMMUNITY DEFINED.—For the purposes of this subsection, the term "small community" means a municipality with a population of less than 10,000 individuals (as determined by the most recent decennial census conducted by the Bureau of the Census of the Department of Commerce).

(2) TEMPORARY WAIVER.—(A) Except as provided in subparagraph (B), the Administrator shall waive the requirements of section 602(b)(6) of the Federal Water Pollution Control Act (33 U.S.C. 1382(b)(6)) with respect to any treatment works that is owned or operated by a small community.

(B) The waiver described in subparagraph (A) shall not apply to the provisions of such section 602(b)(6) relating to the requirements of sections 511(c)(1) and 513 of the Federal Water Pollution Control Act (33 U.S.C. 1371(c)(1) and 1372, respectively).

(3) LOAN RATES.—Notwithstanding section 603(d)(1)(A), the period of a loan made to a small community shall be for a period not to exceed 30 years.

(4) APPLICABILITY.—(A) The provisions of paragraph (2) shall apply to any treatment works owned or operated by a small community during the period beginning on the first day of the first full quarter after the date of the enactment of this section, and ending on the last day of the third quarter following such quarter.

(B) The provisions of paragraph (3) shall apply to any loan made by a State to a small community pursuant to title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.) during the period described in subparagraph (A).

INFRASTRUCTURE STIMULUS ACT OF 1992

The Infrastructure Stimulus Act of 1992 stimulates the nation's ailing economy by providing short-term infrastructure grant assistance to state and local governments. As a result of the current recession, many state and local governments have not been able to meet federal infrastructure grant program matching requirements, and have delayed starting highway, mass transit, and wastewater treatment capital construction and maintenance projects. Furthermore, several surveys indicate that many states and local governments have ready-to-go infrastructure projects that need additional funding. The bill addresses these problems by providing help in the following three areas:

FEDERAL-AID-HIGHWAYS

The bill increases funding for the federal-aid-highway program by $3 billion in fiscal year 1992 and $3.7 billion in fiscal year 1993. The highway obligation limitation would total $18.7 billion in 1992 and $19.4 billion in 1993. Each state's 1992 highway obligations would increase by 21 percent. The bill provides a temporary waiver of states' federal-aid-highway matching fund requirements. The waiver applies to projects obligated during the period of October 1, 1991 to September 30, 1993. The waiver is only applicable to projects for which the Governor of the State submitting the project has certified, in accordance with regulations established by the Secretary of Transportation, that sufficient funds are not available to pay the cost of the non-Federal share of the project.

MASS TRANSIT

The bill waives matching fund requirements for mass transit discretionary and formula capital construction projects undertaken during the period of October 1, 1991 to September 30, 1993. The waiver applies to both urban and rural construction projects, and is only applicable to projects for which the Governor of the State submitting the project has certified, in accordance with regulations established by the Secretary of Transportation, that sufficient funds are not available to pay the cost of the non-Federal share of the project.

WASTEWATER TREATMENT CONSTRUCTION GRANTS

A recent survey performed by states water pollution officials reveals that an additional $4 billion of wastewater projects could be initiated in fiscal year 1992 beyond what has already been appropriated. These projects have completed the design and engineering phase, would be ready to construct in 1992, but are not scheduled to receive funding in 1992. This legislation offers additional funding and flexibility for state to increase the number of wastewater construction projects beginning in 1992.

The legislation requests an additional $2 billion of funding for States in fiscal year 1992 for wastewater treatment construction projects. All of the additional funds would be allocated States through State Revolving Funds (SRFs). The funds would be used for projects that are "ready to go" and meet all SRF requirements except for two criteria. The legislation would temporarily waive state matching requirements for loans made to communities for the construction of wastewater facilities. Currently, states must provide a 20 percent match to the Federal contribution towards SRFs.

The legislation would also temporarily waive specific planning requirements and extend the repayment period for construction projects in small communities. Municipalities with populations of less than 10,000 individuals would be entitled to receive up to 25 percent of the additional funding. Given the small nature of projects in these areas and the lack of economies of scale, the costs of compliance have become excessive. This provision would help small communities overcome many affordability problems that now exist.

AMERICAN ROAD & TRANSPORTATION BUILDERS ASSOCIATION,

Washington, DC, February 20, 1992.

Hon. JIM SASSER,

Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The American Road and Transportation Builders Association (ARTBA) fully endorses your proposal to increase the obligation of highway funds and to reduce the non-federal matching requirements for both highway and mass transit projects over the next two years. This legislation has the beneficial effect of speeding the initiation of badly needed projects and allowing State and local governments—many of which are suffering from funding shortages—to move ahead rapidly.

For the past three years ARTBA has advocated substantially higher investments in transportation infrastructure. We were pleased that the Intermodal Surface Transportation Efficiency Act increased authorizations for Federal transportation programs to the maximum amount possible under current budget and revenue conditions.

Your proposal will permit these resources to be put to work more quickly at a time of great need.

The U.S. Department of Transportation has estimated that the United States needs to invest in excess of $40 billion a year in its highway system to meet current identified needs. A number of Bush Administration spokesmen, including the acting secretary of transportation, have emphasized the positive impact on employment of the highway program.

Improved transportation facilities are widely recognized as essential to long-term economic growth, productivity and stability in the United States. Their construction is a proven means of stimulating employment and retaining existing jobs in a time of recession. Your proposal is both necessary and timely.

The nearly 4,000 members of ARTBA are experienced in the full range of transportation planning, development and operation activities. They stand ready to participate in the accelerated transportation construction program that would be initiated by your bill. The transportation construction industry has ample capacity to immediately respond to your initiative. We commend you for its introduction.

Sincerely,

T. PETER RUANE,
President and CEO.

AMERICAN PUBLIC TRANSIT ASSOCIATION,
Washington, DC, February 20, 1992.

Hon. JIM SASSER,
Senate Russell Office Building, Washington, DC. 20510-4201

DEAR SENATOR SASSER: On behalf of the members of the American Public Transit Association (APTA), I want to express my strong support for your legislation that temporarily waives the matching share for transit capital projects initiated by the close of FY 1993. This measure will stimulate the nation's sluggish economy by creating badly needed jobs and encourage the investment in the transportation infrastructure that allows us to better compete internationally. Transit projects create immediate construction jobs and spur economic development around newly constructed facilities.

As you are aware, the current state of the economy has adversely affected many of the revenue sources, such as sales and property taxes, that are used to pay for the state or local share of transit projects. In addition, the transit industry is just coming out of more than a decade of under investment, due largely to a 50% reduction in the federal program. Many states and localities raised taxes in recent years to fund these shortfalls, but it is increasingly difficult to further raise these taxes.

Transit is aggressively implementing the Americans with Disabilities Act and addressing new mandates under the Clean Air Act. High-occupancy transit service is a key element of any national effort to conserve energy, reduce vehicle pollution, and manage traffic congestion. There are, however, substantial costs associated with these new federal requirements and with the enhanced transit service that is needed to meet these goals.

I believe that your legislation, in conjunction with full funding of the programs authorized in the recently enacted Intermodal Surface Transportation Efficiency Act (ISTEA), will go far toward meeting the economic and transportation needs of the nation. We look forward to working with you to see that this legislation is enacted into law. Thank you for your support.

Sincerely,

JACK R. GILSTRAP.

COMMUNITY TRANSPORTATION ASSOCIATION OF AMERICA,
Washington, DC, February 19, 1992.

Hon. JIM SASSER,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR SASSER: It has come to our attention that you are considering introducing legislation designed to enhance public and private investment in our nation's transportation infrastructure. Specifically, we understand that you are considering amendments to the Federal Transit Act that would waive local matching requirements for transit projects initiated during the next couple of years.

I wanted to take this opportunity to assure you of our full support for such an approach. The importance of increased investment in public transit is well understood, particularly in terms of the contribution to our nation's economy, use of energy resources, and sound environmental policy. In rural communities and smaller cities, transit plays an equally important role in assuring access to jobs, medical care and other basic services.

Your amendment would go a long way toward stimulating the economy, putting people back to work, and meeting communities' most basic mobility needs. There is a backlog of transit projects in both large and small communities that would immediately benefit from this proposal. The measure would also help to "level the playing field" between highway and transit investments, since similar waiver provisions for highway projects were included in the recently enacted surface transportation authorizing legislation, but omitted from the transit title.

On behalf of the entire CTAA membership, I wanted to express our support of your efforts and to offer our assistance as you proceed with these important legislative initiatives.

Sincerely,

DAVID RAPHAEL,
Executive Director.

ASSOCIATION OF STATE AND INTERSTATE WATER POLLUTION CONTROL ADMINISTRATORS,
Washington, DC, February 21, 1992.

Hon. JIM SASSER,
Chairman, Senate Budget Committee, Dirksen Office Building, Washington, DC.

DEAR CHAIRMAN SASSER: Thank you for consulting the Association of State and Interstate Water pollution Control Administrators (ASIWPCA) regarding projects in State water quality infrastructure programs that have: 1) Completed the design and engineering phase, 2) Would be ready to construct in the 1992 season, and 3) Would not otherwise receive funding under existing programs. The following estimate is based on a 19 State survey requested by the Senate Environment Committee including Arkansas, California, Colorado, Connecticut, Delaware, Florida, Illinois, Iowa, Kansas, Maryland, Michigan, Minnesota, New Jersey, New York, Ohio, Pennsylvania, South Carolina, Vermont, and Virginia. The projects identified by the States will have significant environmental, public works and economic benefits. In providing this information:

The Association strongly recommends, as provided in your bill, that the State Revolving Loan Fund (SRF) be the vehicle. It is working well and the States are united in their desire that the SRF be the future municipal financing mechanism. With adequate capitalization, it can meet the needs in perpetuity. Projects are being constructed 50% faster than in the previous Construction Grant program.

If the objective is to stimulate the economy quickly, there are barriers in the current program which should be reconsidered as your bill recognizes, specifically:

State match requirements: States have severe financial constraints which may not enable them to match additional funds in FY92 or to do so in time for this construction season.

Affordability for small communities: To make such projects affordable, States need flexibility to extend the loan repayment period, to exempt them from costly and complex Construction Grant requirements, and to eliminate restrictions on funding collector sewers.

Total cost for projects meeting the three criteria outlined above: $2.4 Billion.

The percentage of the SRF allotment formula covered by the 19 reporting States: 58%.

Extrapolation nationally to include the remaining 42% [i.e. the other 31 States and the Territories]: $4.1 Billion.

The Association is pleased to provide this information and any other data needed to promote the environmental and economic well being of this nation.

Sincerely,

ROBERTA (ROBBI) SAVAGE,
Executive Director.•

By Mr. RIEGLE (for himself and Mr. COATS):

S. 2302. A bill to require the Secretary of Energy to offer to enter into a vehicle fuel efficiency research agreement, and for other purposes; to the Committee on Commerce, Science, and Transportation.

ADVANCED FUEL EFFICIENCY RESEARCH AGREEMENT ACT

• Mr. RIEGLE. Mr. President, I rise today to introduce the Advanced Fuel Efficiency Research Agreement Act of 1992. This legislation will create an advanced research fuel efficiency agreement between the Federal Government and U.S. car manufacturers. Through this agreement, the best research and development assets of the U.S. Government and private industry will be used to develop the most advanced fuel efficiency technology possible.

Under this act, the Federal Government and the auto manufacturers will research and develop new and innovative technology to enhance the fuel efficiency of vehicles through cooperative multi-industrial teams, cost-sharing and other activities considered appropriate by the Secretary of Energy.

This is the same language that was accepted unanimously during consideration of the National Energy Security Act of 1992 but was later vitiated because of the objections of one Member.

As many Members know, Congress passed legislation in 1974 requiring U.S. automakers to make large increases in their new car fleet corporate average fuel economy standards. Since that time, the U.S. automakers have almost doubled their CAFE averages from 14 to about 28 miles per gallon. But, the lowest fruit has been picked and now the job gets much more difficult.

Some of these gains in fuel efficiency has been due to the development of new technologies by automakers. However, most of the improvement has come from vehicle downsizing. Since 1974, the weight of the average car has been reduced by 1,000 pounds.

Bills now pending in the Senate, such as S. 279, would mandate a 40-percent increase in each manufacturer's CAFE by 2001—up to 45 miles per gallon for cars and 35 miles per gallon for light trucks, vans and multipurpose vehicles. Proponents argue that such CAFE increases are possible without further downsizing.

As I have said many times before, steep CAFE increases would force automakers to build substantially smaller and lighter vehicles because there simply are no magic technologies that can meet the proposed fleet averages in bills now pending in Congress. With this act, we will make a real investment to develop the technology needed to increase fuel-efficiency without destroying the long-term viability of the U.S. auto industry. This amendment will allow the U.S. companies and the Federal to work together to develop the most fuel efficient cars in the world.

Obviously, if this technology was available now, it would have appeared in countries like Japan and West Germany which are totally dependent on foreign oil, and where the price of gasoline has historically been three to four times higher than in the United States. But, in fact, the new car fleet fuel economy in Japan and West Germany is in the same range as in this country—27 to 31 miles per gallon.

Without this technology, higher CAFE standards would put manufacturers in conflict with consumers. Because automakers would have to further reduce the size and weight of their vehicles and limit their production of larger models, most consumers would be limited to a choice of minicompact, subcompact and compact cars which may not meet their needs. Cars are available today in the 40 to 50 miles per gallon range, but they only appeal to 2 percent of car buyers. Auto-makers also would have to scale back or eliminate production of full and midsize vans and pickup trucks—the backbone of small businesses and farms as work vehicles.

Forcing automakers to produce and sell a mix of substantially smaller vehicles that do not meet the needs of most consumers would cause further declines in vehicle production, which could jeopardize tens of thousands of jobs at assembly and supplier plants, dealerships, and other industry related businesses.

Sharp reductions in the size and weight of cars and light trucks would increase the safety risks to motorists. Studies by the National Highway Traffic Safety Administration, Insurance Institute for Highway Safety, and the New England Injury Prevention Research Center all warn that a fleet dominated by small cars would lead to major increases in highway deaths and injuries.

Increasing fuel efficiency and developing alternative fuels to reduce our dependence on foreign oil is certainly an important national policy goal. Further fuel economy improvements will be made as vehicle manufacturers continue to broaden the application of known fuel efficiency technologies across their model offerings, and continue their efforts to develop vehicles powered by fuels other than gasoline. This joint Government and private sector effort to foster new technology makes sense as part of a national strategy to work with market forces to conserve energy and lessen the potential of global climate change.

The agreement's charge will be multifaceted. First, the consortium will develop materials and manufacturing techniques for advanced lightweight structural components for vehicles.

The agreement will encourage development of ancillary systems, including air-conditioning, heating, lighting, and windows that reduce the energy requirements of vehicles that have less adverse environmental impact than systems currently in use.

The agreement should spur development of a systems trade-off design for both electric, hybrid electric, and gasoline powered vehicles, including propulsion systems integration, heat engine types and sizes, battery and engine interfaces, control system requirements, and electrical component requirements.

The research and development should accelerate the evaluation of the feasibility of, the development of, and the integration into vehicles of advanced propulsion systems, including the automotive gas turbine engine and fuel cells. Additionally, the agreement should initiate a ceramic technology insertion program for near-term application in current engine designs in order to improve fuel efficiency and reduce vehicle emissions.

Under this act, the agreement will result in an advanced catalyst development program to consider new materials developments and alternative fuels utilization. Additionally, the amendment contains a section that ensures the activities of the agreement supplement current fuel efficiency research and development while not duplicating, displacing or reducing the amount of research of the big three auto makers.

Total funding for this agreement is set at $350 million for 3 years. The Federal share shall be 50 percent. It is a start of what hopefully will be a long relationship between the U.S. auto makers and the Federal Government's best laboratories.•

• Mr. COATS. Mr. President, I rise in strong support of the Advanced Fuel Efficiency Research Agreement Act, introduced today by my colleague, Senator RIEGLE. The bill will allow the Federal Government and U.S. auto manufacturers to enter a joint compact to develop technology that will create better automobile fuel efficiency.

Since the original corporate average fuel economy [CAFE] law passed in 1974, U.S. automakers have doubled their fuel efficiency. Although some gains were achieved through the development of new technology, most increases came from vehicle downsizing. Since 1974, the weight of the average car has been reduced by a quarter—some 1,000 pounds.

This bill is introduced today with the prospect of an attempt to radically raise CAFE standards looming on the horizon—despite the fact that no magic technologies exist to provide for such an increase. It may surprise some, but not even Congress can limitlessly command technological improvements.

Reaching any new level of fuel economy will once again require substantial reductions in both the weight and size of vehicles. The big three would be forced to limit production of many large automobiles, as well as scale back production of full and midsize vans and pick up trucks so crucial to farmers and small businesses.

Significant size reductions will limit consumer choices. The big three produce vehicles today that obtain over 40 miles per gallon. However, these vehicles represent less than 3 percent of U.S. sales. Such vehicles do not meet the needs of most customers.

In addition, smaller cars will severely limit transportation options for many Americans with specific needs. Senior citizens uncomfortable with smaller vehicles will be forced to make significant sacrifices, as will large families, church and charitable organizations needing midsize cars or vans, and car pool and van pool organizers.

If we force automakers to produce and sell a substantially smaller mix of vehicles that do not meet consumers demands, there will likely be further declines in vehicle production which will jeopardize tens of thousands of auto-related jobs.

Yesterday, General Motors, the world's largest auto maker, announced it will close a dozen plants around the country—a decision expected to effect over 16,000 workers. The announcement

came as General Motors reported net losses of $4.5 billion for 1991. Clearly, at this critical time for our auto industry, the last thing Congress needs to do is add to the burden.

My own State of Indiana is third in the Nation in auto employment; 57,000 Hoosiers rely on the auto industry for their livelihood. Let me remind my colleagues that one in every seven jobs in the United States is tied to the motor vehicle or related industries.

We clearly need to increase fuel efficiency but we cannot achieve this through radical Government mandates. Instead, we need to concentrate our efforts on finding new technologies to increase fuel efficiency without significantly downsizing automobiles once again. Congress can help towards this goal, and the bill we introduce puts us on the right path.

First, the joint effort will help develop materials and manufacturing techniques for advanced light-weight structural components for vehicles.

Second, the agreement will encourage development of more energy efficient, environmentally responsible systems, including air conditioning, heating, lighting and windows.

Third, the agreement should spur development of a systems trade-off design for both electric, hybrid electric, and gasoline powered vehicles. Propulsion systems integration, heat engine types and sizes, battery and engine interfaces, control system requirements, and electrical component requirements are among the innovations meriting further investigation.

Fourth, research and development should speed the evaluation and help with the development of advanced propulsion systems. The agreement would also focus on near-term application of a ceramic technology insertion program.

This bill will supplement the extensive fuel efficiency research already underway by U.S. automakers. It will in no way duplicate or displace the research that has already been conducted.

I hope our colleagues will join us in this investment in the future of our auto industry.●

By Mr. KASTEN (for himself, Mr. DOLE, Mr. BUMPERS, Mr. THURMOND, Mr. COATS, Mr. PRESSLER, Mr. DASCHLE, Mr. BURNS, Mr. COCHRAN, Mr. D'AMATO, Mr. DECONCINI, Mr. DODD, Mr. DURENBERGER, Mr. GARN, Mr. GRASSLEY, Mr. HOLLINGS, Mr. JOHNSTON, Mr. LEVIN, Mr. LIEBERMAN, Mr. LUGAR, Mr. MACK, Mr. MURKOWSKI, Mr. PRYOR, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. RUDMAN, Mr. SEYMOUR, Mr. SHELBY, Mr. STEVENS, Mr. REID, Mr. ROTH, Mr. DOMENICI, and Mr. WALLOP):

S.J. Res. 262. Joint resolution designating July 4, 1992, as "Buy American Day"; to the Committee on the Judiciary.

BUY AMERICAN DAY

● Mr. KASTEN. Mr. President, I rise today along with 32 of my Senate colleagues to introduce a resolution that would designate July 4, 1992, as "Buy American Day."

I think it's important to recognize that America's workers and businesses—particularly small businesses—produce some of the best products in the world.

Our entrepreneurs are the most creative and ingenious in the world. They are constantly pushing the limits of imagination to create new products and services. Americans are taking the lead in a number of areas. Electronics is a good example.

With new inventions, we are dominating the markets for microprocessors, medical instruments, and telecommunications equipment. These are just a few of the many cases where new ideas are putting us ahead.

When it comes to developing new products, America is second to none.

A Japanese official said our workers are "lazy and uninspired." I think he's dead wrong.

Our workers are one of America's most valuable economic resources. They lead the world in productivity. The average productivity of the American worker is 25 percent higher than their Japanese counterpart. This has helped our Nation's manufacturing productivity rise at an annual rate of 3.5 percent in recent years.

More importantly, American workers provide the pride of craftsmanship that has helped put America on top.

This dedication to hard work and excellence has resulted in a tremendous abundance of quality American goods which benefit consumers all over the world.

Over the past 6 years our Nation's exports have expanded by 91 percent, which is more than three times the growth rate of Germany's exports and six times Japan's exporting growth rate. This has increased America's share of the world market and positioned us to become the world's largest exporter.

Mr. President, this Buy American Day resolution is not a call for protectionism. Rather, it's a call for Americans—and people all over the world—to recognize the accomplishments of our workers and businesses.

It's also a call to foreign companies who locate here in America to buy American goods and services—whether it's auto parts, machine tools, or financial services. If a foreign-based company sets up shop and sells products here in America, then it ought to give U.S. suppliers a fair chance.

Mr. President, this resolution designates July 4, 1992, as Buy American Day. As we celebrate Independence Day, I think its appropriate for us to also commemorate America's workers and businesses through the purchase of American-made goods and services.

I ask unanimous consent that an article by Mr. Lawrence B. Lindsey entitled "America's Growing Economic Lead" be entered in the RECORD immediately following my remarks:

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

[From the Wall Street Journal, Feb. 7, 1992]

AMERICA'S GROWING ECONOMIC LEAD

(By Lawrence B. Lindsey)

Two leading Japanese politicians, Prime Minister Kiichi Miyazawa and Speaker of the House Yoshio Sakurauchi have caused a firestorm by questioning the quality and work ethic of America's workers and this country's ability to compete in the world. But doubts about America are not confined to foreigners. Not too long ago, some American leaders warned that the country is at risk of a future of flipping hamburgers and sweeping up around Japanese computers.

