HOUSE OF REPRESENTATIVES—*Thursday, February 27, 1992*

The House met at 10 a.m.

The Reverend Tom Cox, Emmaus United Church of Christ, Vienna, VA, offered the following prayer:

O gracious and eternal God, let Your sovereign majesty now take possession of our hearts, that in all we do we may honor You, and trust utterly in Your care.

Thanks be to You for all who have loved this land, who have longed for freedom, justice and prosperity within our borders, and have given themselves for the fulfillment of their longings. Thanks be to You for all who have labored for a friendly world, and have spent themselves in their pursuit of peace. Speak through their memory, O God, and mercifully grant to us who would serve our Nation, grace and courage to further every cause of goodness and truth which they have served. To You, O God, be all honor and glory. Amen.

THE JOURNAL

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

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

Mr. ECKART. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

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

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

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 285, nays 115, answered "present" 1, not voting 33, as follows:

[Roll No. 26]

YEAS—285

Abercrombie
Ackerman
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
AuCoin
Bacchus
Barnard
Bateman
Bellenson
Bennett
Bevill
Bilbray
Blackwell
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Clement
Clinger
Coleman (TX)
Collins (IL)
Combest
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
Davis
DeFazio
DeLauro
Dellums
Derrick
Dicks
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gejdenson
Gephardt
Geren
Gibbons
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Gradison
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Livingston
Lloyd
Long
Lowey (NY)
Luken
Manton
Markey
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Miller (CA)
Mineta
Mink
Mollohan
Montgomery
Moody
Moran
Morrison
Mrazek
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Porter
Poshard
Price
Quillen
Rahall
Ravenel
Reed
Richardson
Rinaldo
Ritter
Roe
Roemer
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sangmeister
Sarpalius
Sawyer
Schiff
Schulze
Schumer
Serrano
Sharp
Shaw
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Solarz
Spence
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (WY)
Thornton
Torricelli
Traficant
Traxler
Unsoeld
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walsh
Washington
Waxman
Weiss
Wheat
Williams
Wilson
Wise
Wolpe
Wyden
Wylie
Yates
Yatron

NAYS—115

Allard
Allen
Armey
Baker
Ballenger
Barrett
Barton
Bentley
Bereuter
Billirakis
Bliley
Boehlert
Boehner
Bunning
Burton
Callahan
Camp
Campbell (CA)
Chandler
Clay
Coble
Coleman (MO)
Coughlin
Cox (CA)
Cunningham
Dannemeyer
DeLay
Doolittle
Dreier
Duncan
Emerson
Fawell
Fields
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gingrich
Goodling
Goss
Grandy
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hobson
Hopkins
Hunter
Inhofe
Ireland
Jacobs
James
Kolbe
Lagomarsino
Leach
Lewis (CA)
Lewis (FL)
Lightfoot
Lowery (CA)
Machtley
Marlenee
McCandless
McCollum
McCrery
McDade
McEwen
McMillan (NC)
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella
Murphy
Nussle
Paxon
Pursell
Ramstad
Regula
Rhodes
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Saxton
Schaefer
Schroeder
Sensenbrenner
Shays
Sikorski
Smith (OR)
Smith (TX)
Snowe
Solomon
Stearns
Stump
Taylor (NC)
Thomas (CA)
Upton
Vucanovich
Walker
Weber
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

ANSWERED "PRESENT"—1

Broomfield

NOT VOTING—33

Alexander
Berman
Carr
Chapman
Collins (MI)
Crane
de la Garza
Dickinson
Dingell
Dixon
Dornan (CA)
Edwards (OK)
Gaydos
Holloway
Kolter
Kyl
Meyers
Mfume
Moakley
Murtha
Petri
Rangel
Ray
Riggs
Sanders
Savage
Scheuer
Sundquist
Thomas (GA)
Torres
Towns
Waters
Whitten

□ 1022

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore (Mr. MCNULTY). Will the gentleman from Florida [Mr. LEWIS] kindly come forward and lead the House in the Pledge of Allegiance.

Mr. LEWIS of Florida led the Pledge of Allegiance as follows:

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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 4113. An act to permit the transfer before the expiration of the otherwise applicable 60-day congressional review period of the obsolete training aircraft carrier U.S.S. *Lexington* to the Corpus Christi Area Convention and Visitors Bureau, Corpus Christi, Texas, for use as a naval museum and memorial.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2269. An act to temporarily extend the Defense Production Act of 1950.

THE REVEREND TOM COX

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

Mr. SKAGGS. Mr. Speaker, it is my pleasure to introduce to the House this morning our guest pastor, Rev. Tom Cox, my pastor at the Emmaus United Church of Christ in Vienna, VA.

Tom is a native Minnesotan, a graduate of Harvard College and Union Theological Seminary, and founded the Emmaus Church back in 1964, and has been its only pastor since then.

It has been my pleasure and privilege to listen to his thoughtful sermons over the last several years, and I hope that the Members will make him welcome in the House today.

DEFENSE CUTS: NEW LEGISLATION

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

Mr. PACKARD. Mr. Speaker, America has emerged the victor in the cold war, and now faces a new economic challenge. We must address the issue of economic conversion as we scale back our defense budget in the postcold war era.

California has been hit especially hard as the cold war has drawn to a close and every congressional district will feel the impact.

I support the defense cuts that were proposed by the President. I also believe that savings from reduced defense spending should go toward the reducing of our spiraling Federal deficit. For this reason today I introduce legislation expressing the sense of Congress that this and any future reduction in defense spending should be used for deficit reduction.

Even before the President announced new and deeper cuts in the defense budget it was estimated that as many as 800,000 jobs will be lost as a result of the current cuts in defense spending. I believe we must also spur the economy to balance the negative effects from reduced spending. To do this we must encourage increases in research and development in the technology and aerospace industry.

I am introducing legislation that will both permanently extend the research and experimental credits and to permanently reinstate the investment tax credits.

MIDDLE-INCOME AMERICANS, THIS ONE IS FOR YOU

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

Mr. WISE. Mr. Speaker, there is a popular television commercial that says "This one is for you," and today with the tax bill for middle-income people we can truly say "This one is for you," because for the middle class this gives up to $800 back for two-wage-earner families over 2 years, significant amounts to many of our families. The President promised something like this and then jerked it back.

For the middle-income person, there is tax credit for student loan interest to help working families keep their children in college. There are liberalized IRA withdrawals for first time home buyers and for educational and medical expenses. To create jobs so essential there are incentives for investment, including enterprise zones for urban and rural areas to attract businesses to these areas. There is a temporary investment tax allowance for businesses to buy new equipment this year.

Finally, this is paid for honestly, by asking those couples earning approximately $200,000 a year to pay a slightly larger percentage of income tax and by imposing a surcharge of 10 percent on millionaires.

Tax fairness, investment, Mr. Speaker, for middle-income people, "This one is for you."

AMERICANS WANT AN ECONOMIC GROWTH PACKAGE

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

Mr. LEWIS of Florida. Mr. Speaker, in the past few months, all of us have been asked to help get our economy on track. Americans have said many enlightening things.

Just as important is what they have not said. They have not asked us to invent a bad imitation of the President's proposals for the sole purposes of voting it down.

They also never asked for a bill meant solely for a Presidential veto so that our troubles can be continued.

I also never heard anyone ask for 55 cents a day for 2 years, in exchange for a permanent tax increase and an increase in the deficit, all in a package that would actually harm the economy, and do nothing for millions of teachers, law enforcement officers, firefighters, and senior citizens.

No. Mr. Speaker, Americans want an economic growth package that will spur this economy ahead. They do not care about elections, they care about taking care of their families.

Mr. Speaker, let us end this political charade, and, for once, work together on behalf of America. We will all be better off for it. Mr. Speaker, that is what we were sent here to do.

□ 1030

AN ECONOMIC PROPOSAL TO JUMP-START NATION'S TROUBLED ECONOMY

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

Mr. BRUCE. Mr. Speaker, today, we will vote on an economic proposal that is designed to jump-start our Nation's troubled economy. With 8.9 million Americans unemployed and millions more that face economic uncertainty everyday, members of the Ways and Means Committee should be applauded for bringing this issue to the floor in such an expedient fashion.

The plan being introduced by Chairman ROSTENKOWSKI is comprehensive and far reaching. To list the positive points of the bill would take more time than I have here today, but there are certain aspects that I think are especially noteworthy.

It will begin to make the Tax Code equitable by providing middle income Americans with a refundable tax credit of up to $400. It will encourage children of working families to pursue a college education by offering a nonrefundable tax credit of 15 percent for interest paid on educational loans. And it makes permanent a number of important tax credits including research expenditures and the targeted jobs provision.

For these reasons and many more, I will support the chairman's package, and I urge my colleague to do the same. But, let it be made perfectly clear that we, as representatives of the people, have a responsibility and an obligation to do more. We must make a commitment to be active participants in the economic revitalization of this country. We must listen and work with businesses, labor organizations, and local and State governments to finish the work we have started here today. We are in this recession in no small part because of the policies of 12 years of Republican administrations. So no one should expect that we can fix all the problems in one day.

I have before this Congress two bills that will increase the rate of job cre-

ation for large scale construction work, and help keep existing jobs we have in the troubled coal industry. If we are serious about making real changes in our Nation's economic structure, then we must seriously consider proposals such as mine, and any other measure that promotes investment and commitment for the American worker.

HONEST ECONOMIC ANALYSIS NEEDED

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

Mr. ARMEY. Mr. Speaker, later today we will hear the Democrats come to the floor touting all the wonderful economic benefits that will come from the tax package they will offer.

For their research and analysis of these benefits, they will rely on the Congressional Budget Office, because they own it.

Mr. Speaker, let us see what the Congressional Budget Office has done for us. In 1990 the Democrats were cobbling out their budget deal, the Congressional Budget Office made a $134 billion error in the projection of capital gains earnings. Once they had that error in the projection of earnings, they then complicated the matter further by applying a projection of future tax revenue from taxing those earnings that also never would materialize. That gave us an overprojection of the increased money for the Democrats to spend. They spent it, and as you can see, over the 5-year life of that agreement, we have generated an enormous amount of red ink in the form of increased deficit.

It goes as high as $200 billion by the end of the fifth year. What we need to do, Mr. Speaker, is make sure that there is some honest economic analysis behind all of the outrageous claims we will hear on the floor today.

NOW IS TIME TO EXERCISE LEADERSHIP

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

Ms. DELAURO. Mr. Speaker, today we come face to face with middle-class Americans. We will look them squarely in the eye and tell them whether or not we had the courage to help them when they needed us most. We can fulfill the promises we have made to them over the past year, promises of tax relief and fairness, or we can turn our backs. But either way, we cannot avoid the choice.

Today we can vote to return some of the hope that has been drained away from middle-class Americans during the past decade. We can restore some of the trust and confidence they have lost in Government. We can give them some real tax relief, we can restore fairness to the tax system, we can help create new jobs and we can prove to them that we are able to respond to their needs.

Today we can have an opportunity to assist working middle-class families cope with the effects of a recession that has left them devastated. This bill boosts the economy by helping first time home buyers, providing financial assistance for education, helping small business invest in the future.

Mr. Speaker, we cannot underestimate the importance of today's vote. Consumer confidence is at its lowest level in nearly 20 years. Major American manufacturers are laying off tens of thousands of workers. People are suffering from the debilitating effects of a 2-year recession. The people we represent need help now. They cannot wait any longer for it to trickle down.

If we are ever going to exercise leadership, now is the time, today is the day.

Vote for the Democratic alternative.

LINE-ITEM VETO AND CONGRESSIONAL SPENDING

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

Mr. STEARNS. Mr. Speaker, in 1991 General Motors took a $4.4 billion loss and took drastic steps to reduce spending. They understood that they cannot survive unless they reduce spending.

Last year, however, the Federal Government took a loss of $268 billion, but Congress continues to spend on wasteful projects.

Last week Citizens Against Government Waste released its 1992 Congressional Pig Book, right here. This book highlights dozens and dozens of wasteful Federal spending projects and demonstrates the contempt Congress has shown to taxpayers.

Mr. Speaker, is it not about time that Congress spent only on what is absolutely necessary, not just desirable? We must balance our budget. We must bring the Federal spending under control, and the line-item veto is one of the best ways to do it.

Because the Democratic leadership in Congress will not give the President a line-item veto, I encourage the President to test it constitutionally and try it anyway. America needs a bold and drastic action to combat these difficult economic times. The line-item veto would be a bold step in the right direction.

ANNOUNCEMENT BY THE CHAIRMAN OF THE COMMITTEE ON RULES

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

Mr. MOAKLEY. I rise to notify members about the Rules Committee's plans for two measures: The budget resolution for fiscal year 1993 and H.R. 3732, the Budget Process Reform Act of 1991.

The Rules Committee hopes to meet next week, the week of March 2, on both bills.

We will meet, possibly as early as next Tuesday. In order to assure timely and fair consideration of the legislation on the floor, the Rules Committee may consider two rules that structure the offering of amendments.

I take this opportunity to advise Members who wish to offer an amendment to either the budget resolution or to H.R. 3732, the Budget Process Reform Act.

Members contemplating amendments to either measure should submit to the Rules Committee, in H-312 in the Capitol, 55 copies of the amendment, along with a brief explanation, no later than 5 p.m. on Monday, March 2, 1992.

Finally, for those contemplating amendments only to the budget resolution, the Rules Committee generally looks more favorably on substitutes during this debate. Cut-and-bite amendments to a budget resolution only duplicate choices that will be made again later during the authorization and appropriations process.

I have sent two "Dear Colleague" letters in this morning's mail: One regarding H.R. 3732 and the other on the budget resolution for fiscal year 1993.

We appreciate the cooperation of all Members in this effort to be fair and orderly in granting rules.

Mr. GINGRICH. Mr. Speaker, will the gentleman yield?

Mr. MOAKLEY. I am happy to yield to the gentleman from Georgia.

Mr. GINGRICH. Mr. Speaker, I just want to ask the chairman, because I am a little confused. I noticed this reference in an earlier letter that the gentleman sent out.

When will the budget resolution be available from the committee, from the Committee on the Budget, so that Members might look at them in order to develop amendments?

Mr. MOAKLEY. I have been told that the Committee on the Budget is marking the bill up today.

Mr. GINGRICH. So the committee will presumably report later today. And do we have any idea when that print might be available for Members?

Mr. MOAKLEY. I do not know that.

Mr. GINGRICH. So if I might, Mr. Speaker, the House, I believe, may not be in session tomorrow or it may only be in pro forma session, and I believe it is only either not in session or pro forma session on Monday. So I just might point out to the chairman that I understand the process by which the Committee on Rules is gradually tightening its grip on the House.

But I would simply point out to the chairman that he is now proposing to

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Members that they have to take that document that they may not be able to get until tomorrow and develop 55 copies by the end of business Monday even though most Members may not be in town on either Friday or Monday. Is that correct?

Mr. MOAKLEY. Well, the Chair is trying to give as much notice as possible. We spoke to the chairman of the Committee on the Budget, and he said that he was working on the budget today.

Mr. GINGRICH. If the chairman will yield further, just one last time, and I don't mean to nag him, but I would simply point out to the House that if I were the chairman of the Committee on the Budget I would love an arrangement by which no one would have time to truly offer an amendment, because they had never read my budget, but it seems to me if you are a Member of the House not on the Committee on the Budget that this particular schedule is remarkably disadvantageous to the average Member who will not be here and whose staff will not get access to the document, and I will later on today, and I wish the chairman of the Committee on the Budget, if he notices this dialog, would come to the floor and announce the time at which the committee print will be available so that Members might have an opportunity to look at it.

I would rather have the budget, frankly, postponed a week if that is what it took to actually allow Members to read the budget and actually decide in an intelligent way to offer amendments.

I understand the committee chairmen love to minimize the opportunity for the rest of the House to have any effect, but it does seem to me that giving Members a chance to read the budget before the Committee on Rules deadline is not inappropriate.

□ 1040

Mr. MOAKLEY. I have just been informed that the budget will be available at the committee offices tomorrow.

Mr. TRAFICANT. Mr. Speaker, will the chairman yield to me?

Mr. MOAKLEY. I am glad to yield to the gentleman from Ohio.

Mr. TRAFICANT. Mr. Speaker, I want to rise in support of what was just stated on the floor. I think that every Member of this body should have at least 7 days to read thoroughly and to understand the budget of our country.

I think this. I do not know if it is in order, but I would like to ask unanimous consent that there be at least 1 week's availability for all Members of this House to read the budget before action for amendments or pending rules be considered.

Mr. Speaker, I put that in the form of a unanimous-consent request.

The SPEAKER pro tempore (Mr. MCNULTY). The gentleman's request is not in order.

VACATING SPECIAL ORDER AND GRANTING SPECIAL ORDER

Mrs. COLLINS of Illinois. Mr. Speaker, I already have a request in for a special order of 60 minutes, and I ask unanimous consent to be vacated from that 60-minute special order and ask in lieu thereof to be granted a 5-minute special order.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Illinois?

There was no objection.

REQUEST THAT MEMBERS BE GIVEN 1 WEEK TO READ BUDGET PROPOSAL

The SPEAKER pro tempore. For what reason does the gentleman from Ohio rise?

Mr. TRAFICANT. Mr. Speaker, I rise for the purpose of offering a unanimous-consent request to the Congress.

Mr. Speaker, I ask unanimous consent that all Members be given 1 week to read next year's budget proposal from the Budget Committee and that no rule be recommended or considered until that 1-week reading opportunity is granted to all Members of the House.

Mr. BILBRAY. Mr. Speaker, I object.

The SPEAKER pro tempore. The Chair has the power of recognition and the Chair declines to recognize the gentleman for that purpose and the gentleman cannot challenge that denial.

POINT OF ORDER

Mr. TRAFICANT. Mr. Speaker, a point of order.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. TRAFICANT. Mr. Speaker, I would like to know under what rule of the House such action by the Chair is taken.

The SPEAKER pro tempore. Clause 2, rule XIV.

Mr. TRAFICANT. Mr. Speaker, a further point of order.

The SPEAKER pro tempore. The gentleman will state it.

Mr. TRAFICANT. I would like to know what would be necessary by a Member of the House who would in fact oppose such a ruling of the Chair.

Mr. DANNEMEYER. Mr. Speaker, the gentleman can achieve that objective, noble as it is, by electing a new Speaker. Join with us in doing that.

Mr. TRAFICANT. A further point of order, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state it.

Mr. TRAFICANT. I am not interested in electing a new Speaker, but I am interested in having the Members of this body be able to read this bill.

I would advise the Democrats to maybe take serious what this request is.

Mr. COX of California. Mr. Speaker, I would advise the gentleman that he can appeal the ruling of the Chair and ask for a vote of the House on the ruling.

REAL ESTATE INDUSTRY NEEDS HELP

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

Mr. DANNEMEYER. Mr. Speaker, today the House will take up some provisions dealing with the Tax Code of this country. A very important vote.

The Democratic leadership has the votes in the House and in the Senate to change the tax laws as they see fit anytime the spirit moves them, but they are in a classic conflict-of-interest position. If they change the tax laws and the perception is the economy is improving, to that extent they lessen the chance that a nominee of the Democratic Party is going to make it to the White House.

I would hope they would resolve and use this political power to help the country, rather than their party; but when I look at the provisions of the tax bill they propose to bring to the floor today, I shake my head in sadness at the stewardship of power they are exhibiting. They seem to be helping their party more than their country.

Specifically, if there is one industry in this country that needs help, it is the real estate industry. We put them in the tank in 1986 when we raised capital gains taxes to a level which can only be described as confiscatory.

Now this Democratic package is going to extend the depreciation schedule for real estate an additional 10 years.

With that kind of tender concern, it is almost inevitable that it is going to hurt real estate more than it helps.

THE NEED FOR MORE BREAST CANCER RESEARCH

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

Ms. OAKAR. Mr. Speaker, I was very moved by reporter Cokie Roberts op-ed piece in Sunday's Washington Post, entitled "One Woman in Nine" in which she told a very poignant true story of going to two women friends' funerals in their fifties who were buried on the same day, waked at the same funeral home, and left mourning children and their husbands.

This mirrors the epidemic of breast cancer that kills 45,000 women every year. We need a comprehensive approach to this disease. It is more of an epidemic than AIDS, yet moneys for AIDS research gets 15 times more moneys to find a cure than breast cancer,

and by the way, I support AIDS research.

I am tired of the low priority given to this disease, although we have made two small gains in recent years.

The President recommended $800 million more for AIDS research, and I support that, but zero for breast cancer research.

Mr. Speaker, I am introducing a comprehensive bill to lick breast cancer finally. I will not stop until we have cured this disease.

Mr. Speaker, I urge all the Members of this body to cosponsor the bill and end this epidemic that is killing our women and injuring our families, their health and their sanity.

The aforementioned article follows:

[From the Washington Post, Feb. 23, 1992]

ONE WOMAN IN NINE

(By Cokie Roberts)

No one should ever have to go to two funeral masses in one day, except perhaps priests and altar boys. It's clearly not women's work. But recently in Washington that's exactly what a number of women and some of their spouses did, as we said goodbye to two more friends in their fifties snatched away by that master of misogyny, breast cancer.

As we comforted each other, statistics on breast cancer rates were not foremost in our minds. We murmured instead of the husbands left behind, of the nine handsome children these two good women had between them, of the not-yet-born grandchildren our friends would never hold. We mourned the waste, the decades of productive life denied them.

But the reality so stunned us as we stood on the eve of the services in the funeral home, with one friend in a room to the left, another in a room to the right, that we found ourselves calculating the casualties, tabulating the toll of women we knew killed by breast cancer. Grimly we recited the numbers that fill us with fear: Breast cancer now strikes one in nine women in this country. Thirty years ago it was one is 20. Those startling figures have moved women in Congress to push for action as they see females falling to an enemy more deadly than in any recent war.

In contrast, to the 47,356 U.S. combat deaths in all the years of the Vietnam War, an estimated 44,500 women lost the battle with breast cancer just last year. And any witness to the contest knows that "battle" is a tame word to describe the struggle . . . the diagnoses and drugs, tests and treatments that usually require years of superhuman determination and fortitude to withstand. But prying research dollars out of the federal budget for breast cancer, or extending Medicare coverage to mammograms requires almost as much muscle as battling the disease itself. Had it not been for the women in Congress, and forays into the field from top brass such as Marilyn Quayle, plus phalanxes of female staffers and lobbyists, what little money there is would not be there.

As the breast cancer statistics mounted in recent years the congresswomen intensified their efforts, first working to get mammograms covered under the 1988 catastrophic health insurance bill. Women of both parties guided the measure through their own committees, but one key subcommittee remained an all-male bastion. A female lobbyist who regularly worked that panel volunteered to ask a friendly congressman to introduce the mammogram language. "I can't do that," he protested, "I did the last women's thing, the guys will think I'm soft on women." "Fear not," the lobbyist replied, "Just tell them you're a breast man." He did and it worked.

But in 1989 the catastrophic law was repealed, and mammogram coverage with it. The women in Congress stubbornly insisted on restoring the benefit, by raising the issue constantly, until mammograms made their way into the budget agreement of 1990, although it had to be done at the expense of a White House proposal for serving preschoolers. Medicare now covers up to $55 for mammograms every two years, considerably less than the high-tech X-rays cost in many areas.

Money for breast cancer research has been equally hard to come by. As women in Congress watched—and in most cases applauded—the increases in funds for AIDS research and prevention they also cautioned their colleagues that AIDS money now outpaces all cancer dollars combined. The congresswomen fought for funds for the greater killer, and they succeeded in getting a significant increase for this year: $133 million for breast cancer. That's up more than $40 million from last year, but still only a small percentage of the total funding for the National Cancer Institute, which is almost $2 billion.

Though some congresswomen grumble that the breast cancer dollars would be greater if men got the disease, they carefully add that they do not want to set up a competition among cancers. No woman does. We all know too many people stricken with other forms of cancer. My own sister died of melanoma when she was even younger than my two friends, and one of my favorite men in the family was younger yet when he died of liver cancer on Christmas morning.

But breast cancer's toll on women, along with its mysteriously increasing incidence, puts it in a special category. The latest attempt at combat comes from Rep. Mary Rose Oakar, who is preparing legislation calling for full funding of the National Cancer Institute's research request to the president of $220 million and establishment of a national breast cancer center aimed at encouraging researchers to get into the field.

But as long as so few women make it to Congress, the success of any drive for more research money must rely on the kindness of congressmen. They cannot leave the country's concerns about breast cancer to the distaff side. If fears for their mothers, sisters, wives and daughters don't spur them to act, then the effect of the disease on the work force, on productivity, on health care costs should. Otherwise many more of us will be joining the mourners at two funeral masses in one day.

SHARE THE PEACE DIVIDEND WITH OUR VETERANS

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

Mr. BILIRAKIS. Mr. Speaker, the cold war has ended. It seems that everyone has a suggestion on how we should be spending the so-called peace dividend. As everyone rushes to get his or her fair share of the pie, one individual is being lost in the scuffle—the veteran.

Today, there are over 28 million living veterans. They and those before them protected over personal liberties. They are the reasons that the United States is the mightiest, wealthiest, most secure Nation on Earth today. They are the reasons that the United States has been and will continue to be the bastion of support and solace for those in a world searching for freedom and human rights.

The time was come to make sure that we keep our promises to those who have shouldered the burden of our Nation's defense. Therefore, before we start dishing out pieces of the peace dividend pie, we must first look toward helping those brave men and women who sacrificed so much to bring about the end of the cold war to share the peace dividend with those who made it possible.

LET'S GO FOR THE GOLD MEDAL IN THE TAX FAIRNESS AND ECONOMIC GROWTH PACKAGE

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

Mr. MAZZOLI. Mr. Speaker, on the Olympic scoring system, the Democratic tax fairness and economic growth package before us today, which I intend to support, is possibly a 5.7 or 5.8. It is good, but not good enough for the gold.

When the bill moves to the conference, as I hope it will with the other body, we have an opportunity to improve on its shortcomings and add to its strengths.

In that setting, I spoke yesterday on how important it is to retain the enterprise zone section which is in the Democratic bill.

I would like to see added to the bill a first-time home buyers, tax credit, which is not in the package today.

I hope that the senior Senator from Texas adds to the Senate version of the bill private health insurance reform and also universal deductibility of the individual retirement accounts. They both are very important, in the opinion of the gentleman from Kentucky now speaking.

Furthermore, Mr. Speaker, I am happy the Democratic proposal makes permanent low-income housing tax credits, revenue mortgage bond authority, research and development tax credits and targeted jobs tax credits. They are made permanent in the Democratic bill, and they, I hope, will stay permanent in the conference report.

We are sending a silver medal to the conference. Let us bring back the gold.

FALSE PREMISES IN DEMOCRATIC TAX PACKAGE

(Mr. COX of California asked and was given permission to address the House

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

Mr. COX of California. Mr. Speaker, the Democrats will be bringing to the floor a tax bill that they advertise as a tax cut for the middle class and a tax increase for the wealthy. That is false. There is no cut in income taxes for anyone in this bill, H.R. 4287.

In fact, the wealthy are defined in this bill as every American who makes $85,000. Now, let us think about this for a minute, because the Republican plan is to reduce tax rates for everyone, and the Democrats are reducing income tax rates for no one. They are raising tax rates, creating a new fourth income tax rate for every American who makes $85,000. That includes virtually every small business in America. Ninety percent of small businesses are taxed as proprietorships.