Fortunately, the evidence is strong that those who are bearish about America's future are wrong about both the past and the future. But the pessimism about America is so widespread that talk of protectionism and a retreat from active involvement in international economic and political affairs is again fashionable. The facts suggest that those seeking a truly effective industrial policy should actually favor active American promotion of rapid world-wide economic growth in the context of free trade.

GROWING ADVANTAGE

Research by Andrew Warner of Harvard University and the Federal Reserve shows that, contrary to popular belief, America's advantage is in the production of high-technology capital goods, and that this advantage has been growing. A key reason for the recent boom in exports has been the rapid rise of world-wide spending on capital goods.

INDUSTRIAL GIANT

Back in the late 1960s, when by all accounts the U.S. was the world's industrial giant, manufacturing amounted to about 22% of real gross domestic product. Much of this manufacturing went into defense and the production of consumer goods from shirts to automobiles. Only 28% of the manufacturing base was devoted to capital goods such as computers, aircraft and industrial machinery, and only 20% of American capital goods were exported. The total value of U.S. capital-goods exports was just 1.4% of GDP.

Today, when some assert that the U.S. has lost its manufacturing base, manufacturing output has risen to 23% of real GDP. The share of the manufacturing base devoted to capital goods has risen to 38%. This capital-goods boom has been made possible by exports: About 45% of capital goods output is now sold abroad, more than double the proportion of the late 1960s. Capital-goods exports now amount to 4% of GDP.

Contrary to the pessimists' view, a major part of this improvement occurred during the 1980s, and particularly the late 1980s. During the 1980s, the growth in real exports amounted to one-fifth of the real growth of the economy. Inflation-adjusted growth in exports of capital goods out-paced overall growth by better than two to one. Since 1986, the story is even more striking. Nearly half of America's real economic growth over the past five years has been in exports.

Also contrary to the pessimists' claims, U.S. exports have become less based on farm and other primary goods and more focused on high technology. Capital equipment has risen to 41% of U.S. exports from 30% in the late 1960s, largely as a result of the world-wide investment boom: As other countries develop their economies, they purchase increasing amounts of American-made machines, computers and airplanes.

During the past two decades, the investment share of world product has risen to 26% from 22%. In dollar terms, gross world investment outside the U.S. in 1992 will be roughly $5 trillion.

We should hope that this process continues, not only for humanitarian reasons, but also to benefit the American economy. Each 1% in world investment spending produces a 1.5% increase in exports of capital goods, and almost a full point increase in total merchandise exports. Strikingly, not only does the relationship between world-wide investment and U.S. exports pass traditional statistical tests easily, the relationship stands up to a wide variety of mathematical and statistical specifications. In fact, the link between U.S. exports and world-wide investment shows some signs of having strengthened in recent years.

It is interesting to contrast the U.S. performance with that of Japan. There is no evidence of a statistical relationship between Japanese exports and world investment spending over the past quarter century. There does appear to be some improvement over time for Japan, although this improving trend does not pass statistical muster. Further, even at its highest, the sensitivity of Japanese exports to world-wide investment spending remained below America's.

One reason for the popularity of the pessimists' view is that America's strengths are not apparent in goods that consumers normally buy. To see them, one has to visit factories, construction sites and airport hangars—not your usual tourist stops.

The regional composition of investment also appears to be shifting in America's favor. Latin America as a whole and Mexico in particular are increasing their pace of investment. During 1989, the U.S. exported twice as many capital goods to Latin America as did Japan. The other area of potential investment in the years ahead is the former communist bloc, which could become a staggering source of future growth of U.S. capital goods exports.

The most urgent message of this analysis is that encouraging faster world-wide economic development might be the single most effective policy for promoting the growth of exports. The export-promotion policy that many suggest as an alternative to freer trade is a reduction in the exchange value of the dollar. This has three potential drawbacks. First, it's not clear that a country's monetary authorities can control the value of their currency. Second, if foreign-exchange markets perceive that devaluation is an intended policy of the U.S. government, interest rates in assets denominated in dollars might rise to offset the exchange-rate loss. Third, devaluation would reduce Americans' purchasing power and standard of living.

Recent history provides a good test of the relative efficacy of world-wide investment and exchange-rate depreciation. The late 1980s were a period not only of rapidly growing world-wide investment spending, but also of real dollar depreciation. During the five years following the Plaza Accord of 1985, the dollar fell 38% on a trade weighted basis. World-wide investment spending rose 38% over the same period.

Over those five years, total U.S. merchandise exports rose $192 billion in inflation-adjusted terms. $106 billion of the additional merchandise exports, or 55%, was statistically associated with the rise of global investment.

COMMON-SENSE IDEAS

Let there be no mistake: Neither America nor any other country can expect to enjoy an economic free ride. Americans should continue their efforts to reform the nation's schools, increase the investment rate, encourage the natural entrepreneurship of the population and subject government spending and regulation to rigorous cost-benefit tests. But these are commonsense ideas that we would be well advised to undertake regardless of the international trading situation.

There may be some advantage in having Mr. Miyazawa and his countrymen think that America is in decline. It probably pays to be underestimated. But we would be foolish to underestimate ourselves. World economic trends are moving our way and we do not need to be protected from them. If anything, we need to reinforce them and to increase our exposure to them. The best industrial policy for America to pursue is active involvement in the world's affairs to promote global economic development and free trade.●

ADDITIONAL COSPONSORS

S. 55

At the request of Mr. METZENBAUM, the name of the Senator from Nebraska [Mr. KERREY] was added as a cosponsor of S. 55, a bill to amend the National Labor Relations Act and the Railway Labor Act to prevent discrimination based on participation in labor disputes.

S. 873

At the request of Mr. BOREN, the names of the Senator from North Dakota [Mr. CONRAD] and the Senator from North Dakota [Mr. BURDICK] were added as cosponsors of S. 873, a bill to amend the Internal Revenue Code of 1986 to clarify the treatment of interest income and rental expense in connection with safe harbor leases involving rural electric cooperatives.

S. 914

At the request of Mr. GLENN, the name of the Senator from Georgia [Mr. FOWLER] was added as a cosponsor of S. 914, a bill to amend title 5, United States Code, to restore to Federal civilian employees their right to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitations, and for other purposes.

S. 1372

At the request of Mr. GORE, the names of the Senator from Alabama [Mr. SHELBY], the Senator from South Dakota [Mr. PRESSLER], and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of S. 1372, a bill to amend the Federal Communications Act of 1934 to prevent the loss of existing spectrum to Amateur Radio Service.

S. 1451

At the request of Mr. BIDEN, the names of the Senator from Pennsylvania [Mr. WOFFORD] and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of S. 1451, a bill to provide for the minting of coins in commemoration of Benjamin Franklin and to enact a fire service bill of rights.

S. 1522

At the request of Mr. BOREN, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 1522, a bill to amend the Internal Revenue Code of 1986 with respect to the treatment by cooperatives of gains or losses from sale of certain assets.

S. 1698

At the request of Mr. SARBANES, the names of the Senator from Massachusetts [Mr. KENNEDY] and the Senator from North Dakota [Mr. BURDICK] were added as cosponsors of S. 1698, a bill to establish a National Fallen Firefighters Foundation.

S. 1862

At the request of Mr. GRAHAM, the names of the Senator from Arkansas [Mr. BUMPERS] and the Senator from Maryland [Mr. SARBANES] were added as cosponsors of S. 1862, a bill to amend the National Wildlife Refuge System Administration Act of 1966 to improve the management of the National Wildlife Refuge System, and for other purposes.

S. 1902

At the request of Mr. ADAMS, the names of the Senator from Kansas [Mrs. KASSEBAUM] and the Senator from Rhode Island [Mr. CHAFEE] were added as cosponsors of S. 1902, a bill to amend title IV of the Public Health Service Act to require certain review and recommendations concerning applications for assistance to perform research and to permit certain research concerning the transplantation of human fetal tissue for therapeutic purposes, and for other purposes.

S. 1989

At the request of Mr. ROCKEFELLER, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 1989, a bill to amend certain provisions of the Internal Revenue Code of 1986 to improve the provision of health care to retirees in the coal industry, to revise the manner in which such care is funded and maintained, and for other purposes.

S. 2204

At the request of Mr. DURENBERGER, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 2204, a bill to amend title 23, United States Code, to repeal the provisions relating to penalties with respect to grants to States for safety belt and motorcycle helmet traffic safety programs.

S. 2205

At the request of Mr. LEAHY, the names of the Senator from Minnesota

[Mr. DURENBERGER] and the Senator from Illinois [Mr. SIMON] were added as cosponsors of S. 2205, a bill to amend the Public Health Service Act to provide for the establishment or support by States of registries regarding cancer, to provide for a study regarding the elevated rate of mortality for breast cancer in certain States, and for other purposes.

S. 2232

At the request of Ms. MIKULSKI, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 2232, a bill to make available to consumers certain information regarding automobiles.

S. 2250

At the request of Mr. SASSER, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 2250, a bill to allow rational choice between defense and domestic discretionary spending.

S. 2254

At the request of Mr. MCCAIN, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 2254, a bill to provide tax incentives for businesses locating on Indian reservations, and for other purposes.

S. 2262

At the request of Mr. LEAHY, the name of the Senator from Tennessee [Mr. SASSER] was added as a cosponsor of S. 2262, a bill to make emergency supplemental appropriations to provide a short-term stimulus to promote job creation in rural areas of the United States, and for other purposes.

SENATE JOINT RESOLUTION 166

At the request of Mr. DOLE, the names of the Senator from Minnesota [Mr. WELLSTONE], the Senator from Indiana [Mr. LUGAR], and the Senator from North Dakota [Mr. BURDICK] were added as cosponsors of Senate Joint Resolution 166, a joint resolution designating the week of October 6 through 12, 1991, as "National Customer Service Week."

SENATE JOINT RESOLUTION 182

At the request of Mr. KASTEN, the name of the Senator from California [Mr. SEYMOUR] was added as a cosponsor of Senate Joint Resolution 182, a joint resolution proposing a balanced budget amendment to the Constitution of the United States.

SENATE JOINT RESOLUTION 222

At the request of Mr. DASCHLE, the names of the Senator from Nebraska [Mr. KERREY] and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of Senate Joint Resolution 222, a joint resolution to designate 1992 as the "Year of Reconciliation Between American Indians and non-Indians."

SENATE JOINT RESOLUTION 233

At the request of Mr. WELLSTONE, his name was added as a cosponsor of Senate Joint Resolution 233, a joint resolution to designate the week beginning April 12, 1992, as "National Public Safety Telecommunicators Week."

SENATE JOINT RESOLUTION 244

At the request of Mr. SIMPSON, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of Senate Joint Resolution 244, a joint resolution to recognize and honor the National Conference of Commissioners on Uniform State Laws on its centennial for its contribution to a strong federal system of government.

SENATE JOINT RESOLUTION 254

At the request of Mr. D'AMATO, the names of the Senator from Arizona [Mr. DECONCINI] and the Senator from Wyoming [Mr. SIMPSON] were added as cosponsors of Senate Joint Resolution 254, a joint resolution commending the New York Stock Exchange on the occasion of its bicentennial.

At the request of Mr. BOND, his name was added as a cosponsor of Senate Joint Resolution 254, supra.

At the request of Mr. MOYNIHAN, the names of the Senator from Hawaii [Mr. INOUYE] and the Senator from Delaware [Mr. ROTH] were added as cosponsors of Senate Joint Resolution 254, supra.

SENATE JOINT RESOLUTION 255

At the request of Mr. D'AMATO, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of Senate Joint Resolution 255, a joint resolution to designate September 13, 1992 as "Commodore Barry Day."

SENATE CONCURRENT RESOLUTION 70

At the request of Mr. SANFORD, the names of the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Kansas [Mr. DOLE], the Senator from New York [Mr. MOYNIHAN], and the Senator from Virginia [Mr. ROBB] were added as cosponsors of Senate Concurrent Resolution 70, a concurrent resolution to express the sense of the Congress with respect to the support of the United States for the protection of the African elephant.

SENATE CONCURRENT RESOLUTION 91

At the request of Mr. PRESSLER, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of Senate Concurrent Resolution 91, a concurrent resolution expressing the sense of Congress that the Commission on Broadcasting to the People's Republic of China should be appointed expeditiously, and make its recommendations and propose a plan to the administration and Congress no later than 365 days after enactment of the Foreign Relations Authorization Act for fiscal years 1992 and 1993 (P.L. 102-138).

SENATE RESOLUTION 249

At the request of Mr. D'AMATO, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of Senate Resolution 249, a resolution expressing the sense of the Senate that the United States should seek a final and conclusive account of the whereabouts and definitive fate of Raoul Wallenberg.

SENATE RESOLUTION 260

At the request of Mr. KASTEN, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of Senate Resolution 260, a resolution opposing the taxation of cash buildup in life insurance annuities.

AMENDMENT NO. 1698

At the request of Mr. GRASSLEY his name was added as a cosponsor of amendment No. 1698 proposed to S. 479, a bill to encourage innovation and productivity, stimulate trade, and promote the competitiveness and technological leadership of the United States.

SENATE CONCURRENT RESOLUTION 96—RELATIVE TO THE PERSECUTION OF ALBANIANS IN THE FORMER YUGOSLAVIA

Mr. PRESSLER submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 96

Whereas Kosova was constitutionally defined as a sovereign territory in the First National-Liberation Conference for Kosova on January 2, 1944, confirmed in the Constitution of the Socialist Federal Republic of Yugoslavia adopted in 1946;

Whereas the amended Yugoslav constitution of 1974 preserved the autonomous status of Kosova as one of the eight constituent units of the Yugoslav Federation;

Whereas efforts of the Government of Serbia to abolish the autonomous status of Kosova through an unlawful constitutional amendment on March 23, 1989, was done without the consent of the people of Kosova;

Whereas the elected Assembly of Kosova adopted a Declaration of Independence of Kosova on July 2, 1990, proclaimed the Republic of Kosova and adopted a constitution of the Republic of Kosova on September 7, 1990, based on principles of self-determination, equality and sovereignty;

Whereas a popular referendum was held in Kosova in September 1991, in which 87.01 percent of eligible voters participated and 99.87 percent of voters favored declaring Kosova independent of the Socialist Federal Republic of Yugoslavia;

Whereas the elected Government of Kosova functions as a government-in-exile because the Government of Serbia has forcibly prevented this freely-elected government the ability to function on the territory of Kosova;

Whereas the Government of Kosova has affirmed its commitment to observe internationally recognized obligations for the protection of human rights, including: the International Covenant of Civil and Political Rights; the International Covenant on Economic, Social, and Cultural Rights of the United Nations; the Final Act of the Conference on Security and Co-operation in Europe, the Charter of Paris for a new Europe and other documents of the Conference on Security and Cooperation in Europe relating to the Human Dimension, and the Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms; including the protocols to that Convention;

Whereas the Government of Kosova has affirmed its willingness to accept and observe all commitments and obligations defined by the European Community as preconditions

for the formal recognition of Yugoslav republics wishing to be recognized diplomatically as set forth in the Declaration on Yugoslavia adopted in the Extraordinary Ministerial Meeting of the European Community in Brussels on December 16, 1991;

Whereas at least 45 nations have extended diplomatic recognition to the Republics of Croatia and Slovenia.

Whereas the Government of Kosova has affirmed its support for the efforts of the United Nations and the European Community to resolve the continuing conflict between the Republics of Serbia and Croatia;

Whereas it has generally been the policy of the United States for over two centuries to recognize and extend full diplomatic relations to those nations whose people have freely expressed their sovereign wish for independence and recognition as a sovereign state;

Whereas the U.S. Congress has traditionally supported the rights of peoples to peaceful and democratic self-determination; and

Whereas pursuant to article VIII of the Helsinki Final Act of the Conference on Security and Cooperation in Europe, "all peoples always have the right, in full freedom, to determine, when and as they wish, their internal and external political status, without external interference, and to pursue as they wish their political, economic, social and cultural development": Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the United States—

(1) determines that Kosova has fulfilled criteria outlined for recognition of governments outlined by the United States;

(2) recognizes the independence of Kosova and should establish full diplomatic relations with Kosova;

(3) provide appropriate assistance, engage in trade, and take other steps to support the Government of Kosova and encourage the further development of democracy and a free market economic system;

(4) lead actively within appropriate United Nations and other international agencies to ensure removal of unwanted foreign forces from Kosova and an early end to martial law; and

(5) seek the inclusion of the Kosova question on the agenda of the United Nations Security Council, including a request for a factfinding mission to recommend observers of peacekeeping activities to restore peace and ensure a peaceful transition for an independent Kosova.

Mr. PRESSLER. Mr. President, today I am submitting a concurrent resolution to support Albanians in what I call the former Yugoslavia. Among other things, this resolution affirms the independence and calls for United States recognition of the Government of Kosova. It also calls for the United States to take the lead within the U.N. system to examine ways to remove unwanted occupation forces and end violations of human rights in Kosova. Ultimately this may require U.N. peacekeeping forces be deployed in Kosova.

In submitting this concurrent resolution I would be remiss if I did not commend the good efforts of Congressman TOM LANTOS of California. Congressman LANTOS has introduced a similar resolution in the House of Representatives—House Concurrent Resolution 224. He has been a leader in the cause of human rights since first coming to Congress and I am proud to join him in the effort to encourage the United States to recognize the independence of the Republic of Kosova.

Mr. President, an international presence in Kosova, not controlled by the regime in Belgrade, is almost certainly required to protect the Albanian majority from further persecution. They are the principal target of the Communist government in Belgrade.

Mr. President, this week marks the third shameful anniversary of Belgrade's declaration of martial law in Kosova. During these years, Albanians have been unable to use their language, they have lost their jobs, and they have been illegally detained—to cite just a few abuses. Even the limited rights Kosova's Albanians once enjoyed as a Republic of Yugoslavia have been stripped away. They have been forced to live as the chattel of the Belgrade bullies.

The Belgrade regime is experienced in crushing the hopes of citizens of the former Yugoslavia. In Kosova, it is determined to punish Albanians for the crime of asking for freedom and national rights, advocating independence from Yugoslavia and for seeking the possibility of republic status for Kosova or union with Albania.

Mr. President, Albanians in Kosova have decided to stand up to the Communist dictatorship in Belgrade and pave the way for democracy. In September 1991, the people of Kosova voted against confederation with Serbia and for independence despite attempts by the Central Government of Yugoslavia to suppress Kosova's referendum. Interference in this election was reported in the State Department's Human Rights Report for 1991.

Mr. President, I ask unanimous consent that a copy of the Summary of the State Department's Human Rights Report for 1991 on the former Yugoslavia be printed in the RECORD at the conclusion of my remarks.

The Government of Kosova has stated that it will abide by international covenants including the final act of the Conference on Security and Cooperation in Europe. The Government of Kosova has further stated that it will accept and observe all commitments and obligations defined by the European Community and the United States as preconditions for the formal recognition of republics of the former Yugoslavia.

Mr. President, the case for recognition of Kosova is simple. For centuries the United States has stood for the right of people to determine their own fate. The people of Kosova have expressed their desire for independence and freedom. We should support their declaration and do whatever is reasonable and prudent to help remove unwanted foreign forces from their territory.

Mr. President, the concurrent resolution I am submitting today urges possible stationing of U.N. peacekeepers in Kosova. If these forces are deployed in Croatia and Slovenia and not Kosova, the Belgrade authorities may redeploy military forces to crush Kosova the way they crushed Croatia.

In addition to this resolution, I am sending a letter to the Secretary General of the United Nations, Boutros-Ghali, to ask for deployment of peacekeeping forces to Kosova when the United Nations sends forces to Croatia and Slovenia.

Mr. President, the authorities in Belgrade have targeted Kosova because they think they can get away with it. They have seen America's refusal to recognize Croatia and Slovenia's Governments. This resolution will let the Albanians in Kosova know that the United States will not ignore their plight.

I urge my colleagues to cosponsor this concurrent resolution.

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

COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 1991

YUGOSLAVIA

The Yugoslavia of 1991 bears little resemblance to the one established by the 1974 Constitution that set up a Federal State comprising six republics (with two autonomous regions in the republic of Serbia) and a collective Federal Presidency as the supreme state organ. Effective civilian federal authority collapsed in 1991 as the republics and various independence movements decisively rejected that authority and escalating ethnic animosities propelled the country into a vicious armed conflict.

The Federal Government's attempts to introduce multiparty elections at the federal level and to advance economic reforms were blocked by republic governments. Several republics adopted legislation and new constitutions that gave primacy to republic-level rather than to federal laws and routinely ignored federal legislation. Blocked by Serbia in their attempts to restructure Yugoslavia as a loose confederation, the republics of Croatia and Slovenia on June 25 declared complete independence and sought international recognition. In walking out of the Federal Assembly (legislature), they effectively denied it a quorum. In October Serbia and its allies in the Federal Presidency assumed the right to act in the name of the Presidency and to take over the Federal Assembly's authority. Federal Prime Minister Markovic, a Croat, lost effective power and finally resigned in December after Serbian-dominated rump federal institutions sought his ouster. In December Stripe Mesic, the President of the Federal Presidency and a Croat, resigned his office.

The breakdown of federal authority seriously compromised the principle of federal civilian control over the Yugoslavia National Army (JNA) which, along with elements of other security and police forces, technically remained under federal civilian jurisdiction in 1991. After its nominal commander in Chief, the collective Federal Presidency, became paralyzed, the JNA allied itself squarely with Serbian politicians in the armed conflict with Croatia.

The size and activities of other military, paramilitary, and police units increased dramatically in 1991, including those of the Croatian army and the irregular units organized by Serbian resident of Croatia. The outbreak of fighting between these groups and the aggressive role of the JNA in support of these Serbs led to many civilian casualties, the displacement of hundreds of thousands of persons from the war-torn areas, and widespread brutality and disregard of the Geneva Conventions and other international norms.

In the economy, the workers' self-management system, which purported to enable workers to run their own enterprises through elected workers' councils, is being phased out. The Federal Government's economic reform program, aimed at converting to a market system and encouraging private enterprise, started promisingly in 1990 but collapsed under high inflation, plummeting production, and growing unemployment that were aggravated by the fracturing of the economy along republic and ethnic lines. The National Bank of Yugoslavia resorted to printing money and extending large credits to the Federal Government to finance its growing expenditures, primarily to support the military.

Respect for human rights deteriorated drastically in the deepening political crisis and the breakdown of civil order. Extreme interrepublic and ethnic animosities and the spread of armed conflict undid 1990's promising advances in human rights and brought about serious new human rights violations. The armed conflict claimed thousands of lives by year's end, including those of many civilian noncombatants. In the areas most affected by the fighting, there were widespread and credible reports of atrocities, including the massacre of villagers, the killing of prisoners, the use of human shields, and the taking of hostages. Such behavior was rarely punished. Croats and Serbs both fled areas of Croatia that came under the control of the other ethnic group.

In the autonomous province of Kosova, Serbian authorities intensified repressive measures against the majority Albanian population, eliminating virtually all Albanian-language schooling. They arrested and beat hundreds of Albanians on trumped-up charges and suppressed the Albanian community's attempt to organize a referendum on Kosova's future. In March Serbian police and army troops in Belgrade used force to repress large-scale opposition demonstrations to demand the Serbian government's ouster, resulting in two deaths and hundreds of injuries.

AMENDMENTS SUBMITTED

NATIONAL COOPERATIVE RESEARCH ACT EXTENSION

BIDEN (AND BROWN) AMENDMENT NO. 1699

Mr. BIDEN (for himself and Mr. BROWN) proposed an amendment to the bill S. 479) to encourage innovation and productivity, stimulate trade, and promote the competitiveness and technological leadership of the United States, as follows:

On page 10, strike lines 12 through 22 and insert the following:

"SEC. 7. (a) IN GENERAL.—Section 4 of this Act applies to a joint venture for production only if the joint venture—

"(1) provides substantial benefits to the United States economy including, but not limited to, increased skilled job opportunities in the United States, investments in long-term production facilities in the United States, participation of United States entities in the joint venture, or the ability of the United States entities to access and commercialize technological innovations or to realize production efficiencies; and

"(2)(A) whose principal facilities for the production of a product, process, or service are located within the United States or its territories; or

"(B) whose principal facilities for the production of a product, process, or service are located within a country whose antitrust law accords national treatment to United States entities that are parties to joint ventures for production.

"(b) MEANING OF NATIONAL TREATMENT.—For the purposes of this section, a foreign country accords national treatment to United States entities that are parties to joint ventures for production if it accords treatment no less favorable with respect to the application of its antitrust laws to United States participants in joint ventures for production than would be accorded to its domestic participants in joint ventures for production in like circumstances.

LEAHY (AND OTHERS) AMENDMENT NO. 1700

Mr. LEAHY (for himself, Mr. THURMOND, and Mr. METZENBAUM) proposed an amendment to the bill S. 479, supra, as follows:

On page 5, line 15, strike "1991" and insert "1992".

On page 7, line 24, strike "and" and insert "or".

On page 8, line 3, strike "and".

On page 8, strike lines 5 and 6 and insert the following:

(C) in paragraph (2)—

(i) by striking "production or" each place it appears; and

(ii) by striking "other than the marketing of proprietary information developed through such venture, such as patents and trade secrets, and" and inserting the following: "other than—

"(A) the marketing of proprietary information, such as patents and trade secrets, developed through such venture formed before enactment of the National Cooperative Research Act Extension of 1991, or

"(B) the licensing, conveying, or transferring of intellectual property, such as patents and trade secrets, developed through such venture formed after enactment of the National Cooperative Research Act Extension of 1991, and"; and

On page 11, line 15, insert "and the Federal Trade Commission" after "the Department of Justice".

SAN ANTONIO DRUG SUMMIT

BIDEN AMENDMENT NO. 1701

Mr. MITCHELL (for Mr. BIDEN) proposed an amendment to the joint resolution (H.J. Res. 414) regarding the San Antonio Drug Summit, as follows:

At the appropriate place, add the following: "Whereas, there is more cocaine than ever coming out of the Andes, we should redouble our efforts to reduce the influx of drugs.".

NOTICES OF HEARINGS

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BUMPERS. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources.

The hearing will take place on Thursday, March 19, 1992, beginning at 9:30 a.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on S. 684, a bill to amend the National Historic Preservation Act and the National Historic Preservation Act Amendments of 1980 to strengthen the preservation of our historic heritage and resources, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, anyone wishing to submit written testimony to be included in the hearing record is welcome to do so. Those wishing to submit written testimony should send two copies to the Subcommittee on Public Lands, National Parks and Forests, Committee on Energy and Natural Resources, 304 Dirksen Senate Office Building, Washington, DC 20510.

For further information regarding the hearing, please contact David Brooks of the subcommittee staff at (202) 244-9863.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON INVESTIGATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Thursday, February 27, 1992, to hold a hearing on Current Trends in Money Laundering.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, February 27, at 2:30 p.m. to hold a hearing on the crisis in East Timor and United States policy toward Indonesia.

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 on Thursday, February 27, 1992, at 2 p.m., to receive testimony on managing the defense builddown.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. MITCHELL. Mr. President, the Committee on Veterans' Affairs would like to request unanimous consent to hold a hearing on the veterans programs budget for fiscal year 1993 on February 27, 1992, at 9:30 a.m. in room 418 of the Russell Building.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, February 27, 10 a.m. to hold a hearing on strategic nuclear reductions in a post-cold-war world.

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

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet on February 27, 1992, beginning at 2:30 p.m., in 485 Russell Senate Office Building, continuation on the President's Budget for fiscal year 1993 for Indian Programs.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on February 27, 1992, at 10 a.m. on indications of global warming and solar variability.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation and the National Ocean Policy Study, be authorized to meet during the session of the Senate on February 27, 1992, at 2 p.m. on H.R. 1297, the Clean Vessel Act of 1991.

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

ADDITIONAL STATEMENTS

READ ME DAY

• Mr. GORE. Mr. President, I rise today to recognize a very special day for students at East Hickman School in Lyles, TN. On Friday, April 24, 1992, these students celebrate "Read Me Day," the final event in a month-long program to promote reading by students. I would like to congratulate the students, teachers, parents, and everyone who participates in this wonderful program.

"Read Me Day" emphasizes the importance of reading in all aspects of our lives. The teachers at East Hickman school have developed a multidisciplinary teaching approach that reinforces reading and learning skills. The month long program incorporates many creative and imaginative activities to engage and challenge students. There are letter writing contests, poster contests and guest readers who share their favorite stories and poems with the students. The centerpiece of this program is the involvement of students, teachers, parents and members of the community to promote reading.

Since it began in 1986, "Read Me Day" has developed and grown a great deal. Today many schools across Tennessee are celebrating "Read Me Day" and developing programs for their students. I want to again congratulate everyone involved in this "Read Me Day" at East Hickman School in Lyles, TN.•

AMERICAN TAEKWONDO ASSOCIATION

• Mr. BOND. Mr. President, I rise today to pay tribute to the American Taekwondo Association.

The President's Council on Physical Fitness and Sports has selected American Taekwondo Association as one of the 55 fitness-sports activities in the Presidential Sports Award Program. The American Taekwondo Association has a membership of over 125,000 students and over 2,100 nationally certified instructors in over 600 schools and clubs in the United States, 13 of which are in the State of Missouri.

The American Taekwondo Association promotes courtesy, loyalty, respect, perseverence, honor, integrity, and self-control, as its credo. Furthermore, the universal appeal of the martial arts as a method of physical fitness transcends all barriers of age, race or sex. The youngest ATA black belt is 6 years old and the oldest is 76 years of age.

Missouri is the proud host for four annual American Taekwondo Regional Tournaments, held in Jefferson City, Rolla, Springfield, and Columbia. At these tournaments points can be accumulated toward a national or world championship title. These events bring numerous competitors, spectators and ATA dignitaries into the State of Missouri.

Mr. President, I commend all the American Taekwondo Association competitors for their hard work and dedication. And I would like to ask my distinguished colleagues to join me in recognizing March 22, 1992, as American Taekwondo Association Day.•

PUBLIC UTILITY HOLDING COMPANY ACT

• Mr. RIEGLE. Mr. President, on February 18, I placed a list of those people or groups who have sent me letters stating their support for reform of the Public Utility Holding Company Act and/or the amendment I offered regarding PUHCA reform. Since that time, I have received additional letters. For that reason, I would like to put in the RECORD a revised and corrected list of supporters of the amendment I offered and/or supporters of PUHCA reform generally.

The list follows:

MICHIGAN LETTERS

MAYORS

City of Detroit, Coleman A. Young, Mayor.

City of Eaton Rapids, MI, Larry L. Holley, Mayor.

City of Dowagiac, MI, James E. Burke, Mayor.

City of Hillsdale, MI, Nicholas L. Ferro II, Mayor.

City of Coldwater, MI, Louise Wallace, Mayor.

City of Hart, MI, Kalvin Klotz, Mayor.

City of Holland, MI, Neal Berghoef, Mayor.

CITY/VILLAGE MANAGERS

City of Saint Louis, MI, Larry A. Wernette, City Manager.

City of Harbor Springs, MI, Frederick W. Geuder, City Manager.

City of Marshall, MI, Chester E. Travis, City Manager.

Village of Chelsea, MI, Harry L. (Jack) Myers, Village Manager.

City of Coldwater, MI, William Stewart, City Manager.

City of Petoskey, MI, George Korthauer, City Manager.

Clinton Village Office—Clinton, MI, Kevin Cornish, Village Manager.

City of Portland, MI, Rex Wambaugh, City Manager.

MISCELLANEOUS CITY OFFICIALS: CLERKS/TREASURERS, ADMINISTRATORS, SUPERINTENDENT, COUNCILMEN, AND CONSULTANTS

City of Eaton Rapids, MI, Marietta White, City Clerk/Treasurer.

City of Marshall, MI, Terry Smith, Electrical Administrator.

Village of Union City, MI, James E. Spencer, Superintendent.

Union City, MI, Bradley C. Waite, Councilman.

City of Petoskey, MI, Frank McCune, Staff Consultant.

Village of Paw Paw, MI, Charles R. Cusamano, Clerk/Comptroller.

LARGE INDUSTRIES

Dow U.S.A., Dow Chemical, Midland, MI, W.S. Stavropoulos, President.

General Motors Corp., Detroit, MI (2/6/92), Gerhard Stein, Director of Energy.

UTILITIES IN MICHIGAN

Michigan South Central Power Agency, Litchfield, MI, J.P. Bierl, General Manager,

Wolverine Power—Cadillac, MI, Raymond G. Towne, Executive V.P. and General Manager.

Public Lighting Department, Detroit, MI, George Cascos, P.E., Deputy Superintendent.

Consumers Power, William T. McCormick, Jr., Chairman & CEO.

Mr. D. Wayne MacDonald, Utica Michigan, Consumers Power Area Manager.

Wisconsin Electric Power Company, Michael E. Nix—Washington D.C. Representative.

Wisconsin Public Power Inc. System, Sun Prairie, WI.

Michigan Public Power Agency, Kentwood, MI Gary L. Zimmerman, Jr.

Michigan Municipal Electric Association, Kentwood, MI, Gary L. Zimmerman, Jr.

Michigan Electric Cooperative Association, Lansing MI, Raymond G. Kuhl, Executive Vice President and General Manager.

Northern States Power Company, Elaine M. Ziemba—Executive Director, Federal Government Affairs, Jim Howard, Chairman and Chief Executive Officer.

MUNICIPALLY OWNED UTILITIES.

City of Niles, MI, Utilities Department (Board of Public Works), Brian B. Day, Manager.

City of Dowagiac, MI, Department of Public Services, Mel L. Lyons, Director.

The City of Traverse City, MI, Light and Power Department, Charles R. Fricke, Executive Director.

Grand Haven, MI, Board of Light and Power, Phil Trumpfheller, General Manager.

City of Charlevoix, MI, Edward Whitley, Electric & Water Superintendent.

Lansing Board of Water & Light, Lansing, MI, Joseph Pandy, Jr., General Manager.

City of Wyandotte, MI, Municipal Service Commission, Thomas A. Kuzmiak, President.

City of Wyandotte, MI, Department of Municipal Service, Ted S. Olszewski, Operations Officer.

Hillsdale, MI, Board of Public Utilities, Richard A. Kneen, President.

Hillsdale, MI, Board of Public Utilities, Ronald D. Neer, Vice Chairman, MSCPA, Director of Utilities.

Hillsdale, MI, Board of Public Utilities, David J. Lambert, CPA PC.

Coldwater, MI, Board of Public Utilities, Dwight Woodman, Director.

City of Zeeland, MI, Board of Public Utilities, David R. Walters, General Manager.

City of Marquette, MI, Board of Light and Power, David E. Hickey, Executive Director.

Bay City Electric Light & Power, Bay City, MI, Thomas L. Kasper, Director of Electric Utilities.

Kent County, MI, Board of Public Works, William R. Byl, Chairman.

City of South Haven, MI, Karl J. Dehn, Public Works Operations Manager.

Michigan Municipal Cooperative Group (MMCG), Joseph D. Wolfe, Chair, MMCG Steering Committee, Lansing, MI.

Board of Public Works, Holland, MI, Tim Morawski, P.E., General Manager.

COOPERATIVES

Presque Isle Electric Cooperative, Inc., Onaway, MI, A. Barkley Travis, Executive Vice President and General Manager.

Tri-County Electric Cooperative, Portland, MI, R.W. Matheny, General Manager.

O & A Electric Cooperative, Inc., Newaygo, MI, Robert L. Hance, General Manager.

Oceana Electric Cooperative, Hart, MI, Harry V. Ruth, General Manager.

The Western Michigan Electric Cooperative, James W. Stickney, General Manager.

Cherryland Electric Cooperative, Phillip C. Cole, General Manager.

Wolverine Power Supply Cooperative, Raymond G. Towne, Executive Vice President.

INDEPENDENT POWER PRODUCERS, CONSTITUENTS, SMALL BUSINESSES

Nordic Power, Inc.—Ann Arbor, MI, John A. Baardson, President.

Wolverine Worldwide, Inc., Rockford, MI, Mr. Harlan L. Schram, Corporate Energy Coordinator.

J.G. Northrup, Clark Lake, MI.

Coldwater Public Utilities customers' letters, E. Harold Munn, Jr., Charles Stearns, John Schroll, Walton Lane, David McKay, Stanley Reeder, Richard Straw, Julie M. Young, Steven Harris, and Sue Rubley.

Mr. Charles Downey, Okemos, MI, Mr. Paul N. Preketes, Rochester Hills, MI, Mr. Lawrence T. Schuster, Frankenmuth, MI, Mr. Phillip D. Flenner, PE, Mr. David T. Lathrop, Jackson, MI, Mr. John W. Hadder, Williamsburg, MI, Mr. James L. Fontaine, South Haven, MI, Jo Rand, Jackson, MI, Mr. Tim Kowaleski, Plymouth, MI, Mr. Brian K. Revels, Monroe, MI, DC Bishop, Mason, MI, and Mr. Jay P. Andreini, Kentwood, MI.

Also Ms. Karen A. McCarthy, Kentwood, MI, Mr. John Hutek, Sterling Hts. MI, Mr. Carl L. English, Jackson, MI, Mr. Tom Heikkinen, Jackson, MI, Mr. James M. Storey, Saginaw, MI, Mr. Douglas A. Buikema, Jenison, MI, Mr. Edgar L. Doss, Grand Rapids, MI, Mr. Gary Bultsma, Grand Rapids, MI, Mr. John G. Russell, Grand Rapids, MI, Mr. Timothy J. Pietryga, Kentwood, MI, Mr. Steven L. Ray, Rockford, MI, Mr. Steven Carrington, Grand Rapids, MI, Mr. Steven E. Schouten, Jenison, MI, and Mr. Charles B. Makus, Grandville, MI.

Also Terry W. Specker, Lansing, MI, Mr. Winston L. Lingar, Monroe, MI, Mr. Kelly M. Farr, Jackson, MI, Ms. M. Therese Bell, Grand Rapids, MI, Mr. Edward L. Thomas, Empire, MI, Ms. Jean M. Ewing, Traverse City, MI, Mr. Tom O'Masta, Rochester Hills, MI, Ms. Ann Marie Clark, Troy, MI, Mr. Kevin J. Keane, Flushing, MI, Mr. Roger D. Cody, Grand Rapids, MI and Ms. Patricia P. Parish, Williamston, MI.

LETTERS OF SUPPORT FROM OUTSIDE MICHIGAN

PUHCA Reform Coordinating Council, Washington, DC, L. Andrew Zausner, Coordinator.

Ad Hoc Committee for a Competitive Electric Supply System (ACCESS), Natural Gas Supply Association (NGSA), Electric Generation Association (EGA), National Independent Energy Producers (NIEP), Interstate Natural Gas Association of America (INGAA), and Utility Working Group (UWG).

Electricity Consumers Resource Council (ELCON), Washington DC, John A. Anderson, Executive Director.

Air Products and Chemicals, Airco Industrial Gases, Inc., American National Can Corp., Amoco Corp., Anheiser Busch Companies, Inc., Armco, Inc., Bethlehem Steel Corp., Cone Mills Corp., Dow Chemical, U.S.A., Eastman Chemical Co., E.I. Du Pont De Nemours & Co., FMC Corp., General Motors Corp., Hoechst Celanese Corp., LTV Steel Co., Owens Corning Fiberglas, A.E. Staley Manufacturing Co., The Timken Co., and Union Carbide Corp.

National Independent Energy Producers (NIEP), Washington DC, Steven D. Burton, General Counsel, Sithe/Energies Group, Chair, NIEP.

Ahlstrom Development Corp., American REF-FUEL, Bonneville Pacific Corp., CRSS Capital, Coastal Power Production Co., Cogen Technologies, Inc., Consolidated Hydro, Inc., Destec Energy, Inc., Duke Energy, Inc., Hadson Power Systems, Inc., Intercontinental Energy Corp., Sithe/Energy Group, U.S. Generating Company, Westmoreland Energy, Inc., and Wheelabrator Technologies, Inc.

American Iron and Steel Institute, Washington DC, Milton Deaner, President.

National Association of Regulatory Utility Commissioners (NARUC), Committee on Electricity, Washington DC, Ashley C. Brown, Chair, Committee on Electricity.

Chemical Manufacturers Association, Washington DC, Robert A. Roland, President.

Electric Generation Association (EGA), Washington DC, Carlos A. Riva, J. Makowski Associates, Inc. President.

ABB Energy Ventures, Inc., BHP-Utah International, Inc., BMc Strategies, Inc., Brown & Root Energy Development, Inc., Canadian Imperial Bank of Commerce, CMS Generation Company, CNG Energy Co., Cogentrix, Inc., Coopers & Lybrand, Diamond Energy, Inc., Dominion Resources, Inc., and Duke Energy Corp.

Also ENERGY Investors Management, Inc. Fru-Con Construction Corp., Gas Energy, Inc., HYDRA-CO Enterprises, Inc., LG&E Power Systems, Inc., J.Makowski Associates, Inc., Reading Energy Company, Source Cogeneration Company, Tenneco Independent Power Company, Texaco Cogeneration and Power Company, Thermo Electron, TransCanada PipeLines Limited, U.S. Generating Company, Zurn/NEPCO.

BHP-Utah International Inc., Washington DC (Member of EGA), Barbara W. Johnston, Washington Representative.

American Public Power Association (APPA), Washington DC, Larry Hobart, Executive Director.

Tenneco Gas, Washington DC (Member of EGA), Alex DeBoissiere, Washington Representative.

TransCanada PipeLines, Washington DC (Member of EGA) Leonard B. Levine, Director, U.S. Government Affairs.

Environmental Action, Takoma Park, Maryland.

Leon Lowery, Environmental Action, Dr. Mark Cooper, Consumer Federation of America, Sharon Newsome, National Wildlife Federation, Michael Marriotte, Nuclear Information and Resource Service, Marty Gelfand, Safe Energy Council, David Gardiner, The Sierra Club, Alden Meyer, Union of Concerned Scientists, David Hamilton, U.S. Public Interest Research Group, and Don Hellmann, The Wilderness Society.

Dominion Resources, Richmond, Virginia, Everard Munsey, Vice President, Public Policy.

Utility Working Group, Arlington, Virginia, Daniel V. Flanagan, Jr., Utility Working Group.

Arizona Public Service Company.

Baltimore Gas & Electric Company.

CMS Energy/Consumers Power.

Dominion Resources, Inc., Virginia Power.

Duke Power Company.

Energy Corporation, Arkansas Power & Light Company, Louisiana Power & Light Company, Mississippi Power & Light, and New Orleans Public Service.

General Public Utilities Corporation, Jersey Central Power & Light Company, Metropolitan Edison Company, and Pennsylvania Electric Company.

Louisville Gas & Electric Company.

New England Electric System, Granite State Electric Co., Massachusetts Electric Co., Narragansett Electric Co., and New England Power Co.

Northern States Power Company, Northern States Power Company, Wisconsin.

Orange and Rockland Utilities, Inc.

Pacific Gas and Electric Co.

Portland Gas and Electric Co.

PSI Energy, Inc.

Sierra Pacific Power Company.

Alabama Municipal Electric Authority, Montgomery, Alabama, Robert W. Claussen, General Manager.

Riviera Utilities, Foley, Alabama, H. Sewell St. John, Jr., General Manager.

Public Service Commission of Yazoo City, Mississippi, R.D. Priest, Manager.

City of New Martinsville, West Virginia Municipal Electric Utility, William L. Drennen, Manager.

Cogen Technologies, Inc., Houston, Texas, Robert T. Sherman, Vice President.

Destec Energy, Inc., Houston, Texas, C.F. Goff, President.

Brown & Root Power, Houston, Texas, Richard L. Sitton, Vice President, Marketing & Strategy Planning.

J. Makowski Company, Inc., Boston, Massachusetts, John B. Howe, Director, Regulatory and Government Affairs.

Cogentrix, Inc., Charlotte, North Carolina, James E. Franklin, Sr. Vice President, Manager of Utility Marketing.

ElectriCities of North Carolina, Inc., North Carolina, Alice Garland, Director, Government Affairs.

Fru-Con Construction Corporation, Fru-Con Engineering, Inc., St. Louis, Missouri, Bradley Lambert, Vice President, Energy & Environmental Group.

City of Homestead, Florida, Alex Muxo, Jr., City Manager

Utility Board of the City of Key West, Florida, Robert R. Padron, General Manager.

Florida Municipal Power Agency, Orlando, Florida, John C. L'Engle, General Manager.

Fort Pierce Utilities Authority, Fort Pierce, Florida, Harry Schindehette, P.E., Director of Utilities.