It includes not people who make $85,00 year in and year out alone, but somebody who did not make much money last year and will not make much money next year, but sold a small business this year or sold the family farm and has $85,000 of income. That is because the Democrats deleted income averaging just a few years back.

□ 1050

The Republicans are interested in reducing tax rates across the board; the Democrats are raising tax rates on people that they call wealthy, and they mean you.

NEITHER TAX PLAN IS GOOD ENOUGH FOR AMERICA

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

Mr. TRAFICANT. Mr. Speaker, both the Democratic and Republican plans have one thing in common, they are both losers, stone-cold losers, because under both plans jobs will continue to go overseas, taking our dollars, jobs and investment with them.

But today I want to ask if Members of Congress have turned into a bunch of masochists? It is evident. The big export of America this month is Mickey Mouse, and we are now importing electricity from Canada for all these 1,000 points of light we keep voting on around here.

I really believe it, American workers do not want another election day token tax cut, they want a job and they want an opportunity to keep that job.

I am asking Congress to vote both of these things down. The Democratic plan is a better plan, but not good enough for our country.

INTRODUCTION OF PAN AM FLIGHT NO. 103 RESOLUTION

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

Mr. FEIGHAN. Mr. Speaker, it has now been 3½ years since the brutal terrorist attack claimed the lives of 259 passengers on Pan Am flight 103 over Lockerbie, Scotland.

After an exhaustive international investigation conducted by law enforcement agencies of the United States and the United Kingdom, indictments were issued in November for two Libyan agents wanted for the Pan Am 103 attack.

On January 21, 1992, the U.N. Security Council passed a resolution calling upon Libya to provide a "full and effective response" to United States and British requests to hand over these two individuals.

What followed has been a game of cat and mouse between Libya and the international community. Threatened with the possibility of international sanctions, Libya has pledged cooperation, but has not delivered the two suspects.

President Ronald Reagan once described Libya as a member of a modern-day Murder Incorporated. It seemed to be an apt analogy, especially after a recent press report that Libya had bumped off the triggermen responsible for the attack. Given their appearance on CNN last week, reports of the two agents' demise have been greatly exaggerated.

It is tremendously important that the administration continue to pursue this case—not just to bring those responsible to justice, but to trace the crime back to its intellectual authors, to make sure we know exactly which individuals were involved and whether they acted with the knowledge or complicity of one or more governments.

Today, I am introducing a resolution calling upon the President to pursue all aspects of the attack on Pan Am 103; including those responsible for financing, planning, and executing the attack. In addition, the bill calls for a campaign of multilateral economic sanctions to be imposed against Libya, if it continues its defiance of the Security Council resolution.

I include herewith a copy of the resolution to appear following my remarks.

H. CON. RES. —

Whereas on December 21, 1988, Pan Am Flight 103 was destroyed by a bomb which killed all 259 people on board and 11 people on the ground.

Whereas investigators believe that the bomb was concealed in a radio-cassette player and planted in a forward luggage compartment of Flight 103;

Whereas an international investigation of the bombing initially focused on the activities of Iran, Syria, and the terrorist group known as the Popular Front for the Liberation of Palestine-General Command (PFLP-GC), headed by a Syrian intelligence officer named Ahmed Jabril;

Whereas investigators originally believed that the attack was planned by Iran as retaliation for the accidental downing by the United States of an Iranian airliner in 1988 and that Iran had paid Ahmed Jabril to carry out this plan;

Whereas in October of 1988, West German police conducted a number of raids against PFLP-GC cells in West Germany, seizing a large cache of weapons, explosives, and a radio cassette player, and days after the raids, West German officials discovered in the car of a PFLP-GC member a second radio cassette player rigged as a bomb and equipped with a barometric trigger;

Whereas the discovery in Scotland of a microchip from the timing device of the bomb shifted the focus of the international investigation to the Libyan intelligence service which had purchased 20 such timers from a Swiss manufacturer in 1985 and 1986;

Whereas investigators first theorized that Libyan intelligence operatives carried out the attack after taking control of the operation from the PFLP-GC, they later concluded that the bombing was an operation backed by elements of the Libyan Government seeking retaliation for the 1986 United States military attack against Libya;

Whereas these agents used the knowledge and access gained from their official Libyan government status as representatives of Libyan Arab Airlines to facilitate the bombing of Flight 103;

Whereas on November 13, 1991, the United States issued 193-count indictments against two Libyan intelligence operatives, Abdel Basset Ali al-Megrahi and Lamen Khalifa Fhimah, in connection with the bombing of Flight 103;

Whereas on January 21, 1992, the United Nations Security Council passed a resolution urging Libya to provide a full and effective response to the requests of the governments of the United Kingdom, the United States, and France to surrender those individuals indicted for the bombing of Flight 103 and the bombing of Union des Transports Airiens Flight 772, which exploded over Niger in September 1989, killing 177 passengers; and

Whereas in 1979 and for each year thereafter Libya has been identified by the Secretary of State as a country that has repeatedly provided support for acts of international terrorism and has been the subject of bilateral sanctions imposed by the United States government: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) the President should continue his efforts to pursue all those responsible for the bombing of Pan Am Flight 103, including the parties responsible for financing, planning, and carrying out the bombing;

(2) the President should take appropriate steps in the United Nations Security Council to secure the support of the United Nations in enforcing economic sanctions against Libya if the Libyan government refuses to comply fully with United Nations Security Council Resolution 731 (1991);

(3) the President should consider the following sanctions against Libya, to be implemented on a multilateral basis: cutting civilian air links with Libya; banning aircraft spare parts sales to Libya; banning government and commercial contracts with the government of Libya; ending oil purchases from Libyan sources; and banning the sale of all equipment and related technology used by the Libyan oil industry;

(4) the President should direct all appropriate United States agencies to continue to investigate the bombing of Flight 103 in order to identify all individuals and all governments in any way responsible for the

bombing, to bring all such parties to justice, and to seek compensation for the families of the victims of the bombing; and

(5) the President should take all necessary steps to implement fully the requirements of the Aviation Security Improvement Act of 1990, which was based on the recommendations of the President's Commission on Aviation Security and Terrorism.

THE RULE ON THE $1.4 TRILLION BUDGET

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

Mr. BURTON of Indiana. Mr. speaker, a few minutes ago, the Republican whip pointed out to the House and to the people who are paying attention to what is going on around here that we are going to have no time to review a $1.4 trillion budget.

The Committee on Rules is giving us until Monday to file amendments to that $1.4 trillion budget, and we are not going to be here tomorrow and Monday.

So, how can any Member of the House really review that budget and get amendments to the floor in time to make any positive changes to that big spending bill?

The people of this country are fed up with Congress, they are fed up with Washington, because we are blowing all this money and we are raising their taxes and we are here—they are, the Democrats, in charge of the Committee on Rules—they are bringing a $1.4 trillion budget to the floor of the House without giving anybody an opportunity to amend it.

I think that is tragic, and the American people ought to pay particular attention to what they are doing.

CLARIFICATION OF THE BUDGET DEFICIT

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

Mr. DORNAN of California. Mr. Speaker, did you hear what the last gentleman from Indiana just said? We do not even get this until tomorrow to look at this budget.

Now, no nation in the history of civilization has ever been so successful at raising taxes as these United States of America. We are going to raise more than last year, as we did the year before that and that and that and that and that. We are going to raise over $1 trillion. But it is not enough.

We want to spend $1.4 trillion. So we are going to have a Federal deficit this year of somewhere between $380 billion and $400 billion-plus.

Now, get out your pencils, come on now, get out your pencils and write this down. Let us do a little arithmetic. We have the advantage of a leap year because there are 366 days in this year.

Divide that into $400 billion. and that is not the real budget, because we deducted all of our trust funds—the highway trust fund, Social Security, airways and airports trust funds.

But let us just take the $400 billion. That comes out to $1,093,000,000 today and Sunday and holidays.

How much is that per hour? It is $45.5 billion a day. How much per minute? It is $759,000 a minute. How much per second, Mr. Speaker? It is 1,650 bucks, this second, and this second, and this second, and this second.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MCNULTY). The Chair would remind our guests in the gallery that we are delighted to have them here but they are to refrain from responding either negatively or positively to any statements made on the floor.

AUTHORIZING QUORUM CALLS DURING DEBATE ON H.R. 4210, ECONOMIC GROWTH ACCELERATION ACT OF 1992

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that during the consideration of H.R. 4210 in the Committee of the Whole a quorum call be in order with not more than 15 minutes of debate remaining on each of the two amendments made in order by the rule, House Resolution 374.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

ECONOMIC GROWTH ACCELERATION ACT OF 1992

The SPEAKER pro tempore. Pursuant to House Resolution 374 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4210

□ 1056

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4210) to amend the Internal Revenue Code of 1986 to provide incentives for increased economic growth and to provide tax relief for families, with Mr. DERRICK in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, February 26, 1992, the amendment in the nature of a substitute consisting of the text of the bill H.R. 4210 had been disposed of.

Pursuant to the rule, no further amendment to the bill is in order except the following two amendments:

First, an amendment in the nature of a substitute consisting of the text of the bill H.R. 4200, as modified by the amendment printed in section 2 of House Resolution 374, to be offered by the gentleman from Illinois, [Mr. MICHEL], or the gentleman from Texas [Mr. ARCHER] or their designee; and

Second, an amendment in the nature of a substitute consisting of the text of the bill H.R. 4287, to be offered by the gentleman from Illinois [Mr. ROSTENKOWSKI] or his designee.

Each amendment is considered as read, is not subject to amendment and is debatable for 1 hour, equally divided and controlled between the proponent and an opponent of the amendment. If more than one amendment in the nature of a substitute is adopted, only the last amendment adopted is considered as finally adopted.

It is now in order to debate the amendment in the nature of a substitute consisting of the text of the bill H.R. 4200, as modified by the amendment printed in section 2 of House Resolution 374.

AMENDMENT IN THE NATURE OF A SUBSTITUTE, AS MODIFIED, OFFERED BY MR. ARCHER

Mr. ARCHER. Mr. Chairman, I offer an amendment in the nature of a substitute, as modified.

The CHAIRMAN. The Clerk will designate the amendment.

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

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Economic Growth and Job Creation Act of 1992".

SEC. 2. TABLE OF TITLES.

TITLE I—ENHANCED ECONOMIC RECOVERY ACT OF 1992

TITLE II—FEDERAL INSURANCE ACCOUNTING ACT OF 1992

TITLE III—PENSION SECURITY ACT OF 1992

TITLE IV—ELIMINATE THE STATUTE OF LIMITATIONS ON THE COLLECTION OF DEFAULTED GUARANTEED STUDENT LOANS

TITLE V—EXTENSION OF CURRENT LAW REGARDING LUMP-SUM WITHDRAWAL OF RETIREMENT CONTRIBUTIONS FOR CIVIL SERVICE RETIREES

TITLE I—ENHANCED ECONOMIC RECOVERY ACT OF 1992

SECTION 101. SHORT TITLE, ETC.

(a) SHORT TITLE.—This title may be cited as the "Enhanced Economic Recovery Act of 1992".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) SECTION 15 SHALL NOT APPLY.—Except as otherwise expressly provided, no amend-

ment made by this title shall be treated as a change in rate of tax for purposes of section 15 of the Internal Revenue Code of 1986.

(d) TABLE OF CONTENTS.—

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TITLE I—ENHANCED ECONOMIC RECOVERY ACT OF 1992

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Sec. 132. Special rules for investments in partnerships.

Subtitle D—Provisions Affecting Homebuyers

Sec. 141. Credit for first-time homebuyers.

Sec. 142. Penalty-free withdrawals for first home purchase.

Subtitle A—Provisions Relating to Capital Gains

SEC. 111. REDUCTION IN CAPITAL GAINS TAX FOR NONCORPORATE TAXPAYERS.

(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. REDUCTION IN CAPITAL GAINS TAX FOR NONCORPORATE TAXPAYERS.

"(a) DEDUCTION ALLOWED FOR CAPITAL GAINS.—

"(1) IN GENERAL.—If, for any taxable year, a taxpayer other than a corporation has a net capital gain, an amount equal to the sum of the applicable percentages of the applicable capital gain shall be allowed as a deduction.

"(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 section 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-THROUGH ENTITIES.—

"(A) IN GENERAL.—In applying this subsection with respect to any pass-through entity, the determination of when a sale or exchange has occurred shall be made at the entity level.

"(B) PASS-THROUGH ENTITY DEFINED.—For purposes of subparagraph (A), the term 'pass-through 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 in 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 minus the applicable percentage with respect to such property under section 1202(b), or, in the case of a corporation, 100 percent."

(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 221 (as redesignated by section 224(a) of this Act) is amended to read as follows:

"SEC. 221. 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 (as amended by section 224(c) of this Act) is amended by striking "reference" in the item relating to section 221 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(g) 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.

SEC. 112. RECAPTURE UNDER SECTION 1250 OF TOTAL AMOUNT OF DEPRECIATION.

(a) GENERAL RULE.—Subsections (a) and (b) of section 1250 (relating to gain from disposition of certain depreciable realty) are amended to read as follows:

"(a) GENERAL RULE.—Except as otherwise provided in this section, if section 1250 property is disposed of, the lesser of—

"(1) the depreciation adjustments in respect to such property, or

"(2) the excess of—

"(A) the amount realized (or, in the case of a disposition other than a sale, exchange, or involuntary conversion, the fair market value of such property), over

"(B) the adjusted basis of such property,

shall be treated as gain which is ordinary income. Such gain shall be recognized notwithstanding any other provision of this subtitle. Notwithstanding any other provision of this chapter, in the case of a taxpayer other than a corporation, any amount treated as ordinary income under this subsection shall be subject to tax at a rate not in excess of 28 percent.

"(b) DEPRECIATION ADJUSTMENTS.—For purposes of this section, the term 'depreciation adjustments' means, in respect of any property, all adjustments attributable to periods after December 31, 1968, reflected in the adjusted basis of such property on account of deductions (whether in respect of the same or other property) allowed or allowable to the taxpayer or to any other person for exhaustion, wear and tear, obsolescence, or amortization (other than amortization under section 168 (as in effect before its repeal by the Tax Reform Act of 1976), 169, 185 (as in effect before its repeal by the Tax Reform Act of 1986), 188, 190, or 193). For purposes of the preceding sentence, if the taxpayer can establish by adequate records or other sufficient evidence that the amount allowed as a deduction for any period was less than the amount allowable, the amount taken into account for such period shall be the amount allowed."

(b) LIMITATION IN CASE OF INSTALLMENT SALES.—Subsection (i) of section 453 is amended—

(1) by striking "1250" the first place it appears and inserting "1250 (as in effect on the day before the date of enactment of the Enhanced Economic Recovery Act of 1992)", and

(2) by striking "1250" the second place it appears and inserting "1250 (as so in effect)".

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (E) of section 1250(d)(4) is amended—

(A) by striking "additional depreciation" and inserting "amount of the depreciation adjustments", and

(B) by striking "ADDITIONAL DEPRECIATION" in the subparagraph heading and inserting "DEPRECIATION ADJUSTMENTS".

(2) Subparagraph (B) of section 1250(d)(6) is amended to read as follows:

"(B) DEPRECITATION ADJUSTMENTS.—In respect of any property described in subparagraph (A), the amount of the depreciation adjustments attributable to periods before the distribution by the partnership shall be—

"(i) the amount of gain to which subsection (a) would have applied if such property had been sold by the partnership immediately before the distribution at its fair market value at such time, reduced by

"(ii) the amount of such gain to which section 751(b) applied."

(3) Subsection (d) of section 1250 is amended by striking paragraph (10).

(4) 1250 is amended by striking subsections (e) and (f) and by redesignating subsections (g) and (h) as subsections (e) and (f), respectively.

(5) Paragraph (5) of section 48(q) is amended to read as follows:

"(5) RECAPTURE OF REDUCTION.—For purposes of section 1245 and 1250, any reduction under this subsection shall be treated as a deduction allowed for depreciation."

(6) Clause (i) of section 267(e)(5)(D) is amended by striking "section 1250(a)(1)(B)" and inserting "section 1250(a)(1)(B) (as in effect on the day before the date of enactment of the Enhanced Economic Recovery Act of 1992)".

(7)(A) Subsection (a) of section 291 is amended by striking paragraphs (1) and by redesignating paragraph (2), (3), (4), and (5) as paragraphs (1), (2), (3), and (4), respectively.

(B) Subsection (c) of section 291 is amended to read as follows:

"(c) SPECIAL RULE FOR POLLUTION CONTROL FACILITIES.—Section 168 shall apply with respect to that portion of the basis of any property not taken into account under section 169 by reason of subsection (a)(4)."

(C) Section 291 is amended by striking subsection (d) and redesignating subsection (e) as subsection (d).

(D) Paragraph (2) of section 291(d) (as redesignated by subparagraph (C)) is hereby repealed.

(E) Subparagraph (A) of section 265(b)(3) is amended by striking "291(e)(1)(B)" and inserting "291(d)(1)(B)".

(F) Subsection (c) of section 1277 is amended by striking "291(e)(B)(ii)" and inserting "291(d)(1)(B)(ii)".

(10) Subsection (d) of section 1017 is amended to read as follows:

"(d) RECAPTURE OF DEDUCTIONS.—For purposes of sections 1245 and 1250—

"(1) any property the basis of which is reduced under this section and which is neither section 1245 property nor section 1250 property shall be treated as section 1245 property, and

"(2) any reduction under this section shall be treated as a deduction allowed for depreciation."

(11) Paragraph (5) of section 7701(e) is amended by striking "(relating to low-income housing)" and inserting "(as in effect on the day before the date of enactment of the Enhanced Economic Recovery Act of 1992)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to dispositions made on or after February 1, 1992, in taxable years ending on or after such date.

Subtitle B—Provisions Relating to Passive Losses and Depreciation

SEC. 121. PASSIVE LOSS RELIEF FOR REAL ESTATE DEVELOPERS.

(a) TREATMENT OF REAL ESTATE DEVELOPMENT ACTIVITIES.—Subsection (c) of section 469 (relating to the limitation on passive activity losses and credits) is amended by adding at the end the following new paragraph:

"(7) REAL ESTATE DEVELOPMENT ACTIVITY.—The real estate development activity of a taxpayer shall be treated as a single trade or business activity that is not a rental activity."

"(b) DEFINITION.—Subsection (j) of section 469 is amended by adding at the end thereof the following new paragraph:

"(13) REAL ESTATE DEVELOPMENT ACTIVITY.—

"(A) IN GENERAL.—The real estate development activity of a taxpayer shall include all activities of the taxpayer (determined without regard to subsection (c)(7) and this paragraph) in which the taxpayer actively par-

ticipates and that consist of the performance of real estate development services and the rental of any qualified real property.

"(B) REAL ESTATE DEVELOPMENT SERVICES.—For purposes of this paragraph, real estate development services include only the construction, substantial renovation, and management of real property and the lease-up and sale of real property in which the taxpayer holds an interest of not less than 10 percent.

"(C) QUALIFIED REAL PROPERTY.—For purposes of this paragraph, the term "qualified real property" means any real property that was constructed or substantially renovated in an activity of the taxpayer at a time when the taxpayer materially participated in such activity.

"(c) EFFECTIVE DATE.—The amendments made by this section are effective for taxable years ending on or after December 31, 1992.

SEC. 122. SPECIAL ALLOWANCE FOR EQUIPMENT ACQUIRED IN 1992.

(a) IN GENERAL.—Section 168 is amended by adding at the end thereof the following new subsection:

"(j) SPECIAL RULE FOR EQUIPMENT ACQUIRED IN 1992.—

"(1) ADDITIONAL ALLOWANCE.—There shall be allowed, in addition to the reasonable allowance provided for by section 167(a), a depreciation deduction determined under paragraph (2) with respect to qualified equipment.

"(2) DETERMINATION OF ADDITIONAL ALLOWANCE.—

"(A) IN GENERAL.—The additional allowance shall equal 15 percent of the purchase price of the qualified equipment.

"(B) PURCHASE PRICE.—For purposes of paragraph (A), the purchase price of qualified equipment shall equal its cost to the taxpayer. In the case of self-constructed property that is qualified equipment under paragraph (4)(D), cost is determined on the date the property is placed in service.

"(3) WHEN ADDITIONAL ALLOWANCE MAY BE CLAIMED.—The additional allowance may be claimed in the tax year in which the qualified equipment is placed in service.

"(4) DEFINITIONS AND SPECIAL RULES.—

"(A) QUALIFIED EQUIPMENT.—For purposes of this subsection, the term 'qualified equipment' means property that—

"(i) is new property,

"(ii) is section 1245 property (within the meaning of section 1245(a)(3)),

"(iii) is—

"(I) acquired on or after February 1, 1992, but only if no binding contract for the acquisition was in effect before that date, or

"(II) acquired pursuant to a binding contract entered into on or after February 1, 1992, and before January 1, 1993,

"(iv) is placed in service before July 1, 1993, and

"(v) is not defined as disqualified property in regulations prescribed by the Secretary.

"(B) NEW PROPERTY.—For purposes of this paragraph, property is new property if the original use of the property commences with the taxpayer and commences on or after February 1, 1992. Except as otherwise provided in regulations, repaired or reconstructed property is not new property, regardless of the extent of the repairs or reconstruction.

"(C) ACQUIRE.—For purposes of this paragraph, a taxpayer is considered to 'acquire' property on the date the taxpayer obtains physical control or possession of the property, or on such other date as the Secretary may prescribe by regulations.

"(D) SPECIAL RULE FOR SELF-CONSTRUCTED PROPERTY.—If a taxpayer manufactures, constructs, or produces property for the taxpayer's own use, the property shall be treated as 'qualified equipment' only if—

"(i) the property meets the requirements of clauses (i), (ii), (iv), and (v) of paragraph (4)(A), and

"(ii) the taxpayer begins manufacturing, constructing, or producing the property on or after February 1, 1992, and before January 1, 1993.

"(E) COORDINATION WITH SECTION 280F.—In the case of a passenger automobile (within the meaning of section 280F(d)(5)) that is qualified equipment under this subsection, the Commissioner shall adjust the limitations of section 280F(a)(1) to take into account the additional allowance under this subsection. Consistent with the overall purpose of section 280F, such adjustments shall be based on the threshhold cost at which the section 280F(a)(1) limitations begin to apply.

"(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection."

(b) BASIS ADJUSTMENTS.—Subsection (c) of section 167 is amended by adding at the end thereof the following new sentence: "If a taxpayer claims the additional allowance provided by section 168(j) with respect to qualified equipment in a taxable year, the basis of the qualified equipment is reduced under section 1016 by the amount of the additional allowance before the depreciation deduction under paragraph (a) is determined for that taxable year."

(c) ALTERNATIVE MINIMUM TAX.—Paragraph (1) of section 56(a) is amended—

(1) by inserting "or (iii)" after "(ii)" in subparagraph (A)(i), and

(2) by adding at the end thereof the following new clause:

"(iii) The additional allowance provided by section 168(j) for certain equipment shall apply in determining the amount of alternative minimum taxable income. The basis adjustment required for the additional allowance provided by section 168(j) shall be made before the depreciation deduction allowable in determining alternative minimum taxable income under this paragraph is determined."

(d) CROSS REFERENCE.—Subsection (e) of section 1016 is amended by adding at the end thereof the following new paragraph:

"(3) For the order in which basis adjustments should be made for depreciation in the case of property with respect to which the special additional allowance is claimed under section 168(j), see section 167(c)."

(e) EFFECTIVE DATE.—The amendments made by this section are effective February 1, 1992.

SEC. 123. ELIMINATION OF ACE DEPRECIATION ADJUSTMENT.

(a) GENERAL RULE.—Clause (i) of section 56(g)(4)(A) is amended to read as follows:

"(i) PROPERTY PLACED IN SERVICE AFTER 1989 AND PRIOR TO FEBRUARY 1, 1992.—The depreciation deduction with respect to any property placed in service—

"(I) in a taxable year beginning after 1989, and

"(II) prior to February 1, 1992,

shall be determined under the alternative system of section 168(g)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply for property placed in service on or after February 1, 1992.

Subtitle C—Provisions Relating to Real Estate Investments by Pension Funds

SEC. 131. 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 section 514(c)(9)(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 sections 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 or real estate made on or after February 1, 1992.

SEC. 132. 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) through 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 D—Provisions Affecting Homebuyers

SEC. 141. 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.—

"(A) GENERAL RULE.—The credit allowed by subsection (a) for any taxable year 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.

"(B) CARRYFORWARD OF UNUSED CREDITS.—Any credit that is not allowed for the taxable year solely by reason of subparagraph (A) shall be carried forward to the succeeding taxable year and allowed as a credit for that taxable year. However, the credit shall not be carried forward more than 5 taxable years after the taxable year in which the residence is purchased.

"(6) YEAR FOR WHICH CREDIT ALLOWED.—Fifty percent of the credit allowed by subsection (a) shall be allowed in the taxable year in which the residence is purchased and the remaining fifty percent of the credit shall be allowed in the succeeding taxable year.

"(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. 142. PENALTY-FREE WITHDRAWALS FOR FIRST HOME PURCHASE.

(a) IN GENERAL.—Paragraph (2) of section 72(t) (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans), as amended by section 213 of this Act, is further amended by adding at the end thereof the following new subparagraph:

"(E) DISTRIBUTION FROM INDIVIDUAL RETIREMENT PLAN FOR FIRST HOME PURCHASE.—A distribution to an individual from an individual retirement plan with respect to which the requirements of paragraph (7) are met."

(b) DEFINITIONS.—Subsection (t) of section 72 is amended by adding at the end thereof the following new paragraph:

"(6) REQUIREMENTS APPLICABLE TO FIRST HOME PURCHASE DISTRIBUTION.—For purposes of paragraph (2)(E)—

"(A) IN GENERAL.—The requirements of this paragraph are met with respect to a distribution if—

"(i) DOLLAR LIMIT.—The amount of the distribution does not exceed the excess (if any) of—

"(I) $10,000, over

"(II) the sum of the distributions to which paragraph (2)(E) previously applied with respect to the individual who is the owner of the individual retirement plan.

"(ii) USE OF DISTRIBUTION.—The distribution—

"(I) is made to or on behalf of a qualified first home purchaser, and

"(II) is applied within 60 days of the date of distribution to the purchase or construction of a principal residence of such purchaser.

"(iii) ELIGIBLE PLANS.—The distribution is not made from an individual retirement plan which—

"(I) is an inherited individual retirement plan (within the meaning of section 408(d)(3)(C)(ii)), or

"(II) any part of the contributions to which were excludable from income under section 402(c), 402(a)(7), 403(a)(4), or 403(b)(8).

"(B) QUALIFIED FIRST HOME PURCHASER.—For purposes of this paragraph, the term 'qualified first home purchaser' means the individual who is the owner of the individual retirement plan, but only if—

"(i) such individual (and, if married, such individual's spouse) had no present ownership interest in a residence at any time within the 36-month period ending on the date for which the distribution is applied pursuant to subparagraph (A)(ii), and

"(ii) subsection (h) or (k) of section 1034 did not suspend the running of any period of time specified in section 1034 with respect to such individual on the day before the date the distribution is applied pursuant to subparagraph (A)(ii).