City Utilities Commission, Corbin, Kentucky, George P. Rains, General Manager.

Frankfort Plant Board, Frankfort, Kentucky, Warner J. Caines, General Manager.

City of Bardstown, Kentucky, Charles J. Brauch, Mayor.

City of Falmouth, Falmouth, Kentucky, Dr. Peter Fullwood, Mayor.

City of Barbourville, Kentucky, Phillip E. Connley, Mayor.

National Steel Corp. Pittsburgh, Pennsylvania, Joseph Dudak, Director of Energy.•

OREGON'S ROLE IN THE OLYMPICS

• Mr. PACKWOOD. Mr. President, the Olympics. For most of us, those words conjure up images of super heroes, super athletes, the best of the best, the cream of the crop.

This year, Oregon was fortunate enough to have three young people participate in the winter Olympics. They were Tonya Harding, a figure skater from Portland; Monique Pelletier, an alpine skier from Hood River; and Richelle Reichsfeld, a speed skier from Welches, OR.

I do not for 1 minute believe that the United States could have had three better representatives at the Olympics, for reaching the Olympics is no easy thing to accomplish. These young people, through their own initiative and dedication—and usually with a great deal of help from their parents or guardians—chose to totally indulge themselves in a particular sport in order to become the best, and by becoming the best, earned a berth at the Olympic games. In order to achieve this, they make sacrifices like getting up 3 hours earlier than the rest of us so they can squeeze a few hours of practice in before school or work. They may put college or career on hold until after the Olympics. Some even live away from home for months at a time, if not longer. They suffer bumps and bruises and other more serious injuries, and make many, many other sacrifices, too numerous to mention here.

However, all of this must seem highly worthwhile when you are chosen for the Olympic team. Imagine the thrill when you find out that you have been selected to go to the Olympics to represent your country. Imagine the terror you must feel right before you step out on the ice rink, or ski down a steep, mogul-filled slope. The things that must go through these young people's minds, not to mention their parents or guardians and all the others who have helped them on their way. As they stand there, ready to perform in front of the world they must be thinking, "Well, this is it, am I good enough, can I win the gold?" In my mind, just by having reached the Olympics, they have already answered these questions, and the answer is a resounding, "yes."

Today I stand in awe of these young Oregonians and their dedication to their sport and their country, for they epitomize the spirit of the Olympics. They are the best of the best, the cream of the crop, they are Oregon's super heroes, and I salute their achievement.•

THE ANNIVERSARY OF THE INDEPENDENCE OF THE DOMINICAN REPUBLIC

• Mr. DODD. Mr. President, I rise to salute the proud people of the Dominican Republic who celebrate today the anniversary of that nation's independence. Today, on February 27, Dominicans throughout Connecticut and this Nation rejoice in the fierce determination and heroism of their forefathers, whose triumphant fight for freedom secured the sovereignty of their nation 148 years ago.

The history of the Dominican Republic is characterized by the efforts of its citizenry to achieve the dignity and self-government, of an independent nation and culture. Contiguous with Haiti, the Republic confronted years of pillaging and boundary skirmishes with its neighbor until Gen. Pedro Santana in 1844 became the nation's first President, finally enabling the tiny country to unify under one rule.

Internal discord, however, continued to plague the Republic whose economy could not keep pace with its newly won freedom. Patriots who believed that Spain, the nation of origin for many of its founding colonists, should resume control of the government, were at odds with those who believed that Republic's future would be more secure as a province of the United States. For a period of 2 years, from 1861 to 1863, the Dominican Republic became annexed to Spain. But, by popular vote in 1863, Dominicans overthrew the mantle of Spain's patronage, annulled the annexation and became, once and for all, an independent Republic.

Throughout the 20th century, the United States has enjoyed a cooperative and friendly relationship with the Dominican Republic. The nation's political and economic symbiosis has fostered a mutually enriching cultural exchange as well. I myself have benefited from the cultural exchange, Mr. President. I spent two of the finest years of my life as a Peace Corps volunteer in the Dominican Republic, in the tiny village of Moncion. I treasure the memories of that special place to this very day.

Today, on the 148th anniversary of Dominican independence, we celebrate the tireless struggle that shaped the course of history in our neighbor to the south. On this special day, I honor the Dominican Republic and Dominicans worldwide for their proud heritage.•

TRIBUTE TO GLEASON GLOVER

• Mr. DURENBERGER. Mr. President, it is my privilege to pay tribute to a very special person, Gleason Glover, who has devoted the past 25 years to the Urban League of Minneapolis.

On February 14, Gleason Glover left behind a legacy of work when he retired as president and CEO of the Urban League of Minneapolis. He launched many of the league's outstanding service programs, including Minnesota's first African-American alternative high school, the Street Academy, and summer employment programs, such as PASE. Gleason's range of concerns for inner city people encompassed more than just education and employment; he has shown concern for individuals, the persons behind the statistics. He has worked to meet people's needs by forming such programs as DAD [Decreasing Adult Dependency] and "After Today" Group Home which focus on strengthening family ties and mainstreaming misdirected juveniles into society.

Gleason Glover is a remarkable man. He has the courage to put his beliefs and values into practice during an uncertain time for our cities. But courage is not the only key to his success. Gleason's realistic view of problems help him keep matters in perspective. Knowing that our urban problems did not develop overnight, he understands that solutions are not going to come easily and readily.

The energy and vision which fuels this person's engine, will be immensely missed by the Minneapolis Urban League. He has served as the pillar of strength for the league. When he started in 1967, the Urban League had a staff of three and a half employees and an annual budget of $47,000. Since that time, the League's staff size has grown to over a 100, and the budget has increased to well over $3 million.

Gleason Glover's work has touched thousands of lives. As he said recently, "* * * once people tell you your problems you can't just let them go. You've go to deal with it." And deal with problems and people he has.•

COSPONSORSHIP OF S. 2250

• Mr. HATFIELD. Mr. President, I have joined with a number of my colleagues in cosponsoring S. 2250, which will amend the budget summit agreement and tear down the firewall between defense and nondefense domestic discretionary spending.

A great deal has happened in the world since that agreement was reached in the fall of 1990, and I believe it is time to reopen the debate on how to allocate our discretionary dollars to provide the greatest benefit to our Nation. Far too much of our Federal spending is not within our immediate control in the annual appropriations process; two-thirds of our spending is for mandatory programs. That makes it all the more important that we exercise extraordinary caution in allocating our discretionary resources, and not be bound by limits somewhat arbitrarily arrived at nearly 2 years ago.

Mr. President, I have always believed that our Nation's security depends as much on our education, our infrastructure, our health care programs, and our emerging technologies as much as it does upon our massive arsenal.

The President himself has opened this debate with a budget that proposes less for defense spending than he insisted upon in the Summit Agreement. The President allocates those savings to the deficit, while freezing funding for nondefense discretionary programs at current year levels. I believe our Nation might be better served if those savings, and others that may be realized as we proceed with the debate, are allocated to the nondefense discretionary programs that represent some of the best investments we can make.

The President has recognized this, too. While he proposes an overall freeze on nondefense domestic discretionary spending, he emphasizes within that total several programs, such as Head Start, that clearly yield great benefits. In other cases, such as the space station and the superconducting super collider, the benefit may not be so clearly perceived, but the point is that the President recognizes that increased spending in discretionary programs can be valuable.

Mr. President, I have held this view for a long time. As I was preparing for our Appropriations Committee hearings on the budget last week, I reviewed the record of the hearings I conducted as chairman in 1981. Eleven years ago, I was advocating the necessity for entitlement cost containment, reductions in defense spending, and increases for nondefense programs that benefit our Nation and our people. So I do not come to cosponsor this legislation as a recent convert, newly awakened by the speeches of recent days.

I have joined as a cosponsor of this legislation because these critical times require us to fully debate our national needs and how our Federal resources can address those needs to keep our future bright. Let us get on with it.•

IN PRAISE OF THE LIBRARY OF CONGRESS

• Mr. LIEBERMAN. Mr. President, the changes in the former Soviet Union seem, at times, overwhelming. What role the West should play in helping the people of the former Soviet Union make the transition to capitalism and democracy is a complicated question. That is why it is useful to have the advice of experts, as we decide what course of action to take.

I am submitting for the RECORD the statements of two of the most capable experts on the former Soviet Union for my colleagues' perusal. These two distinguished scholars work right down the street in the Library of Congress. They are the Librarian of Congress, Dr. James Billington, and Dr. John Hardt of the Congressional Research Service.

Their recent testimony before the Foreign Relations Committee offer us some very useful suggestions as to what we could do to help the people of the former Soviet Union. We are truly lucky to have them helping us with this most difficult issue.

The statements follow:

STATEMENT OF JAMES H. BILLINGTON, THE LIBRARIAN OF CONGRESS, BEFORE THE COMMITTEE ON FOREIGN RELATIONS

The changes in the former Soviet empire have been—as the President pointed out in his State of the Union address—of near biblical proportions; and the Secretary of State's recent travels have been near Homeric in sweep and serious in purpose. Yet our response as a nation so far has been hesitant in tone, trivial in content, and very nearly humiliating in its effects.

We are not even following the obvious course of national self-interest. We spent hundreds of billions of dollars in the long superpower confrontation because the government of the USSR was unaccountable to its people and posed three kinds of threats to us: (1) the special nuclear age threat of direct destruction by long-range missiles, (2) the geopolitical threat of dominating Eurasia, and (3) the ideological threat of broader global disruption through proxy powers and movements.

We have now seen the USSR liquidated—peacefully and at no cost to us—by a popularly-elected Russian government that has renounced all intention and most capability to threaten us in any of these ways. We face, however, a real danger that the nuclear and geopolitical threats could be revived by a rising authoritarian nationalism which could at any time overthrow Russia's fledgling democratic government and ignite the Balkanized tinderbox of the former USSR into a conflagration that could involve the Middle East and perhaps be impossible to contain.

Why, then, are we doing so little, so late to help Russia as it struggles to make irreversible the liberalizing changes we have always sought? Not, I believe, because our people are isolationist or our leaders indifferent, but because we simply have not yet understood what is happening in Russia and how important our response is for our own future leadership.

I believe that the unprecedented events of last August in Moscow represented not only the culmination of a transformation in Eastern Europe but also the harbinger of a new global politics for the 21st century—in which instant communications and broadened participation will make moral authority more important and the weapons and wiles of traditional *Realpolitik* less usable. But one need not agree with this hypothesis to recognize the simple fact that neither a 19th century balance of European powers nor a 20th century balance between two Northern Hemispheric superpowers will be able to guarantee peace in the multi-polar, multi-cultural world of the 21st century.

The new world began with the momentous events of August that broke up the last of the European empires into its multiple parts and created an adrenalin surge of pride and hope among the previously passive Russian people. On August 19 and 20, 1991, they formed an unarmed human wall in Moscow that successfully defended their first democratically elected government against an attempted putsch by the most ruthlessly effective political machine of the 20th century: the Leninist power structure of the Soviet Union. Suddenly, unexpectedly, and in the face of tanks, Russians overcame the old politics of fear reimposed from the top down for a new politics of hope improvised from the bottom up. The atheistic religion, repressive empire, and coercive economic system of Soviet Communism all faded away—thanks to raw, *Russian* courage in Moscow at a time when the leaders of other republics in Kiev, Minsk, Tbilisi, and Alma-Ata were still hedging their bets.

The August events in Moscow did not produce the traditional flames of a violent, secular revolution but rather the slow-burning inner fire of peaceful, spiritual change within individuals and small groups. The amazingly disparate group that spontaneously came together to defend Yeltsin's White House revived Russia's conscience, created a new political legitimacy, and, for a brief time at least, seemed to transcend the divisions within past reform movements: between Slavophile and Westernizer, Christian and Jew, elite intellectuals and ordinary workers.

Of course, such solidarity never lasts. Those sudden soaring summer hopes have predictably given way to a winter of discontent that makes the fledgling Russian democracy look in many ways like a weak Weimar Republic waiting for its Hitler.

But a situation that should sound an alarm calling for action has instead given rise to a fatalistic pessimism that ignores the depth of the human transformation that has taken place in Russia.

Preparations for a summit and measures to prevent the export of nuclear know-how from the USSR are commendable and necessary but not sufficient measures to deal with the dangers and opportunities that now exist.

Indeed, there may be a looming tragedy in our continued basic indifference towards a regime that is not just removing the greatest threat to America but attempting to install a basically American political and economic system. Presented with this peaceful transformation, we seem unable to mobilize even a small fraction of the aid we found for a Germany and Japan that fought us in bloody wars.

Our main excuse is that we have pressing economic problems at home and no money to give. We are right to work with others better off in these respects to provide more of the necessary financial and technical help. But we are still the richest of all in the food and pharmaceuticals that they need to get

through this winter—and, most importantly, in the human resources to help with the human dimensions of their current crisis.

We are rationalizing our inactivity with the same essential argument that the putsch leaders used to justify their attempted takeover in August: Yeltsin is an inept leader; democracy is foredoomed in Russia; the economy is in free fall; and outsiders had better wait till the dust settles.

The most serious present problem for the Russians—their psychologically vulnerable human condition—is something that official America seems to understand the least, yet is in the best position to affect. Even more difficult for proud Russians than facing up to their economic and ethnic problems is accepting the internal humiliation of admitting to having lived a collective lie for three-quarters of a century. Boris Yeltsin has made that admission, tackled those material problems head on, and legitimized democratic and market ideals for ordinary Russians—three things that Gorbachev could never bring himself to do. Whatever the failings of Yeltsin and his program, there is no justification for treating him as an unworthy successor to Gorbachev—and now subjecting him to what could be the final humiliation of publicly begging abroad.

For what is at stake is not any individual leader but the political future of the entire young generation of Russian democratic reformers who have courageously begun the process of fundamental change and are now beginning to twist in the wind. They believe that U.S. policies helped force change in the 1980s and hope for U.S. leadership now. They see themselves as having accomplished a "great deed" (the Herculean *podvig* characteristic of saints as well as warriors in Old Russia.) They see us responding only with "little deeds" (the term *malye dela* is a particularly caustic Russian term of contempt). The partisans of a new putsch are regaining popularity by reviving the old Communist caricature that American talk about democracy is just the deceptive mask for a capitalist conspiracy to exploit, humiliate, and dismember Russia.

The social context of crippling inflation and a demoralized military makes anger more than hunger the greatest threat to a fragile democracy—and accounts for the increasingly violent and fascist tinge to the rising Russian nationalism. Clearly, if we wait till the dust settles, Russian democracy could be reduced to ashes, and the dust might turn radioactive and settle on us.

Of course, the current Russian commitment to democracy is not accompanied by any real historical experience or exposure to its institutions. And it is here that the West in general and the U.S.A. in particular have as yet unmobilized resources for sustaining hope and helping create new democratic institutions and market mechanisms in Russia and the other republics.

The Russians have produced in the past few years an amazing number of the kind of non-governmental associations that enable freedom to work in a large country: church parishes, political clubs and parties, economic cooperatives, cultural organizations, independent unions, advocacy groups, and the like.

What they especially need now is what America is uniquely equipped to give: (1) a continent-wide engagement of private and local organizations to establish direct links with counterpart organizations in the burgeoning civil society of the former USSR and (2) a crash program for bringing 50,000 Russians to the U.S.A. (if they promise to go back) for 4- to 6-week periods of living and working in the key institutions of a free society.

Such programs would link America with enduring forces of change that are working from the bottom up and are not dependent on leadership politics at the top. These activities could also be extended relatively easily to other former Soviet republics and former Communist states.

The adventure of engaging the American people as a whole with the Russian people as a whole would provide the recognition we have not yet given to both their achievement in August and their deepest continuing need. It is both more effective and less demeaning to bring Russians here and thus let them adapt our way to their needs rather than to send too many of our advisers over there.

Democratization was defeated in China because it had troops but no leaders. Russia now has leaders without troops—but the populace is thirsting for basic training in building a new type of society. We can help provide it if we begin bringing people from the Soviet Union in something like the thousands we were routinely bringing in every year from China up until the repression in Tiananmen Square. No major nationality in the modern world has had less exposure to America than the Russians.

We have a straightforward, practical need to launch a truly massive effort in this area because a democratic Russia is the best guarantee that the region will be stabilized, reform sustained, and missiles controlled. It is also a good investment because it would cost little now (almost nothing from the federal budget) and could yield vast results later—in facilitating access to what will surely be one of the great new markets of the early 21st century.

Authoritarianism under new banners seems likely unless larger numbers of Russians can gain some sense of how democratic and market institutions really work. We would then risk becoming (in a more visceral and dangerous sense than before) the external enemy—in part because we proved unwilling at a critical turning point in history to give more of ourselves to help others practice the ideals we had so long preached.

Our political will helped force the Soviets' internal changes in the 1980s; our model of an entrepreneurial democracy is what they are seeking to imitate in the 1990s; and our willingness to declare joint victory and celebrate our common humanity could provide a new kind of leadership for the 21st century.

The world is watching to see if the only surviving superpower has the magnanimity and imagination to act. If we do not seize the moment, America will have taken an inadvertent giant step towards becoming something it has never been before: a mere aggregation of selfish interests that is less than the sum of its parts. Far from providing moral leadership for an interdependent 21st century, we might even have to look back and wonder if we unwittingly have become what the Soviet Union was in the 20th century: A superpower only in the narrow military sense.

I believe that the American people need—and actually want—to give some kind of special bear hug to the Russians for ending the Cold War. Inviting them into our homes and work places during this period of reconciliation could help us rediscover the value of our own institutions even as it helps them develop theirs.

The White House would have to take the lead by appointing a very high-level leader to publicize and coordinate efforts already underway—and to mobilize a fresh nationwide campaign to link our thousand points of light with their thousand candles flickering in the wind. In so doing, the White House could point out that America offers fresh hope for the future in its valleys—and not just the recycled rhetoric of summits.

The Russians' unprecedented act of self-liberation requires some equally unprecedented form of recognition on our side if we are to sustain the moral authority that will be needed for leadership in the 21st century. And some form of bear hug may be a practical necessity for future peace. In some dark versions of Russian folklore, the savage bear was originally just an ordinary man. But, when he was denied the bread and salt of simple human hospitality by his neighbor, he retreated in humiliation to the forest and returned unexpectedly in a transformed state to take his revenge.

TESTIMONY BY JOHN P. HARDT[1]—CONGRESSIONAL RESEARCH SERVICE TO COMMITTEE ON FOREIGN RELATIONS

Highlights:

Economic performance in Russia is the worst since the World War II recovery period and promises to get worse. Reform measures to fight inflation have led to a fall of at least one half in average income since the aborted coup and the specter of large scale unemployment now looms ahead. If poor economic performance combines with political, social, and ethnic unrest an environment for another coup might emerge in April as winter stocks deplete, in June or in the Fall of 1992.

The Yeltsin-Gaidar program has the first valid opportunity for the necessary democratic and market and market transformation, free from constraints of the party, command economy, and police, more than any previous reform attempts. The able economic team is more committed to the type of reform required, judging from successful Western experience and acceptance by international organizations.

Even with full and appropriate commitment the Yeltsin-Gaidar program will not likely be successful without G-7 and international economic organization assistance, that is, substantial, timely and effective provision of materials (food, medicine), money, technical assistance and conditionality. For effective assistance significant dispersal and use of such aid critical by April. Delays escalate uncertainty and invite failure. Meaningful success indicators will be a stable ruble, secure and accessible food, and energy supplies, improvement in the quality of life (health, housing, environment), and access to foreign commerce through export earnings and creditworthiness.

Substantial foreign direct investment, especially in oil development, would positively

[1] Associate Director and Senior Specialist in Soviet Economics at the Congressional Research Service, Library of Congress. Some personal observation from my trips on the House Trade Mission (August-September 1991), Joint Russian Foreign Ministry—Institute of National Strategic Studies, National Defense University delegation on Defense Industrial Conversion, (December 1991) and the U.S. Delegation to the European Parliament (Moscow, January 1992). The views herein are mine and not necessarily those of Delegation Chairman Sam Gibbons, other Members of Congress, the Congressional Research Service or the Executive branch. See *Report on Trade Mission to Europe and The Soviet Union*, October 21, 1991, Subcommittee on Trade of the Ways and Means Committee of the U.S. House of Representatives. See also Testimony to House Banking Committee, Subcommittee on International Development, Finance, Trade and Monetary Policies, February 5, 1992.

support a well designed and externally supported reform program. Western investors will be there if there is an appropriate legal and regulatory framework in a successful reform process; investment could then be very profitable and generate Western exports and employment.

Without a better U.S. government-business support strategy we may not be competitive when contracting opens up in oil and other natural resources. Moreover, with better government support, the U.S. economy will benefit from jobs in the equipment and machinery export sector.

The independent sovereign successor states could benefit from the advantages of open competitive interrepublic trade. The international economic organizations and G-7 states may and should encourage both development of self determination and liberal economic environments. The danger of restrictive policies between Russia and the other states—especially the Ukraine—is evident. Too rapid transition in price liberalization would provide a very strong external shock to many new states, e.g., immediate raising of Russian oil to world prices.

Democratization requires consent of the governed, responsibility and participation of the parliament in economic policy. Yeltsin currently has emergency powers. A balance of consultation and oversight appears to have been struck so far. The choice should not be market now democracy later.

Timely assurance of a United States commitment to the Yeltsin program is critical but absent to date. Without U.S. commitment, the Russian program will not be timely, sufficient in volume, properly targeted or effectively coordinated. Moreover, the important role of the U.S. private sector will not be evident. Specifically the unique role United States could play would be to bring its influence on all major players to help assure Yeltsin's survival and success:

International economic organization membership, and programs could be more timely, conditioned on better economic and political conditionality, and more effectively coordinated.

U.S. targeted programs with private sector leadership could be more effective, facilitate more and better Western programs and provide more benefits to the United States through significantly decreased security threats, orderly reduction in defense allocations, increased commerce, jobs and profit.

The United States has a unique opportunity to effectively influence the programs of democratizated market development and expanded rule by law in Russia and the successor states. Without United States leadership and commitment, one of the best opportunities for development of democratic processes, private markets, and civil society in history may be lost.

Specifically, a cooperative partnership between the United States and Yeltsin's Russia could stimulate development in competitive markets and participatory democracy through direct private sector entrepreneurial activities fostering defense industrial conversion, improvement in the food and energy distribution systems and the quality of life (health, environment and housing). Such dynamic development could lead to renewal and reinvigoration of Russian society, a reduced threat environment, profit and jobs for the United States.

ECONOMIC PERFORMANCE AND PROSPECTS CREATE REGIME THREATENING CRISES

Economic performance in Russia is at its lowest point since the 1940-50s in terms of inflation, supplies of food, energy and all other commodities, balance of payments, debt position with the Western market economies, and the quality of life measures [health, housing, environment]. Public confidence in improvement is also very low. Moreover, the economic relations among the successor states to the Soviet Union, East and Central Europe have deteriorated and are largely on a barter basis. All the previous reform programs—some eight or nine under Gorbachev—led to declines in economic performance that preceded the current state of near collapse.[2]

The value and stability of the ruble has deteriorated throughout perestroika (1985-1991) and since the abortive coup of August 1991. Subsidies and wage inflation contributed to a budget deficit of 22 percent of GDP, inflation of 141 percent, the monetary overhang burgeoned as the printing presses ran ahead of plans and economic performance collapses.

Food, even with the record harvest of 1990 and especially with the average agriculture performance of 1991, has disappeared from many stores. Energy output plummeted and availability for domestic use and export was sharply restricted.

Health, environment and housing reached such crisis proportions so that some analysts used terms such as "ecocide", and "systemic homicide".

Extended debt burgeoned to unserviceable levels of close to $80 billion, exports plummeted with reduction of arms and oil sales. Russia and the successor states have no creditworthiness or liquidity necessary for normal commerce.

With the beginning of privatization and defense conversion the prospects of massive plant closings and unemployment could become a reality.

YELTSIN-GAIDAR ECONOMIC PROGRAM HAS THE NECESSARY SYSTEMIC PRECONDITIONS, APPROPRIATE MODEL AND QUALITY OF PROFESSIONAL STAFF TO HAVE THE BEST CHANCE FOR SUCCESS

Yeltsin told the public in his October 28, 1991 speech announcing the Yeltsin/Gaidar program (repeated in his January 16, 1992 speech) that the citizen's lot would get worse before it would get better but that by fall 1992 performance would improve and recovery would be underway. "Russia's gamble" may not succeed, but it is the best program to date, the best program for the current circumstances and has the best team of economists yet assembled to implement it. Moreover, Russia has valuable assets in resources and trained people that could be effectively utilized to improve overall performance and raise living standards. The analogy for the current program is a Chapter 11 bankruptcy; Russia is an enterprise with excellent assets but very poor management. Yeltsin/Gaidar have broken with, indeed largely destroyed, the old system [the Party is outlawed, the command economy structure has been eliminated, and the police regulation is being replaced by a rule of law].[3]

The program being developed is comprehensive and draws from experience of Central European countries and the unmatched success of the OECD countries. Success also requires simultaneity in implementation—not an easy but a necessary task. Gaidar and most Western professionals agree on the central requirements of a Russian economic program. As the program is in the process of full development one should stress the following necessary further developments:

Price liberalization should be accompanied by budget controls, economic stabilization including domestic convertibility, and an incomes policy, including wage control;

Privatization of trade, land, dwellings and large enterprises, including corporatization and restructuring prior to dispersal of assets, should proceed as soon as possible;

A legal and regulatory framework sufficient to discourage monopolies domestically and encourage investment from abroad must be established;

Defense industrial conversion to "quality of life" projects (housing, health, environment) and infrastructure, should accelerate and be effectively coordinated with the overall program so that income improvement may exceed cost of transitional unemployment;

A viable new Value Added Tax based tax system and effective tax collection should be implemented soon.

All of these should be in place and underway by March-April. This program could then be the basis of an IMF-World Bank-OECD-EBRD-EC accession process and assistance programs. The G-7 has eased the debt service burden by current agreement but could provide more relief by deferring interest as well as capital payments for a year or two. Gaidar's group indicates that they not only welcome conditionality but have invited the IMF to set up a supervisory team to assist and direct their central bank.

New legislation on foreign involvement provides legal protection for foreign investors—concession rights. If tax provisions can be kept favorable throughout the successor states, the door will be open for major direct foreign investment, e.g. in oil. The U.S. Energy Department-sponsored oil company meeting in Tyumen, West Siberia recently highlighted problems yet unresolved.

In this initial period the Russian citizens can expect to face "German prices with Indian wages" (some Russian estimates place income at one third the pre coup level) and uncertainty of food, energy and needed consumer goods supplies and employment. There appears to be, however, adequate food and energy in the system. With improved distribution and effective Western assistance extreme shortages during the winter can be avoided and available supplies should increase albeit at higher prices. While the defense conversion programs may either be a budget buster, or a creator of mass unemployment, or both, the "peace dividend" could lead to absorption of released defense assets in civilian programs and an increase in consumer income. If the program fails and the crisis deepens, the critical time for a new coup attempt probably is April 1992 as announced by some reactionary forces in the wings.

Yeltsin's popularity is still high according to respected pollster Tatyana Zaslavskaya. Yeltsin says he will stay the course on the Gaidar program. If he does, major Western assistance and investment may be expected, especially facilitating the monetary stabilization program and increasing oil output. There are no attractive alternatives. Russian equivocation is tantamount to capitulation

[2] See Testimony of David Mulford, Undersecretary of Treasury, and John Williamson, Institute of International Economics to House Banking Subcommittee on International Development, February 5, 1992; "Russia's Economic Program", CRS Issue Brief, updated, February 14, 1992. John Hardt and Philip Kaiser; Donald Green, PlanEcon Report No. 9. December 9, 1991.

[3] S. Razin, "Ten Decrees that Shook the World." *Konsomolskaya Pravda*, November 9, 1991, p. 1. See *Current Digest of the Soviet Press*, Volume XLIII, No. 46, December 18, 1991 for English translation.

to populism and would seriously worsen matters.

If the program goes forward with effective Western assistance and investment by Fall 1992, Yeltsin can say to Ivan Ivanovich "you are better off than before" because: the ruble is stabilizing, the opportunity to work is present, food supplies are more reliable, energy supplies are reliable, foreign economic relations are open, we are creditworthy and can import, quality of life is improving in health, housing and environment, relations with the common economic space of the successor states are moving toward the model of EC-1957.

While economic indications may be what economic policy makers look at, and positive results are necessary prerequisite of success, more than the measuring rod of money is needed. A sense of renewal must replace the feeling economic gloom, national insecurity and leadership incompetence and deception. Renewal may be measured by regeneration of natural treasures of environment, healthy people and families. The mighty engine of change that created a massive global military and police power must be turned to address the needs of people and help them fulfill their opportunities. In these qualitative areas are the sensitive indicators of effective change. These critical indicators would encourage the revolutionary to turn to a new form of democracy, morality and acceptance of market principles as pressed by Yeltsin since the coup. If the Yeltsin/Gaidar program is not successful then an unprecedented chance for democratic and market development may be lost, perhaps forever.[4]

Without Substantial, Timely, and Effective Provision of Western Assistance the Best of Domestic Programs is Unlikely to Meet the Critical Economic Performance Tests.

More food, medical and energy assistance targeted to key needs and leveraged to encourage reform (not another Winter aid program in 1993 of the same sort as this year) is needed.[5]

If *interest* payments on official debt can be deferred, by Russian estimates it would release over 9 billion dollars in the critical half year ahead for needed imports. The creditworthiness of the Russian and other successor states appears to be threatened under the present rules, but these rules are made by the G-7 countries in the Paris Club and could be modified.

Support for acceleration of IMF/World Bank programs with special attention to a stabilization fund and other IMF balance of payments loans for monetary stabilization, and targeted structural adjustment loans from the World Bank should be considered.[6]

Assistance is needed for further development of the democratic process, e.g., the Russian parliament, the elective process. Encourage Yeltsin to be patriotic not nationalistic or chauvinistic (following Russian sociologist Dimitri Likhachev), and avoid attempts to resurrect the Russian empire as "successor state".

The West could encourage cooperation among successor states on security, political and economic matters. A slower transition to world market price for oil would avoid a severe shock to the Ukrainian and other economies.

There appears to be a need for better coordination of Western assistance. A committee of expert advisors or overseers might be set up by the G-7 for continued oversight to elicit coordination, credibility, and both political and economic conditionality. This group might be headed by a former president of the World Bank and include several former prime ministers and ministers of finance from other G-7 countries. With a coordination role initially assumed by the IMF by virtue of its major initial role in monetary stabilization, a partnership with its Bretton Woods mate, the World Bank, might emerge as emphasis shifts to reconstruction and privatization. The coordinating capability of the World Bank might be enhanced by the presence of a former president heading a G-7 oversight or expert advisor group. Such a policy coordination group could provide leadership in developing political conditionality, and effective policy. A separate agency might be set up largely for information sharing, to report periodically to the G-7 or its policy coordination group.[7] These groups could provide continuity between summits and special meetings and might encourage accelerated membership, adoption of appropriate programs and early dispersal of funds.

EFFECTIVE DOMESTIC REFORM AND ADEQUATE WESTERN ASSISTANCE MAY ATTRACT SUBSTANTIAL FOREIGN INVESTMENT—PERHAPS THE CRITICAL MARGIN FOR ECONOMIC SUCCESS

The Western industrial nations' experience indicates that restructuring along the lines of the OECD model, if supported by a stable political consensus, is the only formula for developing a competitive economy capable of integrating into the global market and *attracting substantial foreign direct investment* in the near and long term. Rich, technically exploitable Russian, Kazakh, Ukrainian and other successor states' natural resources could be a special, early source of shared profits and substantial competitive exports that would attract significant investment if fundamental change were underway. Oil, gas, timber, and agriculture exports are specific areas of early potential.

In the oil field, production and exports have been falling precipitously, constraining growth and needed exports to Central Europe and the West for earning hard currency. Joint ventures or concessions as discussed with the multinationals would provide a legal and regulatory framework for gas and oil investments. The level could be in the tens of billions if favorable transformation and Western assistance programs are underway. Institutional and infrastructural development would facilitate favorable assessments of economic, commercial, and technical feasibility of contract and joint ventures. Of specific concern to the success of fundamental reform is the revival of oil exports—the major hard currency earner. A leading sector in foreign investment under favorable conditions would be oil and gas development. Implementation of several projects now under consideration—such as the development of Caspian oil fields in Azerbaijan by Amoco and in Kazakhstan by Chevron,[8] investment in the Yamal Peninsula in Arctic Wet Siberia by the European Community,[9] and cooperation on oil and gas with Japanese and South Korean entrepreneurs in East Siberia—could make energy an engine of growth for several of the republics and restore their ability to improve and revive their countries creditworthiness. But that will happen only if there is fundamental economic reform, including monetary stabilization, price liberalization, and privatization, and a political consensus between the Russian and the successor states. This would reinforce as well a continuation of "new thinking" in foreign policy, which could encompass arms agreements and cooperation in the Persian Gulf and elsewhere. Once these reforms are in place, supported and monitored by the G-7, there may even be a rush by energy multinationals and energy supply and service companies to get a piece of the action in the former Soviet Union.

If fundamental reform, new thinking, and other attributes of perestroika were common causes of Western governments and Russian and successor state leaderships, both sides would be more likely to intervene positively in order to foster commercial relations: commercial barriers such as tariffs, quotas, and restrictions would be reduced, credits and guarantees by governments would be expanded, a positive technology transfer policy might be adopted, and joint governmental-private commercial relations would tend to foster initiative and commerce. Trade agreements and treaties could be used to normalize those positive postures.

Foreign direct investment as a supplement to domestic investment may be a key to developing competitive markets in the successor states and integrating economies-in-transition into the global market. The major issues on controlling the flow of foreign direct investment have been the subject of several recent analyses of economies in transition, prepared by the OECD, the Group of Thirty, and the CSCE:

OECD REPORT

Drawing on country studies of Western industrial nations, an OECD model may be developed, with some general assessments and strategies that seem applicable to Russia and the successor states' domestic transformation. We also suggest an external liberal market model that would facilitate integration and provide for minimum dislocation from either collapse of traditional East-

[4] Financial Times editorial, "Russia's Gamble, January 8, 1991.

[5] The fact sheet, *U.S. Assistance to the Former Soviet Union*, chronicles a coordinated effort—the two day western assistance meeting in Washington on January 23-24—that may go down in history as too little, too late, and insufficiently coordinated.

[6] An International Finance Corporation report stressing capital flight of over $14 Billion in 1991 is said to be pessimistic on the ability of its Bretton Wood partner organizations to launch Russian programs in 1991, *Financial Times*, February 13, 1992.

[7] Stanley Fisher "The West's Challenge: Coordinating Soviet Aid", *Economic Insight*, September/October 1991, pp. 2-5.

[8] Bill Hermann, Chief Economist, Chevron Corporation, at the American Foreign Service Association, (AFSA) Symposium on Oil and Foreign Affairs in the 1990s, Department of State, February 7, 1991 stated, "My experience with the Soviet oil industry goes back to the late 1970s, when the CIA was saying the Soviet Union would be a net *importer* of oil by 1985. My immediate response was, 'Gee, they know something we don't!' so our chief geologist and I sat down with their analysts, and after half a day, we concluded we were right and they were wrong. It turned out that was the case. We were optimistic then about Soviet oil production, and we still are—especially with respect to our Tenghiz project. We expect to sign an agreement on this soon—and if we do, we'll actually be producing oil within a few months after that, even though it's practically unheard of for any project in the oil industry to have that short a fuse between the signing of an agreement and production.

[9] John P. Hardt, European Regional Market: A Forgotten Key to Success of European Economies in Transition, CRS 91-113 RCO. John P. Hardt, Commercial Relations With the Soviet Union: Prospects for a Common United States-Japanese Policy, CRS 91-196 RCO. "Anglo-Soviet Group wins Gas Concession," *Financial Times*, August 12, 1991. John P. Hardt, Soviet Energy: an Engineer or a Brake on Commercial Relations in the 1990s? CRS Report 91-211 RCO, March, 1991. Joseph Riva, Russia and the Commonwealth of Independent States Oil Resources. CRS Report 92-78 SPR, January 16, 1992.

ern markets or commercial restrictions in Western Markets.[10]

Sizable inflows of direct foreign investment are considered to be directly responsive to economic, institutional, and political factors that facilitate the creation of competitive markets. An international strategy for creation of competitive markets would require the following:

Establishment of the institution of private property.

A legal system to enhance economic efficiency and to specify and enforce property rights.

Regulatory reform to enhance microeconomic flexibility and economic efficiency.

Price liberalization and market formation of scarcity prices.

Liberalization of foreign economic relations and the establishment of convertibility.

A competitive capital market to efficiently allocate savings.

A labor market strategy to create a highly mobile labor force that can react to price signals.

Of development of the three Central European economies, the OECD assessment is that "foreign direct investment has not played the role anticipated for it. However, once the property rights question is clarified and enterprises and banks are reformed, the flood of foreign direct investment into these countries should be substantial."[11] This view could also apply to the successor states.

GROUP OF THIRTY ASSESSMENT

This major study relates the demand and supply of foreign investment and develops various responses to the sensitive issues of external financing and the transitional developments in Eastern Europe and its financial markets. As in the OECD model, emphasis is on comprehensive and simultaneous development of competitive markets with particular stress on rapid, fundamental change. The need for a congenial external environment is noted but not highlighted:

The countries of Eastern Europe have about two years—three, at the most—to make irrevocable changes in their economic systems. The reform process will undoubtedly last somewhat longer, but unless most of the fundamental reforms are in place early on, the whole process of transformation may be jeopardized and inflows of foreign capital inhibited. . . . Policy sequencing is potentially so problematic that it might be wise to press ahead as quickly as possible on several fronts. Consider, for example, the linkage between financial sector reform, monetary and credit policy, deregulation and privatization. . . . Although these interlocking conditions are complex and difficult to address, they should not be used as excuses for slowing the process of the economic transformation.[12]

This view of comprehensiveness and simultaneity, are central features of the Yeltsin-Gaidar program.

CSCE COMMUNIQUÉ

In its Bonn Communiqué of April 1990, the most comprehensive organization of East and West developed criteria for economic development, focusing on foreign direct investment. In 1991, the CSCE was given a larger role in coordinating and facilitating the development of competitive market economies, thus encouraging external financing of economic development in Eastern Europe. Although it was empowered only to monitor and inform within the wider framework interrelating security, human rights, and commerce, the CSCE represents all the major participants in transition and may particularly influence government facilitation of trade and investment and integrate public and private sector interests.[13]

Russia can Not Compete Effectively in Global Markets where Markets for Exports, Technology and Credit are Still Significantly Closed. While the West has opened its purses in providing assistance to the now post Communist countries, Western markets are still closed to many of the competitive exports of the former Soviet Union. The absence of open Western markets and the collapse of traditional markets impede aid and investment effectiveness.

Beyond technical and direct resource assistance is the requirement to improve external economic conditions to emulate the favorable environment created by the Marshall Plan where open market access and cooperative debt management encouraged technology transfer, and effective regional developments were deemed necessary.

Using the positive open market model for the development of the West European and Japanese economies, the United States provided fairly unrestricted market access, facilitated debt reduction incurred by the old regimes as a basis for entering capital markets, and encouraged technology transfer of processes and management that would foster productivity and facilitate competitive, open regional associations. The converse—restriction of Russian and successor state commercial and financial access to Western markets—may be viewed as a form of negative assistance creating barriers that diminish the effectiveness of aid. While active and early Russian and successor state involvement in the GATT process would be useful, progress to date on the Uruguay Round is not yet promising for the additional opening of markets.[14]

The European Community program for creating an internal market without barriers in a model not only for market reform in Russia and the successor states but for the external market within which the successor states may aim to integrate. Certain objectives for a process of change with specific thresholds providing short-term benefits and long-term commitments to openness would be significant: *market access, debt management, positive technology transfer programs, and regional cooperation*. Without opening of Western markets to the successor states, the effectiveness of any aid program under any contingencies of domestic reform may be substantially higher than they would be in an open, liberal Western market environment. Certain initial requirements appear essential;

MARKET ACCESS

All the elements of market opening in the Uruguay Round are relevant to the successor states reforming economies effectiveness in integrating into the Western market. Market access in agriculture is a likely important area among others, such as steel, textiles, and machinery.

DEBT AND MONETARY RESTRUCTURING

Some debt restructuring or relief and forgiveness of government debt may be appropriate in Lend Lease and Kerensky debt settlements. Limiting access to global financial markets because of the sins of the old regime may inhibit transitions to the market. Debt relief at the center must be resolved before healthy commerce can develop. Relief from capital charges still leaves the heavy burden of interest payments.

EXPORT CONTROLS: TECHNOLOGY TRANSFER

Cold War restraints may give way to global cooperation and willingness on the part of the successor states to establish safeguard regimes that will provide transparency and open and accessible information on some dual-use technologies. A positive policy of technology transfer might then be possible. A U.S. National Academy of Science panel on export controls recommended that "the United States and the other nations of the Coordinating Committee for Multilateral Export Controls (CoCom) change the basis of their technology transfer and trade relationship with the former Soviet Union and the East European countries from the 'denial regime' that existed for more than 40 years to an 'approval regime;'"[15] which has been accomplished in principle. The new export regime might be based on multilaterally agreed and verifiable end-use conditions. A new national safeguards system involving transparency and Western rights to on-site inspection may help change to a regime of approval or even facilitation. The new rules approved for reduced lists are very liberal in the context of past controls, but appear to fall far short of the modernization needs of the reforming economies. The "bikini conditions" or limited controls applied in German unification would not address the positive requirements of productivity increases from improved technology and management. Telecommunication restrictions may be a problem for U.S. firms.[16]

REGIONAL DEVELOPMENT

The proposed European energy authority has parallels with the Coal and Steel Community of Western Europe in the 1950s. Re-

[10] Bloomestein and Marrese (OECD). Creating Conditions for the Development of Competitive Markets in Economies in Transition, in Paul Marer (editor) Transition to Market Economy in Central and Eastern Europe. Paris: OECD. 1991.

[11] Ibid.

[12] *Group of Thirty Report* by Richard A. Debs. Harvey Shapiro and Charles R. Taylor, Financing Eastern Europe, released June 20, 1991, c.f. Financial Services Volunteer Corps, Inc. Observations, Findings and Recommendations on Missions to Poland, Czech and Slovak Federal Republic, and Hungary. (33 reports); Selected papers from the IEWSS Conference on Money, Banking and Credit in Eastern Europe and the Soviet Union. May 15-18, 1991.

[13] *Bonn Communiqué* of Conference on Economic Co-operation in Europe. April 1990. The Parliament's Responsibility for Economic Development, Report of the East and Central European Interparliamentary Conference, Budapest, Hungary, March 22-24, 1991, released by the Commission on Security and Cooperation in Europe, June 1991.

[14] "Emerging market economies (EMEs) could double their share of world trade over the next ten to twenty years if the industrial countries provide market access to their products". The European Community would be the major beneficiary. Susan M. Collins and Dani Rodrik, Eastern Europe and the Soviet Union in the World Economy, Institute for International Economics, May 1991, No. 32.

[15] Finding Common Ground, U.S. Export Controls in a Changed Global Environment. Panel on the Future Design and Implementation of U.S. National Security Export Controls. Committee on Science, Engineering, and Public Policy of the National Academy of Sciences, National Academy of Engineering, Institute of Medicine. Executive Summary. National Academy Press, Washington, D.C., 1991. Gary K. Bertsch and Steven Elliot-Gower, Export Controls in Transition: Perspectives, Problems and Prospects. Duke University Press, 1991. Paul Freedenberg and Igor Khripunov, "Arms Control is Global Mission, New Trends Warrant New Proliferation System," *Defense News*, January 27, 1992.

[16] For recent contractual discussion see *Financial Times*, February 14, 1992.

[17] John P. Hardt, Can A European Regional Market Assist Economies in Transition? *Transition*, Vol. 2, No. 3, March 1991, World Bank.

gional developments in infrastructure, health, and environmental pollution control and clean-up may also be beneficial.[17] *All* European regional cooperation takes on greater importance in the context of the collapse of the Russian market, which has had adverse effects on successor states and East and Central Europe. Some suggest that Western credits tied to purchases in Central and Eastern Europe for food, machinery, and other products might be made available to Russia. Note that the first credit of the EBRD was for purchases of Ikarus buses from Hungary.[18] Others suggest that Western agricultural credits might be tied to Russian purchases in Central Europe, e.g., meat from Poland and Hungary. Another transitional suggestion was for Russia to become a substantial, albeit temporary, market for excess European agricultural production. Jagdish Bhagwati and Padma Desai suggested a five-year, long-term credit arrangement for grain and meat from the European Community and the United States.[19] In the United States, with the waiver of the Jackson-Vanik Amendment, close to $4 billion in Commodity Credit Corporation credits has been made available but not fully subscribed.[20] Various subsidy approaches seem less attractive than the more direct approach of market opening.