"(C) SPECIAL RULE WHERE DELAY IN ACQUISITION.—If any distribution from an individual retirement plan fails to meet the requirements of subparagraph (A) solely by reason of a delay or cancellation of the purchase or construction of the residence, the amount of the distribution may be contributed to an individual retirement plan as provided in section 408(d)(3)(A)(i), except that—

"(i) section 408(d)(3)(B) shall not be applied to such contribution, and

"(ii) such amount shall not be taken into account—

"(I) in determining whether section 408(d)(3)(A)(i) applies to any other amount, or

"(II) for purposes of subclause (II) of subparagraph (A)(i).

"(D) PRINCIPAL RESIDENCE.—For purposes of this paragraph, the term 'principal residence' has the meaning given such term by section 1034.

"(E) OWNER.—For purposes of this paragraph, the term 'owner' means, with respect to any individual retirement plan, the individual with respect to whom such plan was established."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions on or after February 1, 1992.

TITLE II—FEDERAL INSURANCE ACCOUNTING ACT OF 1992

SECTION 201. SHORT TITLE.

This Act may be cited as the "Federal Insurance Accounting Act of 1992".

SEC. 202. INSURANCE ACCRUAL ACCOUNTING.

Title V of the Congressional Budget Act of 1974 is amended as follows:

(a) The title of title V is amended to read "TITLE V—CREDIT AND INSURANCE ACCOUNTING REFORM".

(b) Following the title, insert "Subtitle A—Credit Accounting".

(c) Substitute the word "subtitle" for "title" wherever it appears.

(d) Following section 507, insert the following:

"Subtitle B—Insurance Accounting

"SEC. 550. PURPOSES.

"The purposes of this subtitle are to—

"(1) measure more accurately the cost of Federal insurance programs;

"(2) place the cost of insurance programs on a budgetary basis equivalent to other Federal spending;

"(3) improve the allocation of resources among insurance programs and between insurance and other spending programs; and

"(4) encourage the provision of Federal insurance in a manner that adequately protects the insured at the least cost to the Federal Government.

"SEC. 551. EFFECTIVE DATES.

"The definitions and changes in budget treatment and accounting shall be effective as of the following dates:

"(a) October 1, 1991, for: the deposit insurance activities of the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, and the National Credit Union Administration; and the pension guarantee program of the Pension Benefit Guaranty Corporation;

"(b) October 1, 1992, for all other insurance programs.

"SEC. 552. DEFINITIONS.

"For purposes of this subtitle, with respect to any Federal insurance program—

"(1) the term 'obligation' means a binding agreement by a Federal agency to indemnify a nonfederal entity against specified losses in return for premiums paid. This term does not include loan guarantees as defined in Subtitle A or obligations of social security, Medicare, and other social and medical insurance programs;

"(2) the term 'accrued cost' means the net present value of the insurance liabilities outstanding on the effective date and at the end of each successive reporting period;

"(3) the term 'accrual cost' means the increase or decrease in accrued cost during a fiscal year or from the beginning of a fiscal year to the time of the insured event, if one occurs during the fiscal year. Alternatively, for programs for which it is possible to make actuarial estimates, the accrual cost may be the estimated long-term average loss per fiscal year for periods of comparable exposure to risk of loss;

"(4) the term 'liquidating account' means the budget account for the accrued cost, as estimated on the effective date specified in section 551;

"(5) the term 'program account' means the budget account for the accrual costs, for all costs of administering the insurance program, and balances;

"(6) the term 'financing account' means the non-budget account that receives cost payments from the program account and the liquidating account, makes payments to the program account, includes all cash flows to and from the Federal Government, and holds balances;

"(7) the term 'insured event' means an event that results in an obligation of the Federal Government; and

"(8) the term 'Director' means the Director of the Office of Management and Budget.

"SEC. 553. OMB, CBO, AND AGENCY ANALYSIS, COORDINATION, AND REVIEW.

"(a) DIRECTOR'S RESPONSIBILITIES.—For the Executive branch, the Director shall be responsible for the estimates required by this subtitle, in consultation with the agencies that administer insurance programs.

"(b) DELEGATION.—The Director may delegate to agencies authority to make estimates. The delegation of authority shall be based upon written guidelines, regulations, or criteria consistent with the definitions in this subtitle.

"(c) COORDINATION WITH THE CONGRESSIONAL BUDGET OFFICE.—In developing estimation guidelines, regulations, or criteria to be used by Federal agencies, the Director shall consult with the Director of the Congressional Budget Office.

"(d) IMPROVING COST ESTIMATES.—The Director and the Director of the Congressional Budget Office shall coordinate the development of methods of estimating the costs of insurance programs. The Office of Management and Budget and the Congressional Budget Office shall have access to the agency data necessary to develop estimates of costs.

"(e) ACCOUNTING SUPPORT.—The Director shall coordinate the development by the Federal agencies that conduct insurance programs of such accounting methods and systems as are necessary to support accounting and budgeting for insurance programs on an accrual basis.

"SEC. 554. BUDGETARY TREATMENT.

"(a) BUDGET ACCOUNTING.—For any insurance program.—

"(1) Premiums and other income shall be credited to a finance account and available to finance program costs in the following priority:

"(A) administrative expenses, by reimbursement to the program account;

"(B) accrued costs, estimated as of the effective date specified in section 551, for insured events that occur during a fiscal year, before drawing on the resources of the liquidating account; and

"(C) accrual costs, before drawing on the resources of the program account.

"(2) Any balance of premiums and other income remaining after financing the program costs shall be paid to the program accounts.

"(3) All collections and payments by the financing accounts shall be a means of financing.

"(4) To the extent the accrued costs, estimated as of the effective date specified in section 551, for insured events that occur during a fiscal year, exceed the premiums and other income available in accordance with paragraph (1), an obligation equal to the amount of such excess shall be recorded in the insurance liquidating account. Such obligation shall be a charge, first, against any unobligated balances of the liquidating account and, second, against appropriations to the liquidating account for that year. Outlays from the liquidating account shall be made to the financing account at the time the insured event occurs. Any balances remaining in excess of accrued costs shall be transferred to the program account.

"(5) For any year in which there is an accrual cost that exceeds the premiums and other income available in accordance with paragraph (1), an obligation equal to such excess shall be recorded in the program account. Such obligation will be a charge, first, against any unobligated balances of the program account and, second, against appropriations to the program account for that year. An outlay in the amount of the obligation shall be made in the same fiscal year to the finance account for the program.

"(6) For the Bank Insurance Fund, any appropriations necessary under paragraphs (4) and (5) shall be repaid to the general fund from premiums and other income on a 15 year schedule as authorized under section 14 of the Federal Deposit Insurance Corporation Improvement Act of 1991. Premiums and other income available to the Bank Insurance Fund shall be available, first, to finance costs in the priority shown in paragraph (1) and, second, to finance these repayments.

"(b) MODIFICATIONS.—No action shall be taken to modify an insurance program in a manner that increases its accrual cost unless

budget authority for the additional accrual cost is appropriated in advance, or is available out of existing appropriations or from other budgetary resources.

"(c) ADMINISTRATIVE EXPENSES.—All obligations for an agency's administration of an insurance program shall be displayed as distinct and separately identified subaccounts within the program account. To the extent that the administrative expenses of an insurance programs are authorized to be financed by premiums and other income, the financing account shall reimburse the program account for administrative expenses. The administrative expenses of the Resolution Trust Corporation shall be financed as authorized by section 501 of Public Law 101-73, in a program account established for the purpose, separate from the RTC Revolving Fund.

"SEC. 555. AUTHORIZATIONS.

"(a) AUTHORIZATION OF APPROPRIATIONS FOR COSTS.—There are authorized to be appropriated to each Federal agency authorized to conduct insurance programs, such sums as may be necessary to pay the accrued and accrual costs associated with such insurance programs. For the purposes of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, such appropriations shall be considered discretionary spending if the spending for a program was classified as discretionary spending by that Act. If such spending was not classified as discretionary spending, it shall be considered direct spending (entitlement authority).

"(b) AUTHORIZATION TO ESTABLISH FINANCING ACCOUNTS.—In order to implement the accounting required by this subtitle, the President is authorized to establish such non-budgetary accounts as may be appropriate.

"(c) TREASURY TRANSACTIONS WITH THE FINANCING ACCOUNTS.—The Secretary of the Treasury shall borrow from, receive from, lend to, or pay to the insurance financing accounts such amounts as may be appropriate. The Secretary of the Treasury may prescribe forms and denominations, maturities, and terms and conditions for the transactions described above. The authorities described above shall not be construed to supersede or override the authority of the head of a Federal agency to administer and operate an insurance program. All of the transactions provided in this subsection shall be subject to the provisions of subchapter II of chapter 15 of title 31, United States Code. Cash balances of the program, financing, and liquidating accounts in excess of current requirements shall be maintained in a form of uninvested funds, and the Secretary of the Treasury shall pay interest on these funds.

"(d) ELIGIBILITY AND ASSISTANCE.—Nothing in this subtitle shall be construed to change the authority or the responsibility of a Federal agency to determine the terms and conditions of eligibility for, or the amount of assistance provided by, an insurance program.

"SEC. 556. EFFECT ON OTHER LAWS.

"(a) This subtitle shall supersede, modify, or repeal any provision of law enacted prior to the date of enactment of this subtitle to the extent such provision is inconsistent with this subtitle. Nothing in this subtitle shall be construed to establish a limitation on any Federal insurance program.

"(b) The changes made by this subtitle shall be considered changes in budget concepts and definitions for the purposes of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.".

SEC. 203. CONFORMING AMENDMENTS.

(a) CONFORMING AMENDMENTS.—

(1) The last sentence of section 3(2) of the Congressional Budget Act of 1974 is amended by adding "and accrual costs of insurance programs," after "programs,".

(2) Section 1105(a) of title 31, United States Code, is amended by inserting at the end thereof the following:

"(29) the accrued and accrual costs of insurance programs.".

(b) EFFECTIVE DATE.—These changes are effective upon enactment.

TITLE III—PENSION SECURITY ACT OF 1992

SECTION 301. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Pension Security Act of 1992".

(b) TABLE OF CONTENTS.—

Subtitle A—Amendments to Pension Plan Funding Requirements

PART 1—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986

Sec. 311. Revision of additional funding requirements for plans that are not multiemployer plans.
Sec. 312. Correction to ERISA citation.
Sec. 313. Effective dates.

PART 2—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Sec. 321. Revision of additional funding requirements for plans that are not multiemployer plans.
Sec. 322. Effective dates.

Subtitle B—Amendments to Title IV of ERISA

Sec. 331. Limitation on benefits guaranteed.
Sec. 332. Enforcement of minimum funding requirements.
Sec. 333. Definition of contributing sponsor.
Sec. 334. Recovery ratio payable under Corporation's guaranty.
Sec. 335. Elimination of the seventh revolving fund.
Sec. 336. Distress termination criteria for banking institutions.
Sec. 337. Variable rate premium exemption.

Subtitle C—Employer Liability, Lien, and Priority

PART 1—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Sec. 341. Employer liability lien and priority amount.
Sec. 342. Liability upon liquidation of contributing sponsor where plan remains ongoing.

PART 2—AMENDMENTS TO TITLE 11, UNITED STATES CODE

Sec. 351. Pension Benefit Guaranty Corporation permitted to be a member of an unsecured creditors' committee.
Sec. 352. Clarification of priorities in conformity with the Employee Retirement Income Security Act of 1974.
Sec. 353. Notice required where federally-insured pension plan is administered by the debtor or its affiliate.

Subtitle A—Amendments to Pension Plan Funding Requirements

PART 1—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 986

SEC. 311. REVISION OF ADDITIONAL FUNDING REQUIREMENTS FOR PLANS THAT ARE NOT MULTIEMPLOYER PLANS.

(a) Section 412(a) of the Internal Revenue Code of 1986 (26 U.S.C. 412(a)) is amended by striking "the excess of the total charges to the funding standard account" through the end of that sentence, and inserting "the largest of—

"(1) the lesser of—

"(A) the excess of the total charges to the funding standard account for all plan years (beginning with the first plan year to which this section applies) over the total credits to such account for such years; or,

"(B) the excess of the total charges to the alternative minimum funding standard account for such plan years over the total credits to such account for such years; or,

"(2) if applicable, the underfunding reduction requirement under subsection (1); or

"(3) if applicable, the solvency maintenance requirement under subsection (o).".

(b) Section 412(1) is revised to read as follows:

"(1) UNDERFUNDING REDUCTION REQUIREMENT FOR PLANS THAT ARE NOT MULTIEMPLOYER PLANS.—

"(1) UNDERFUNDING REDUCTION REQUIREMENT.—In the case of a defined benefit plan (other than a multiemployer plan) that has an initial funding ratio of less than 100 percent for any plan year, the underfunding reduction requirement for such plan year is the sum of—

"(A) an amount equal to the product of the initial unfunded liability of the plan multiplied by the excess (if any) of (i) 30 percent, over (ii) the product of one quarter of one percent multiplied by the number of percentage points (if any) that the initial funding ratio of the plan exceeds 35 percent;

"(B) the charges to the funding standard account for normal cost under subparagraph (b)(2)(A) and for the amounts necessary to amortize any waived funding deficiencies under subparagraph (b)(2)(C);

"(C) the excess (if any) of—

"(i) the sum of charges to the funding standard account for plans years beginning after December 31, 1993, for net experience losses under clause (b)(2)(B)(iv) and net losses resulting from changes in actuarial assumptions under clause (b)(2)(B)(v) over—

"(ii) the sum of credits to the funding standard account for plan years beginning after December 31, 1993—

"(I) for net experience gains under clause (b)(3)(B)(ii) and net gains resulting from changes in actuarial assumptions under clause (b)(3)(B)(iii); and

"(II) for amounts considered contributed by the employer under subparagraph (b)(3)(A) (to the extent they are necessary to avoid an accumulated funding deficiency under section 412(b)); and

"(D) the net of—

"(i) charges to the funding standard account for plan years beginning on or before December 31, 1993, for net experience losses under clause (b)(2)(B)(iv) and net losses resulting from changes in actuarial assumptions under clause (b)(2)(B)(v); and

"(ii) the sum of credits to the funding standard account for plan years beginning on or before December 31, 1993—

"(I) for net experience gains under clause (b)(3)(B)(ii) and net gains resulting from changes in actuarial assumptions under clause (b)(3)(B)(iii); and

"(II) for amounts considered contributed by the employer under subparagraph (b)(3)(A) (to the extent they are necessary to avoid an accumulated funding deficiency under section 412(b)).

"(2) DEFINITIONS.—For definitions pertaining to this subsection, see subsection (o)(3).

"(3) APPLICATION TO SMALL PLANS.—For the application of this subsection to small plans, see subsection (o)(4).".

(c) Section 412 is further amended by adding at the end thereof the following new subsection (o):

"(o) SOLVENCY MAINTENANCE REQUIREMENT FOR PLANS THAT ARE NOT MULTIEMPLOYER PLANS.—

"(1) SOLVENCY MAINTENANCE REQUIREMENT.—In the case of a defined benefit plan (other than a multiemployer plan) that has an initial funding ratio of less than 100 percent for any plan year, the solvency maintenance requirement for such plan year is the sum of—

"(A) the sum of:

"(i) all disbursements from the plan for the plan year, and

"(ii) an amount equal to the initial unfunded liability of the plan multiplied by the interest rate used by such plan (determined under subparagraph (b)(5)(A));

"(B) the charges described in section 412(l)(1)(B);

"(C) the amount described in section 412(l)(1)(C); and

"(D) the amount described in section 412(l)(1)(D).

"(2) LIMITATION ON SOLVENCY MAINTENANCE REQUIREMENT.—For plan years commencing after December 31, 1993, the amount required under paragraph (1) shall not exceed the sum of—

"(A) the amount required under 412(l); and

"(B) the product of—

"(i) the excess (if any) of—

"(I) the amount required under paragraph 1 over

"(II) the amount required under subsection (l); multiplied by—

"(ii) the applicable percentage.

"(iii) For purposes of subparagraph (ii), the applicable percentage is:

"For plan years commencing after:	The applicable percentage is:
December 31, 1993	20 percent
December 31, 1994	40 percent
December 31, 1995	60 percent
December 31, 1996	80 percent
December 31, 1997	100 percent

"(3) DEFINITIONS.—For purposes of this subsection and subsection (l)—

"(A) INITIAL UNFUNDED LIABILITY.—The term 'initial unfunded liability' means the excess (if any) of the amount necessary to satisfy the initial termination liability of the plan over the initial value of assets of the plan.

"(B) INITIAL FUNDING RATIO.—The term 'initial funding ratio' means the ratio of (i) the initial value of assets of the plan to (ii) the amount necessary to satisfy the initial termination liability of the plan.

"(C) INITIAL TERMINATION LIABILITY.—The term 'initial termination liability' means all liabilities with respect to employees and their beneficiaries under the plan in the meaning of section 401(a)(2) as of the first day of the plan year.

"(D) INITIAL VALUE OF ASSETS.—The term 'initial value of assets' means the value of the assets of the plan determined under section 412(c)(2) as of the first day of the plan year.

"(E) DISBURSEMENTS FROM THE PLAN.—

"(i) IN GENERAL.—The term 'disbursements from the plan' means benefit payments, including purchases of annuities or payment of lump sums in satisfaction of liabilities, administrative expenditures or any other disbursements from the plan or its trust.

"(ii) SPECIAL RULE FOR PURCHASES OF ANNUITIES AND PAYMENT OF LUMP SUMS.—In determining the applicable amounts attributable to purchases of annuities or the payment of lump sums under clause (i), the actual purchase or lump sum amounts paid by the plan or trust shall be multiplied by the excess (if any) of one over the initial funding ratio of the plan.

"(4) SPECIAL RULES FOR SMALL PLANS.—

"(A) PLANS WITH 100 OR FEWER PARTICIPANTS.—This subsection and subsection 412(l) shall not apply to any plan for any plan year if on each day during the preceding plan year such plan had no more than 100 participants.

"(B) PLANS WITH MORE THAN 100 BUT NOT MORE THAN 150 PARTICIPANTS.—In the case of a plan to which subparagraph (A) does not apply and which on each day during the preceding year had no more than 150 participants, the additional amounts required by the underfunding reduction requirement under subsection (l) or the solvency maintenance requirement under this subsection shall be equal to the product of—

"(i) the excess of such requirements (determined without regard to this subparagraph) over the funding deficiency (if any) under subsection 412(b), multiplied by—

"(ii) 2 percent for the highest number of participants in excess of 100 on any such day.

"(C) AGGREGATION OF PLANS.—For purposes of this paragraph, all defined benefit plans maintained by the same employer (or any member of such employer's controlled group) shall be treated as 1 plan, but only employees of such employer or member shall be taken into account.".

(d) CONFORMING AMENDMENTS.—

(1) Section 412(b) is amended—

(A) by striking the last sentence of paragraph (2); and

(B) by striking "and for purposes of determining a plan's required contribution under section 412(l)" in subparagraph (5)(B) and inserting "under section 412(c)(7)(B)".

(2) Section 412(c) is amended by striking "has the meaning given such term by section 412(l)(7) and inserting "means all liabilities with respect to employees and their beneficiaries under the plan within the meaning of section 401(a)(2) (within such limitations as the Secretary may prescribe by regulation) determined by using the interest rate under section 412(b)(5)(B)".

(3) Section 412(m)(4)(B) is amended by striking "section 412" in subparagraph (i) and inserting "section 412 (b) or (l), whichever is greater".

(4) Section 401(a)(29) is amended—

(A) by striking "current liability" and "funded current liability percentage" and "unfunded current liability" and "412(l)" each time they appear and inserting instead, respectively, the terms "initial termination liability" and "initial funding ratio" and "initial unfunded liability" and "412(o)".

(B) By striking everything after the word "except" in subparagraph (E) and inserting "that in computing initial unfunded liability there shall not be taken into account an amount equal to the initial unfunded liability of the plan as of the beginning of the first plan year beginning after December 31, 1987 (determined without regard to any plan amendment increasing liabilities adopted after October 16, 1987), reduced by an amount equal to the product of the amount necessary to amortize such pre-1988 initial unfunded liability in equal annual installments over a period of 18 plan years (beginning with the first plan year beginning after December 31, 1988) multiplied by the number of years (but not more than 18) beginning since December 31, 1988.".

(5) Section 404(a)(1)(D) is amended by striking "the unfunded liability determined under section 412(l)." at the end of the first sentence and inserting instead "the amount necessary to assure that the plan can satisfy all liabilities with respect to employees and their beneficiaries within the meaning of section 412(c)(7)(B) determined by using the interest rate under section 412(b)(5)(B)."

SEC. 312. CORRECTION TO ERISA CITATION.

(a) Section 404(g)(4) is amended by striking "enactment" and all that follows through the end of the paragraph and inserting "the transaction involved.".

SEC. 313. EFFECTIVE DATES.

The amendments made by section 311 shall effective for plan years beginning after December 31, 1993. The amendment made by section 312 shall take effect one day after the date of enactment of title II.

PART 2—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

SEC. 321. REVISION OF ADDITIONAL FUNDING REQUIREMENTS FOR PLANS THAT ARE NOT MULTIEMPLOYER PLANS.

(a) Section 302(a)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(a)(2)) is amended by striking "the excess of the total charges to the funding standard account" through the end of that sentence, and inserting "the largest of—

"(A) the lesser of—

"(i) the excess of the total charges to the funding standard account for all plan years (beginning with the first plan year to which this section applies) over the total credits to such account for such years; or,

"(ii) the excess of the total charges to the alternative minimum funding standard account for such plan years over the total credits to such account for such years; or,

"(B) if applicable, the underfunding reduction requirement under subsection (d); or,

"(C) if applicable, the solvency maintenance requirement under subsection (g).".

(b) Section 302(d) is revised to read as follows:

"(d) UNDERFUNDING REDUCTION REQUIREMENT FOR PLANS THAT ARE NOT MULTIEMPLOYER PLANS.—

"(1) UNDERFUNDING REDUCTION REQUIREMENT.—In the case of a defined benefit plan (other than a multiemployer plan) that has an initial funding ratio of less than 100 percent for any plan year, the underfunding reduction requirement for such plan year is the sum of—

"(A) An amount equal to the product of the initial unfunded liability of the plan multiplied by the excess (if any) of (i) 30 percent, over (ii) the product of one-quarter of one percent multiplied by the number of percentage points (if any) that the initial funding ratio of the plan exceeds 35 percent;

"(B) the charges to the funding standard account for normal cost under subparagraph (b)(2)(A) and for the amounts necessary to amortize any waived funding deficiencies under subparagraph (b)(2)(C);

"(C) the excess (if any) of—

"(i) the sum of charges to the funding standard account for plan years beginning after December 31, 1993 for net experience losses under clause (b)(2)(B)(iv) and net losses resulting from changes in actuarial assumptions under clause (b)(2)(B)(v) over—

"(ii) the sum of credits to the funding standard account for plan years beginning after December 31, 1993—

"(I) for net experience gains under clause (b)(3)(B)(ii) and net gains resulting from changes in actuarial assumptions under clause (b)(3)(B)(iii); and

"(II) for amounts considered contributed by the employer under subparagraph (b)(3)(A) (to the extent they are necessary to avoid an accumulated funding deficiency under section 302(b)); and

"(D) the net of—

"(i) charges to the funding standard account for plan years beginning on or before December 31, 1993 for net experience losses under clause (b)(2)(B)(iv) and net losses resulting from changes in actuarial assumptions under clause (b)(2)(B)(v); and

"(ii) the sum of credits to the funding standard account for plan years beginning on or before December 31, 1993—

"(I) for net experience gains under clause (b)(3)(B)(ii) and net gains resulting from changes in actuarial assumptions under clause (b)(3)(B)(iii); and

"(II) amounts considered contributed by the employer under subparagraph (b)(3)(A) (to the extent they are necessary to avoid an accumulated funding deficiency under section 302(b)).

"(2) DEFINITIONS.—For definitions pertaining to this subsection, see subsection (g)(3).

"(3) APPLICATION TO SMALL PLANS.—For the application of this subsection to small plans, see subsection (g)(4).".

(c) Section 302 is further amended by—

(1) redesignating subsection (g) as (h); and

(2) inserting after subsection (f) the following:

"(g) SOLVENCY MAINTENANCE REQUIREMENT FOR PLANS THAT ARE NOT MULTIEMPLOYER PLANS.—

"(1) SOLVENCY MAINTENANCE REQUIREMENT.—In the case of a defined benefit plan (other than a multiemployer plan) that has an initial funding ratio of less than 100 percent for any plan year, the solvency maintenance requirement for such plan year is the sum of—

"(A) the sum of:

"(i) all disbursements from the plan for the plan year, and

"(ii) an amount equal to the initial unfunded liability of the plan multiplied by the interest rate used by such plan (determined under subparagraph (b)(5)(A));

"(B) the charges described in section 302(d)(1)(B);

"(C) the amount described in section 302(d)(1)(C); and

"(D) the amount described in section 302(d)(1)(D).

"(2) LIMITATION ON SOLVENCY MAINTENANCE REQUIREMENT.—For plan years commencing after December 31, 1993, the amount required under paragraph (1) shall not exceed the sum of—

"(A) the amount required under section 302(d); and

"(B) the product of—

"(i) the excess (if any) of—

"(I) the amount required under paragraph 1 over

"(II) the amount required under section 302(d); multiplied by—

"(ii) the applicable percentage.

"(iii) For purposes of subparagraph (ii), the applicable percentage is:

"For plan years commencing after:	The applicable percentage is:
December 31, 1993	20 percent
December 31, 1994	40 percent
December 31, 1995	60 percent
December 31, 1996	80 percent
December 31, 1997	100 percent

"(3) DEFINITIONS.—For purposes of this subsection and subsection (d)—

"(A) INITIAL UNFUNDED LIABILITY.—The term "initial unfunded liability" means the excess (if any) of the amount necessary to satisfy the initial termination liability of the plan over the initial value of assets of the plan.

"(B) INITIAL FUNDING RATIO.—The term "initial funding ratio" means the ratio of (i) the initial value of assets of the plan to (ii) the amount necessary to satisfy the initial termination liability of the plan.

"(C) INITIAL TERMINATION LIABILITY.—The term "initial termination liability" means all liabilities with respect to employees and their beneficiaries under the plan in the meaning of section 401(a)(2) of the Internal Revenue Code of 1986 as of the first day of the plan year.

"(D) INITIAL VALUE OF ASSETS.—The term "initial value of assets" means the value of the assets of the plan determined under section 302(c)(2) as of the first day of the plan year.

"(E) DISBURSEMENTS FROM THE PLAN.—

"(i) IN GENERAL.—The term "disbursements from the plan" means benefit payments, including purchases of annuities or payment of lump sums in satisfaction of liabilities, administrative expenditures or any other disbursements from the plan or its trust.

"(ii) SPECIAL RULE FOR PURCHASES OF ANNUITIES AND PAYMENT OF LUMP SUMS.—In determining the applicable amounts attributable to purchases of annuities or the payment of lump sums under clause (i), the actual purchase or lump sum amounts paid by the plan or trust shall be multiplied by the excess (if any) of one over the initial funding ratio of the plan.