The Marshall Plan period experience is useful to explicitly recall:

Market Access: The United States market was open and access was facilitated for West European recovering economies;

Debt and Monetary Restructuring: Unlike in the 1920s when the heavy debts of Imperial Germany, including war reparations, had to be fully serviced by the Weimer Republic, the London Accords relieved Germany in the 1950s of its heavy debt burden and policies for relieving the "dollar shortages" that followed.

Export Controls/Technology Transfer: "The Trading With the Enemy" legislation dating from 1915 aimed at Germany was waived for postwar Germany. Productivity teams promoted technology transfer.

Regional Development: Payments unions, and other regional commercial arrangements were introduced and facilitated currency convertibility.

Without Significant Changes in American Government-Business Approaches the Share of the United States in the Newly Emerging Market Economies May Well Be Reduced.

There is arguably a need to develop a U.S. government-business support strategy so that we can compete with the Japanese, Koreans, Germans, French and Italians (all are better positioned than we are if Russian and other successor state market and investment opportunities open up.) Most of the other Western enterprises have the following advantages or "better playing field": (1) greater networks of bilateral agreements, including investment and tax treaties to protect their national enterprises. The European countries have, in addition, the force of the European community and the EC accession process to add protection to European enterprises; (2) more facilitating mechanisms including credit guarantee facilities and commerce-promoting legislation (much of the U.S. legislation was put on the books during the Cold War). The United States has been slow to respond to commercial opportunities and persistent in continuing security protection based on the perceived military threat of the former Warsaw Pact forces; (3) more detailed government/private sector studies of successor state enterprises and sectors that would permit more rapid and prudent investment negotiations. Germany and Japanese joint government-industry studies in depth on various sectors of Russian and successor states economies place them in an informed position for future competition; (4) more *pro bono* assistance from lawyers, economists, engineers and other specialists that provide an inside track for future dealings. Even a casual survey in Moscow, Kiev and Alma Ata indicates the dominance of unpaid "advisors" supplied by all other Western countries to reforming economies in the successor states; (5) larger commercial, financial presence in Moscow and elsewhere, e.g., Japanese and Korean trading companies; German, French, Austrian, and Italian banks. Two European banks are especially active in research, consultations and negotiations: the Austrian bank-Credit Anstalt, the German Deutsche Bank are probably the best positioned banks. The trading companies of Japan and Korea appear to be especially well established if one judges by numbers and other external indicators.

This is not to say that U.S. multinationals are themselves not prepared to be informed and competitive in oil, food, pharmaceuticals and other sectors. The United States investment house Goldman/Sachs has just developed a key relationship with Russia. It is the government-business joint strategy and presence that is lacking.

Ironically, politically and socially Americans may be the preferred joint venture and investment partners, but commercially we appear to be least well positioned as a trading and investing nation.

BALANCING CENTRIFUGAL ETHNIC-SOVEREIGNTY FORCES WITH CENTRIPETAL INTEGRATIVE ECONOMIC FACTORS IS DIFFICULT BUT NOT YET IMPOSSIBLE

Transformation to a commonwealth or community of sovereign nations with healthy political and economic interrelations is possible and an economic necessity. Is Yeltsin a Russian patriot or nationalist? Will he draw on the rich Russian historical and cultural identity for positive development with the many ethnic minorities or use Russian nationalism or chauvinism as a tool to assure dominance over the Ukraine, the Tatars or others, placing short term Russian advantage over the possibility for longer term development, i.e. an "ugly Russian strategy." Recent Russian discussions with the successor states on shared economic and security policies have been more cooperative than confrontational. However, confrontation and protectionism is an ever present danger. Very strong ethnic and nationalist sentiments block any developments that seem to represent a revival of Soviet-Russian-centered dominance; even the modestly empowered Commonwealth of Independent states based in Minsk seems to be severely handicapped as an integrative mechanism.

Parallel programs by the World Bank and International Monetary Fund could facilitate the concurrent development of competitive market systems that could be linked by some clearing arrangements when new currencies are introduced, as in the Ukraine. Moreover, there is some utility in the fiscal and monetary discipline being exercised by those in Kiev if they have the economic power and the political legitimacy.[21]

Applications for membership in the IMF were received from Russia, Ukraine, Armenia, Azerbaijan, Kazakhstan, Kirgyzstan, and Moldova, and the Baltic states. They may all be members of the Bretton Woods institutions by mid-year. Others such as Belarus may also join soon. With membership will come programs. Certainly all the international organizations and the G-7 countries will encourage the development of open, competitive economies the conditions for an effective, albeit informal economic community. A formal Treaty of Rome-Eastern European Community may be de facto before it is de jure. If the big four—Russia, Ukraine, Kazakhstan and Belarus—can work together then all successor states may develop an economic modis vivendi. Or in time they may accede to the European Community first, then to their own regional group.

Democracy—Consent of Governed, the Elective Process, Parliamentary Oversight—Go Hand in Hand with Market Development and Rule of Law. Beyond the economic program will Yeltsin survive and be successful?

A central problem indeed is economic transformation but Yeltsin faces other tests that may doom his regime. Transformation to a pluralistic, democratic society with a rule of law and respect for individual rights is essential. Yeltsin has emergency powers that permit him to rule without full recourse to his parliament or popular will. Some elections have been postponed. He has taken the power of both the president and the prime ministership to himself. Will this be temporary or permanent? Is he Charles deGaulle or Pak Chun Yi? By taking the authority he must accept the responsibility, but will have to find ways to share authority and responsibility and be responsive to his electorate if the result is to be democracy.

The Speaker of the U.S. House of Representatives has asked the Special Task Force on the Development of Parliamentary Institutions in Eastern Europe (Frost Task Force) to visit Russia and Ukraine to assess needs and make recommendations; a visit by a Congressional Delegation from the House is tentatively planned for April, 1992. The Congressional Research Service has been requested by the Russian Legislature to support its parliamentary development. These parliaments have authority and responsibility in a democratic market development. Executives worry about the lengthy debates and process in exercising the separation of powers. Yeltsin may also be concerned about the populist tendencies of his parliamentary members, e.g., the tendency to favor funding all new programs and while supporting no new taxes. Yeltsin does have a requirement of referral to the parliament of the decrees he issues for approval. Most negative parliamentary responses have been honored. The difficult tests of will may be yet to come.

United States contribution to "Big Deeds" can be keyed to targeted, coordinated western programs spearheaded by the private sector and close cooperation with Russian leadership by the United States. More timely and long term commitments to assistance and investment programs could validate Yeltsin's programs, make more effective multilateral aid programs, encourage profit-

[17] John P. Hardt, Can A European Regional Market Assist Economies in Transition? *Transition*, Vol. 2, No. 3, March 1991, World Bank.

[18] Financial Times, April 1991.

[19] Jagdish Bhagwati and Padma Desai, "Making a Virtue of Moscow's Necessity." New York Times, November 12, 1990.

[20] Remy Jurenas, CRS, Issue Brief 90139, Soviet Food Shortages: U.S. Policy Options.

[21] Abraham Brumberg, "The Road to Minsk,", New York Review of Books, 30 January 1992, p. 21; Oleh Havrylyshyn and John Williamson, "From Soviet disUnion to Eastern Economic Community?" Institute of International Economics, October 1991, Number 35.

able private investment in an open market environment and facilitate productive bilateral programs. How would acceleration of international programs help the U.S.? How could bilateral assistance be an investment in our self interest and be within our budget constraints? We may target defense conversion, agriculture, oil and health:

Targeted assistance to defense industrial conversion programs of direct interest to us in terms of reducing the threat, reducing our defense spending, and promoting development of a viable Russian economy that could generate imports from the United States—creating jobs and profit.

The policy and programs for conversion in the overall Yeltsin-Gaidar economic policy and program debate are not firmly developed. The contradictions in the current policy development are illustrated by the official pronouncements on conversion and the new Russian budget on January 23, 1992—*defense spending is sharply cut, procurement is halted, but the over ten million workers in the defense industrial complex will continue to be paid while encouraged to seek work elsewhere.*

This contradictory policy threatens to destroy rather than convert the defense industrial program to production for consumers and export. It could also doom the monetary stabilization program. Mikhael Bazhanov, the leading Russian official on defense industrial conversion, refers to the current status as "convulsion", not conversion.[22]

Targeted assistance in scaling down and shifting resources from military to civilian enterprises would benefit from advice drawn from those with Western experience.

An advisory committee might be set up to advise Russians on how to scale down military activity and effectively redirect resources to improving the quality of life, living standards and productivity measures. The principle needs are in understanding the concept of thorough privatization of converted resources and arranging targeted Western aid. Examples of other advice would include evaluation of resources—material and financial assistance in preparing for privatization, support in developing new employment creating activities in infrastructure, environment, health, housing and other sectors important to consumption and productivity.

Drawing on experience in the West European, Asian, and Marshall Plan conversion efforts, a private sector committee including leading American experts could be drawn on. Such groups of private sector advisers were very useful under the Marshall plan as well described by Henry Nau.[23] This defense conversion effort might be led by Americans and coordinated with all other Western assistance.

Targeted assistance to agriculture and the food chain to provide guidance on rapid privatization and demonopolization and help mobilize resources to improve vital food chain sectors such as storage, transport and food processing.

Priority should be given to rapid agricultural privatization and assistance in encouraging demonopolization and competitiveness through enterprise funds and U.S. private sector involvement. As the United States has exported close to $30 billion of agricultural products to the former Soviet Union from 1972-1990, this sector has a special commercial interest to the United States. International agencies may be encouraged to support regional environment, health, housing, communications, and infrastructure programs to facilitate competition and create employment in the rural areas.

In 1990, the Soviet Union, despite the second best harvest in history, was not able to supply adequate food to the official channels, especially in the major cities. The harvest was smaller in 1991, and shortages in meat, dairy products, and eggs have been especially evident in major Russian cities through official channels. However, there is not a food shortage, but a distribution problem. Russia and several of the successor states continue to produce more food in the field per capita then Western Europe, the critical problem is from field to market.

U.S. agricultural experts focus on privatization and demonopolization as the immediate keys. The proliferation of competitive sources of farm supplies (demonopolization) and an end to state ownership are required. The US government may provide technical assistance, training, farmer-to-farmer exchanges, and a facility for making available needed imports by imaginative bilateral and multilateral financing. Technical assistance may be provide in developing an extension service, commodity markets, market information, collection and analyses, farm credit, and improving the food transportation and distribution system. Training could be an integral part of the technical assistant program. Technical assistance, training, and farmer-to-farmer exchanges would be aimed at building bridges between the nascent private sector there and the private sector in US agriculture. Again a private sector advisory committee led by noted American authorities could draw on relevant experience and utilize the Marshall Plan private sector advisory approach that had such earlier success.

A proposal for Russian agricultural assistance by the United States that would not require substantial new funding authority and major expansion of cargo preference has been advanced by Carol Brookins using existing programs, and more access to OPIC.[24]

Carol Brookins calculated that the Soviets will need from the US about $3 billion in credits to purchase agricultural commodities in the 1991-92 season. While this proposal was initially designed for providing credit flows to the Soviet Union, it could be developed as an effective initiative for assisting Russia while strengthening the ties of U.S. agriculture with new Russian private sector counterparts.

A new initiative for Russian inclusion in the Overseas Private Investment Corporation (OPIC) and the Multilateral Investment Guarantee Agency (MIGA) may also be useful to explore; these agencies could provide private investment guarantees from the United States and the multilateral institutions.[25]

Fundamental reform and coordinated Western support might create an environment for foreign private enterprise involvement. An Enterprise Fund might be set up to absorb rubles and, continued with dollars, generate new investment. US companies in the earlier proposals of the American Trade Consortium discussed joint ventures that would improve harvesting methods/equipment, on-farm storage equipment, cleaning and drying facilities, more and better feed mixes, improved livestock strains, and forage production. Companies such as Archer Daniel Midlands, Mech, and RJR Nabisco have been involved in these discussions, which are suggestive of a much wider range of U.S. company involvement. The earlier agreement to tie consortium oil earnings of the Russian partner to financing the US company involvement in agriculture and health would facilitate this process.

Targeted Oil Exports Related to U.S. Energy Company Investment in Oil and Gas Fields. The U.S. companies agree that the precipitous fall in oil output and oil exports is likely to continue and create a server shortage in hard currency and oil supplies from Central Europe and the successor states unless substantial Western involvement occurs. However, bringing in in proven oil field and improving operating fields with Western technology, management, and investment could made Russia a major oil supplier to in the world market and generate many times the billions in investment requirement in the Russian, Kazakh and Azerbaijan oil industry, Indeed while output in Russian and the successor states could fall to under 10 million barrels a day in 1992, it could also rise to as much as 15 mbd if American levels of exploitation intensity and technology were fully applied.[26]

What is needed for mutually beneficial joint ventures parallels the conditions for successful reform and assistance: a stable political environmental, a stable ruble, a legal and regulatory framework, and privatization. These would provide a favorable environment for profitable investment, and the U.S. industry would prefer them in order to develop working relations with the Russians, Kazakh, and Azeri without government involvement in oil fields operations.

There is, however, a companion desire to have a "level playing field." As other Western national oil companies have government support in many ways, some U.S. government involvement would be desired by U.S. oil concerns to ensure competitiveness. A topic of discussion at various international energy meetings has been the perceived need to stimulate oil exports and U.S. firm profitability by facilitating large-scale oil investment through protective and facilitating legislation and create credit guarantees, including Limited Resource Project Financing through the Export-Import Bank guarantees with the repeal of the Stevenson and Byrd Amendments, which limit the level and use of credits, especially in energy projects. Limited Recourse Project Financing might not be helpful if the Russians view it as a form of collateralized financing and decline because they do not wish to open to all other Western oil companies a collateralization mechanism. Moreover, they are currently short of oil to put in to escrow. Still more innovative mechanisms are arguably needed to break the log jam on contract discussions in the short run. Both sides also need to look to the long run in order to project long term, mutually beneficial joint ventures and relations that endure over time.

The European Energy Charter has reached agreement between the European Community and the former Soviet Union. The EC

[22] Mikhael Bazhanov, Head of the Russian State Committee for Defense Industry Conversion, Interview on Russian Television, 1530, January 13, 1992.

[23] Henry R. Nau, *The Myth of America's Decline, Leading the World Economy Into the 1990s.* New York: Oxford Press, 1990, p. 104 passim. Cf. Janine R. Wedel, "Beware of Western Governments Bearing Gifts", *Wall Street Journal.* January 14, 1992.

[24] Carol Brookins, "A Proposal for Soviet Agricultural Assistance," World Perspectives: vol. 3, no. 5, (July 1, 1991).

[25] The Investment Guaranty Agreement between the United States and Poland of October 1989 might be a model. See Requirements for Membership in the Multilateral Investment Guarantee Agency (MIGA). Washington, D.C., August 1990.

[26] Joseph Riva, *Russia and the Commonwealth of Independent States Oil Resources.* CRS 92-78 SPR, January 16, 1992.

may use some of its 400 million ECU to promote this agreement, especially in gas development. The legal and regulatory mechanisms set up by the European Energy Charter may be helpful in setting preconditions for U.S. oil contracts with successor state authorities. U.S. participation in this Charter is not clear in terms of its utility to U.S. private sector investment. By participating the U.S. may assure some voice in fashioning a legal and regulatory environment and encourage Europeans to open their markets to competitive Russian natural gas and facilitate reasonable pricing of gas to central Europe in lieu of continued reliance on coal and nuclear capacity.

Targeted Health and Medical Standards Improvement by Developing a Private Sector Government Strategy. The general state of health and medical standards throughout the former Soviet Union has been low and is retrogressing to a performance level that is inferior by the standards of many developing countries. Moreover, the retrogression has been identified with the environmental crises throughout the region as well as alcoholism in some slavic regions.[27]

Some areas for medical aid that are urgent, life saving, simple and quick, especially with foreign assistance, could be the following which resulted from a recent survey by Professor Murray Feshbach of Georgetown University:

1. *Pharmaceuticals:* a. *Simple aspirin,* b. *Human insulin*—the shortage of which is causing extreme difficulties for diabetics; c. *Cardiovascular and Oncological,* as well as antisepsis medications, medications for Leukemia patients are also vital.

2. *Medical Equipment: Basic laboratory equipment*—blood diagnostic equipment [for example, recently 10 Finns having heart by-pass surgery in Estonia (cheap, but thought to be among the best of the "former" USSR), came down with Hepatitis C—now Finns are bringing their own blood or matched blood with them.] They do not need cat scans, per se, at this time; *Sterilizer Equipment*—to sterilize medical instruments, syringes, needles, etc. . . basic autoclaves, but only if training is offered, and nurses and doctors informed about the sheer necessity of this effort; *Hot Water*—50 percent to 68 percent in rural hospitals do not have hot water; *Single-Use Syringes and Disposable Needles*-quality multiple use syringes and needles are not needed if they could be properly sterilized, i.e., if they had hot water. Undoubtedly, disposable syringes would be better, but needs are basic—supply is about 500 million out of 6 billion demand per year. . . . Moreover, they have even issued instructions on how to re-use disposables; *Bed Sheets*—better supply and instructions not to reuse without washing; *Clean (Unpolluted) Vaccines*—DPT, anti-tubercular, typhoid—major epidemic of diphtheria possible.

Transformation of Yeltsin to an international player contributing to peace, cooperation, and prosperity. The test of continuing on the course of "new thinking", substantial reductions in military forces, and resolution of regional crises can be seen in measures to safeguard agreements on non proliferation of weaponry, settlement of outstanding issues such as the Japanese Northern Territories, etc. Western support will then be encouraged. His policy of peace may contribute to the prospects for Russian prosperity. His proposal of January 29, 1992 for a global system of control and nuclear build-down might be effective both in contributing to peace by reducing the threat, and to prosperity if a prudent market solution were found for defense industrial conversion. Yeltsin has shown himself to be a politician capable of learning from experience, changes and new environments; a man of considerable decisiveness and courage. Much depends on who he is and what he becomes. No one, perhaps including Yeltsin, seems to know the answer to the true Yeltsin identity question. However, his record to date suggest that one should not underestimate his ability to rise to challenges.

We should also bear in mind that a direct connection between our assistance and a prospective, successful reactionary coup may exist. Mr. Vladimir Lukin, chairman of the Russian parliament's foreign relations committee (the new Ambassador designate to the United States) predicted that the Russian government is likely to fall in the next few months, possibly in February due to the price liberalization policy and its effect on falling incomes.[28] These dire prediction and assessments may be overly dramatic but do highlight the time urgency of the availability of programs and advice from the United States, the IMF, World Bank and G-7.

The Congressional leadership response to the request of Boris Yeltsin for a closer Russian-United States partnership may be judged by a number of bipartisan, bicameral indicators of support, e.g., in the Senate a sense of Congress was a call through legislation authored by Senator Levin (D. Michigan) and Senator Dole (R. Kansas) cosponsored by Senators Mitchell, Bradley, Lugar, Nunn, Domenici, Boren, and Lieberman on policy toward the Former Soviet Union calling inter alia for, *the President immediately should begin consultation with Congress and should promptly prepare and transmit to Congress a comprehensive plan entitled "International Investment for Democracy" that would assist the Soviet republics to avoid social chaos and achieve economic and practical stability by articulating step-by-step actions that should be taken by such republics, acting together or individually, and the supporting actions that should be taken in response by the United States and other nations through international institutions.*[29]

[27] Murray Feshbach, "Ecocide in the U.S.S.R.: Health and Nature under Perestroika," 1992, Basic Books.

[28] "Financial Times," January 31, 1992.

[29] Amendment 1443 to a bill Conventional Forces in Europe Treaty Implementation Act of 1991. *Congressional Record,* November 25, 1991. S. 18055. See also David Obey, Remarks to Council on Foreign Relations, February 5, 1991. Same Nunn, "Aid and Moscow's Military," *The Washington Post,* July 15, 1991. Richard A. Gephardt, "Yes the West Should Help the USSR to Reform Its Economy, *"The Orlando Sentinel,* July 21, 1991, and "Help Russia, Help Ourselves, New York Times, February 12, 1992.

LEARNING HISTORY FROM A DIFFERENT VOICE

• Mr. RIEGLE. Mr. President, I want the Senate to hear history from a different voice—the voice of our Nation's women. As a child in Flint I studied history from the traditional viewpoint, focusing on important political, military, and economic leaders like George Washington, Abraham Lincoln, and Franklin Delano Roosevelt. I also learned dates and events: the Declaration of Independence was signed in 1776 and the Civil War began in 1860 and ended in 1865. There is nothing necessarily wrong with this approach. Our children need to learn their country's and the world's history because, in the words of George Santayana, "Those who cannot remember the past are condemned to repeat it."

Santayana was right, and I would like to expand on his thought. Just as the failure to remember the past can have dire consequences, accepting one perspective of history as gospel can deny us a more complete picture and understanding of our past, potentially condemning us to make the same presumptions in our understanding of the future. That is why we should think about history from different perspectives—we must hear it in a different voice. National Women's History Month, March 1992, presents us with the opportunity to do this.

Women's history examines our Nation's past with a new, wide-angle lens. It does not rewrite history, but it does draw very different judgments about what has been important in history. This distinction stems from the fact that men and women see and understand the world in different ways. Carol Gilligan, a noted psychologist, calls this the different voice. The voice is characterized not by gender, but by theme, a theme that stresses the unique perspective of women's experience in America.

Let me give you an example from the 19th century of what I mean by the different voice. Mary Boykin Chesnut—not a household name—was a Confederate widow who lived through the Civil War. She is not known for participating at Gettysburg or Antietam, so she is not a prominent figure in the history books the way Lincoln or Robert E. Lee is. Mary Boykin Chesnut kept diaries. And for years male historians used her diaries to talk about the War: the battles and the strategies. But when women historians examined the diaries, Mary Chesnut spoke to them in a different voice that stressed the disintegration of the family—the tension between husbands and wives that the War caused and the level of oppression that black women suffered at the hands of slave masters who took these women at their will. This is a very different picture than the one I studied in school.