"(4) SPECIAL RULES FOR SMALL PLANS.—

"(A) PLANS WITH 100 OR FEWER PARTICIPANTS.—This subsection and subsection (d) shall not apply to any plan for any plan year if on each day during the preceding plan year such plan had no more than 100 participants.

"(B) PLANS WITH MORE THAN 100 BUT NOT MORE THAN 150 PARTICIPANTS.—In the case of a plan to which subparagraph (A) does not apply and which on each day during the preceding year had no more than 150 participants, the additional amounts required by the underfunding reduction requirement under subsection (d) or the solvency maintenance requirement under this subsection shall be equal to the product of—

"(i) the excess of such requirements (determined without regard to this subparagraph) over the funding deficiency (if any) under subsection 302(b), multiplied by—

"(ii) 2 percent for the highest number of participants in excess of 100 on any such day.".

(C) AGGREGATION OF PLANS.—For purposes of this paragraph, all defined benefit plans maintained by the same employer (or any member of such employer's controlled group) shall be treated as 1 plan, but only employees of such employer or member shall be taken into account.

(d) CONFORMING AMENDMENTS.—

(1) Section 302(b) is amended—

(A) by striking "and for purposes of determining a plan's required contribution under section 302(d)" in subparagraph (5)(B) in inserting "under section 302(c)(7)(B)".

(2) Section 302(c) is amended by striking "has the meaning given such term by subsection 302(d)(7) (without regard to subparagraph (D) thereof)" in subparagraph (7)(B) and inserting "means all liabilities with respect to employees and their beneficiaries under the plan within the meaning of section 401(a)(2) of the Internal Revenue Code of 1986 (within such limitations as the Secretary of the Treasury may prescribe by regulation) determined by using the interest rate under section 302(b)(5)(B)".

(3) Section 302(e)(4)(B) is amended by striking "section 412 of the Internal Revenue Code of 1986" in subparagraph (i) and inserting "section 412 (b) or (i) of the Internal Revenue Code of 1986, whichever is greater".

SEC. 322. EFFECTIVE DATES.

The amendments made by this part shall be effective for plan years beginning after December 31, 1993.

Subtitle B—Amendments to Title IV of ERISA

SEC. 331. LIMITATION ON BENEFITS GUARANTEED.

(a) Subsection (b)(1) of section 4022 of ERISA is amended by adding after "(7)" ", (8) and (9)".

(b) Subsection (b)(7) of section 4022 of ERISA is amended by—

(1) striking the period at the end and inserting in its place a semicolon; and

(2) by adding after paragraph (7) a new paragraph (8):

"(8)(A) Benefits under a new plan or any increase in benefits under a plan resulting from a plan amendment, which new plan or amendment was adopted or became effective after December 31, 1991, shall be disregarded unless:

"(i) The plan was fully funded for vested benefits for the plan year that the new plan or amendment was adopted or became effective, whichever is later, or became fully funded for vested benefits in a subsequent plan year; and

"(ii) The new plan or amendment was adopted or effective, whichever is later, at least one year prior to the date of plan termination.

"(B) For purposes of this section, a plan is 'fully funded for vested benefits' for any plan year if such plan has no unfunded vested benefits within the meaning of section 4006(a)(3)(E)(iii) as of the last day of such plan year.

"(C)(i) Except as provided in clause (ii), paragraph (7) and paragraphs (5)(B) and (5)(C) shall not apply to benefits described in subparagraph (A) of this paragraph.

"(ii) This paragraph shall not apply, and paragraph (7) and paragraphs (5)(B) and (5)(C) shall apply, to any new plan or plan amendment resulting from a collective bargaining agreement or amendment thereto entered and ratified on or prior to December 31, 1991.".

(c) Subsection (b) of section 4022 of ERISA (as amended by subsection (b) of this section) is further amended by adding a new paragraph (9):

"(9)(A) Notwithstanding paragraph (8), any plan provision or amendment adopted or effective after December 31, 1991, that creates or increases unpredictable contingent event benefits shall not be guaranteed.

"(B) For purposes of this section, an 'unpredictable contingent event benefit' means any benefit contingent on an event other than—

"(i) age, service compensation, death or disability, or

"(ii) an event which is reasonably and reliably predictable (as determined under regulations prescribed by the corporation).".

(d) EFFECTIVE DATE.—The amendments made by this section shall be effective on December 31, 1991.

SEC. 332. ENFORCEMENT OF MINIMUM FUNDING REQUIREMENTS.

(a) IN GENERAL.—Paragraph (1) of section 4003(c) of Employee Retirement Income Security Act of 1974 (29 U.S.C. 1303 (e)(1)) is amended by inserting after "title" the following: "and, in the case of a plan to which this title applies under section 4021, section 302 of this Act or section 412 of the Internal Revenue Code of 1986".

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective for installments and other payments required under section 302 of the Employee Retire-

ment Income Security Act of 1974 or section 412 of the Internal Revenue Code of 1986 due on or after the date of the enactment of this Act.

SEC. 333. DEFINITION OF CONTRIBUTING SPONSOR.

(a) IN GENERAL.—Paragraph (13) of section 4001(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1301(a)(13)) is amended to read as follows:

"(13) 'contributing sponsor' means, with respect to a single-employer plan, a person entitled to receive a deduction under section 404(a)(1) of the Internal Revenue Code of 1986 for contributions required to be made to the plan under section 302 of this Act or section 412 of such Code.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective as if included in section 9305 of the Pension Protection Act (Public Law 100-203; 101 Stat. 1330-351).

SEC. 334. RECOVERY RATIO PAYABLE UNDER CORPORATION'S GUARANTY.

(a) IN GENERAL.—Section 4022(c)(3)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1322(c)(3)(B)) is amended—

(1) by redesignating clauses (i) and (ii) as clauses (ii) and (iii) respectively; and

(2) by inserting before clause (ii) (as so redesignated) the following new clause:

"(i) the outstanding amount of benefit liabilities does not exceed $20,000,000,".

(b) TERMINATIONS.—Clause (iii) of section 4022(c)(3)(B) of such Act (29 U.S.C. 1322(c)(3)(B)), as redesignated by subsection (a), is amended—

(1) by inserting ", or proceedings were instituted under section 4042," after "provided"; and

(2) by striking "in which occurs the date of the notice of intent to terminate with respect to the plan termination".

(c) CONFORMING AMENDMENTS.—Clause (i) of section 9312(b)(3)(B) of the Pension Protection Act is amended by—

(1) inserting ", or proceedings were instituted under section 4042," after "provided"; and

(2) striking "1990" and inserting "1994".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 9312(b)(3) of the Pension Protection Act (Public Law 100-203; 101 Stat. 1330-362).

SEC. 335. ELIMINATION OF THE SEVENTH REVOLVING FUND.

(a) TRANSFER.—Effective September 30, 1992, all assets and liabilities of the fund described in section 4005(f)(1) of the Employee Retirement Income Security Act of 1974 (as in effect before the amendments made by this section) shall be transferred to the fund established pursuant to section 4005(a) of such Act with respect to basic benefits guaranteed under section 4022 of such Act.

(b) REPEAL.—Section 4005 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1305) is amended—

(1) by striking subsection (f); and

(2) by redesignating subsections (g) and (h) as subsections (f) and (g), respectively.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to fiscal years beginning after September 30, 1992.

SEC. 336. DISTRESS TERMINATION CRITERIA FOR BANKING INSTITUTIONS.

(a) IN GENERAL.—Subclause (I) of section 4041(c)(2)(B)(i) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1341(c)(2)(B)(i)(I)) is amended by inserting "Federal law or" before "law of a State".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to plan terminations under section 4041 of the Employee Retirement Income Security Act of 1974 with respect to which notices of intent to terminate under section 4041(a)(2) of such Act are provided on or after the date of the enactment of this Act.

SEC. 337. VARIABLE RATE PREMIUM EXEMPTION.

(a) IN GENERAL.—Clause (v) of section 4006(a)(3)(E) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)(E)) is amended by striking all that follows "not less than" and inserting "the maximum amount that may be contributed without incurring an excise tax under section 4972 of the Internal Revenue Code of 1986".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 1992.

Subtitle C—Employer Liability, Lien and Priority

PART 1—AMENDMENTS TO TITLE IV OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

SEC. 341. EMPLOYER LIABILITY LIEN AND PRIORITY AMOUNT.

(a) REVISED LIMITATIONS ON LIEN AND TAX PRIORITY AMOUNT.—Section 4068(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1368(a)) is amended—

(1) by striking "If any person liable to the corporation" and inserting "(1) Subject to paragraphs (2) and (3), if any person liable to the corporation";

(2) by striking "section 4062" and inserting "section 4062(a)(1)";

(3) by striking the comma after "belonging to such person" and inserting a period;

(4) by striking "except that such lien" and inserting the following:

"(2) In the case of plan terminations under section 4041 with respect to which notices of intent to terminate under section 4041(a)(2) are provided before January 1, 1992, and plan terminations with respect to which proceedings are instituted by the corporation before January 1, 1992, the lien established under paragraph (1)"; and

(5) by adding at the end the following paragraph:

"(3)(A) In the case of plan terminations under section 4041 with respect to which notices of intent to terminate under section 4041(a)(2) are provided on or after January 1, 1992, and plan terminations with respect to which proceedings are instituted by the corporation on or after January 1, 1992, the lien established under paragraph (1) may not be in an amount in excess of the sum of—

"(i) the amount of benefits attributable to the occurrence of unpredictable contingent events valued as of the date of plan termination arising at any time during the 3 years preceding the date of plan termination (to the extent not funded prior to plan termination), plus

"(ii) the greater of—

"(I) 30 percent of the collective net worth of all persons described in section 4062(a), or

"(II) the currently applicable percentage of the excess of the amount of unfunded benefit liabilities under the plan as of the date of plan termination over the amount described in clause (i).

"(B) For purposes of this paragraph—

"(i) the term 'currently applicable percentage' means—

"(I) with respect to plan terminations initiated in calendar year 1992, 10 percent,

"(II) with respect to plan terminations initiated in any calendar year after 1992 and before 2012, the percentage determined under this clause with respect to plan terminations initiated in the preceding calendar year, plus 2 percent, and

"(III) with respect to plan terminations initiated in calendar years after 2011, 50 percent.

"(ii) The term 'amount of benefits attributable to the occurrence of unpredictable contingent events' means, with respect to any plan, the present value of unpredictable contingent event benefits (within the meaning of section 302(d)(7)(B)(ii)), determined as of the termination date on the basis of assumptions prescribed by the corporation for purposes of section 4044.

"(C) In applying subparagraph (A), the corporation may disregard subclause (I) of clause (ii) thereof if the corporation determines, in its sole discretion, that disregarding such subclause (I) is cost-effective.".

(b) CONFORMING AND CLARIFYING AMENDMENTS RELATING TO AMOUNT ENTITLED TO PRIORITY TREATMENT IN INSOLVENCY AND BANKRUPTCY CASES.—Section 4068(c)(2) of such Act (29 U.S.C. 1368(c)(2)) is amended by inserting "(A)" after "(2)" and by adding at the end the following new subparagraph:

"(B) Subparagraph (A) shall apply—

"(i) in the case of terminations described in paragraph (2) of subsection (a), only with respect to so much of the liability as does not exceed the amount determined under such paragraph (2), and

"(ii) in the case of terminations described in paragraph (3) of subsection (a), only with respect to so much of the liability as does not exceed the amount determined under such paragraph (3).".

(c) CLARIFICATION OF BANKRUPTCY AND INSOLVENCY CLAIM.—Section 9312(b)(2)(B) of the Pension Protection Act (Public Law 100-203, 101 Stat. 1330-361) is amended by adding at the end thereof the following new clause:

"(iii) Section 4068(c)(2) of ERISA (29 U.S.C. 1368(c)(2)) is amended—

"(I) by striking 'the lien imposed under subsection (a)' and inserting 'the liability to the corporation under section 4062(a)(1), 4063, or 4064'; and "(II) by inserting 'which is' after 'tax', and by inserting 'and assigned priority' after 'United States'.".

(d) EFFECTIVE DATES.—

(1) Section 4068(a)(2) of the Employee Retirement Income Security Act of 1974 (as amended by subsection (a)) and section 4068(c)(2)(B)(i) of such Act (as amended by subsection (b)) shall be effective with respect to plan terminations under section 4041 of such Act with respect to which notices of intent to terminate under section 4041(a)(2) of such Act are provided before January 1, 1992, and plan terminations with respect to which proceedings are instituted by the Pension Benefit Guaranty Corporation under section 4042 of such Act before January 1, 1992.

(2) Section 4068(a)(3) of the Employee Retirement Income Security Act of 1974 (as amended by subsection (a)) and section 4068(c)(2)(B)(ii) of such Act (as amended by subsection (b)) shall be effective with respect to plan terminations under section 4041 of such Act with respect to which notices of intent to terminate under section 4041(a)(2) of such Act are provided on or after January 1, 1992, and plan terminations with respect to which proceedings are instituted by the Pension Benefit Guaranty Corporation under section 4042 of such Act on or after January 1, 1992.

(3) The amendment made by subsection (a)(2) shall be effective as if included in the enactment of section 11011(a) of the Single-Employer Pension Plan Amendments Act of 1986 (Public Law 99-272; 100 Stat. 253).

(4) The amendment made by subsection (c) shall be effective as if included in the enactment of section 9312(b)(2)(B) of the Pension Protection Act (Public Law 100-203, 101 Stat. 1330-361).

SEC. 342. LIABILITY UPON LIQUIDATION OF CONTRIBUTING SPONSOR WHERE PLAN REMAINS ONGOING

(a) IN GENERAL.—Section 4062 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1362) is amended by adding at the end the following new subsection:

"(f) LIABILITY ON LIQUIDATION OF CONTRIBUTING SPONSOR.—

"(1) IN GENERAL.—In any case in which all or substantially all of the assets of a person who is a contributing sponsor of a single-employer plan are liquidated in a case under title 11, United States Code, or under any similar Federal law or law of a State or political subdivision of a State, and in the course of such liquidation another member of such person's controlled group remains a contributing sponsor of the plan or is liable for payment of contributions or installments under section 302(c)(11) of this Act or section 412(c)(11) of the Internal Revenue Code of 1986, such person shall be deemed liable under subsection (b) as if such plan had terminated under section 4041(c) in the course of such liquidation and as if the termination date were the date determined by the corporation as the date on which the liquidation was initiated.

"(2) APPLICABILITY OF OTHER PROVISIONS.—Any provision of this Act or any other provision of law that applies to liability under this section upon termination of a plan shall apply in the same manner and to the same extent to the liability established under this subsection. For purposes of this paragraph, the date referred to in paragraph (1) shall be deemed the date of plan termination.

"(3) TRANSFER OF LIABILITY PAYMENTS TO THE ONGOING PLAN.—The corporation shall pay to the plan amounts collected by the corporation in satisfaction of any liability established under this subsection in connection with such plan.

"(4) REGULATIONS.—The corporation may prescribe regulations under this subsection. Such regulations may—

"(A) prescribe rules governing—

"(i) the basis upon which the plan will continue as an ongoing plan maintained by other members of the controlled group,

"(ii) the determination of whether a liquidation referred to in this subsection has occurred, and

"(iii) the assignment of the corporation's claim to liability payments under this subsection to other members of the controlled group as a means of collecting such payments, subject to the transfer of such payments to the plan, and

"(B) provide alternative arrangements for making liability payments under this subsection.".

(b) CONFORMING AMENDMENT.—Section 4062(a)(1) of such Act (29 U.S.C. 1362(a)(1)) is amended by striking "subsection (b) and inserting "subsections (b) and (f)".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective for liquidations initiated on or after the day following the date of enactment of title II.

PART 2—AMENDMENTS TO TITLE 11, UNITED STATES CODE

SEC. 351. PENSION BENEFIT GUARANTY CORPORATION PERMITTED TO BE A MEMBER OF AN UNSECURED CREDITORS' COMMITTEE.

(a) DEFINITION.—Section 101(41) of title 11 of the United States Code is amended by inserting "that guarantees pension benefits of the debtor or an affiliate of the debtor, or" after "governmental unit" the second time it appears.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall not apply with respect to cases commenced under title 11 of the United States Code before the day following of the enactment of title II.

SEC. 352. CLARIFICATION OF PRIORITIES IN CONFORMITY WITH THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) PRIORITY AS EXPENSES ARISING BEFORE COMMENCEMENT OF CASE.—

(1) in subparagraph (F), by striking "or" at the end;

(2) in subparagraph (G), by striking the period at the end and inserting a semicolon; and

(3) by adding after subparagraph (G) the following:

"(H) unpaid contributions (including interest) to pension plans for plan years beginning after December 31, 1987, which are attributable to the period prior to the date of the filing of the petition and treated as taxes owing to the United States under section 412(n)(4)(C) of the Internal Revenue Code of 1986; or

"(I) liability (including interest) arising under section 4062(a)(1), 4063, or 4064 of the Employee Retirement Income Security Act of 1974 to the extent it is treated as a tax under section 4068(c)(2) of such Act, if the date of pension plan termination is on or prior to the date of the filing of the petition.

"For purposes of subparagraph (I), the date of plan termination, the amount of the liability, and the extent to which the liability is treated as a tax shall be determined in accordance with the provisions of the Employee Retirement Income Security Act of 1974 and the regulations promulgated thereunder.".

(b) PRIORITY AS ADMINISTRATIVE EXPENSES ARISING AFTER COMMENCEMENT OF CASE.—Section 503(b) of such title 11 is amended—

(1) in paragraph (5), by striking "and" at the end;

(2) in paragraph (6), by striking the period and inserting "; and"; and

(3) by adding at the end the following;

"(7)(A) unpaid contributions (including interest) to pension plans for plan years beginning after December 31, 1987, which are attributable to the period beginning on the date of the filing of the petition and treated as taxes owing to the United States under section 412(n)(4)(C) of the Internal Revenue Code of 1986; and

"(B) liability (including interest) arising under section 4062(a)(1), 4063, or 4064 of the Employee Retirement Income Security Act of 1974 to the extent it is treated as a tax under section 4068(c)(2) of such Act, if the date of pension plan termination is after the date of the filing of the petition.

"For purposes of paragraph (7)(B), the date of plan termination, the amount of the liability, and the extent to which the liability is treated as a tax shall be determined in accordance with the provisions of the Employee Retirement Income Security Act of 1974 and the regulations promulgated thereunder.".

(c) EFFECTIVE DATE.—Sections 507(a)(7)(H) and 503(b)(1)(7)(A) of title 11 of the United States Code (as amended by this section) shall be effective as if included in section 9304(e) of the Pension Protection Act (Public Law 100-203; 101 Stat. 1330-348). Sections 507(a)(7)(I) and 503(b)(1)(7)(B) of such title (as amended by this section) shall be effective with respect to cases under such title which commence on or after the day following the date of the enactment of title II or cases under such title which are pending on the day following the date of the enactment of title II and in which claims for liability have not been resolved as of such date.

SEC. 353. NOTICE REQUIRED WHERE FEDERALLY INSURED PENSION PLAN IS ADMINISTERED BY THE DEBTOR OR ITS AFFILIATE.

(a) IN GENERAL.—Rule 2002(j) of the Bankruptcy Rules (11 U.S.C. Appendix) is amended by inserting before the period at the end the following: "; (5) to the Pension Benefit Guaranty Corporation in any case in which the debtor or an affiliate of the debtor maintains a pension plan to which title IV of the Employee Retirement Income Security Act of 1974 applies.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect one day after the date of enactment of title II.

TITLE IV—ELIMINATE THE STATUTE OF LIMITATIONS ON THE COLLECTION OF DEFAULTED GUARANTEED STUDENT LOANS

SEC. 401. Section 3(c) of the Higher Education Technical Amendments of 1991 (P.L. 102-26) is amended by striking out "that are brought before November 15, 1992".

TITLE V—EXTENSION OF CURRENT LAW REGARDING LUMP-SUM WITHDRAWAL OF RETIREMENT CONTRIBUTIONS FOR CIVIL SERVICE RETIREES

SEC. 501. Chapter 83 of title 5, United States Code, is amended—

(1) in section 8342(a) by striking out "section 8343a or";

(2) by repealing section 8343a; and

(3) in the analysis by striking out the item relating to section 8343a.

SEC. 502. Chapter 84 of title 5, United States Code, is amended—

(1) by repealing section 8420a;

(2) in section 8424(a) by striking out "Except as provided in section 8420a, payment" and inserting in lieu thereof "Payment"; and

(3) in the analysis by striking out the item relating to section 8420a.

SEC. 503. The Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.) is amended by repealing section 807(e).

SEC. 504. The Central Intelligence Agency Retirement Act of 1964 for Certain Employees (78 Stat. 1043; 50 U.S.C. 403 note) is amended in part K of title II by repealing section 294.

The CHAIRMAN. Pursuant to the rule, the gentleman from Texas [Mr. ARCHER] will be recognized for 30 minutes and a Member opposed will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas [Mr. ARCHER].

Mr. ROSTENKOWSKI. Mr. Chairman, I oppose the amendment.

The CHAIRMAN. The Chair will recognize the gentleman from Illinois [Mr. ROSTENKOWSKI] for 30 minutes.

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

Mr. Chairman, on February 26, 1975, 17 years ago today, the House of Representatives passed a bill to provide an economic stimulus to a flagging economy. That bill was in response to President Ford's State of the Union challenge to Congress to pass a bill he could sign by April 1.

The conference agreement was approved by the House and Senate on

March 26 and was signed into law on March 29.

We have a chance today to repeat a bit of history and move a package forward that President Bush can sign into law.

For us to succeed, we need a bill that stimulates investment, creates new jobs, preserves existing jobs, and restores the confidence of the American people in their financial futures.

The Michel-Archer substitute provides that opportunity. it is progrowth, prohousing, prosavings, proinvestment, projobs, and profiscal responsibility.

Introduced as H.R. 4200, it contains the seven specific economic stimulus provisions President Bush challenged Congress to pass by March 20.

□ 1100

It is fully financed in each and every year without resorting to any tax increases. Unlike the Democrats' alternative, it meets every requirement of the Budget Enforcement Act.

It will stimulate individual savings and investment by reducing the extra tax burden this country—virtually alone among its international competitors—places on capital savings. We tax income when it is earned, and then we tax it again when the income is saved and invested.

Current tax rules lead people to hang on to assets long after they should be sold in the name of efficiency and economic self-interest, and the President's capital gains rate reduction in the Archer-Michel substitute will restart the engine of capital formation and stimulate new job-creating investment.

The Archer-Michel substitute will also help thousands of Americans fulfill the great American dream of owning their own home because it provides a credit of up to $5,000 for first-time home buyers. There is no such provision in the Rostenkowski Democrat alternative.

The credit has become an enormously important provision in this economic growth debate, just as the home buyer credit was in 1975, because today's proposed credit will create 700,000 jobs and make homes affordable for many middle income Americans. Buyers are holding off today in purchasing their home to see what we do. Helping to make the credit even more effective is our provision allowing the penalty-free withdrawal of IRA savings to make the down payment on that first home.

The Michel-Archer substitute would also promote immediate investment, jobs, and growth by providing an incentive for businesses to buy productive equipment and buy it right now.

The President's investment tax allowance would give businesses an extra 15-percent depreciation deduction in the first year.

Our substitute contains two other ideas to provide additional help to the real estate sector. It would restore full deductibility of losses for real estate developers, and it would remove unnecessary restrictions on pension fund investment in real estate.

It's no accident that real estate—and home ownership in particular—are focal points of the President's plan. Those are the sectors which have led the Nation out of every recession in recent memory, and they can again if we adopt this substitute.

Importantly, unlike the $93 billion tax increase alternative that Chairman ROSTENKOWSKI will offer later today, this is a package that can become law.

This substitute does have the potential for helping us reach a bipartisan compromise, and we're really very close already.

The Democrat alternative now includes six of the seven proposals—some identical, some modified—contained in the President's March 20 challenge. A large majority in this Chamber agree that those provisions—in some form—should be enacted now.

And that's exactly what we should do: Move ahead quickly where we have agreement, and not let our disagreement on controversial tax increases prevent us from enacting legislation that will put people back to work.

The President had the right idea. Now let's do our part.

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

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

Mr. Chairman, I rise in strong opposition to H.R. 4200, the Republican substitute for the President's original tax proposals.

This is the third version of the President's tax program. His first version contained the tax proposals presented in the President's budget and State of the Union Message. We rejected that version yesterday.

The second version was the bill, H.R. 4200, introduced on the President's behalf by the Republican leader and ranking minority member of the Ways and Means Committee. The third version is the substitute now before us which contains a further change to the President's capital gains tax cut for the wealthy.

I think we should vote on it right away, before the President and his Republican supporters change their minds again. As my distinguished counterpart, Senator BENTSEN, has said: "If the President keeps changing his proposals, even he won't make his March 20 deadline." To which I add: Instead of "Read my lips," it's "Watch my flips."

Let's review the chronology of the President's ever changing tax proposals. In his State of the Union Address, the President promised broad tax relief to the American people, including a tax cut for the middle class. The very next day, the President submitted his budget for fiscal year 1993 which contained 39 revenue proposals.

However, Republicans in the House read the President's budget with horror because the President proposed to tax credit unions, life insurance annuities, firemen, policemen, teachers, and other State and local government workers. Republicans then ran to the White House and said: "This won't do. We won't support it. This will have to change."

Within a week of submitting his budget, the President agreed to change his original plan, and asked the Republican leader and the ranking minority member of the Ways and Means Committee to introduce H.R. 4200, which includes only seven of the President's original proposals. Most regrettably, the President, and his Republican supporters decided to drop the tax cut promised just a week before to middle-class Americans across the country.

It took the President and his advisers 2 months to decide on his original economic growth package—and 1 week to drop the middle-class tax cut from the bill.

We were repeatedly told by Treasury Secretary Brady, by Assistant Secretary Goldberg, by OMB Director Darman, by the Republican leader, and by the President himself that H.R. 4200—let's call it Bush 2—was the bill the President wanted passed and on his desk by March 20. Gone was the middle-class tax cut—wait, the President said, for the second tax bill, or, as the President himself described it, wait for the political dance after the first bill is enacted.

Some Republican insiders were quoted in the press as saying the President never intended to give the middle class any tax relief at all. The promise of a middle-class tax cut, they said, was only for the New Hampshire primary. No wonder the American people are so cynical about government—when a middle-class tax cut is advertised in the State of the Union and on the campaign stump, and then dropped a week later in the bill introduced on the President's behalf by the House Republican leadership.

At the same time that he dropped the middle-class tax cut, the President and his Republican supporters made his capital gains cut for the wealthy even more generous. The annual $8,500 capital gains cut in the President's first proposal apparently wasn't good enough for his Republican supporters here in the House. So they increased the tax cut for the wealthy to $12,700 in Bush II.

Meanwhile, the middle class was told to be patient—just wait for the economic benefits from the capital gains cut to trickle down. Well, the middle class has been waiting for Republican promises to trickle down for the last 10 years—while the rich got richer, the poor got poorer, and the middle class just got squeezed.

And now the President and the House Republicans have changed the Presi-

dent's proposals again—let's call it Bush III. They asked for just one amendment, which was granted by the Rules Committee. No it was not to put the middle-class tax cut back in. No. You could have guessed it—they just had to liberalize capital gains one more time: hundreds of millions for the wealthy, hundreds of millions for the deficit, still nothing for the middle class.