Another example is the tales of Western expansion as heard from the voices of men, as opposed to the voices of women. The men, in press accounts sent back east, described the miles they covered, equipment use and shortages—they dwelled upon the technical aspects of their journeys. The men also talked about their hostile contact with Native Americans; these encounters captured the American imagination at the time. But when we examine the diaries of the women who made the trek west a different picture emerges. They described relations with the indigenous people as being friendly. The

technical aspects of their sojourns came in second to the more personal aspects of pioneer life: the friends and loved ones they left behind, the relationships among the traveling families, and the trials and joys of everyday family life as they journeyed and lived in the wilderness.

An interesting story from this era comes from my home State of Michigan. Dr. Anna Howard Shaw came to America from England when she was 2 years old in 1851. When she was 12, the family moved to northern Michigan, where her father had built a log cabin on 360 acres of land. Her father then returned to Massachusetts to raise money for the family he had left behind. Dr. Shaw's father was proud of his stake in the wilderness, hoping to make the place a great estate that he would eventually pass on to his son—a romanticized vision of northern Michigan at the time, I assure you. As Dr. Shaw wrote in her autobiography "The Story of a Pioneer," in reality the family was 140 miles from the nearest railroad, 40 miles from the nearest post office, and half-dozen miles from any neighbors save the wolves and the wildcats. Two very different views of life in the wilderness—two very different voices.

The theme for National Women's History Month 1992 is "Women's History: A Patchwork of Many Lives." Women like Mary Boykin Chestnut and Anna Howard Shaw have contributed their unique voices to our understanding of the past. During this month, let us recognize not only the tremendous contributions of women of the past, but those in the present whose voices influence our lives in substantial ways. Women like Janet Good, who retired in 1990 as acting director of equal opportunity for the Michigan Employment Security Commission. Ms. Good was a leader in organizing the Older Women's League in Michigan and devoted her efforts to ending sexual harassment in the workplace. Another voice, who influenced the law in 28 States, belongs to Virginia Cecile Bloomer Nordby; she was the principal drafter of the Michigan Criminal Sexual Conduct Act that other States adopted as a guide for their statutes. Other voices: Jan Bender, the Founding Mother of the Rape Crisis Center movement in Michigan; Jo Jacobs, a leader in the ongoing struggle to achieve gender equity in Michigan schools; and Dorothy Comstock Riley, the first women to serve on the Michigan Court of Appeals. Dorothy Riley, Jo Jacobs, Janet Good, Virginia Nordby, and Jan Bender were all inducted into the Michigan Women's Hall of Fame for 1991.

Mr. President, I urge my colleagues to listen to the voices of American women. They can teach all of us a few things about our world. Their voices can give us a new perspective on not only our country's past, but they can guide us on the impact and wisdom of our decisions in the future.•

ANTHONY: LEAP YEAR CAPITAL OF THE WORLD

• Mr. DOMENICI. Mr. President, on Saturday, the 29th day of February, the Southwest border town of Anthony, the "Leap Year Capital of the World," will host a birthday celebration for the hundreds and thousands of people around the world who were born on February 29—that unique day that rolls around only once every 4 years.

Anthony, a municipality straddling the New Mexico-Texas border, decided in February 1988 to throw a big party for the people born on February 29. The Anthony Chamber of Commerce organized the Worldwide Leap Year Birthday Club that now boasts an international membership of more than 70 leap-year babies ranging in age from almost 4 to nearly 90.

The birthday club was established to honor these unique people and to help promote this community of about 8,000 citizens. This year the town will mark this second quadrennial celebration with a 2-day festival.

I commend Anthony for commemorating the births of people who only have a real chance to celebrate their birthdays once every 4 years. Being born on such a day can be considered a curse when one is young, but perhaps is a blessing as one gets older. Nevertheless, the birthday club and festival are unique for their celebration of February 29 birthdays.

Credit should be given to the originator of the Leap Year Birthday Club—Mary Ann Brown, born February 29, 1932, who came up with the idea after discovering that her neighbor, Birdie Lewis, shared this birth date too.

Every person born on February 29 is eligible for membership in the birthday club. People who joined in 1988 are charter members, some of whom included 1988 leap year babies. Members live in States like New Mexico, Texas, Arizona, California, Kansas, Florida, New York, Virginia, Michigan, New Hampshire, and Wisconsin, in addition to such countries as Germany and South Korea. The oldest member is Bessie Lee Norris of Albuquerque, NM, who was born in 1908.

I commend my friends in Anthony for this leap year celebration and promotion of their great town. I would encourage all those who celebrate their birthday on February 29 to become members of this fine birthday club. If I had a leap year birthday, you can be certain I would join.

Mr. President, I invite my Senate colleagues to join me in saluting the members of the Worldwide Leap Year Birthday Club, all leap year birthday babies, and the citizens of Anthony—the Leap Year Capital of the World.•

SGT. HILBERT POTTER

• Mr. McCONNELL. Mr. President, last April I brought the Senate's attention to the plight of Sgt. Hilbert Potter, a soldier injured during Operation Desert Storm. I come to the floor to inform my colleagues that his recovery is swift and certain.

Sgt. Potter commanded a six-man squad of combat support engineers during that military operation. Tragically, on February 25, 1991 he lost his right leg to friendly fire.

Sgt. Potter, who is stationed at Fort Knox, is a determined and driven soldier. An article in today's Louisville Courier Journal details his road to recovery and highlights his hopes to play basketball in the near future. With the aid of a prosthetic leg, Sergeant Potter is already able to maneuver on the court.

Sergeant Potter describes best himself his attitudes toward rehabilitation: "I'm going to do it until I can do it." Mr. President, I do not doubt Sergeant Potter will do it—be it on the basketball court, or in the medical career he hopes to pursue.

My thoughts and prayers will continue to be with this brave American. It is the professionalism of soldiers like Sergeant Potter that guaranteed the success of Operation Desert Storm, and that contributes to the excellence of our Armed Forces.

I ask that a copy of the Courier Journal article appear in the Record following my remarks:

The article follows:

[From the Louisville Courier Journal, Feb. 27, 1992]

SOLDIER WHO LOST LEG IS PLAYING BALL AGAIN

(By Bill Wolfe)

After Hilbert Potter lost his right leg on the Desert Storm battlefield last year, he feared his days of running, dunking basketball were over.

But the Army sergeant returned to his Fort Knox home yesterday with a high-tech prosthetic leg and a high-spirited attitude that refuses to give up on his favorite sport.

Potter, 31, who played forward on his high school team in Easton, Md., said he can already "get up and down the court" on his artificial leg. And, while dunking is out of the question for now, "I'm not going to speak of the future," he said. "I'm going to do it until I can do it."

Potter said he isn't going to let the war injury, which came under "friendly fire" from the machine gun of a U.S. tank, destroy his life or change his optimistic outlook.

"I'm just happy to be back," Potter said after returning from two months of therapy at Fitzsimmons Army Medical Center in Aurora, Colo. "I think I'm at the last stage of my rehabilitation and recovery."

Potter has been in and out of hospitals since he was wounded on Feb. 25, 1991.

He says he is not bitter about his injury, which he characterizes as "just something that happened."

The injury is "teaching me to make adjustment to limits that I have with this leg," Potter said. He said he plans to "let life take its own course and I'll just follow in its footsteps."

Potter arrived at Louisville's Standiford Field in an Air Force medical plane yesterday and was greeted by his wife, Joy, their 6-year-old daughter, Amanda, and a crowd of reporters and photographers.

His new leg seemed to work perfectly as he easily negotiated the steep stairs down the plane.

But the limb had taken some getting used to. Potter "did a lot of falling" in his first days with the leg, and broke parts of it twice while running and playing basketball.

Potter said he expects to receive a medical discharge from the Army within the next few months and will move to Louisville.

He hopes to enroll at the University of Louisville and study to become a physical therapist—the result of his contact with therapists over the past year.

"The medical field never was my interest until I finally got to see it with my own eyes," Potter said. "This is something I really want to bear down on and go after."•

ORDER TO PRINT S. 12, THE CABLE TELEVISION CONSUMER PROTECTION ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that S. 12, the Cable Television Consumer Protection Act, as passed by the Senate on January 31, 1992, be printed as passed.

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

SAN ANTONIO DRUG SUMMIT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Joint Resolution 414 regarding the San Antonio drug summit just received from the House.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows.

A joint resolution (H.J. Res. 414) regarding the San Antonio drug summit.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. Is there further debate on the joint resolution? If not, the resolution is deemed read a third time and passed.

So the joint resolution (H.J. Res. 414) was passed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1701

Mr. MITCHELL. Mr. President, on behalf of Senator BIDEN, I send to the desk an amendment to the preamble and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL], for Mr. BIDEN, proposes an amendment numbered 1701.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place, add the following: "Whereas, there is more cocaine than ever coming out of the Andes, we should redouble our efforts to reduce the influx of drugs.".

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 1701) was agreed to.

The preamble, as amended, was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed, en bloc, to the immediate consideration of Calendar order Nos. 399, 400, 402, and 404 through 411; that the committee amendments, where appropriate, be agreed to; that the joint resolutions be deemed read three times and passed, and the motion to reconsider the passage of these items be laid upon the table; that the preambles and title amendments, where appropriate, be agreed to en bloc; that the consideration of these items appear individually in the RECORD; and any statements appear at an appropriate place.

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

NATIONAL AWARENESS WEEK FOR LIFE-SAVING TECHNIQUES

The joint resolution (S.J. Res. 214) to designate March 16, 1992, through May 22, 1992, as "National Awareness Week for Life-Saving Techniques," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 214

Whereas the National Safety Council reported that about 850,000 Americans died in 1990 as a result of accidents and heart disease;

Whereas accidents are the leading cause of death for children and youth ages 1 to 24 years;

Whereas drowning and choking are a leading cause of accidental death in children under the age of 5 years;

Whereas Rescue Breathing and Cardiopulmonary Resuscitation, commonly referred to as CPR, are life-saving techniques that significantly reduce the incidence of sudden death due to accidents and heart disease;

Whereas it is critical that more Americans learn such basic life-saving techniques in order to reduce the number of deaths related to accidents and heart disease;

Whereas the opportunity to learn basic life-saving techniques is available to all Americans through the American Red Cross, the American Heart Association, the YMCA, and other national organizations; and

Whereas the death rate due to accidents and heart disease would be greatly reduced if more Americans received training in basic life-saving techniques: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May 16, 1992, through May 22, 1992, is designated as "National Awareness Week for Life-Saving Techniques". The President is authorized and requested to issue a proclamation calling on the people of the United States to observe the week with appropriate ceremonies and activities designed to encourage training in life-saving techniques for Americans.

YEAR OF AMERICAN CRAFT: A CELEBRATION OF THE CREATIVE WORK OF THE HAND

The joint resolution (S.J. Res. 218) to designate the calendar year, 1993, as the "Year of American Craft: A Celebration of the Creative Work of the Hand," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 218

Whereas the twentieth century has witnessed an outpouring of creative craftsmanship and it is appropriate that we now pay tribute to excellence in craftsmanship;

Whereas the value of creative work of the hand through craft remains clear even as the most industrialized century of our history draws to a close;

Whereas peerless craftsmanship, once commonly associated with American industry, is now a theme of renewed importance and interest;

Whereas the traditional values of craftspeople such as dedication to the qualities of excellence, perseverance, self-discipline, and integrity, affirm the work of the hand invested with energy of mind and spirit and will serve as a continuing force in the improvement of life and culture;

Whereas craft is the hand print of all cultures and through craft we commemorate the multicultural heritage of our Nation and pay tribute to the artistic diversity that exists among all people;

Whereas craft forms the root of our cultural richness, variety, and vitality and serves as a material record that functions as a bridge between past and present;

Whereas craft is an art form that is easily accessible to many individuals;

Whereas Americans of all ages should be provided with opportunities to experience the pleasures of the creative work of the hand through craft;

Whereas the dedicated craftsperson is a role model worthy of emulation by our young;

Whereas craft, inspired by tradition, may be lost unless it is nurtured and unless the economic and social well-being of its practitioners is advanced; and

Whereas the Congress of the United States recognizes the artistry of today's American craftspeople: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of American in Congress assembled,

SECTION 1. DESIGNATION.

The calendar year, 1993, is designated as the "Year of American Craft: A Celebration of the Creative Work of the Hand".

SEC. 2. PROCLAMATION BY THE PRESIDENT.

The President is authorized and requested to issue a proclamation calling upon the people of the United states to observe the Year of American Craft with appropriate ceremonies and activities.

SEC. 3. PROCLAMATIONS BY STATE OFFICIALS.

Each State Governor and each chief executive of each political subdivision of each State is urged to issue a proclamation or other appropriate official statement calling upon the citizens of such State or political subdivision to observe the Year of American Craft with appropriate ceremonies and activities.

SEC. 4. CEREMONIES AND ACTIVITIES.

The ceremonies and activities referred to in sections 2 and 3 should—

(1) bring attention to craft throughout America;

(2) recognize the breadth of the contributions made by the craft community in America; and

(3) demonstrate that craft, as an expression of values, is a link that joins humankind.

NATIONAL PUBLIC SAFETY TELECOMMUNICATORS WEEK

The joint resolution (S.J. Res. 233) to designate the week beginning April 12, 1992, as "National Public Safety Telecommunicators Week," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 233

Whereas over one-half million dedicated men and women are engaged in the operation of emergency response systems for Federal, State, and local governmental entities throughout the United States;

Whereas these individuals are responsible for responding to the telephone calls of the general public for police, fire, and emergency medical assistance and for dispatching such assistance to help save the lives and property of our citizens;

Whereas such calls include not only police, fire, and emergency medical service calls but those governmental communications related to forestry and conservation operations, highway safety and maintenance activities, and all of the other operations which modern governmental agencies must conduct; and

Whereas America's public safety telecommunicators daily serve the public in countless ways without due recognition by the beneficiaries of their services: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning April 12, 1992, is hereby designated as "National Public Safety Telecommunicators Week". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate ceremonies and activities.

GREEK INDEPENDENCE DAY: A NATIONAL DAY OF CELEBRATION OF GREEK AND AMERICAN DEMOCRACY

The joint resolution (S.J. Res. 240) to designate March 25, 1992 as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 240

Whereas the ancient Greeks developed the concept of democracy, in which the supreme power to govern was vested in the people;

Whereas the Founding Fathers of the United States of America drew heavily upon the political and philosophical experience of ancient Greece in forming our representative democracy;

Whereas March 25, 1992 marks the one hundred seventy-first anniversary of the beginning of the revolution which freed the Greek people from the Ottoman Empire;

Whereas these and other ideals have forged a close bond between our two nations and their peoples; and

Whereas it is proper and desirable to celebrate with the Greek people, and to reaffirm the democratic principles from which our two great nations sprang: Now, therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 25, 1992 is designated as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy", and that the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the designated with appropriate ceremonies and activities.

CELEBRATING GREECE'S GIFT OF INDIVIDUAL FREEDOM

Mr. PRESSLER. Mr. President, democracy is this Nation's most cherished ideal. Its enduring appeal provides a guiding light for people worldwide. People forced to live under repressive regimes, whose inherent rights to life and liberty were denied, nevertheless were inspired by the hope for democracy. That inspiration led them to seek change. Today, many are free for the first time in their lives.

We live in a world that has changed dramatically for the better during the past few years. It is a world in which democratic principles reign supremely. The democracy we cherish, however, is not of our own invention. For that system of government and way of life, we must give credit to the ancient Greeks. As one 19th century intellectual put it, "Except the blind forces of nature, nothing moves in this world which was not Greek in origin."

For these reasons, I was pleased to cosponsor Senate Joint Resolution 240 which passed the Senate today. This resolution designates March 25, 1992 as Greek Independence Day. I urge all Americans to join in recognizing this significant event.

Although the Greeks first brought democracy to the world, they were unable to ensure its continuation in their homeland. For a long time, democracy was lost to the people of Greece. Then, on March 25, 1821, the people of Greece threw off the chains of autocracy and returned to the democratic system they had created long before.

The experience of Greece teaches a valuable lesson, Mr. President. It is that we must help the emerging democracies of the world nurture their new freedom. We must not take democracy for granted in those countries. Indeed, we should not take it for granted even in our own country. The active commemoration of Greek Independence Day serves as a useful reminder of the virtues of democracy and the importance of preserving and protecting that way of life.

It is especially fitting to do so this year, when so much of the world for the first time is enjoying the fruits of the seeds planted in Greece so long ago.

The ancient Greeks developed the concept of democracy—the idea that the supreme power to govern is vested in the people. The founders of the United States of America used that idea in creating our own Nation. Later, Greek revolutionaries adopted the work of our Nation's founders as the basis for their interim government.

Democracy returned to and has endured in Greece not only because of its merits, but also because of the Greek spirit of determination. These attributes are evident in Greeks who have made their homes in the United States, including my home state of South Dakota. Greek immigrants have become respected medical researchers, educators, performers, and statesmen. In fact, they have made significant contributions in all walks of life. Many have taken their talents back to Greece, strengthening the bond between our two nations.

An excellent example of this can be found in the current United States Ambassador to Greece, Michael Sotirhos.

Ambassador Sotirhos and his wife, Estelle, have provided the United States with their diplomatic gifts in 2 posts. His 3-year record in Greece has been distinguished by the construction of the same bridges to all parties that marked his earlier service in Jamaica. Mike Sotirhos helped smooth the way for the renegotiation of the defense cooperation agreement between the United States and Greece. But perhaps most important, Mr. President, Ambassador Sotirhos and his family opened their hearts to the Greeks. Every week, in observing his Orthodox Christian

faith, Ambassador Sotirhos attends a different church in Greece and Greeks respond to this action with friendliness and greater understanding toward the United States. His willingness to travel anywhere and mix with average Greek citizens has vastly improved bilateral relations. Indeed, Mike Sotirhos is one of the most effective non-career Ambassadors in recent history.

Mr. President, I proudly salute the Greek Americans in my home State, however few in number, and those throughout the United States. Each American can do the same by celebrating the ideals embodied in Senate Joint Resolution 240 on March 25.

When we celebrate Greek Independence Day 1992, we will do so in a world that is more democratic than perhaps at any time in history. However, the celebration of democracy and its unstoppable march into country after country by no means should allow us to become complacent. The struggle of the Greek people to restore democracy to their country in the last century is a reminder to us all: the preservation of freedom has a price.

My friend, Vice President Hubert Humphrey, spoke truthfully when he said: "* * * Democracy is a constant challenge; it requires the best of everyone. * * * It's a challenge for the future; it is not a status quo; it requires men of courage and men of boldness. * * * It is amazingly strong. It lives only where men are willing to think and study, plan and achieve, sacrifice and give."

NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS

The joint resolution (S.J. Res. 244) to recognize and honor the National Conference of Commissioners on Uniform State Laws on its centennial for its contribution to a strong Federal system of government, was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 244

Whereas the United States is a Federal system of government in which the Congress has certain enumerated powers under the Constitution and all other powers are reserved to the States;

Whereas, through the joint efforts of the States and the legal profession, the National Conference of Commissioners on Uniform State Laws was founded in 1892 to provide legislation to promote uniformity of law between the States in those areas in which consistency would most serve the public interest and welfare;

Whereas the Uniform Partnership Act, the Uniform Limited Partnership Act, and the Uniform Fraudulent Transfers Act are all legislative proposals of the Uniform Law Commissioners which have been successfully utilized by the States;

Whereas the most notable of all uniform laws produced by the Conference, the Uniform Commercial code, has been universally accepted and applauded, and has provided immeasurable benefits to every American business and consumer through its provision of fair, efficient, and logical rules governing commercial transactions;

Whereas, while the Uniform Law Commissioners prepare uniform laws primarily for the States, the Congress has used the work of the Conference in drafting Federal legislation, in particular the provisions of the Uniform Fraudulent Conveyance Act included in the United States bankruptcy law, and the provisions of the Uniform Child Custody Jurisdiction Act included in the Parental Kidnapping Act of 1980; and

Whereas the Uniform Law Commissioners have no peer in the development, improvement, and codification of State laws: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress hereby recognizes and commemorates the centennial of the National Conference of Commissioners on Uniform State Laws, and the President is authorized and requested to issue a proclamation calling upon the people of the United States in general, and the legal community in particular, to observe the centennial with appropriate ceremonies and activities from January 1, 1992 through December 31, 1992.

NATIONAL RECYCLING DAY

The joint resolution (S.J. Res. 246) to designate April 15, 1992, as "National Recycling Day," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 246

Whereas the United States generates over 180 million tons of municipal solid waste each year—almost double the amount produced in 1965, and amounting to about 4 pounds per person per day—and the amount is expected to increase 216 million tons of garbage annually by the year 2000;

Whereas the continued generation of enormous volumes of solid waste each year presents unacceptable threats to human health and the environment;

Whereas the Environmental Protection Agency expects that 27 States will run out of landfill capacity for municipal solid waste within 5 years and that a large percentage of currently operating landfills will close by the year 2000 either because they are filled or because their design and operation do not meet Federal or State standards for protection of human health and the environment, requiring that waste now disposed of in these facilities will have to be disposed through other means;

Whereas a significant amount of waste can be diverted from disposal by the utilization of source separation, mechanical separation and community-based recycling programs;

Whereas recycling can save energy, reduce our dependence on foreign oil, has substantial materials conservation benefits and can prevent the pollution control from extracting resources from their natural environment;

Whereas the revenues recovered by recycling programs offset the costs of solid waste management and some communities have established recycling programs which provide significant economic benefits to members of the community;

Whereas the current level of municipal solid waste recycling in the United States is low, although some communities have set a much higher rate;

Whereas to reach a goal of increased recycling, more materials need to be separated, collected, processed, marketed and manufactured into new products;

Whereas a well-developed system exists for recycling scrap metals, aluminum cans, glass and metal containers, paper and paperboard, and is reducing the quantity of waste entering landfills or incinerators and saving manufacturers energy costs;

Whereas recycling of plastics is in the early stages of development and considerable market potential exists to increase the recycling;

Whereas yard and food waste is an important part of municipal solid waste and a large potential exists for mulching and composting the waste which would save both landfill space and nourish soil, but only small amounts of this material is currently being recycled;

Whereas Federal, State and local governments should enact legislative measures that will increase the amount of solid waste that is recycled;

Whereas Federal, State and local governments should encourage the development of markets for recyclable goods;

Whereas Federal, State and local governments should promote the design of products that can be recycled safely and efficiently;

Whereas the success of recycling programs depends on the ability of informed consumers and businesses to make decisions regarding recycling and recycled products and to participate in recycling programs; and

Whereas the people of the United States should be encouraged to participate in educational, organizational and legislative endeavors that promote waste separation methods, community-based recycling programs and expanded utilization of recovered materials: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 15, 1992, is designated as "National Recycling Day". The President of the United States is authorized and requested to issue a proclamation calling on the people of the United States to observe the day with appropriate ceremonies and activities.