In addition to my objections about leaving out the middle class, I am also concerned that Bush III leaves out several important provisions that are supported by strong majorities on both sides of the aisle in the House. These include broader real estate passive loss relief, repeal of the luxury tax on boats and other items, and important taxpayer bill of rights, pension and other tax simplification, and the permanent extension of various expiring provisions including the R&D credit, the low-income housing credit, the targeted jobs credit, mortgage revenue bonds, and employer-provided educational assistance. In addition, Bush III does not include urban and rural enterprise zones or any tax relief for student loans so that middle-class Americans can send their kids to college.

Finally, Bush III, the Republican substitute, should be rejected because it will increase the deficit by $28 billion over the next 5 years, and by even more in the years beyond. The budget gimmicks that have been used by the President and his Republican supporters, in an attempt to disguise the bill's real revenue losses, do not come close to fully funding the package—and won't, no matter how many times the package is revised.

Increasing the deficit in the long term as the Republican substitute does, is a failure of leadership and threatens the Nation's long-term economic growth and prosperity.

Mr. Chairman, for all the stated reasons, I strongly oppose the Republican substitute and urge my colleagues to reject it.

□ 1110

Mr. ARCHER. Mr. Chairman, I yield 3 minutes to the gentleman from Washington [Mr. CHANDLER].

Mr. CHANDLER. Mr. Chairman, as far as I am concerned, we have but one priority; and that is to create jobs, good jobs with good benefits. We do this through the encouragement of investment and savings.

We also must control the deficit. I hear this, time and time again, as I go around the State of Washington. Not just from a parade of well-educated economists, but from people who live in places like Aberdeen, Forks, and Port Angeles, people out of work in the timber industry.

The Republican package meets the test of this priority to create jobs. It has within it an investment tax credit, first-time home buyer tax credit, and important real estate provisions, to help lead us out of this recession.

It encourages savings and investment at home through a capital gains reduction, expanded individual retirement accounts, and incentives to invest right here at home. It does not increase the deficit. It is fully funded each year.

On the other hand, our friends from the other side of the aisle do not create jobs, they do not encourage investment, and they do not control the deficit. They do raise taxes, and they do encourage class warfare.

I want to say this: Americans want jobs. I would rather put a paycheck in the pocket of someone who does not have a job than put $1 a day in the pocket of somebody who is working.

Where is the priority? People who are out of work are hurting. They are the ones to whom this situation is unfair, not those who are lucky enough to have a job.

The President's plan does create jobs. This plan puts Americans first, and it does not do it through isolationism or protectionism.

We also must do more, much more. Many of the provisions the chairman talked about in his package I favor very much. In fact, I helped author some of them. But we can do those later, once we have worked to jump start this economy.

We need to reduce the deficit through cutting wasteful spending. We need to adopt a North American free-trade agreement, and open markets to free trade and fair trade for all.

We need to amend the Endangered Species Act to get workers to work who have been thrown onto the unemployment rolls by a rigid, inflexible, unfair law that is not working for anybody.

I urge my colleagues to vote today to support the Michel-Archer substitute.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 5 minutes to the gentleman from New York [Mr. DOWNEY].

Mr. DOWNEY. Mr. Chairman, in New York City there was once a clothing store, and there still is, by the name of Barney's. They had an interesting ad. Their ad said: "At Barney's, you can select; you don't have to settle."

Now, unfortunately, a tax law is not like a men's haberdashery. Here we are asked to settle, not select.

If you are forced into a position of accepting that which is offered as opposed to doing precisely what you want, these two bills give you ample reason to be concerned about our future.

But as I look at the Democratic version of the tax bill versus the Republican, I am struck by a couple of things. We tried mightily in our plan to make sure that it is paid for and that it is not ridden with gimmicks. We members of the Committee on Ways and Means recognized that things like the permanent extension of the R&D tax credit, permanently extending affordable housing, providing for a targeted tax credit, removing some of the luxury taxes that have been much maligned, and also having a rational capital gains was the way to go.

But the one thing we understood probably more than anything was that there were millions of people who had been left out of the Reagan-Bush revolution. Now, my Republican friends call this class warfare. It is class warfare in a way, and you have been winning. You have managed over the years to do a wonderful job of increasing the number of millionaires and billionaires. Sadly, the percentage of people who have been middle class have also been reduced.

Now, this middle class proposal that is in this bill is not what I want. I would have preferred to give money permanently to families with children and focus that relief on them. We were given every opportunity to pass that, but unfortunately not a majority on our committee were for it. I understand that the other body is interested, so those people who are concerned about the Democratic bill understand that when the House Democratic plan goes forward, we will be able to negotiate with our Senate friends to help families with kids. So there are many good things in the Democratic bill and many opportunities to make it better.

Now, what about the substitute before us today? The Republican Party was once a party that had a proud tradition. The tradition said that we are interested in fiscal responsibility. We want to make sure that deficits do not grow, that they diminish. They have sacrificed at the altar of electoral politics any sense of fiscal responsibility.

The President of the United States in a interview with David Frost said, "I will do anything I have to to win." Evidence of that is the Republican tax plan. It has nothing for the middle class. It says that it will create jobs. It may or may not create jobs. It will certainly create a much higher long-term deficit.

Who benefits and who does not benefit? The reason the Republicans do not like to talk about who benefits who does not benefit is because when you look at their plan, it is so hopelessly and unalterably weighted to wealthy Americans, that it puts any rational argument on its face that it is determined to help the broad bases of middle income people in this country.

The President said he wanted to deliver a $500 increase in the personal exemption for dependent children. Where is it? Where is it? He campaigned in New Hampshire and said "I am for this."

It is not in your plan. In your plan are a series of proposals that are designed to make the rich richer, the middle class poorer, and the poor des-

titute. It would be rejected for its unfairness alone. If unfairness is not one of the reasons for it to be rejected, then take a look at the gimmicks that are riddled in its plan to pay for itself.

□ 1120

It will increase the deficit long term. It will not create the jobs that it advertises it will create, and it will result in further exacerbating the income differentials that exist in this country.

Please, my colleagues, reject this plan. Recognize that all may not be perfect with the Democratic plan but it is an infinite improvement over what the Republicans have produced.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I come from the school that believes the best approach to stimulating a sustained economic recovery is to let monetary policy and low interest rates work, and do nothing that would cause these rates to rise again. That means keeping a lid on the Federal deficit and making only those changes in the tax laws that contribute to long-term growth and competitiveness. I only wish the Democrats shared this philosophy.

Predictably, but unfortunately, the Democrat approach to jump-starting the economy, H.R. 4287, is to raise taxes, shift $90 billion of tax burdens between groups without any thought to the negative economic effects, violate the Budget Enforcement Act, and use permanent tax increases to fund temporary tax cuts.

This will not create jobs. This will not stimulate the economy. This will not promote long-term growth. This will not control spending. Mr. Chairman, this is not leadership.

There is almost universal agreement from across the spectrum that whatever we do, we should not increase the deficit, start a bidding war that will rapidly get out of hand, transfer income from one group to another hoping this will stimulate the economy and create jobs, or adopt a package that is not disciplined or targeted toward investment. The Republican plan meets these mandates—the Democrat plan does not.

H.R. 4287 is bad tax policy and even worse economic policy. Our problem in this country is hardly that we overinvest and underconsume. Rather, it is exactly the reverse. H.R. 4287, which would dole out minuscule, consumption-oriented tax cuts while taking funds away from those taxpayers who have the capacity to save and invest, is an awful idea.

My constituents tell me they want jobs, not a 1-dollar-a-day tax cut. And they certainly do not support increased Federal borrowing to support a temporary tax cut.

I will support the Michel-Archer substitute. Adoption of this seven-point plan is a foundation for long-term growth. The proposal provides for a reduction in the capital gains tax rate, institutes an investment tax allowance to encourage new investment, simplifies the alternative-minimum tax system, and encourages real estate investment and home ownership through a modification to the passive loss rules and the establishment of a tax credit for first-time home buyers. This plan does not impose any new taxes that will negate its positive economic effects and further hamper economic growth. And this plan shows fiscal restraint that sticks to pay-as-you-go budgeting.

The measures contained in the Michel substitute, H.R. 4200, hold the promise of actually enhancing long-term economic growth and providing a boost in short-term business and consumer confidence. The Republican alternative isn't perfect, but it's far preferable to the Democrat tax-increasing alternative. I will support it.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. MATSUI].

Mr. MATSUI. Mr. Chairman, I urge opposition to the Republican substitute and strong support for the Democratic bill that will be coming up after this coming vote. I would like to talk one moment about definitions, if I may.

We have been hearing from Members on the other side of the aisle that the Democratic bill is a bill that transfers money or income between groups. We have also heard that they talk about redistribution.

Let me tell my colleagues what that actually means when we talk about moving money or income from one group to another and redistribution. What it basically means is that we have a 10-percent surtax on people that make $1 million a year. Second, on people that make about $200,000 a year income, joint filers. We increase taxes on them from 31 percent to 35 percent. And we use that $55 billion tha we pick up annually for people in the middle-income group, 90 million taxpayers will then get about $800 to $1,000 over the next 24 months in credits on their income tax.

That is what we are really talking about when we are talking about redistribution. The reason we are doing this is not because of economic growth. It will not have any impact on growth. What it will have, however, is equity in the Tax Code. And as many of my colleagues, know, in 1981 and over the last decade, the Income Tax Code got to the point where the wealthier had lower taxes. The middle-income people had higher taxes.

We thought this was an opportunity, because President Bush talked about it in his State of the Union Message, to bring equity back to the Tax Code.

But the reason I want to speak on the floor is to talk a little bit about some of the growth initiatives that I am afraid my colleagues on the other side of the aisle seem to have forgotten about. These are some of the provisions that George Bush picked out of the Democratic proposals that were floating around over the last 2 years in the form of bills that had not been brought to the full committee.

One is that we have a capital gains proposal. It is a very good capital gains proposal that will help middle-income Americans because what our bill does, it provides for nontaxability of inflationary gains.

What that means is if we have 100-percent inflation on a piece of property over a 10-year period and the cost of that property $100,000 and now it is $200,000, our tax will only be on $100,000 and that is only fair because the inflationary gain, frankly, should not have been taxed at all. That is not appreciation of your property.

We have a venture capital proposal that helps small business ventures that want to start up; it provides capital gains for them.

It also provides for very small businesses expensing. They can buy machinery and equipment up to $25,000; instead of having to depreciate it, they can expense it.

We have a number of other growth-oriented provisons in this bill. I am afraid that what is going to happen for those Members that vote against this bill, they are going to have to go home and they are going to have to explain to their constituents, their business community, small businesses, why, why they did not support capital gains expensing up to $25,000, IRA's for first-time home buyers and for education and medical expenses.

It is my belief that this vote will be a critical vote, particularly for those that vote against this bill, because it is a very, very good piece of legislation.

Mr. Chairman, today I rise in support of H.R. 4287, the Tax Fairness and Economic Growth Act of 1992, drafted by the Ways and Means Committee over the past several weeks. It is a balanced, equitable package, offering both middle-income tax relief and growth and investment incentives, and it deserves strong support.

For over a year, there has been much discussion regarding the decline in progressivity of the Tax Code. Study after study has shown that, since the mid-1970's, while the rich have gotten richer, the middle class has seen its real income decline steadily. Democrats and Republicans alike appear to agree that this is a very real problem—the Democratic alternative, however, contains the broadest relief and most fair solution for a vast majority of U.S. tax return filers.

Restoring fairness in the code is an important first step. Equally important, however, is stimulating the economy by providing investment incentives and job assurance. With that in mind, I am particularly pleased that H.R.

4287 incorporates strong incentives for small businesses. It encourages capital formation for entrepreneurial ventures, and it helps already existing small companies expand by allowing more liberal expensing.

Small business is the engine for new job creation in our economy, but few people understand the magnitude of this statement. In 1988, for example, it is estimated that, while the United States added 3.6 million jobs to the economy, the Fortune 500 companies eliminated 400,000 jobs. Small business accounted for the difference. In the 10 years between 1976 and 1986, government data shows that 7 percent of U.S. companies created two-thirds of all new jobs during that period, and 85 percent of those firms had fewer than 100 employees.

Despite the importance of these small firms, a high cost and scarcity of capital for small, entrepreneurial firms over the past several years has put America at a disadvantage. The alarming slowdown in domestic capital investment has caused smaller firms to turn to investors from our major international competitors to fund their growth. This is simply unacceptable—we must enact the small business incentives in the Democratic alternative to buoy this important sector of our economy.

The Democratic substitute would provide middle-class relief, job creation, growth and investment incentives, measures to ensue that the wealthy pay their fair share of taxes, and simplification of the laws. My colleagues who do not vote for this package will have to answer why they object to a tax credit for student loan interest, penalty-free IRA withdrawals for first-time home buyers or for medical or educational expenses, expansion of the income exclusion for employer-provided transit passes and van pooling, a taxpayer bill of rights and other middle-income tax relief provisions.

Any Member voting against this bill will have to explain why he or she is voting against the enactment of growth incentives such as permanent extension of the research and development credit, the low-income housing credit, the targeted jobs tax credit, the exclusion for employer-provided educational assistance, and enterprise zones for urban and rural areas.

Finally, any Member voting against H.R. 4287 should explain why he or she is voting against progressivity and fairness. This package restores equity in the code by requiring that the wealthy pay their fair share of taxes. Any Member voting no should explain why he or she objects to a 10-percent surtax on millionaires and a $1 million cap on the corporate deduction for executive compensation.

This package is balanced; it is equitable; and it reduces the Federal deficit. It is time to give the American people the relief they have been asking for—vote for this Democratic alternative, and do something good for America and the economy.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Chairman, what this debate is about today is whether or not we are going to recognize that supply-side economics, that tax policy influences investment attitudes, and job creation should be the law of the land.

We learned this in 1981, when I was here and voted to reduce marginal tax rates for all Americans. And we created almost 20 million jobs for this country in the decade of the 1980's. We took that away in 1986 and 1990. The reality is, Congress has raised taxes 13 times since 1981, and I am proud to say I voted against every one of those tax increases.

But today the issue is, Shall we recognize again that tax policy influences investment decisions? The Republican alternative is not everything I would like in a proposal, but the capital gains provision is far more beneficial to the economy than the Democrat plan.

The Republican plan recognizes that real estate investment is necessary to bring this Nation out of recession, whereas in contrast, the Democrat plan, I could not believe it when I saw this, they would increase the depreciation schedule on real estate from 31.5 to 40 years.

I cannot imagine a more effective way to stop real estate investment and construction jobs in this country than to increase the depreciation schedule that the Democrat plan contains for real estate.

My State of California has a 1-percent unemployment rate higher than the rest of the country. One of the reasons is our construction industry is in trouble.

We need relief in California and across the country so that real estate can lead the recovery that everyone in the Nation wants.

Is there any wonder about whether or not the Republican alternative is more beneficial for job creation? Our proposal would create 593,000 jobs while the Democrat proposal would lead to a loss of 103,000 jobs. The Republican proposal would increase the Nation's output of goods and services by 476 billion through 1997, while the Democrat proposal would actually lead to a loss of 69 billion in output.

Mr. Chairman, I think the choice is clear and I ask for a vote on the Archer-Michel substitute.

□ 1130

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 5 minutes to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Chairman, I rise today in support of H.R. 4287, the Tax Fairness and Economic Growth Act of 1992. Title V of this Democratic alternative bill is a most important provision, the taxpayer bill of rights of 1992. This is the second time that the Committee on Ways and Means and the Congress have attempted to pass comprehensive legislation to better protect the rights and procedural safeguards of taxpayers.

The very first provision of this taxpayer bill of rights establishes a new position of taxpayers' advocate within the IRS. This advocate is to be nominated by the President, confirmed by the Senate. But, most importantly, the advocate is required to report to the Congress, so that we who are held accountable for their actions might know what is going on at the IRS. The advocate is required to make reports directly to the Congress so that his voice on behalf of the everyday working American taxpayer will never be quietly swallowed up in the halls of the IRS bureaucracy.

Mr. Chairman, in addition to creating the position of taxpayer advocate, this bill makes changes in over 30 different areas of tax administration. As time is short, I will share with the Members just some of the most compelling examples of why this bill is essential.

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

Mr. PICKLE. I will be happy to yield to the gentleman, at the end of my time. I want to also say this bill was passed out unanimously by the Oversight Subcommittee and the gentleman from Pennsylvania——

Mr. SCHULZE. I was just wondering whether the gentleman from Texas [Mr. PICKLE] was going to say the things that were dropped behind closed doors and the things that were changed from that which was reported out of the subcommittee.

Mr. PICKLE. Mr. Chairman, I appreciate the gentleman's comments, and I will be happy to talk to him about that later on.

First, imagine, if you will, a 21-year-old secretary-bookkeeper, working at her first job for a small business. Her duties include making routine reports to the company president on the company's bank balances. In addition, she is authorized to sign checks, as a convenience to the president, who is frequently out of town on business. She never signs any checks without previous permission, and has no involvement with the company's financial and tax decisions. She is not a trained CPA, and isn't trained or expected to know all the facts about the company's tax obligations. This secretary certainly does not know that this company has not timely deposited its payroll taxes for the past 6 months. More importantly, she doesn't know, and has never been told that she can be held personally liable for those taxes. As a matter of fact, even if she learns these things, blows the whistle, and brings this matter to the attention of the IRS, she can be held personally responsible for all the taxes. Even if her boss says she wasn't responsible she can be held to be personally liable. Mr. Chairman, this isn't right and this taxpayer bill of rights corrects this problem.

Second, imagine that you receive a letter from the IRS questioning a deduction on your tax return, asking you

for further substantiation, and telling you that, based on the information you supply, the IRS will make a final decision. You promptly respond by certified letter, and you hear nothing more. A couple of years pass, and, out of the blue, the IRS writes you, disallowing your deduction, and assessing tax, penalties, and interest. In checking into the matter further, you learn that the 2-year delay was the result of the IRS losing your file, because the person working your case was transferred, and the case wasn't promptly reassigned. In fact the IRS even admits its mistake, doesn't try to defend the situation, perhaps even apologizes for the delay. No matter, the IRS cannot abate the interest due to its own mistakes. You are expected to pay the cost of the IRS delays, which you did not cause, did not want, and could not have prevented. Mr. Chairman, this is not right, and this taxpayer bill of rights corrects this problem.

Third, imagine you are a small business owner, and you have settled a dispute with the IRS concerning the appropriate tax treatment of contributions you made to your company's employee pension plan. As part of this settlement you are now paying your tax in full, with interest, installments over the next 6 months. Unfortunately, the IRS agent handling your case accidently filed a lien against your company's assets, and had this lien publicly recorded. Your company's credit may be destroyed, your commercial loan agreements are now subject to immediate repayment, and your ability to remain in business is in grave jeopardy. The IRS admits it made a mistake, and that the lien never should have been recorded. Too bad, the IRS can't withdraw the lien until you pay your tax liability in full. Mr. Chairman, this is not right, and this taxpayer bill of rights corrects this problem.

Fourth, imagine you are divorced, and have filed your own separate return for the past several years. However, the IRS has audited the joint returns you and your spouse filed when you were married. The IRS has never notified you of the audit, the IRS has sent a notice of deficiency to your former spouse. The IRS has never even attempted to call or write you until today, when you get a letter telling you that your bank account has been levied and a lien has been placed on your house. You are further told that your time for administrative appeal has passed, and that you have no choice, but to pay the tax, penalty, and interest in full, and then sue the IRS in Federal district court for a refund. Mr. Chairman, this is not right, and this taxpayer bill of rights corrects this problem.

Fifth, imagine you receive a letter from the IRS asking why you didn't report $30,000 in additional income you supposedly received when you filed your tax return over two years earlier. Unfortunately, you've never heard of the company that supposedly paid you the money. You have no record of ever receiving any money. You have no way of contacting the company, and the information return the company filed doesn't even give you a phone number where they can be reached. So you call the IRS to explain the situation, and you are told that the IRS is entitled to the presumption that this third party return is correct, and that you are responsible for reconciling the discrepancy. Even worse, if you can't straighten the mess out then you must pay the tax, penalty, and interest. And even if you find out that the whole thing was the result of a malicious act by someone intent on harassing you, you can't even sue for damages because there is no Federal cause of action available to you. Mr. Chairman, this isn't right, and this taxpayer bill of rights corrects this problem.

Mr. Chairman, I could go on all day about the problems we found that taxpayers experience all too frequently: problems with installment agreements; problems that businesses encounter with inaccurate forms and instructions; problems with taxpayers getting erroneous information returns; and, the list goes on and on.

The taxpayer bill of rights addresses all these problems in 11 general areas. The bill:

First, establishes a taxpayers' advocate, nominated by the President, confirmed by the Senate, and reporting directly to the Congress, with expanded authority to issue taxpayer assistance orders to force the IRS to act on behalf of taxpayers;

Second, improves installment agreements by requiring prior notice of their cancellation, allowing for administrative appeals, and suspending certain penalties while they are in effect;

Third, expands the authority of the IRS to abate interest payments and gives taxpayers 45 days after receiving a notice of additional tax due to pay the tax without further interest;

Fourth, provides protection to spouses filing joint returns and requires the IRS to take all reasonable steps to notify both spouses of any deficiencies on the return;

Fifth, improves the procedures concerning liens, levies, and offers in compromise;

Sixth, requires the IRS to verify the accuracy of information returns, the inclusion of the payer's telephone number on such returns, and gives the taxpayer a civil cause of action if an information return is fraudulently filed;

Seventh, provides additional notice and protection for taxpayers who are determined to be responsible officers in Federal tax deposit situations;

Eighth, allows Federal courts to assess litigation costs against IRS employees whose arbitrary, capricious, or malicious actions required taxpayers to seek judicial relief;

Ninth, requires the IRS to improve its forms and notices concerning changes of address, divorce, and the payment of employee withholding and payroll taxes;

Tenth, requires the IRS to study and report on better ways to serve taxpayers with special needs, the taxpayer rights education program, and the misconduct of IRS employees, and also requires the IRS to conduct a pilot program for taxpayer appeals of collection and enforcement actions;

Eleventh, requires the GAO to study and report on the accuracy of IRS forms and notices, and the operations of the IRS employee-suggestions programs.

Mr. Chairman, I support H.R. 4287, and I think this taxpayer bill of rights is one of the most important aspects of this bill. At a time when partisan passions are running high, this taxpayer bill of rights is the result of true bipartisan work on the part of all the members of the Oversight Subcommittee. I know that this is not the cure for all taxpayer problems, and our efforts to protect the legitimate interests of taxpayers are by no means over. But, this is a good, responsible package and I strongly urge that it be favorably acted upon today.

Mr. ARCHER. Mr. Chairman, I yield 1 minute and 30 seconds to the gentleman from Pennsylvania [Mr. SCHULZE].

Mr. SCHULZE. Mr. Chairman, I just want to set the record straight and let everybody know the things which were removed which had been passed by the oversight subcommittee in the way of the taxpayers' bill of rights, one very basic right, which was to protect taxpayers who acted in good faith in reliance on initial guidance by the IRS.

When one goes to the IRS and says, "How do I handle this," and they say, "Do it this way," should one not be protected? Should one not be able to do it that way and have some sense of security? You're darned right. In the dark of the night it was taken out.

We equalized the interest rate on tax deficiencies and refunds. If the IRS is going to charge 8 percent, should they not pay 8 percent? It is just basic common decency to have that. They threw that out in the dark of night.

We wanted to expand access to attorneys' fees by taxpayers who prevail over the IRS. When the taxpayer is proven right, why should not the taxpayer be allowed to recover attorneys' fees? As a matter of fact, they had to show that they were justified. All the IRS had to do was show that they were justified in pursuing the case. They threw that out. What happens to the poor guy who was up against the IRS?

The other thing was to allow taxpayers to serve as their own counsel in

successfully litigating against the IRS to recover a reasonable amount for their time that they put into fighting this thing with the IRS. In the dark of night, behind closed doors, that was thrown out.

How can the American people have faith in the bill when they have destroyed their faith in this system?

Mrs. KENNELLY. Mr. Chairman, I yield 30 seconds to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Chairman, the gentleman from Pennsylvania [Mr. SCHULZE] is correct, he did not get all in the bill he wanted. I may say to him that we have the taxpayers' bill of rights in our version. I do not believe they have anything in their version. All the points the gentleman mentioned, some of them can be discussed.

Let me simply say to the gentleman, with respect to some of the points, I admit we did not get them all. I wish we could get them. We may get them later on. But at least this is a very important bill.

I would say to the gentleman we could have gotten some of the things he wanted but we would have done damage to the reporting requirement particularly on the 1099. So I would say that the steps we have taken are tremendously important.

Mrs. KENNELLY. Mr. Chairman, I yield 2 minutes to the gentleman from Louisiana [Mr. HUCKABY].

Mr. HUCKABY. Mr. Chairman, I thank the gentlewoman for yielding me this time.

Mr. Chairman, I rise in strong support of the Democratic alternative. Conventional wisdom inside the beltway seems to say Congress probably should not pass any tax legislation. But, my colleagues, I suggest that is wrong. I think there is a real probability we can stay in a recession for many, many months without some significant action from Congress.

Clearly, I think the Democratic proposal is the more responsible and will lead to our economy responding faster. What does it do? It is promiddle class, it is probusiness, and it is clearly the most fiscally responsible of the two alternatives. It restores passive losses, that fatal flaw in the 1986 Tax Code that led to literally billions of dollars of equity losses in all of American's homes.

It restores capital gains to eliminate inflation, the effects of inflation, when one sells property. Finally, the middle-income tax cut. There are those who say $400 is insignificant. I would suggest to my colleagues that to a large majority of Americans a $400 reduction in our tax bill is significant to us.

Clearly, the Democratic alternative is the most responsible. It does increase taxes on the very highest of the incomes to pay for the tax reductions for the middle-class Americans. I would urge my colleagues to support the Democratic alternative.

□ 1140

Mr. ARCHER. Mr. Chairman, I yield 3 minutes to the gentleman from Oklahoma [Mr. EDWARDS].

Mr. EDWARDS of Oklahoma. Mr. Chairman, I rise today to support the Michel-Archer plan for economic recovery. It is far from the plan that I would have preferred, but it is sure better than the soak-the-rich, ignore-the-unemployed alternative of the Democrats.

H.R. 4200, Michel-Archer, would reduce the alternative minimum tax, stimulate the real estate industry, enact a new investment tax allowance, cut the tax on capital gains. The Democrat plan, by contrast, raises taxes $95 billion, creates a new higher tax bracket, increases the deficit by $30 billion in the next 2 years, and deliberately pits the rich against the poor.

The central tenet of the Democrats' economic plan seems to be tax the rich, bust the budget, raise the deficit, beat the President. Well, that is not much of an economic policy, and the American people are going to see through that charade, because they realize that higher taxes on the haves, the people who have the money to create the investment, to create the jobs, that higher taxes on them could well end up just hurting the have nots.

Remember that the luxury tax which was designed to punish the rich when they bought their fancy yachts and airplanes ended up putting 9,000 workers out of work. How many people are you going to put out of work this time?

Our main emphasis ought to be putting people back to work in a position to buy a home, putting people in a position to save for the future. H.R. 4200 helps to meet those goals.

The Democrat plan increases the deficit $30 billion in the next 2 years. It denies first-time home buyers the $5,000 tax credit that the President wants to help jump-start home sales and construction and retail sales.

Mr. Chairman, we need investment. We need jobs. We do not need envy and class warfare. The rest of the world is throwing off the politics of envy and class warfare. It is time that we did that here, too.

We should pass H.R. 4200 and deal with the problems of the people, not with Presidential politics.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Connecticut [Mr. FRANKS].

Mr. FRANKS of Connecticut. Mr. Chairman, today this House has the opportunity to improve the lives of millions of Americans. We could set the groundwork for economic growth, or we could succumb to political pressure and vote for a permanent tax increase to pay for some temporary benefits while adding $30 billion to the Federal deficit over the next 3 years.

Mr. Chairman, I oppose the Democratic alternative to H.R. 4210, and I support the Republican alternative. The Democratic plan offers little assistance to most taxpayers, especially in light of the long-term effects that it will have on the Federal deficit.

Adding to an already high Federal deficit in this manner is unthinkable. It could actually take jobs away from people.

On the other hand, the Republican substitute offers business incentives that will create jobs. It offers incentives that will help the real estate industry. It offers tax credits to first-time home buyers that will help families. It is a plan that can be enacted quickly to spark the economy and provide a base for long-term growth.

As a candidate for Congress in 1990, I talked about my opposition to the tax-and-spend ways of the Democrats. Regrettably, now as a freshman Congressman, I am witnessing firsthand the tax-and-spend ways of the Democratic-controlled Congress. My Democratic friends continue to fail to get the message.

The American people want jobs. The American people want to earn an honest living. They do not want, instead, a dollar a day in tax breaks.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota [Mr. RAMSTAD].

Mr. RAMSTAD. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, today we will vote on an economic growth package to jump start the economy. The choice is clear.

The Michel-Archer substitute is a solid plan that will jump start the economy, create jobs, and help small businesses and American families. The Democrats have proposed a disastrous prescription for the economy—raising taxes on 90 percent of our Nation's small businesses.

Small businesses are the backbone of the American economy. They provide more than 80 percent of our Nation's jobs. A tax increase on small businesses will guarantee fewer jobs and higher unemployment.

The Democrat tax plan will not stimulate economic growth. It increases the deficit, increases taxes, and penalizes the fruits of free enterprise.

If Congress does not approve the Michel-Archer growth package, it will be responsible for blocking an important opportunity to jump start the American economy and end the recession. That would be a terrible loss for small businesses, American workers, and American families.

Let us not blow this opportunity, Mr. Chairman. Let us pass the Michel-Archer economic growth plan.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Chairman, I rise in strong support of the Michel-Archer substitute for economic growth.

It includes the President's seven-point economic growth plan.

Economic times are tough in California and my constituents are looking to Congress for help. They do not want smoke and mirrors or long political speeches. They want jobs and investment and they want opportunity, and they do not want more taxes. And more deficits.

Michel-Archer has the jobs. Cutting the tax on capital gains and providing an investment tax allowance means a lower cost of capital for American businesses and more jobs for American workers.

In addition to job creation, a lower capital gains tax puts the United States on more competitive footing with our global trading partners, many of whom, like Japan, Hong Kong, Germany, and others, have little or no tax on capital gains.

Michel-Archer also has the opportunity. The opportunity to own a home, once a cornerstone of the American dream, would be brought back within reach for many with tax credits of up to $5,000 for first-time homebuyers, as well, as by allowing first-time home buyers to make penalty-free withdrawals from their IRA accounts to help cover the cost of a downpayment.

I first introduced the IRA first-time home buyers proposal over a decade ago. Now, more than every, its passage is critical to boosting the construction and housing industry, providing jobs for Americans while also helping to combat the often unreachable opportunity to own a home.

One thing that Michel-Archer does not have is the taxes. The Federal Government must not borrow its way out of the recession and the Congress cannot tax and spend its way to a healthy economy. Reforming the Federal Government and cutting back on wasteful spending will create the money to pay for the economic growth package in H.R. 4200.

I urge my colleagues to accept the President's challenge to Congress and support the progrowth initiatives of Michel-Archer. This bill is one part of a real solution to some very real economic problems.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, during the recess, I was pleased to have the opportunity to submit a statement to the Committee on Ways and Means in support of several proposals to stimulate encomic growth.

Too many of our constituents are suffering from the economic situation, and we want to be able to help those in need. However, more importantly, we must not enact a tax package that is detrimental to our economy. The Democratic substitute provides a small temporary benefit of $400 in tax relief for middle-class families, less than 54 cents per day for each person, and this proposal permanently increases taxes without providing any incentive for growth.

The Republican growth proposal, which includes policies which encourage research and development and enhances business investment through tax credits, focuses on the need to create additional jobs. With several million Americans out of work, it is vitally important that we offer those unemployed Americans a means to reenter the work force.

Let us not forget that the 54 cents per day tax cut will not help those Americans who don't have a job to begin with. Instead we should focus on incentives to stimulate small business and the creation of jobs, not the creation of tax cuts.

Therefore, I am pleased that among many the growth incentives included in the Michel-Archer substitute is a $5,000 tax credit for first-time home buyers along with penalty-free IRA withdrawals to help with the purchase of a first home.

The availability of affordable housing in my region of New York has deteriorated to the point where young couples must commute to their jobs for several hours a day. The Michel-Archer substitute provides a needed incentive for young people to own their homes.

Let us also not forget that homebuilding is one of the more important factors in our economy. Not only does the home construction provide jobs for carpenters, plumbers, and others, it provides jobs for the Americans who make washers, dryers, and refrigerators and all the materials that go into home construction.

It is also of importance to note that the Michel-Archer proposal includes several provisions to provide relief for our small businessmen. In particular, the provision for an investment tax allowance and for passive loss relief.

Mr. Chairman, I hope that my colleagues will bear in mind that we in the Congress represent all of our constituents, not just our political parties. Let us work together and vote for a package that will create jobs for all of the American people.

Mrs. KENNELLY. Mr. Chairman, I yield 1 minute to the gentleman from the Virgin Islands [Mr. DE LUGO].

Mr. DE LUGO. Mr. Chairman, the purposes of this legislation are accurately described by its title, the Tax Fairness and Economic Recovery Act of 1992.

These purposes would be accomplished in the United States by the changes that the legislation proposes in the national tax system.

But, because of provisions in or under the laws establishing the Federal relationships of some of the insular areas associated with the United States to our nation that are within the jurisdiction of the Committee on Interior and Insular Affairs, changes in the Federal Internal Revenue Code will automatically change the local tax codes of insular areas.

Because of the President's deadline for congressional action and the schedule that it has required for this legislation, I have not suggested impeding this bill's progress by proposing that its impacts on insular tax systems and economies be studied before it is considered on this floor.

More importantly, the distinguished chairman of the Committee on Ways and Means, our colleague DAN ROSTENKOWSKI, has recognized the potential implications for the insular areas and promised to cooperate with the Committee on Interior and Insular Affairs as this legislation progresses on any necessary provisions to coordinate the Federal and insular tax systems.

I intend for the Subcommittee on Insular and International Affairs, which I am privileged to chair, to study this matter and propose actions, if they are found to be necessary, either through this or other legislation.

I look forward to working with Chairman DAN ROSTENKOWSKI, in this regard and appreciate his willingness to cooperate so that necessary changes in the national system also accomplish worthwhile purposes in insular areas.

□ 1150

Mrs. KENNELLY. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, I rise in support of the Democratic bill and opposed to this substitute.

Let me say, Mr. Chairman, that I think all of us in this country want to focus on growth. In my judgment, that is the most important thing that we can do, which is making the pie get bigger. To this Member, frankly, it is far more important to make the pie bigger than to redistribute the pieces of the pie at this point in time, but I have to tell you that I do not think the Republican proposal meets that bill. Instead, it seems to be a package of giveaways to friends on that side of the aisle.

If we really want to increase growth, there are proposals that we can do. I would be for indexing all capital gains, savings, and borrowings, and that indeed we shift the balance in this country from too much consumption, too much borrowing and toward more savings and investment over the long run.

Alas, such a proposal is in neither bill, but the Democratic proposal comes closer, even though it focuses on equity, to doing things for real growth than the Republican proposal does, and I urge my colleagues to vote for it.

Mrs. KENNELLY. Mr. Chairman, I yield 2 minutes to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Chairman, I thank the gentlewoman for yielding me this time.

It is not infrequent that we forget why we are here and what we are debating, because the debate sometimes gets so shrill.

The fact is, this country is in serious trouble. It has had a long recession that came and stayed here. A lot of people are out of work. A lot of people who are working are concerned about whether they will be able to continue to work. They want some leadership. They want some help. They want people in this House of Representatives, and on the other side of the Capitol, to begin working as a team to see if we can do some things to strengthen this country's economy.

Now, we have some differences of opinion and when we debate these kinds of issues, people say, "Oh, that is partisan, it is destructive."

No; it is not. It is debate, and debate generally should produce a good result.

There are some things in this bill today that I do not like. But I must say that there are plenty of common areas that the Republicans and Democrats both believe we ought to do. But those things are in both of the bills we are talking about today.

We are talking about jobs and economic growth, but now we have a philosophical difference on some points. Let me describe what I think that difference is. Many of us believe the economic engine for this is the middle class, the people who work doing the best they can for their country, themselves, their families, and their communities. We believe they represent the economic engine for economic growth and prosperity in this country. They have found in the last decade that they have been squeezed like lemons. The very, very wealthy have got much wealthier and the middle-income people have been squeezed like lemons. So we propose a tax on upper income folks, a modest tax on millionaires' incomes and on a couple earning over $200,000 a year and use the money from that to give the middle-income groups in this country a break.

We believe $800 for a couple over 2 years is not insignificant. It might seem insignificant to some people who have much more money than that, but it is going to be very helpful to the middle-income people in this country who have seen their incomes squeezed and their tax burdens increased, particularly because of the Social Security tax increase. We believe that is the road to economic health in this country.

Mrs. KENNELLY. Mr. Chairman, I yield 1 minute to the gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Mr. Chairman, I rise in opposition to the Republican alternative today and urge its defeat.

Although productivity in this country remains dead in the water year after year, the Bush administration and too many of us in Congress are prepared to play economic politics again today.

Although real family disposable income has been stagnant for 20 years, the Bush administration and too many of us in Congress are prepared to play economic politics again today.

Although the standard of living of American families remains no better in 1992 than it was in 1972, the Bush administration and too many of us in Congress are prepared to play economic politics again today.

The people we represent deserve better than this. We can do better. We won't do better as a nation by adopting either of the plans before us today. America might be better off if we rejected both alternatives and did nothing. America certainly would be better off if we rejected both plans and did the unthinkable in an election year: Tried to work together to develop a comprehensive, bipartisan approach—not a quick fix to get our economy moving today—it already is moving—but a game plan that rejects political gamesmanship and budget gimmickery to address the real economic challenges that face our country.

First and foremost, we must significantly increase productivity in America. How? By investing in research and development, in human capital, in modernizing plants and equipment, and in our infrastructure—our transportation systems, our water and sewer systems.

We must increase net savings, and not just encourage Americans to move their money from taxable investments to tax-free investments.

We must reduce the Federal deficit which now equals close to three-fourths of aggregate savings in the United States.

We must continue to bring down the cost of capital for businesses and families, with a special focus not on short-term interest rates, but on long-term rates.

We must expand exports dramatically. There are growing markets for U.S. goods well beyond our borders, and we spend entirely too little effort trying to gauge those markets and to penetrate them.

We must promote a new era of cooperation between labor and management and between business and Government. We came to this country in different boats, but we're in the same boat today, and that boat is in danger of sinking. Paul Tsongas is right. We can't be projobs and antibusiness.

There are plenty of other things we need to do—most of them are just plain, old-fashioned common sense. They involve preserving our manufacturing base, renewing our commitment to quality, reining in the cost of health care, stemming our growing penchant for litigation, and more. These are issues which, frankly, cannot be addressed in a single tax bill or, indeed, solely by the Government.

Let me conclude by acknowledging today that we face several temptations: To use the recession either as a cover to make our favorite changes in the Tax Code, to worsen the budget deficit, or to gain some political advantage as November approaches.

The choice is ours—the Members of this House. Our best choice today is to reject the proposals of both parties and resolve to leave well enough alone or to put aside our differences and try to work together to restore long-term economic growth in the United States.

Ms. LONG. Mr. Chairman, while I applaud efforts of my colleagues to create a package which provides middle-income tax relief and economic growth incentives, I cannot support either of the substitutes being considered on the floor today.

The substitute offered by Representatives MICHEL and ARCHER contain some laudable proposals. I support the provisions which allow businesses to accelerate depreciation, provide passive loss relief for real estate developers, and the measure allowing early withdrawals from individual retirement accounts [IRA's] for first-time home buyers. Clearly, these measures would stimulate economic growth.

Unfortunately, these are not the only proposals in the Michel-Archer substitute. When taking as a whole, this plan offers extremely little for middle-income families, while providing a huge windfall to those individuals who have annual incomes of over $100,000. Their plan offers huge tax breaks for the wealthy and increases the Federal deficit. Congress should be working to make the tax burden more equitable and to reduce the deficit. The Michel-Archer substitute moves in the opposite direction.

While the Rostenkowski-Gephardt substitute addresses the tax fairness issue by providing relief to middle-income families, unfortunately, I cannot support this measure either. Like the Michel-Archer substitute, there are some very appealing measures contained in the Rostenkowski-Gephardt proposal. I support economic growth incentives, such as indexing capital gains which will not add to the deficit in the long run, modifying passive loss rules, accelerating the depreciation schedule, repealing certain luxury taxes, and permanently extending the research and development tax credits. I also applaud my colleagues for remembering middle-income families and providing these families with much needed tax relief. As appealing as these provisions may be, I cannot support this proposal.

I gave my word to the constituents of my congressional district that I would not support measures in this Congress which raise taxes. If I voted for the Rostenkowski-Gephardt proposal to place a 10-percent surtax on annual incomes of $1 million and to raise the highest income tax rate from 31 to 35 percent, I would be breaking my pledge. In these days, when the public believes that politicians will cynically say anything to get elected and then promptly ignore their own words, I believe that it is critical that I keep my word.

Mr. GILCHREST. Mr. Chairman, there is nothing especially difficult about the decision

before us. We had one bill which contained certain limited incentives for investment and does so without raising taxes or increasing the deficit. Now we have another proposal which contains a larger group of tax breaks, but which raises taxes and increases short-term borrowing.

The majority party has argued again and again that Republican proposals favor the rich, that they are not fair. The fact is that Republican proposals stimulate the sort of investment which is critical for job creation. Is job creation unfair? Are investment and economic growth unfair?

And what about the Democrat proposal? It certainly contains a lot of temporary tax breaks, most of which I support. But rather than having the courage to pay for these through spending cuts, they use a combination of—no surprise—tax increases and increased short-term borrowing. If tax increases and deficit spending were the formula for economic growth, the 1990 budget agreement should have caused a boom, not a recession.

Of course, the majority will say their package moves toward fairness. I guess once everyone is unemployed, when all wages fall, when no one can create wealth anymore, there will be a strange fairness to that. The Democrat package hurts everyone alike; I suppose that is fair. It hurts the wealthy and upper middle class with taxes, it hurts working Americans by putting their jobs at risk, and it hurts the unemployed by reducing their chances of finding a job. Is this the sort of fairness we want?

Mr. Chairman, I urge my colleagues to oppose the Rostenkowski substitute; it is the sort of fairness we could use a lot less of. Let's vote this down and take up legislation which will bring back economic growth.

Mr. KYL. Mr. Chairman, in 1990, the House passed one of the largest tax increases in our Nation's history and sent a weak economy spiraling into recession.

Despite the proponents' talk of tax fairness and soaking the rich at the time, it was the middle class and the poor who ultimately paid the price in terms of lost jobs, lower wages, and uncertainty over their futures.

Mr. Chairman, the American people had better beware because the air is filled once again with talk of tax fairness and soaking the rich.

One of the reasons to beware is the very centerpiece of the legislation offered by the Democrat caucus: A temporary tax credit of $200 for single taxpayers and $400 for married couples in each of the next 2 years.

It is an anemic response at best to the Nation's economic problems. Even the winner of the Democrat Presidential primary in New Hampshire has said he would veto it were he the President.

What's worse than anemia, though, is that it is a set up for a big tax increase in another 2 years. In 2 years, another election will be looming, and there will no doubt be great temptation to extend the credit. But, the extension will have to be paid for, and there won't be any way then to limit the tax increases to only the wealthy. The Joint Committee on Taxation estimates that the proposed new higher income tax rate of 35 percent would have to apply beginning at incomes of $38,400 for individuals, $64,000 for couples.

Just like before, the Democrat caucus aims at the wealthy, but ends up hitting the middle class.

To carry along the proposal, the caucus did include some positive features with respect to individual retirement accounts, passive loss reform, extensions of a number of existing credits—like the targeted jobs tax credit, mortgage revenue bonds, and the exclusion for employer-provided educational assistance. It drops the proposed tax on annuities and the proposed elimination of the deduction for interest paid on corporate-owned life insurance.

But, the Democrats' substitute is flawed even in some of these areas. For example, while the passive loss reforms might provide some relief, many of the same taxpayers would be hurt by the raising of the top effective individual income tax rate to 40 percent. It also requires slower depreciation of real estate, something that will depress real estate prices—the last thing many areas of the country can stand.

And, since 90 percent of American small businesses are unincorporated and taxed as individuals, the higher income tax rate imposed by the Democrats' bill represents a major impediment to economic recovery and growth. You just don't raise taxes to stimulate the economy.

The Democrats' substitute repeals the luxury tax, except for the automobile industry. The industry tax was supposed to soak the rich and make them pay through the nose for their expensive planes, cars, boats, jewelry, and furs. The problem, as many of us had warned at the time, was that the rich don't have to pay the luxury tax if they don't buy the goods, and that is exactly what happened. They stopped buying. Only those people employed by the boat, plane, and automobile manufacturing and sales companies, and those employed by the fur and jewelry companies paid—they paid with their jobs. If the luxury tax was ill-conceived for the boat, plane, fur, and jewelry industries, why is it good for the auto industry?

The substitute also allows prospective indexing of capital gains earned by individuals. For years, the Democrats have criticized capital gains reform as something only for the rich. Does the inclusion of the indexing provision mean that the Democratic leadership finally sees the light? That American firms can't compete when our major trading partners tax capital gains at much lower rates, if at all? That lower capital gains taxes produce new jobs? And that most of the benefits of capital gains reform go to average Americans?

The point really is that the Democrat caucus didn't craft legislation to address the Nation's economic problems. It put together a hodgepodge of as many different tax provisions as the leadership found necessary to attract enough votes for their plan, knowing full well that it would be vetoed by the President.

The plan of the Democrat caucus is not fair. It is not sound economic policy. It permanently raises taxes on almost 2 million American families, adds $30.2 billion to the deficit over the next 3 years, and violates the Budget Enforcement Act.

The National Center for Policy Analysis concluded that it would actually result in 100,000 jobs being lost. It ought to be defeated.

By contrast, the Republican alternative is a good start, but just a start. The Council of Economic Advisors estimates that it would create 500,000 new jobs by the end of the year. It includes solid incentives to quickly stimulate the economy, including a capital gains tax cut, a tax credit for first-time home buyers, super IRA's, passive loss reform, and an investment tax allowance.

I don't think it goes far enough, but there is no way to remedy that problem under the rule. We're simply allowed an up-or-down vote on the Democrats' bill and the Republicans alternative. No amendments.

If the leadership is going to restrict the House to consideration of just one economic recovery package this year, then we need to do more. For example, we need to outright repeal the luxury tax which has cost thousands of people their jobs. We need to increase the dependent deduction, and extend the R&D tax credit.

There are some good things in both the Democrats' and Republicans' packages to be sure, and if the leadership were really interested in working together, we could produce a bill that would pool the good, eliminate the bad, speed economic recovery, and put people back to work. But, that is not the choice before us today.

Our only choice is between a bill that provides minimal temporary tax relief for some at the expense of others and sets people up for big tax increases in the future, and a bill which will get us on the road to economic recovery.

Mr. Chairman, this House should not make the same mistake it made in 1990. Tax increases in the name of fairness and soaking the rich were not the solution to the Nation's economic problems then, and they are not the solution now. I urge adoption of the Republican substitute.

Mrs. ROUKEMA. Mr. Chairman, in these times when America is no longer in a cold war but engaged in an economic war of global proportions, the people should demand straight talk from its elected officials. This is no time for politics as usual. But our actions so far on this tax bill are unfortunately mostly politics, not sound economic policy.

I will vote for the Republican bill not because I support it in every detail. I do not. I will vote for it because it is the lesser of the three evils we have before us.

My overriding concern is that we pass a tax bill as soon as possible, one that will pass my save and invest in America test. Evidence is everywhere that our industrial base and productive capacity that provide good jobs are badly eroding. The recession alone doesn't have Americans depressed and anxious. It's the fact that good jobs are disappearing. It's GM eliminating 74,000 jobs. It's IBM eliminating 20,000 jobs. Our competitive edge is disappearing along with the jobs. People are asking, "Where are the new jobs?" "Are we going to be flipping hamburgers rather than working the production lines?"

Such a tax package should do no further violence to our budget deficit while providing stimulus for capital investment and economic recovery. In general terms, our Republican bill meets those objectives. But there are at least two serious flaws—perhaps not fatal flaws—but flaws nevertheless.

Specifically, this package is overly generous in its treatment of the capital gains rate reduction, which I support. When combined with the alternative minimum tax, the passive loss provisions may go too far, re-creating egregious loopholes. The result may be land and paper swaps not productive investments.

In addition, I believe we should have gone further in extension of the investment tax credit.

A near fatal flaw is the projections of the revenue assumptions and the consequences to the budget deficit. Republicans should not be part of this smoke and mirrors accounting. This is not the fiscally responsible and fiscally conservative party I have known.

Yes, a bad bill would be worse than no bill at all, as some Members and noted economists have observed. But, we are at the beginning of the legislative process. We still have a reasonable expectation that we can get a save and invest in America bill passed by both Houses and signed by the President.

If we fail in this, if the President is unable to effectively use his Executive leadership to guide through a bill to promote economic growth and restore our competitive edge in the global economy, then the American people will hold both parties accountable in November.

This is no time for politics as usual. It's the time for bold action.

Mrs. KENNELLY. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 27]

Abercrombie
Ackerman
Alexander
Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Inhofe
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Mrazek
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

□ 1217

The CHAIRMAN. Four hundred fourteen Members have answered to their names, a quorum is present, and the Committee will resume its business.

□ 1220

The gentlewoman from Connecticut [Mrs. KENNELLY] has 2 minutes remaining, and the gentleman from Texas [Mr. ARCHER] has 8 minutes remaining.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. chairman, I rise in strong support of the Michel-Archer-Bush real economic growth package and in strong opposition to the Rostenkowski tax hike and the Gephardt tax mistake.

Mr. Chairman, I wonder if any of my colleagues read the excellent debate that appears in the current, that is the March 1992, issue of Commentary magazine entitled, "Is America on the Way Down?" Edward N. Luttwak of the Center for Strategic and International Studies says yes, while Robert L. Bartley of the Wall Street Journal says no. Both raise very interesting points regarding the strengths and weaknesses of our system. And though I side with Bartley, Luttwak does make a compelling case, especially when he hits on a central truth regarding our disastrous shortage of capital. Luttwak writes:

Obviously, it is possible to invest without saving, if others lend the necessary money. And of course the United States has borrowed hugely in recent years, and also absorbed a vast amount of foreign investment. Yet given the size of the American economy, even the huge inflow of money from abroad could not possibly remedy the disastrous difference between our rate of savings and those of our competitors.

Indeed, as Luttwak points out, from 1970 to 1989, total U.S. savings fluctuated between 12.1 percent and 14.1 percent of the gross domestic product, as opposed to 22.9 percent and 22.7 percent for the European Community average, and 38.9 percent and 34.9 percent for Japan.

Fortune magazine made much the same point in its current cover story, "How American Industry Stacks Up." Author Andrew Kupfer writes:

The rapidity with which the Japanese adapt technology to manufacturing processes is a big reason why their productivity growth has outstripped America's by more than a third since 1979. (The other reason, which reflects Japan's higher savings rate, is a fourfold edge in capital formation.) Europe's productivity growth, savings, and investment have also outpaced America's—and that rate should pick up as European unification advances.

In its article "Can America Compete?" the Economist magazine states, "The biggest reason to doubt whether America can stay so competitive is its low level of investment. Last year capital spending by American businesses accounted for only 9 percent of the country's GNP, compared with almost 20 percent in Japan and 13 percent in Germany."

The problem is clear. Americans save and invest too little. But what can we do to increase saving and investment?

I know that several of my Democrat colleagues, including my colleague from Ohio, Mr. PEASE, seem to believe that saving simply means putting money in a savings account at a financial institution. But saving is much more than that. In its recent special report on pension fund saving, the American Council for Capital Formation defines saving as "simply the difference between after-tax income and the amount of money spent on consumption. The money saved can be invested in the stock market, deposited in a bank or saving institution, or used to finance a real investment such as an addition to the family home." Stanford Economist John Shoven points out that households save in several ways, including making mortgage payments on a house. According to the Federal Reserve's flow of funds accounts, which is one of the two primary sources for statistics on savings, even the purchase of consumer durables—refrigerators, washing machines, et cetera—is considered investment, and thus counts toward savings. As we all learned in our introductory economics class, saving must equal investment. So what is good for saving is good for investment.

We on the Republican side of the aisle have always advocated a reduction in the capital gains rate as one way to increase saving and investment capital. This, in turn, will create jobs, most of which will be in small businesses, which have always acted as the economy's engine. Indeed, as a result of the Reagan tax cuts, between 1983 and 1990 more than 18 million new jobs were created, even while the Fortune 500 companies pared their payrolls. You on the Democrat side of the aisle have always pooh-poohed this notion, preferring instead to wallow in your pitiful pseudo-Marxist class warfare theories, where ideological purity is more important than actual results. But let me offer you a real-life example of how this lack of investment capital translates into lost jobs and less growth. You Japan-bashers who also oppose a lower capital gains tax—my colleagues from Missouri, Mr. GEPHARDT, and Ohio, Mr. TRAFICANT, among others—take particular note. This is again from Mr. Luttwak's article.

As soon as the suitably Korean-born chief developer of digital High-Definition (HD) TV revealed that the suitably small company he works for had totally overtaken the Japanese giants and their merely analog HD-TV, the company's owners, General Instrument, let it be known that it would not even try to raise the capital needed to produce and market the new invention, preferring to license production to established TV manufacturers, i.e., the Japanese TV giants.

In a manner literally pathetic, for pathos is the emotion evoked in the spectators to an inevitable downfall, a company spokesman hopefully speculated that if 20 million HD-TV sets were sold annually, its royalties at $10 per set could amount to as much as $200 million a year, a nice bit of change as they say—but truly mere change as compared to the $20-25 billion that the actual producers would earn each year, largely, no doubt, by exports to the United States.

Luttwak concludes: "But that is by now standard operating procedure, given our bootless capitalism-without-capital."

I wonder how many American jobs could have been created with enough investment capital to allow those HD-TV's to be manufactured here, and not there? I wonder if reducing the capital gains tax could increase the amount of available capital for this and other projects? I wonder if this story gives pause to my colleagues on the other side of the aisle?