BICENTENNIAL OF NEW YORK STOCK EXCHANGE

The joint resolution (S.J. Res. 254) commending the New York Stock Exchange on the occasion of its bicentennial, was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 254

Whereas, on May 17, 1792, the New York Stock Exchange was founded by twenty-four merchants and brokers who gathered under a buttonwood tree in lower Manhattan to establish a reliable market for the trading of securities;

Whereas the New York Stock Exchange has helped finance America's growth from its very beginning, significantly contributing to job creation and to the development of the Nation's industry and technology;

Whereas the New York Stock Exchange is both the Nation's and the world's best known symbol of America's free enterprise system;

Whereas the New York Stock Exchange has committed its energy and expertise to advance our Nation's free market philosophy to other countries around the world; and

Whereas the New York Stock Exchange is a quasi-public institution, dedicated to the promotion of individual and institutional investor protection, and to just and equitable principles of trade: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the New York Stock Exchange is hereby commended on the occasion of its bicentennial. The President is authorized and requested to issue a proclamation acknowledging and commending this occasion.

NATIONAL LOCK-IN SAFETY MONTH

The Senate proceeded to consider the joint resolution (S.J. Res. 139) to designate October 1991 as "National Lock-In Safety Month," which had been reported from the Committee on the Judiciary, with an amendment:

On page 2, line 3, strike "1991", and insert in lieu thereof "1992".

The amendment was agreed.

The joint resolution, as amended, was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, as amended, and the preamble, are as follows:

S.J. RES. 139

Whereas professional locksmiths meet the security needs of all segments of society and take pride in their contributions to a safe environment;

Whereas throughout history locksmithing has been a profession that requires continuing education to keep pace with an evolving technology;

Whereas the demands of physical security in residential, commercial, industrial, and institutional settings require dedicated professionals who work by a code of high ethical standards to provide the best security available;

Whereas professional locksmiths continue to provide a wide range of security products and services, including automotive products, master-keying products and services, safes and vaults, electronic access control products, and high-security products and services for all types of structures;

Whereas professional locksmiths in the United States are represented by the Associated Locksmiths of America, Inc. (ALOA); and

Whereas "National Lock-In-Safety Month" will celebrate the long-standing locksmith profession and salute those locksmith professionals who accept the challenges of providing individuals and organizations with the security necessary to protect their property and give them peace of mind as they go about their daily activities: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1992, is designated as "National Lock-In-Safety Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate ceremonies and activities.

The title was amended so as to read "Joint resolution to designate October 1992 as "National Lock-In Safety Month."

GIRL SCOUTS OF THE UNITED STATES OF AMERICA 80TH ANNIVERSARY DAY

The joint resolution (H.J. Res. 343) to designate March 12, 1992, as Girl Scouts of the United States of America 80th Anniversary Day," was considered, ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

IRISH-AMERICAN HERITAGE MONTH

The joint resolution (H.J. Res. 350) designating March 1992, as "Irish-American Heritage Month," was considered, ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

NATIONAL WOMEN AND GIRLS IN SPORTS DAY

The joint resolution (H.J. Res. 395) designating February 6, 1992, as "National Women and Girls in Sports Day," was considered, ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

ORDER TO INDEFINITELY POSTPONE CERTAIN ITEMS

Mr. MITCHELL. Mr. President, I ask unanimous consent that Calendar order Nos. 398, 401, and 403 be indefinitely postponed.

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

TRIBUTE TO JENNIFER SMITH

Mr. MITCHELL. Mr. President, before concluding our business this evening, I want to note the fact that the Assistant Parliamentarian, Jennifer Smith, now seated in the Parliamentarian's chair, will be leaving the Senate after 4 years in her present position.

She will become counsel to the House Budget Committee. In behalf of all Members of the Senate, I want to express to Ms. Smith our gratitude for the superb manner in which she has performed her duties as Assistant Parliamentarian in these past 4 years. It is a difficult task, not well known to the public, but of critical importance to the operation of the Senate.

The Parliamentarian is called upon on numerous occasions each day in which the Senate is in session to make decisions regarding Senate procedures, some of them controversial and all of them important.

Ms. Smith has performed those duties with integrity, with intelligence, with impartiality. I have not ever heard a Senator of either party lodge any complaint to the contrary. I want Ms. Smith to know that we are very grateful for the service she has rendered, and we wish her the very best of success. Our loss is the House Budget Committee's gain.

BEST WISHES TO ASSISTANT PARLIAMENTARIAN SMITH

Mr. DOLE. Mr. President, let the RECORD reflect I certainly share the views expressed by the majority leader.

We appreciate your impartiality, your fairness. We wish you every success. We do not believe it will be the same on the Budget Committee. Nothing is quite the same as the Senate of the United States, but we appreciate your service. I hope this is not a self-imposed term limit. But in any event we wish you the best.

Mr. MITCHELL. Mr. President, I understand the Chair has an announcement?

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Public Law 94-304, as amended by Public Law 99-7, appoints the Senator from Pennsylvania [Mr. SPECTER] to the Commission on Security and Cooperation in Europe, vice the late Senator from Pennsylvania Mr. Heinz.

Mr. MITCHELL. Mr. President, I ask unanimous consent that Senator DOLE be recognized to address the Senate, and that upon completion of Senator DOLE'S remarks the Senate stand in recess.

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

The Republican leader is recognized.

Mr. DOLE. Mr. President, I thank the majority leader and thank the Presiding Officer. I will be very brief.

Mr. President, I have four different statements.

SALUTE TO STROM THURMOND

Mr. DOLE. Mr. President, I would like to bring to the attention of my colleagues an outstanding newspaper article about an extraordinary man—our most distinguished colleague and friend from South Carolina, Senator STROM THURMOND.

Entitled "Almost 90, THURMOND STILL FIERY," THE ASSOCIATED PRESS ARTICLE FROM THE FEBRUARY 24 AIKEN, SC, STANDARD MAINTAINS THAT SENATOR THURMOND is "An institution in

South Carolina." I would add that Senator THURMOND is also an American institution.

And if you have ever been on the Senate floor during an important debate on promoting excellence in education, cutting wasteful Federal spending, protecting Americans from the horrors of violent crime, shielding children from the ills of pornography or the heartbreak of fetal alcohol syndrome, you know this article is on target when it says Senator THURMOND "can still draw more electricity from a crowd than orators a third his age."

Senator THURMOND draws that electricity not only with style but with substance. Last Saturday, before the Southern Republican Leadership Conference, our distinguished colleague crystallized his pitch for our President this way: "Do you know who to send a message to?" Senator THURMOND asked. "Send it to the Congress," he answered.

Mr. President, I know all my colleagues on both sides of the aisle are proud to count this patriot from South Carolina as one of this body's true legends. We applaud this gentleman's distinguished record which—fortunately for America and South Carolina—is still a work in progress.

Mr. President, I ask unanimous consent that the entire text of the Aiken Standard article be printed in the RECORD.

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

ALMOST 90, THURMOND STILL FIERY

(By Bruce Smith)

CHARLESTON.—He's an institution in South Carolina. Almost 90, he is arguably the only politician in America who quotes Calvin Coolidge on the stump. But he can still draw more electricity from a crowd than orators a third his age.

U.S. Sen. Strom Thurmond showed his stuff again during a weekend speech to the Southern Republican Leadership Conference.

In a strong voice that belied his years, Sen. Thurmond attacked, in no specific order, Democrats, big government spenders, opponents of President Bush and those who would cut defense too deeply.

He was greeted with a standing ovation. It was a reception second perhaps only to that which Bush received during the conference the previous day.

But then again, no one had, as a day earlier, gone and slipped campaign posters under all the chairs so the crowd could hold them up for the benefit of the Washington press corps and the television cameras.

There were no cameras Saturday.

If reporters don't write a lot about Sen. Thurmond's campaign speeches, it's likely because he's been around campaigning, well, as long as anyone can remember. Before most folks were even born. Perhaps before the parents of most folks were born.

The former governor has served in the U.S. Senate for 37 years. He will turn 90 next December.

On Saturday, some reporters roamed the halls talking to political operatives while Sen. Thurmond was at the podium doing what he's been doing for years. And the fire was unabated.

"Can you think of anybody, anywhere who can even compare with President Bush?" he asked the crowd. "No one has even heard of any of these other people before. He's known worldwide."

He attacked those who would cut defense too deeply.

"We must keep a strong defense if we are going to keep this country free," he said to applause from several hundred party faithful.

He said Bush's proposals would help the economy if the Democratic congress would pass it.

"Do you know who to send a message to? Send it to the Congress," he said. The cheers and applause echo.

He accused the Democrats of wanting to put a "temporary" tax to balance their economic proposals. But Sen. Thurmond warned temporary would become permanent after the election.

"We don't need any more taxes permanent or otherwise. We have enough taxes," he said. More applause. "What we need to do is stop this big spending. You know that as well as I do."

More cheers. Again applause.

"We can't sit around. We can't get spoiled. We've got to act. It's going to take persistence. It's going to take determination."

He then quoted Coolidge on how nothing can take the place of persistence.

"I would urge you when you leave here and go back home that you be determined and persistent. And if you are and work it that way and get the people to work for you, we will re-elect one of the finest presidents this nation has ever had," he said.

Standing ovation.

WALSH KEEPS GOING AND GOING

Mr. DOLE. Mr. President, 9 months ago this week, I sent a letter to then-Attorney General Dick Thornburgh, suggesting that the time had come to close down the Office of Iran-Contra Independent Counsel, Lawrence Walsh.

Given the fact that the courts were overturning the convictions and throwing out the indictments won by Mr. Walsh, I concluded that the Justice Department could do a much better job, at a greatly reduced cost.

Today, Mr. Walsh, like the "Ever-Ready Rabbit" in television commercials, just keeps on going, and going, and going. And he keeps on spending and spending and spending tax dollars on a case that is going absolutely nowhere.

Today, despite the fact that nearly a year and a half ago, Mr. Walsh, himself, said that the end of his investigation was near, there is no sign that Mr. Walsh will "pull the plug" on his exercise in futility.

In fact, in a story in Monday's Washington Times, Mr. Walsh is quoted as saying that when it comes to his investigation, "It's perfectly clear we're talking [about] a long time. Months, Not weeks."

The article also revealed that Mr. Walsh has now turned over the day-to-day operation of the investigation to his deputy, and remains in Oklahoma 3 weeks out of 4, working on his book on the investigation.

And while Mr. Walsh fiddles with his book, his investigation—housed in some of the most expensive Washington, DC offices—continues to burn tax dollars.

Mr. Walsh himself, admits, that the investigation has cost at least $30 million. Others put the price tag much higher—perhaps as much as $100 million when you include costs to the Justice Department, the Federal courts, the CIA, and other agencies.

And while Mr. Walsh may have the luxury of an unlimited budget, those whom he is investigating do not. The Washington Times also reported that Joe Fernandez, a CIA officer, who was the subject of Mr. Walsh's investigation spent nearly $2 million to defend himself against charges that were eventually dropped.

Richard Secord could not afford his attorneys anymore, after his legal bills went over the $1.2 million mark, so he opted to plead guilty to a charge of making a false statement to Congress. His penalty: probation and a $50 fine.

Mr. President, what was obvious 9 months ago is more obvious now. The Justice Department can do the mop-up work needed to finish this investigation.

I, for one, think that Mr. Walsh should now have the opportunity to work full-time on his memoirs.

And if we are serious about tax relief, closing the doors of Mr. Walsh's taxpayer-funded luxurious multimillion-dollar operation would be a good first step.

Mr. BRYAN assumed the chair.

THREE YEARS OF MARTIAL LAW IN KOSOVA

Mr. DOLE. Mr. President, this week marks the third year of martial law in Kosova, a province in the former Yugoslavia with a population that is over 90 percent Albanian. While democracy and freedom have triumphed in the rest of Eastern Europe, the future of democracy and freedom in Kosova is uncertain—indeed, it is only a fading hope in the hearts of the 2 million Albanians who live there, in the police state created by hardliner Slobodan Milosevic, the President of Servia, part of the former Yugoslavia.

For more than 1,000 days, the Albanians of Kosova have suffered great hardship under the crushing weight of Milosevic's repression. For more than 1,000 days, Albanians have been forbidden to meet, to speak their minds, to express themselves politically or even culturally, to work peacefully, to earn a decent living. For more than 1,000 days, the Albanians have lived with minimal food and virtually no medical care. But, worst of all, for more than 1,000 days, the Albanians of Kosova have had to live in a state of absolute fear and terror.

You may ask, what has life been like for the Albanian people in Kosova dur-

ing these past 3 years? I would like to share some facts with my colleagues:

Albanian children have been barred from secondary schools in Kosova, and only a small percentage of Albanian children may attend elementary school;

Over 100,000 Albanians have been fired from their jobs on political grounds;

Over 2,000 Albanian medical professionals, doctors and nurses, have been fired;

Nearly 250 civilians have been wounded by police during peaceful demonstrations;

One hundred and five people have been killed by police since January 1, 1989, including 16 children;

The assembly of Kosova was shut down and Kosova lost the political autonomy it had enjoyed for nearly three decades.

Mr. President, when I visited Kosova in July of 1990, I was shocked by the inhumane treatment of the Albanians by the Serbian authorities. I saw the police in action; People were being teargassed and clubbed by police. At the time, I did not believe that the situation could worsen; But, Mr. President, I was wrong. It has worsened and terribly so.

Living in Kosova is living in a nightmare. The situation has so deteriorated—politically, economically, physically—that I doubt any of us can imagine the true extent of the Albanian's' suffering.

Mr. President, it is important to remember why the Albanians are suffering. The Albanians of Kosova are suffering because they wanted, and still want, democracy and freedom. And, under Slobodan Milosevic's rule, wanting democracy and freedom is a crime punishable by death.

Kosova's political leaders—Dr. Rugova, Bujar Bukoshi—have pursued the goal of democracy peacefully, sometimes secretly; they have not resorted to violence. Nevertheless, these efforts to bring democracy at Kosova have been met with brutal violence and systematic repression.

Albanian representatives have no voice in Kosova or outside it. Because of Milosevic's opposition, Albanian representatives from Kosova are being excluded from the European Community sponsored peace conference on Yugoslavia—despite the fact that Albanians constitute the third largest ethnic group in what used to be Yugoslavia.

Mr. President, events in Slovenia, Croatia, Bosnia, and Macedonia have brought Yugoslavia to an end. Yugoslavia is dead. That is why it is absolutely critical that Albanian representatives from Kosova be allowed to participate in negotiations that will determine the future of the 2 million Albanians in Kosova.

Mr. President, 2 weeks ago, the distinguished Senator from New York, Senator D'AMATO, introduced a resolution. (S. Res. 257), regarding the plight of the Albanian people in Kosova; I am proud to be a cosponsor. In my view, the I resolution is important because it calls on the United States to:

First, press for the immediate inclusion of an Albanian representative from Kosova at the EC peace conference; second, condemn the Government of Serbia on this occasion of the third anniversary of the imposition of martial law on Kosova; third, urge the United Nations to immediately send observers to Kosova to monitor the situation there; and fourth, strongly support the aspirations of the Albanian people in Kosova for democracy and self-determination.

Mr. President, I urge my colleagues who have not familiarized themselves with Senate Resolution 257 to do so and to cosponsor this very important resolution. The United States must get more involved on the side of freedom and democracy in what used to be Yugoslavia. America is the leader of the free world and the Albanians of Kosova are looking to us to help lead them to freedom.

DEMOCRATIC REPORT ON THE NOMINATIONS PROCESS

Mr. DOLE. Mr. President, I have previously commented on the Democrat report on the nominations process, and today I would like to share some additional historical information to the debate on this issue.

History reflects the fact that the nominations process has long been a subject of some controversy. The 200-year debate, however, does allow us the opportunity to study the observations of the early American leaders—leaders who drafted our Constitution—leaders like James Madison.

In 1813, the Senate passed a resolution authorizing a committee to confer with the President on the subject of a nomination.

The father of the Constitution declined the opportunity to confer. Instead, he responded in a letter.

Madison wrote that in the cases of appointments to office and of treaties, the Executive and the Senate:

> * * * are to be considered as independent of and coordinate with each other.
>
> If they agree the appointments or treaties are made. If the Senate disagrees they fail.

That is how it was nearly 200 years ago. And that is how it is today. It is the President's duty to send up a nomination. It is the Senate's duty to confirm or not to confirm that nomination.

The Democratic report, however, chooses to ignore history in suggesting that the President immediately begin consulting with the Democrats in the Senate about the next Supreme Court nominee.

This proposal by the Democrats is simply an attempt to assert power which the Senate has never had and which I hope it never has.

Moreover, it ignores the plain language of the Constitution—language which excludes the Senate from the nomination process and only involves the Senate in the appointment process.

It is clear that the Constitution separates these two functions and only in the latter case is there Senate action required.

No President before or after Madison has surrendered the nomination power to the Senate. It is unlikely that this one can be persuaded to do so.

This report issued solely by Democrats in the Senate can be dismissed as historically unsustainable, and therefore irrelevant.

ORDERS FOR FRIDAY, FEBRUARY 28 AND TUESDAY, MARCH 3, 1992

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10:30 a.m., Friday, February 28; that on Friday, the Senate meet in pro forma session only; that at the close of the pro forma session, the Senate stand in recess until 11 a.m., Tuesday, March 3; that following the prayer, the Journal of proceedings be approved to date; and that following the time for the two leaders, there be a period for morning business, not to extend beyond 11:30 a.m., with Senators permitted to speak therein for up to 5 minutes each; with Senator MCCAIN recognized for up to 10 minutes and Senator SIMPSON or his designee for up to 5 minutes; that the time from 11:30 a.m., to 12 noon be for debate on the motion to invoke cloture on the motion to proceed to S. 1504, the Corporation for Public Broadcasting Authorization, with the time equally divided and controlled in the usual form; that on Tuesday, March 3, the Senate stand in recess upon conclusion of the vote on the motion to invoke cloture until the hour of 2:15 p.m., in order to accommodate the respective party conferences.

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

RECESS UNTIL 10:30 A.M. TOMORROW

Mr. DOLE. Mr. President, there being no further business to come before the Senate, I move that the Senate recess until 10:30 a.m. tomorrow.

The motion was agreed to, and the Senate, at 7:10 p.m., recessed until 10:30 a.m., Friday, February 28, 1992.

NOMINATIONS

Executive nominations received by the Senate February 27, 1992:

DEPARTMENT OF STATE

JOSEPH GERARD SULLIVAN, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF

MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF NICARAGUA.

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

STEPHEN NORRIS, OF VIRGINIA, TO BE A MEMBER OF THE FEDERAL RETIREMENT THRIFT INVESTMENT BOARD FOR A TERM EXPIRING OCTOBER 11, 1994, VICE STEPHEN E. BELL, TERM EXPIRED.

CONFIRMATIONS

Executive Nominations Confirmed by the Senate February 27, 1992:

DEPARTMENT OF COMMERCE

BARBARA HACKMAN FRANKLIN, OF PENNSYLVANIA, TO BE SECRETARY OF COMMERCE.

FEDERAL RESERVE SYSTEM

ALAN GREENSPAN, OF NEW YORK, TO BE A MEMBER OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FOR A TERM OF 14 YEARS FROM FEBRUARY 1, 1992.

ALAN GREENSPAN, OF NEW YORK, TO BE CHAIRMAN OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FOR A TERM OF 4 YEARS.

SECURITIES INVESTOR PROTECTION CORPORATION

FRANK G. ZARB, OF NEW YORK, TO BE A DIRECTOR OF THE SECURITIES INVESTOR PROTECTION CORPORATION FOR A TERM EXPIRING DECEMBER 31, 1992.

SECURITIES AND EXCHANGE COMMISSION

J. CARTER BEESE, JR., OF MARYLAND, TO BE A MEMBER OF THE SECURITIES AND EXCHANGE COMMISSION FOR THE TERM EXPIRING JUNE 5, 1996.

FEDERAL HOUSING FINANCE BOARD

WILLIAM C. PERKINS, OF WISCONSIN, TO BE A DIRECTOR OF THE FEDERAL HOUSING BOARD FOR A TERM OF 1 YEAR.

LAWRENCE U. COSTIGLIO, OF NEW YORK, TO BE A DIRECTOR OF THE FEDERAL HOUSING FINANCE BOARD FOR A TERM OF 3 YEARS.

MARILYN R. SEYMANN, OF ARIZONA, TO BE A DIRECTOR OF THE FEDERAL HOUSING BOARD FOR A TERM OF 5 YEARS.

DANIEL F. EVANS, JR., OF INDIANA, TO BE A DIRECTOR OF THE FEDERAL HOUSING FINANCE BOARD FOR A TERM OF 7 YEARS.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

THE JUDICIARY

KAREN J. WILLIAMS, OF SOUTH CAROLINA, TO BE U.S. CIRCUIT JUDGE FOR THE FOURTH CIRCUIT.

MARY LITTLE PARELL, OF NEW JERSEY, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF NEW JERSEY.

GARLAND E. BURRELL, JR., OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF CALIFORNIA.

RODERICK R. MCKELVIE, OF DELAWARE, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF DELAWARE.

WILLIAM B. TRAXLER, JR., OF SOUTH CAROLINA, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF SOUTH CAROLINA.

DEPARTMENT OF JUSTICE

DAVID JAMES JORDAN, OF UTAH, TO BE U.S. ATTORNEY FOR THE DISTRICT OF UTAH FOR A TERM OF 4 YEARS.

JACK W. SELDEN, OF ALABAMA, TO BE U.S. ATTORNEY FOR THE NORTHERN DISTRICT OF ALABAMA FOR THE TERM OF 4 YEARS.

DEPARTMENT OF DEFENSE

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT AS VICE CHAIRMAN OF THE JOINT CHIEFS OF STAFF UNDER TITLE 10, UNITED STATES CODE, SECTION 154:

To be vice chairman of the Joint Chiefs of Staff

To be admiral

ADM. DAVID E. JEREMIAH [redacted] U.S. NAVY.