I am proud to say that the Michel-Archer-Bush growth package will address this most serious economic issue. Probably the bill's most important feature is that it reduces the capital gains tax rate for individuals. It is a basic economic principle that if you lower the cost of something people will buy more of it. Cutting the capital gains tax will reduce the cost of saving and investment and will therefore result in more of it. One benefit of this policy is that it would also result in increased Government revenues, as it has always done in the past.

I think it is also important that my class-warfare colleagues on the other side of the aisle understand that capital is the single most important determinant of real wages. According to National Center for Policy Analysis, "About 98 percent of the variation in real wages over the past 37 years can be explained by the capital-to-labor ratio alone, without reference to any other economic factor." Further, the NCPA found that, "For every 10 percent increase in the average amount of capital per worker, the real wage rate increases by 11.9 percent."

In short, the middle class can't reap the rewards of capitalism without adequate capital, and we can't have more capital without increasing the rate of return on investment, and the best way to increase the rate of return on investment is to lower the capital gains tax. If you really want to help the middle class, this is the best way to do it.

The Michel-Archer-Bush plan would also increase saving and investment by making it easier for people to buy that all-important first home. Remember, as I have already pointed out, buying a home is saving. The Michel-Archer-Bush plan would allow individuals taxpayers to withdraw up to $10,000 from their individual retirement account without penalty for the first purchase of a principal residence. Moreover, it would establish a temporary tax credit for first-time home buyers equal to 10 percent of the purchase price up to a maximum of $5,000. This, of course, would also increase saving and investment. The immediate effect would be to put people back to work in the home-building industry, which would have an impact on suppliers of home products, such as washing machines, dryers, refrigerators, electric fixtures, plumbing fixtures, et cetera. This would have a beneficial ripple effect throughout the whole economy.

As a result of these and other changes, the Michel-Archer-Bush growth package would create 500,000 new jobs.

Now I noticed that Mr. ROSTENKOWSKI's plan also reduces capital gains, but it is clear his heart, and those of his Democrat colleagues, is not in it. I can hear Al Jolson singing in the background now:

You made me cut cap gains,
I didn't want to do it,
I didn't want to do it.

Didn't want to do it indeed. So the Democrats decided not to do it. What they gave with one hand they took away with the other. The Democrats would create a permanent 35-percent bracket for individual taxpayers with taxable incomes above $85,000 for single filers; $125,000 for heads of households; and $145,000 for joint returns. They also would increase the alternative minimum tax rate to 25 percent from 24 percent and impose a 10-percent surtax on millionaires. Now I don't know about your State, Mr. Chairman, but $125,000 is not the income of a wealthy family in southern California, and anyone who has spent any time there knows this is true.

So what the Democrats have offered us, Mr. Chairman, is not a tax cut, it is a $90 billion income redistribution scheme. And the most laughable part of the Democrats package is their candy-bar tax cut for the middle class. As President Bush said, the tooth fairly is more generous. This temporary 2-year credit is an insult to working Americans not only because it is a transparent election year sop, but because it also assumes that Americans are more concerned with their own self-interest than opportunity. The vast majority of Americans understand that their interests are advanced by a growing economy, and if some folks get rich in the process, more power to them. Indeed, this is the one point that Democrats seem unable to grasp—all Americans want the opportunity to get rich themselves, and they certainly don't mind using the capital of people who are already rich to help them do it. Isn't this what the American dream is all about?

The result of the Democrat tax hike is predictable. It is estimated that the Rostenkowski plan would actually result in job loss totaling 100,000. This is an antirecession package? This is growth? This is pro-middle-class?

But here is the big question: What has happened to the once-great Democratic Party of Andrew Jackson, who thought the people instinctively right and moral, and big government, of the kind he could see growing up in Washington and the kind we have here today, instinctively immoral?

Mr. Chairman, the only way we are going to set the foundation for long-term economic growth is to increase the availability of investment capital. And there is only one plan we will consider today that will do that. The Michel-Archer-Bush plan. Vote "yes" on Michel-Archer-Bush, vote "no" on Rostenkowski and Gephardt.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. FAWELL].

(Mr. FAWELL asked and was given permission to revise and extend his remarks.)

Mr. FAWELL. Mr. Chairman, I rise in opposition to H.R. 4287, the Democrat economic growth package.

Mr. Chairman, the Democrat plan claims to provide, first, help to the middle class, and second, incentives for job creation and savings. These are laudable ends.

As a practical matter, I don't like the Democrat plan for $93 billion on new taxes, which are forever, and the 2-year refundable tax credits which do little for the middle class and nothing for job creation or savings. On the other hand, the Republican plan zeros in more exclusively to target job creation and to stimulate the economy.

But, more important, the Democrat plan ignores the deficit, especially in the first 2 crucial years of the 6-year plan—when it really counts. Too often, I've seen this Congress load up the deficit in the current year, when new legislation is passed, amidst promises to offset the newly created deficit with offsetting savings in later years. Somehow, the current year deficits are always for real and the offsetting savings in later years never materialize.

The Democrat plan increases the deficit $9.6 billion in fiscal year 1992 and another $12.6 billion in fiscal year 1993. Their promise is that if the refundable tax credits are not extended beyond fiscal years 1992 and 1993, they will be sure to use excess taxes available from the $93 billion dollar tax increase to make up for these deficits. Of course, no one believes that. As usual, the newly created deficits for fiscal years 1992 and 1993 will be stacked onto the $400 billion plus deficits already planned for those 2 fiscal years. Compliments of the Democrats. Send the bill to our children and grandchildren who will have to eventually pay these deficits.

Some things never change. But they should. The Democrats appear to be as oblivious as ever about the national debt and deficits. For the last 23 years, Congress has failed to balance a budget. It will add over a half trillion dollars of new debt to the $3.6 trillion dollar debt in fiscal year 1992. In addition, in fiscal year 1992, the biggest program of our budget will be roughly $300 billion incurred on that national debt. That ought to be enough to sober any prodigal profligator—which is what Congress is—but apparently Congress is not yet ready for reform. Maybe next year.

In short, the Democrats' intention in this bill is good. But like the alcoholic whose promises to stop drinking are no longer respected, so too have Congress' pledges to stop spending at the expense of posterity, lost all credibility.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Chairman, I rise in strong support of the Archer-Michel bill which most closely reflects the tax changes recommended by our December hearings as having the greatest potential to stimulate economic growth and create jobs.

While the democratic form of government requires legislators to alter, adjust, and refine executive branch initiatives to assure they serve the interests of all the people and while the Democratic Party, in violation of our constitutional commitments, has denied us the right to reform and improve the fine basic bill the President sent to the Hill. I support this proposal enthusiastically and remind my colleagues on the other side of the aisle that if we pass this bill, we can then get into a bipartisan part of the process and adopt the passive loss reforms and other changes we prefer in conference and send a truly excellent bill forward to the President.

This bill is funded and by not increasing our deficit, will not slow the economy and cost jobs.

This bill helps people buy homes and so will create thousands of jobs. This bill rewards small manufacturers for buying the new machinery and equipment they need to stay competitive. It is a targeted, sound series of tax changes that will stimulate the economy.

Mr. Chairman I urge my colleagues to support it.

Mrs. KENNELLY. Mr. Chairman, I yield myself the remainder of my time.

Mr. Chairman, I want to set the record straight—the Democratic alternative is a growth bill.

The Democratic alternative would permanently extend both the mortgage revenue bond program and the low-income housing tax credit. According to the National Association of Home Builders, these two programs will create 619,000 jobs over the next 5 years. These are real, proven programs that have bipartisan support.

In contrast, the much-heralded first-time home buyer tax credit, again according to the National Association of Home Builders, will create only 415,000 jobs.

In addition, the first-time home buyer tax credit is a temporary 1-year program while permanent extension of the MRB and tax credit programs will provide housing opportunities in all economic times.

Finally, a first time home buyer tax credit does little to make housing more affordable to the average American family in the long run while the MRB and tax credit programs facilitate long-term affordability.

Support proven, job-creating, housing programs than enjoy the support of more than 330 Members, not short-term gimmicks. Support the Democratic alternative.

The CHAIRMAN. The gentleman from Texas [Mr. ARCHER] has 7 minutes remaining.

Mr. ARCHER. Mr. Chairman, I yield the balance of my time to the respected minority leader on our side, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Chairman, let me say to the members of the committee that I did not request this quorum call. I am happy to see as many Members on the floor currently as there are. I thought earlier on, when there were just a handful of us on the floor in the House, that it was rather demeaning to the whole legislative process to have as important a measure as this attended by so few Members. But let me way that it is a manifestation of the mechanism by which we are considering this bill in the first place.

I look at my dear friend, the gentleman from Kentucky [Mr. NATCHER], and some others like the gentleman from Florida [Mr. BENNETT] who can remember the days when an important bill like this came forward with an opportunity for a substitute, and an amendment, and an amendment to the amendment, and an amendment to the substitute, working off both propositions in a way which required every Member to be on the floor and participate in the debate and offer the amendments. We would use the teller aisle here to telescope those debates. It would not take that long, but in the end we had a product in which all of us were participants in the process.

Unfortunately, we do not have that today, and that is why there were so few Members on the floor. Take it or leave it, in one way or another Members have already made up their minds.

The chairman of the Ways and Means Committee earlier seemed overly agitated over our having pared down the President's full menu of proposals addressed in his State of the Union Message to seven specifics that relate directly to the creation of jobs, long-term, permanent jobs. Now, what is wrong with that?

Spreading a dollar a day or four bits a day around the electorate for some minuscule, temporary political gain that will not create one job. It is a temporary, feel-good kind of thing out there. We are giving some people something. But what? We are not giving them jobs.

I look at the kind of things that will create jobs in my district, and it requires an investment of $100,000 to $125,000 per worker to create jobs to produce the kinds of things that we would like to have produced.

Some Members want to equate the Democratic kind of give-away with the President's suggestion that consideration be given to a $500 increase in the family deduction for children. Let me just say that we recognize this as a very costly proposition that cannot possibly be paid without a drastic $24 billion reduction in spending from some quarter.

That is why we say we will consider that proposal later when we can have the time to debate what expenditures to cut or eliminate to give us the wherewithal to reorder our priorities. And, yes, I will concede that it may come from a further reevaluation of our defense expenditures that may or may not reflect what has come to be regarded as the so-called peace dividend.

But that is for another day. We are talking now today about what it is that creates jobs. And after listening yesterday to hours of fulminations, and condemnations, and equivocations, and rhetorical abominations, I thought it would be refreshing to just review a few plain facts, and here they are.

□ 1230

Today we are finally considering the short-term economic stimulus plan the President outlined in his State of the Union Address and which he asked Congress to complete by March 20. This

overall program had two parts. This is the first part.

The plan consists of just seven provisions which, if enacted, will put a considerable number of Americans back to work. Not all of them, but a considerable number. We have got to start from someplace.

Let me briefly sketch out again these seven provisions.

No. 1, first-time home buyers will receive an income tax credit of 10 percent of the purchase price of a new or existing home up to $5,000, spread over a 2-year period.

Now, the National Association of Home Builders estimates this provision alone will create 700,000 new jobs. Home construction does create jobs for builders, carpenters, plumbers, architects, landscapers, persons dealing in appliances, and on and on.

No. 2, first-time home buyers will also be allowed to make a $10,000 penalty-free withdrawal from their IRA adding to the job creation impact of the home buyer tax credit.

No. 3, business is provided an investment tax allowance which allows an enhanced first-year depreciation of 15 percent of the purchase price of newly acquired equipment. This investment incentive increases cash-flow and lowers the cost of capital for businesses purchasing new equipment.

We have had it in the past in a more expansive form. Maybe it is not as grandiose this time, but it is a good proposition.

No. 4, the capital gains tax rate is cut to an effective rate of 15.4 percent for taxpayers now subject to a 28-percent rate and an 8.25-percent rate for taxpayers now subject to the 15-percent rate.

Capital gains for one-time sales of family farms, or businesses, or personal residences, are not subject to the alternative minimum tax, and depreciation recapture is taxed at a maximum rate of 28 percent.

A lowering of the capital gains rate unlocks old investments. It provides the small business community with startup capital and small businesses are where most of the new jobs are created in our economy. Let us face it.

No. 5, the passive loss rules are amended so that persons active in real estate development are treated as any other business person. They can trade off gains and losses for tax purposes.

No. 6, the alternative minimum tax is simplified by requiring only one computation for depreciation for alternative minimum tax purposes. The current calculations penalize capital intensive companies. Those are the ones who produce so many of our jobs that we are looking for.

No. 7, we propose to remove impediments to allow more efficient investing by pension funds in commercial properties.

Now, I mentioned just the seven. I want to address if I might, just a moment or two, some on my side who say, we do not go far enough. And I accept that.

But let me say to my friends on this side, every one of you, who I know do not want to be in a position of raising taxes. How can you provide some of these other things without raising taxes?

Now, it is either/or. And my position is that you ought to support what we are proposing here in the name of the President, without deviation.

Then, two, when we come to the other proposition on the other side of the aisle, I will tell you, I want some of you to look very closely at that very proposition. The distinction between the two parties, on who is raising taxes and who is holding the line or taking it out of a reduction of expenditures as the better route to follow, will become very clear.

So under the budget discipline which we must and do abide by, this package of incentives is the best of the proposals we will have the opportunity to vote on today. Not down the road a piece, but today.

I am not going to shut out the possibility that after we are done with this narrow package, we are not going to be considering other proposals for the balance of the year. Of course we are.

Unfortunately, the distinguished chairman of the Ways and Means Committee laid down the gauntlet and said there is only going to be one tax bill.

You know, there is nothing omnipotent about that kind of reasoning, I will tell you. Those members of the Committee on Ways and Means, and we have got good solid people on our side, I do not think would mind going to bat the second or third time if it is required.

Who is it for one person to dictate to this entire House one tax bill and none other? I will tell you, that is overexercising one's power, in my judgment, around here.

I would like to stress that our package is fully offset, year by year, with spending reforms and savings and, as I indicated, there are no tax increases in the bill, As I said, those are the simple facts.

I would like to think that maybe that was refreshing. But let me just add one more point. The American people do not want us to flimflam them, but are looking for us to frankly enact the kind of legislation that will, in the bottom line, create jobs. And our seven-point plan does create jobs.

I ask all Members to draw your own conclusions from the facts, vote right, and support this proposition.

The CHAIRMAN. The question is on the amendment in the nature of a substitute, as modified, offered by the gentleman from Texas [Mr. ARCHER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. ARCHER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 166, noes 264, not voting 4, as follows:

[Roll No. 28]

AYES—166

Allard	Gingrich	Orton
Allen	Goss	Owens (UT)
Archer	Gradison	Oxley
Armey	Grandy	Packard
Baker	Gunderson	Pallone
Ballenger	Hammerschmidt	Pastor
Barrett	Hancock	Paxon
Barton	Hansen	Porter
Bateman	Hastert	Quillen
Bennett	Hefley	Ramstad
Bentley	Henry	Ravenel
Bereuter	Herger	Rhodes
Bilirakis	Hobson	Riggs
Bliley	Holloway	Rinaldo
Boehlert	Hopkins	Ritter
Boehner	Horton	Roberts
Brewster	Houghton	Rohrabacher
Broomfield	Hunter	Ros-Lehtinen
Browder	Hutto	Roth
Bunning	Hyde	Roukema
Burton	Inhofe	Sangmeister
Callahan	Ireland	Santorum
Camp	James	Schaefer
Campbell (CA)	Johnson (CT)	Schiff
Chandler	Johnson (TX)	Schulze
Clement	Kasich	Sensenbrenner
Clinger	Klug	Shaw
Coble	Kolbe	Shays
Coleman (MO)	Kyl	Shuster
Combest	Lagomarsino	Skeen
Coughlin	Leach	Smith (NJ)
Cox (CA)	Lent	Smith (OR)
Cramer	Lewis (CA)	Smith (TX)
Crane	Lewis (FL)	Solomon
Cunningham	Livingston	Spence
Dannemeyer	Lowery (CA)	Stearns
Davis	Marlenee	Stump
DeLay	Martin	Sundquist
Doolittle	McCandless	Tanner
Dornan (CA)	McCollum	Taylor (NC)
Dreier	McCrery	Thomas (CA)
Duncan	McDade	Thomas (WY)
Edwards (OK)	McEwen	Upton
Emerson	McGrath	Vander Jagt
English	McMillan (NC)	Vucanovich
Ewing	Meyers	Walker
Fawell	Michel	Walsh
Fields	Miller (OH)	Weber
Fish	Miller (WA)	Weldon
Franks (CT)	Molinari	Wolf
Gallegly	Moorhead	Wylie
Gallo	Moran	Young (AK)
Gekas	Morella	Zeliff
Gilchrest	Morrison	Zimmer
Gillmor	Myers	
Gilman	Nichols	

NOES—264

Abercrombie	Brown	Dicks
Ackerman	Bruce	Dingell
Alexander	Bryant	Dixon
Anderson	Bustamante	Donnelly
Andrews (ME)	Byron	Dooley
Andrews (NJ)	Campbell (CO)	Dorgan (ND)
Andrews (TX)	Cardin	Downey
Annunzio	Carper	Durbin
Anthony	Carr	Dwyer
Applegate	Chapman	Dymally
Aspin	Clay	Early
Atkins	Coleman (TX)	Eckart
AuCoin	Collins (IL)	Edwards (CA)
Bacchus	Collins (MI)	Edwards (TX)
Barnard	Condit	Engel
Bellenson	Conyers	Erdreich
Berman	Cooper	Espy
Bevill	Costello	Evans
Bilbray	Cox (IL)	Fascell
Blackwell	Coyne	Fazio
Bonior	Darden	Feighan
Borski	DeFazio	Flake
Boucher	DeLauro	Foglietta
Boxer	Dellums	Ford (MI)
Brooks	Derrick	Ford (TN)

Frank (MA)	Manton	Rostenkowski
Frost	Markey	Rowland
Gaydos	Martinez	Roybal
Gejdenson	Matsui	Russo
Gephardt	Mavroules	Sabo
Geren	Mazzoli	Sanders
Gibbons	McCloskey	Sarpalius
Glickman	McCurdy	Savage
Gonzalez	McDermott	Sawyer
Goodling	McHugh	Saxton
Gordon	McMillen (MD)	Scheuer
Green	McNulty	Schroeder
Guarini	Mfume	Schumer
Hall (OH)	Miller (CA)	Serrano
Hall (TX)	Mineta	Sharp
Hamilton	Mink	Sikorski
Harris	Moakley	Sisisky
Hatcher	Mollohan	Skaggs
Hayes (IL)	Montgomery	Skelton
Hayes (LA)	Moody	Slattery
Hefner	Mrazek	Slaughter
Hertel	Murphy	Smith (FL)
Hoagland	Murtha	Smith (IA)
Hochbrueckner	Nagle	Snowe
Horn	Natcher	Solarz
Hoyer	Neal (MA)	Spratt
Hubbard	Neal (NC)	Staggers
Huckaby	Nowak	Stallings
Hughes	Nussle	Stark
Jacobs	Oakar	Stenholm
Jefferson	Oberstar	Stokes
Jenkins	Obey	Studds
Johnson (SD)	Olin	Swett
Johnston	Olver	Swift
Jones (GA)	Ortiz	Synar
Jones (NC)	Owens (NY)	Tallon
Jontz	Panetta	Tauzin
Kanjorski	Parker	Taylor (MS)
Kaptur	Patterson	Thomas (GA)
Kennedy	Payne (NJ)	Thornton
Kennelly	Payne (VA)	Torres
Kildee	Pease	Torricelli
Kleczka	Pelosi	Towns
Kolter	Penny	Traficant
Kopetski	Perkins	Traxler
Kostmayer	Peterson (FL)	Unsoeld
LaFalce	Peterson (MN)	Valentine
Lancaster	Petri	Vento
Lantos	Pickett	Visclosky
LaRocco	Pickle	Volkmer
Laughlin	Poshard	Washington
Lehman (CA)	Price	Waters
Lehman (FL)	Pursell	Waxman
Levin (MI)	Rahall	Weiss
Levine (CA)	Rangel	Wheat
Lewis (GA)	Reed	Williams
Lightfoot	Regula	Wilson
Lipinski	Richardson	Wise
Lloyd	Ridge	Wolpe
Long	Roe	Wyden
Lowey (NY)	Roemer	Yates
Luken	Rogers	Yatron
Machtley	Rose	Young (FL)

NOT VOTING—4

de la Garza	Ray	Whitten
Dickinson		

□ 1254

The Clerk announced the following pair:

On this vote:

Mr. Dickinson for, with Mr. Ray against.

Mr. WISE changed his vote from "aye" to "no."

Mr. COX of California changed his vote from "no" to "aye."

So the amendment in the nature of a substitute, as modified, was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider the amendment in the nature of a substitute consisting of the text of the bill H.R. 4287.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. ROSTENKOWSKI

Mr. ROSTENKOWSKI. Mr. Chairman, pursuant to the rule, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

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

Amendment in the nature of a substitute offered by Mr. ROSTENKOWSKI: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE, ETC.

(a) SHORT TITLE.—This Act may be cited as the "Tax Fairness and Economic Growth 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) SECTION 15 NOT TO APPLY.—No amendment made by this Act shall be treated as a change in a rate of tax for purposes of section 15 of the Internal Revenue Code of 1986.

(d) UNDERPAYMENT OF ESTIMATED TAX.—No addition to tax shall be made under section 6654 or 6655 of the Internal Revenue Code of 1986 for any period before April 16, 1993 (March 16, 1993, in the case of a taxpayer subject to such section 6655) with respect to any underpayment to the extent such underpayment was created or increased by any amendment made by this Act. The preceding sentence shall not apply to the amendments made by section 3101.

(e) TABLE OF CONTENTS.—

Section 1. Short title; etc.
Sec. 2. Treatment under pay-as-you-go procedures.

TITLE I—MIDDLE CLASS TAX RELIEF

Sec. 1001. Credit for portion of social security taxes.
Sec. 1002. Credit for interest on education loans.
Sec. 1003. Penalty-free withdrawals for first home purchase, higher education expenses, and medical expenses.
Sec. 1004. Modifications of one-time exclusion of gain from sale of principal residence.
Sec. 1005. Treatment of employer-provided transportation benefits.
Sec. 1006. Extension of deduction for health insurance costs of self-employed individuals.

TITLE II—JOB CREATION, GROWTH, AND INVESTMENT INCENTIVES

Subtitle A—Temporary Investment Incentives

Sec. 2001. Temporary increase in amount of expensing for small businesses.
Sec. 2002. Special depreciation allowance for certain equipment acquired in 1992.

Subtitle B—Capital Gain Provisions

Sec. 2101. Indexing of certain assets acquired on or after February 1, 1992, for purposes of determining gain.
Sec. 2102. 50-percent exclusion for gain of individuals from certain small business stock.

Subtitle C—Real Estate Provisions

PART I—MODIFICATION OF PASSIVE LOSS RULES

Sec. 2201. Modification of passive loss rules.

PART II—PROVISIONS RELATING TO REAL ESTATE INVESTMENTS BY PENSION FUNDS

Sec. 2211. Real estate property acquired by a qualified organization.
Sec. 2212. Special rules for investments in partnerships.
Sec. 2213. Title-holding companies permitted to receive small amounts of unrelated business taxable income.
Sec. 2214. Exclusion from unrelated business tax of gains from certain property.
Sec. 2215. Treatment of pension fund investments in real estate investment trusts.

Subtitle D—Extension of Certain Expiring Tax Provisions

Sec. 2301. Research credit.
Sec. 2302. Low-income housing credit.
Sec. 2303. Targeted jobs credit.
Sec. 2304. Qualified mortgage bonds.
Sec. 2305. Qualified small issue bonds.
Sec. 2306. Employer-provided educational assistance.
Sec. 2307. Excise tax on certain vaccines.
Sec. 2308. Certain transfers to Railroad Retirement Account.

Subtitle E—Modifications to Minimum Tax

Sec. 2401. Repeal of preference for contributions of appreciated property.
Sec. 2402. Elimination of ACE depreciation adjustment.

Subtitle F—Repeal of certain luxury excise taxes; imposition of tax on diesel fuel used in noncommercial motorboats

Sec. 2501. Repeal of luxury excise taxes other than on passenger vehicles.
Sec. 2502. Tax on diesel fuel used in noncommercial motorboats.

Subtitle G—Urban Tax Enterprise Zones and Rural Development Investment Zones

Sec. 2601. Statement of purpose.

PART I—DESIGNATION AND TAX INCENTIVES

Sec. 2602. Designation and treatment of urban tax enterprise zones and rural development investment zones.
Sec. 2603. Technical and conforming amendments.
Sec. 2604. Effective date.

PART II—STUDIES

Sec. 2611. Studies of effectiveness of tax enterprise zone incentives.

TITLE III—REVENUE INCREASES

Subtitle A—Treatment of Wealthy Individuals

Sec. 3001. Increase in top marginal rate under section 1.
Sec. 3002. Increase in individual minimum tax rate.
Sec. 3003. Surtax on individuals with incomes over $1,000,000.
Sec. 3004. 2-year extension of overall limitation on itemized deductions for high-income taxpayers.
Sec. 3005. 2-year extension of phaseout of personal exemption of high-income taxpayers.
Sec. 3006. Disallowance of deduction for certain employee remuneration in excess of $1,000,000.

Subtitle B—Administrative Provisions

Sec. 3101. Individual estimated tax provisions.
Sec. 3102. Corporate estimated tax provisions.
Sec. 3103. Disallowance of interest on certain overpayments of tax.

Subtitle C—Other Revenue Provisions

Sec. 3201. Clarification of treatment of certain FSLIC financial assistance.

Sec. 3202. Increase in recovery period for real property.
Sec. 3203. Increase in mileage requirement for moving expense deduction.
Sec. 3204. Taxation of precontribution gain in case of certain distributions to contributing partner.
Sec. 3205. Conform tax accounting to financial accounting for securities dealers.

TITLE IV—SIMPLIFICATION PROVISIONS

Subtitle A—Provisions Relating to Individuals

Sec. 4101. Simplification of earned income credit.
Sec. 4102. Simplification of rules on rollover of gain on sale of principal residence.
Sec. 4103. De minimis exception to passive loss rules.
Sec. 4104. Payment of tax by credit card.
Sec. 4105. Modifications to election to include child's income on parent's return.
Sec. 4106. Simplified foreign tax credit limitation for individuals.
Sec. 4107. Treatment of personal transactions by individuals under foreign currency rules.
Sec. 4108. Exclusion of combat pay from withholding limited to amount excludable from gross income.
Sec. 4109. Expanded access to simplified income tax returns.
Sec. 4110. Treatment of certain reimbursed expenses of rural mail carriers.
Sec. 4111. Exemption from luxury excise tax for certain equipment installed on passenger vehicles for use by disabled individuals.

Subtitle B—Pension Simplification

PART I—SIMPLIFIED DISTRIBUTION RULES

Sec. 4201. Taxability of beneficiary of qualified plan.
Sec. 4202. Simplified method for taxing annuity distributions under certain employer plans.
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SEC. 2. TREATMENT UNDER PAY-AS-YOU-GO PROCEDURES.

Any change in budget authority, outlays, or receipts resulting from the provisions of (or amendments made by) this Act shall not be considered for purposes of calculating the deficit increase or estimated deficit for any year under section 252 or 253 of the Balanced Budget and Emergency Deficit Control Act of 1985.

TITLE I—MIDDLE CLASS TAX RELIEF

SEC. 1001. CREDIT FOR PORTION OF SOCIAL SECURITY TAXES.

(a) GENERAL RULE.—Subpart C of part IV of subchapter A of chapter 1 (relating to refundable credits) is amended by redesignating section 35 as section 36 and by inserting after section 34 the following new section:

"SEC. 35. CREDIT FOR PORTION OF SOCIAL SECURITY TAXES.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to 20 percent of the taxpayer's social security taxes for the taxable year.

"(b) LIMITATION.—The amount of the credit allowable under subsection (a) to any taxpayer for any taxable year shall not exceed $200 ($400 in the case of a joint return).

"(c) SOCIAL SECURITY TAXES.—For purposes of this section—

"(1) IN GENERAL.—The term 'social security taxes' means, with respect to any taxpayer for any taxable year—

"(A) the amount of the taxes imposed by subsections (a) and (b) of section 3101 on amounts received by the taxpayer during the calendar year in which the taxable year begins,

"(B) the amount of the taxes imposed by section 3201(a) on amounts received by the

taxpayer during the calendar year in which the taxable year begins,

"(C) 50 percent of the taxes imposed by subsections (a) and (b) of section 1401 on the self-employment income of the taxpayer for the taxable year, and

"(D) 50 percent of the taxes imposed by section 3211(a)(1) on amounts received by the taxpayer during the calendar year in which the taxable year begins.

"(2) COORDINATION WITH SPECIAL REFUND OF SOCIAL SECURITY TAXES.—The term 'social security taxes' shall not include any taxes to the extent the taxpayer is entitled to a special refund of such taxes under section 6413(c).

"(3) SPECIAL RULE.—Any amounts paid pursuant to an agreement under section 3121(l) (relating to agreements entered into by American employers with respect to foreign affiliates) which are equivalent to the taxes referred to in paragraph (1)(A) shall be treated as taxes referred to in such paragraph.

"(d) YEARS TO WHICH SECTION APPLIES.—This section shall only apply to taxable years beginning after December 31, 1991, and before January 1, 1994."

(b) CLERICAL AMENDMENT.—The table of sections for subpart C of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 35 and inserting the following:

"Sec. 35. Credit for portion of social security taxes.

"Sec. 36. Overpayments of tax."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 1002. CREDIT FOR INTEREST ON EDUCATION LOANS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 22 the following new section:

"SEC. 23. INTEREST ON EDUCATION LOANS.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 15 percent of the interest paid by the taxpayer during the taxable year on any qualified education loan.

"(b) MAXIMUM CREDIT.—

"(1) IN GENERAL.—The credit allowed by subsection (a) for the taxable year shall not exceed $300 with respect to each individual whose qualified higher education expenses were financed by any qualified education loan to which such interest relates.

"(2) HIGHER LIMIT FOR TAXPAYERS WITH LARGE AMOUNTS OF EDUCATION LOAN INTEREST.—

"(A) IN GENERAL.—If the taxpayer's education loan interest percentage for the taxable year is at least 10 percent, paragraph (1) shall be applied by substituting the higher limit for '$300', determined in accordance with the following table:

If the education loan interest percentage is:	The higher limit is:
At least 10 but less than 11	$350
At least 11 but less than 12	400
At least 12 but less than 13	450
At least 13	500.

"(B) EDUCATION LOAN INTEREST PERCENTAGE.—For purposes of subparagraph (A), the taxpayer's education loan interest percentage is the percentage which the amount of interest paid by the taxpayer during the taxable year on qualified education loans bears to the taxpayer's modified adjusted gross income for such year.

"(3) PHASEOUT OF BENEFIT.—

"(A) IN GENERAL.—If the modified adjusted gross income of the taxpayer for the taxable year exceeds the applicable limit, the dollar limitation otherwise applicable under this subsection for the taxable year shall be reduced (but not below zero) by the amount which bears the same ratio to such limit as such excess bears to $25,000 ($12,500 in the case of a married individual filing a separate return).

"(B) APPLICABLE DOLLAR AMOUNT WHERE PARENT OF STUDENT CLAIMING CREDIT.—For purposes of subparagraph (A), if the qualified education loan was used to pay the qualified higher education expenses of an individual other than the taxpayer or his spouse, the applicable dollar amount is—

"(i) $45,000, in the case of a return of an unmarried individual,

"(ii) $75,000, in the case of a joint return, and

"(iii) $37,500 in the case of a married individual filing a separate return.

"(C) APPLICABLE DOLLAR AMOUNT WHERE STUDENT OR FORMER STUDENT CLAIMING CREDIT.—For purposes of subparagraph (A), if the qualified education loan was used to pay the qualified higher education expenses of the taxpayer or his spouse, the applicable dollar amount is—

"(i) $30,000, in the case of a return of an unmarried individual,

"(ii) $50,000, in the case of a joint return, and

"(iii) $25,000 in the case of a married individual filing a separate return.

"(4) CREDIT NOT TO EXCEED TAX ON EARNED INCOME FOR TAXPAYERS UNDER AGE 23.—If the taxpayer has not attained age 23 (or, in the case of a joint return, if neither the husband or wife have attained age 23) before the close of the calendar year ending with or within the taxable year, the credit allowed by subsection (a) for such taxable year shall not exceed the amount equal to the percentage of the taxpayer's regular tax liability for such taxable year which is the same as the percentage of the taxpayer's modified adjusted gross income for such taxable year which is attributable to earned income (as defined in section 911(d)(2)).

"(c) LIMITATIONS ON TAXPAYERS ELIGIBLE FOR CREDIT.—

"(1) CREDIT ALLOWED TO TAXPAYER ONLY IF NOT CLAIMED AS PERSONAL EXEMPTION BY ANOTHER TAXPAYER.—No credit shall be allowed by this section to an individual for the taxable year if a deduction under section 151 with respect to such individual is allowed to another taxpayer for the taxable year beginning in the calendar year in which such individual's taxable year begins.

"(2) CREDIT ALLOWED TO PARENT, ETC. ONLY IF DEPENDENT IS STUDENT AND PERSONAL EXEMPTION CLAIMED FOR DEPENDENT.—If the qualified education loan was used to pay the qualified higher education expenses of an individual other than the taxpayer or his spouse, no credit shall be allowed by this section for the taxable year with respect to interest on such loan unless—

"(A) a deduction under section 151 with respect to such individual is allowed to the taxpayer for such taxable year, and

"(B) such individual is at least a half-time student with respect to such taxable year.

"(d) LIMIT ON PERIOD CREDIT ALLOWED.—

"(1) IN GENERAL.—In the case of a qualified education loan used to pay the qualified higher education expenses of the taxpayer or his spouse, no credit shall be allowed by this section for any taxable year after the first 5 taxable years (whether or not consecutive) with respect to which the taxpayer or his spouse (as the case may be) is not at least a half-time student.

"(2) PERIODS OF INTEREST DEFERRAL NOT COUNTED.—For purposes of paragraph (1), an individual shall be treated as a half-time student during any period during which payment of interest on any qualified education loan is deferred under Federal or State law.

"(e) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED EDUCATION LOAN.—The term 'qualified education loan' means any indebtedness incurred to pay qualified higher education expenses—

"(A) which are paid or incurred within a reasonable period of time before or after the indebtedness is incurred, and

"(B) which are attributable to education furnished during a period during which the recipient was at least a half-time student.

Such term includes indebtedness used to refinance indebtedness which qualifies as a qualified education loan. The term 'qualified education loan' shall not include any indebtedness owed to a person who is related (within the meaning of section 267(b) or 707(b)(1)) to the taxpayer.

"(2) QUALIFIED HIGHER EDUCATION EXPENSES.—

"(A) IN GENERAL.—The term 'qualified higher education expenses' means qualified tuition and related expenses of the taxpayer, his spouse, or a dependent for attendance at an eligible educational institution (as defined in section 135(c)(3)), reduced by the amount excluded from gross income under section 135 by reason of such expenses.

"(B) QUALIFIED TUITION AND RELATED EXPENSES.—The term 'qualified tuition and related expenses' has the meaning given such term by section 117(b), except that such term shall include any reasonable living expenses while away from home.

"(3) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' has the meaning given to such term by section 86(b)(2).

"(4) HALF-TIME STUDENT.—The term 'half-time student' means any individual who would be a student as defined in section 151(c)(4) if 'half-time' were substituted for 'full-time' each place it appears in such section.

"(5) DEPENDENT.—The term 'dependent' has the meaning given such term by section 152.

"(f) SPECIAL RULES.—

"(1) CARRYOVER.—If the amount of interest which may be taken into account by the taxpayer under subsection (a) for the taxable year exceeds the amount necessary to produce the maximum credit under this section for such year, such excess shall be treated as interest paid by the taxpayer during the succeeding taxable year on a qualified education loan.

"(2) DENIAL OF DOUBLE BENEFIT.—No credit shall be allowed under this section for any amount for which a deduction is allowable under any other provision of this chapter.

"(3) MARITAL STATUS.—Marital status shall be determined in accordance with section 7703.

"(g) CARRYOVER OF UNUSED CREDIT.—

"(1) IN GENERAL.—If—

"(A) the credit allowable under subsection (a) for any taxable year after the application of subsections (b), (c), and (d) exceeds

"(B) the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under sections 21, 22, and 25,

such excess shall be carried to the succeeding taxable year and shall be allowable under

subsection (a) for such succeeding taxable year. The limitations of subsections (b), (c), and (d) shall not apply to the amount allowable in any succeeding taxable year by reason of the preceding sentence.

"(2) 5-YEAR LIMIT ON CARRYFORWARD.—No amount may be carried under paragraph (1) to any taxable year after the 5th taxable year for which the credit was originally determined."

(b) CLERICAL AMENDMENT.—The table of sections for such subpart A is amended by inserting after the item relating to section 22 the following new item:

"Sec. 23. Interest on education loans."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 1003. PENALTY-FREE WITHDRAWALS FOR FIRST HOME PURCHASE, HIGHER EDUCATION EXPENSES, AND MEDICAL EXPENSES.

(a) FIRST HOME PURCHASE.—

(1) IN GENERAL.—Paragraph (2) of section 72(t) (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding after subparagraph (C) the following new subparagraph:

"(D) DISTRIBUTION FROM INDIVIDUAL RETIREMENT PLAN FOR FIRST HOME PURCHASE.—A distribution to an individual from an individual retirement plan with respect to which the requirements of paragraph (6) are met."

(2) DEFINITIONS.—Subsection (t) of section 72 is amended by adding after paragraph (5) the following new paragraph:

"(6) REQUIREMENTS APPLICABLE TO FIRST HOME PURCHASE DISTRIBUTION.—For purposes of paragraph (2)(D)—

"(A) IN GENERAL.—The requirements of this paragraph are met with respect to a distribution if the distribution meets the requirements of clauses (i), (ii), and (iii).

"(i) DOLLAR LIMIT.—A distribution meets the requirements of this clause to the extent that the amount of the distribution does not exceed the excess (if any) of—

"(I) $10,000, over

"(II) the sum of the distributions to which paragraph (2)(D) previously applied with respect to the residence (whether or not such distributions were from the individual retirement plan of the owner).

"(ii) USE OF DISTRIBUTION.—A distribution meets the requirements of this clause if the distribution—

"(I) is made to or on behalf of a qualified first home purchaser, and

"(II) is applied within 60 days of the date of distribution to the purchase or construction of a principal residence of such purchaser.

"(iii) ELIGIBLE PLANS.—A distribution meets the requirements of this clause if the distribution is not made from an individual retirement plan—

"(I) which is an inherited individual retirement plan (within the meaning of section 408(d)(3)(C)(ii)), or

"(II) any part of the contributions to which were excludable from income under section 402(a)(5), 402(a)(7), 403(a)(4), or 403(b)(8).

"(B) QUALIFIED FIRST HOME PURCHASER.—For purposes of this paragraph, the term 'qualified first home purchaser' means the individual who is the owner of the individual retirement plan or who is a child (as defined in section 151(c)(3)) of such owner, but only if—

"(i) such individual (and, if married, such individual's spouse) had no present ownership interest in a residence at any time within the 36-month period ending on the date on which the distribution is applied pursuant to subparagraph (A)(ii), and

"(ii) subsection (h) or (k) of section 1034 did not suspend the running of any period of time specified in section 1034 with respect to such individual on the day before the date the distribution is applied pursuant to subparagraph (A)(ii).

"(C) SPECIAL RULE WHERE DELAY IN ACQUISITION.—If any distribution from an individual retirement plan fails to meet the requirements of subparagraph (A) solely by reason of a delay or cancellation of the purchase or construction of the residence, the amount of the distribution may be contributed to an individual retirement plan as provided in section 408(d)(3)(A)(i) (determined by substituting '120 days' for '60 days' in such section), except that—

"(i) section 408(d)(3)(B) shall not be applied to such contribution, and

"(ii) such amount shall not be taken into account—

"(I) in determining whether section 408(d)(3)(A)(i) applies to any other amount, or

"(II) for purposes of subclause (II) of subparagraph (A)(i).

"(D) PRINCIPAL RESIDENCE.—For purposes of this paragraph, the term 'principal residence' has the meaning given such term by section 1034.

"(E) OWNER.—For purposes of this paragraph, the term 'owner' means, with respect to any individual retirement plan, the individual with respect to whom such plan was established."

(b) EDUCATIONAL EXPENSES.—Paragraph (2) of section 72(t) is amended by adding after subparagraph (D) the following new subparagraph:

"(E) DISTRIBUTION FROM INDIVIDUAL RETIREMENT PLAN FOR HIGHER EDUCATION EXPENSES.—A distribution from an individual retirement plan (other than from an individual retirement plan referred to in subclause (I) or (II) of paragraph (6)(A)(iii)) to the owner of such plan if such distribution is used within 60 days of the date of the distribution to pay qualified higher education expenses (as defined in section 23(e)(2))."

(c) MEDICAL EXPENSES.—

(1) IN GENERAL.—Subparagraph (A) of section 72(t)(3) is amended by striking ", (B),".

(2) CERTAIN LINEAL DESCENDANTS AND ANCESTORS TREATED AS DEPENDENTS.—Subparagraph (B) of section 72(t)(2) is amended by striking "medical care" and all that follows and inserting "medical care determined—

"(i) without regard to whether the employee itemizes deductions for such taxable year, and

"(ii) by treating such employee's dependents as including—

"(I) all children and grandchildren of the employee or such employee's spouse, and

"(II) all ancestors of the employee or such employee's spouse.".

(3) CONFORMING AMENDMENT.—Subparagraph (B) of section 72(t)(2) is amended by striking "or (C)" and inserting ", (C), (D), or (E)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions on or after February 1, 1992.

SEC. 1004. MODIFICATIONS OF ONE-TIME EXCLUSION OF GAIN FROM SALE OF PRINCIPAL RESIDENCE.

(a) AGE LIMITATION NOT APPLICABLE TO DISABLED INDIVIDUALS.—

(1) IN GENERAL.—Paragraph (1) of section 121(a) (relating to one-time exclusion from sale of principal residence by an individual who has attained age 55) is amended to read as follows:

"(1)(A) the taxpayer has attained the age of 55 before the date of such sale or exchange, or (B) the taxpayer is permanently and totally disabled (as defined in section 22(e)(3)) as of such date, and".

(2) CONFORMING AMENDMENT.—Paragraph (1) of section 121(d) is amended by striking "the age, holding, and use requirements" and inserting "the requirements".

(b) INDEXATION OF DOLLAR LIMIT.—Subsection (b) of section 121 (relating to limitations) is amended by adding at the end thereof the following new paragraph:

"(4) COST-OF-LIVING ADJUSTMENTS.—In the case of a sale or exchange in a calendar year beginning after 1991—

"(A) the $125,000 amount set forth in paragraph (1) shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 1990' for 'calendar year 1991' in subparagraph (B) thereof, and

"(B) the $62,500 amount set forth in paragraph (1) shall be increased by ½ of the increase determined under subparagraph (A).

If any increase determined under subparagraph (A) is not a multiple of $100, such increase shall be rounded to the nearest multiple of $100."

(c) TREATMENT OF FARMLAND SOLD WITH RESIDENCE.—Subsection (d) of section 121 is amended by adding at the end thereof the following new paragraph:

"(10) TREATMENT OF FARMLAND SOLD WITH RESIDENCE.—If—

"(A) a parcel of farmland on which is located a residence with respect to which the taxpayer meets the holding and use requirements of subsection (a) is sold with such residence,

"(B) the taxpayer meets the holding requirements of subsection (a) with respect to such farmland, and

"(C) the taxpayer meets requirements similar to the requirements of section 2032A(b)(1)(C) with respect to such farmland,

notwithstanding paragraph (5), the taxpayer shall be treated as meeting the use requirements of subsection (a) with respect to so much of such parcel as does not exceed 160 acres."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or exchanges after December 31, 1991.

SEC. 1005. TREATMENT OF EMPLOYER-PROVIDED TRANSPORTATION BENEFITS.

(a) EXCLUSION.—Subsection (a) of section 132 (relating to exclusion of certain fringe benefits) is amended by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting ", or", and by adding at the end thereof the following new paragraph:

"(5) qualified transportation fringe."

(b) QUALIFIED TRANSPORTATION FRINGE.—Section 132 is amended by redesignating subsections (f), (g), (h), (i), (j), and (k) as subsections (g), (h), (i), (j), (k), and (l), respectively, and by inserting after subsection (e) the following new subsection:

"(f) QUALIFIED TRANSPORTATION FRINGE.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified transportation fringe' means any of the following provided by an employer to an employee:

"(A) Transportation in a commuter highway vehicle if such transportation is in connection with travel between the employee's residence and place of employment.

"(B) Any transit pass.

"(C) Qualified parking.

"(2) LIMITATION ON EXCLUSION.—The amount of the fringe benefits which are pro-

vided by an employer to any employee and which may be excluded from gross income under subsection (a)(5) shall not exceed—

"(A) $60 per month in the case of the aggregate of the benefits described in subparagraphs (A) and (B) of paragraph (1), and

"(B) $160 per month in the case of qualified parking.

"(3) BENEFIT NOT IN LIEU OF COMPENSATION.—Subsection (a)(5) shall not apply to any qualified transportation fringe unless such benefit is provided in addition to (and not in lieu of) any compensation otherwise payable to the employee.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) TRANSIT PASS.—The term 'transit pass' means any pass, token, farecard, voucher, or similar item entitling a person to transportation (or transportation at a reduced price) if such transportation is—

"(i) on mass transit facilities (whether or not publicly owned), or

"(ii) provided by any person in the business of transporting persons for compensation or hire if such transportation is provided in a vehicle meeting the requirements of subparagraph (B)(i).

"(B) COMMUTER HIGHWAY VEHICLE.—The term 'commuter highway vehicle' means any highway vehicle—

"(i) the seating capacity of which is at least 6 adults (not including the driver), and

"(ii) at least 80 percent of the mileage use of which can reasonably be expected to be—

"(I) for purposes of transporting employees in connection with travel between their residences and their place of employment, and

"(II) on trips during which the number of employees transported for such purposes is at least 1/2 of the adult seating capacity of such vehicle (not including the driver).

"(C) QUALIFIED PARKING.—The term 'qualified parking' means parking provided to an employee on or near the business premises of the employer or on or near a location from which the employee commutes to work by transportation described in subparagraph (A), in a commuter highway vehicle, or by carpool.

"(D) TRANSPORTATION PROVIDED BY EMPLOYER.—Transportation referred to in paragraph (1)(A) shall be considered to be provided by an employer if such transportation is furnished in a commuter highway vehicle operated by or for the employer.

"(E) EMPLOYEE.—For purposes of this subsection, the term 'employee' does not include an individual who is an employee within the meaning of section 401(c)(1).

"(5) COORDINATION WITH OTHER PROVISIONS.—For purposes of this section, the terms 'working condition fringe' and 'de minimis fringe' shall not include any qualified transportation fringe (determined without regard to paragraph (2)).''

(c) CONFORMING AMENDMENT.—Subsection (i) of section 132 (as redesignated by subsection (b)) is amended by striking paragraph (4) and redesignating the following paragraphs accordingly.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to benefits provided after December 31, 1991.

(2) PARKING LIMIT.—The limitation of subparagraph (B) of section 132(f)(2) of the Internal Revenue Code of 1986 (as amended by this section) shall only apply to benefits provided for months beginning after the date of the enactment of this Act.

SEC. 1006. EXTENSION OF DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (6) of section 162(l) (relating to special rules for health insurance costs of self-employed individuals) is amended by striking "June 30, 1992" and inserting "December 31, 1992".

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 110 of the Tax Extension Act of 1991 is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after June 30, 1992.

TITLE II—JOB CREATION, GROWTH, AND INVESTMENT INCENTIVES

Subtitle A—Temporary Investment Incentives

SEC. 2001. TEMPORARY INCREASE IN AMOUNT OF EXPENSING FOR SMALL BUSINESSES.

Subsection (b) of section 179 is amended by adding at the end thereof the following new paragraph:

"(5) TEMPORARY INCREASE IN LIMITATION.—In the case of any taxable year beginning in 1992 or 1993, paragraph (1) shall be applied by substituting '$25,000' for '$10,000'.''

SEC. 2002. SPECIAL DEPRECIATION ALLOWANCE FOR CERTAIN EQUIPMENT ACQUIRED IN 1992.

(a) IN GENERAL.—Section 168 (relating to accelerated cost recovery system) is amended by adding at the end the following new subsection:

"(j) SPECIAL ALLOWANCE FOR CERTAIN EQUIPMENT ACQUIRED IN 1992.—

"(1) ADDITIONAL ALLOWANCE.—In the case of any qualified equipment—

"(A) the depreciation deduction provided by section 167(a) for the taxable year in which such equipment is placed in service shall include an allowance equal to 15 percent of the adjusted basis of the qualified equipment, and

"(B) the adjusted basis of the qualified equipment shall be reduced by the amount of such deduction before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

"(2) QUALIFIED EQUIPMENT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified equipment' means property to which this section applies—

"(i) which is section 1245 property (within the meaning of section 1245(a)(3)),

"(ii) the original use of which commences with the taxpayer on or after February 1, 1992,

"(iii) which is—

"(I) acquired by the taxpayer on or after February 1, 1992, and before January 1, 1993, but only if no written binding contract for the acquisition was in effect before February 1, 1992, or

"(II) acquired by the taxpayer pursuant to a written binding contract which was entered into on or after February 1, 1992, and before January 1, 1993, and

"(iv) which is placed in service by the taxpayer before July 1, 1993.

"(B) EXCEPTIONS.—

"(i) ALTERNATIVE DEPRECIATION PROPERTY.—The term 'qualified equipment' shall not include any property to which the alternative depreciation system under subsection (g) applies, determined—

"(I) without regard to paragraph (7) of subsection (g) (relating to election to have system apply), and

"(II) after application of section 280F(b) (relating to listed property with limited business use).

"(ii) ELECTION OUT.—If a taxpayer makes an election under this clause with respect to any class of property for any taxable year, this subsection shall not apply to all property in such class placed in service during such taxable year.

"(C) SPECIAL RULES RELATING TO ORIGINAL USE.—

"(i) SELF-CONSTRUCTED PROPERTY.—In the case of a taxpayer manufacturing, constructing, or producing property for the taxpayer's own use, the requirements of clause (iii) of subparagraph (A) shall be treated as met if the taxpayer begins manufacturing, constructing, or producing the property on and after February 1, 1992, and before January 1, 1993.

"(ii) SALE-LEASEBACKS.—For purposes of subparagraph (A)(ii), if property—

"(I) is originally placed in service on or after February 1, 1992, by a person, and

"(II) is sold and leased back by such person within 3 months after the date such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback referred to in subclause (II).

"(D) COORDINATION WITH SECTION 280F.—For purposes of section 280F—

"(i) AUTOMOBILES.—In the case of a passenger automobile (as defined in section 280F(d)(5)) which is qualified equipment, the Secretary shall increase the limitation under section 280F(a)(1)(A)(i), and decrease each other limitation under subparagraphs (A) and (B) of section 280F(a)(1), to appropriately reflect the amount of the deduction allowable under paragraph (1).

"(ii) LISTED PROPERTY.—The deduction allowable under paragraph (1) shall be taken into account in computing any recapture amount under section 280F(b)(2).''

(b) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Section 56(a)(1)(A) (relating to depreciation adjustment for alternative minimum tax) is amended by adding at the end the following new clause:

"(iii) ADDITIONAL ALLOWANCE FOR EQUIPMENT ACQUIRED IN 1992.—The deduction under section 168(j) shall be allowed.''

(2) CONFORMING AMENDMENT.—Clause (i) of section 56(a)(1)(A) is amended by inserting "or (iii)" after "(ii)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service on or after February 1, 1992, in taxable years ending on or after such date.

Subtitle B—Capital Gain Provisions

SEC. 2101. INDEXING OF CERTAIN ASSETS ACQUIRED ON OR AFTER FEBRUARY 1, 1992, 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 CERTAIN ASSETS ACQUIRED ON OR AFTER FEBRUARY 1, 1992, 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 a taxpayer (other than a corporation) 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 on or after February 1, 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) STOCK IN FOREIGN CORPORATIONS.—Stock in a foreign corporation.

"(F) 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)(E) shall not apply to stock in a foreign corporation the stock of which is listed on the New York Stock Exchange, the American Stock Exchange, or any domestic regional exchange for which quotations are published on a regular basis or is authorized for trading on the national market system operated by the National Association of Securities Dealers other than—

"(A) a passive foreign corporation (as defined in section 1296), and

"(B) stock in a foreign corporation held by a United States person who meets the requirements of section 1248(a)(2).

"(c) INDEXED BASIS.—For purposes of this section—

"(1) INDEXED BASIS.—The indexed basis for any asset is—

"(A) the adjusted basis of the asset, multiplied by

"(B) the applicable inflation ratio.

"(2) APPLICABLE INFLATION RATIO.—The applicable inflation ratio for any asset 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-thousandth.

"(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—

"(i) 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, and

"(ii) there shall be other appropriate adjustments (including deemed distributions) so as to ensure that the benefits of this section are not allowed (directly or indirectly) to corporate shareholders of qualified investment entities.

For purposes of the preceding sentence, any amount includible 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)(i)(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 (determined without regard to the requirement that the holding period begin on or after February 1, 1992) 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 not corporations).

"(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 not corporations).

"(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) TRANSFERS TO INCREASE INDEXING ADJUSTMENT.—If any person transfers cash, debt, or any other property to another person and the principal purpose of such transfer is to secure or increase an adjustment under subsection (a), the Secretary may disallow part or all of such adjustment or increase.

"(i) 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.

"(C) Any other portion of an asset to the extent that separate treatment of such portion is appropriate to carry out the purposes of this section.

"(2) ASSETS WHICH ARE NOT INDEXED ASSETS THROUGHOUT HOLDING PERIOD.—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.

"(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

(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) RECAPTURE OF ENTIRE AMOUNT OF DEPRECIATION UNDER SECTION 1250.—Section 1250 (relating to gain from dispositions of certain depreciable realty) is amended by adding at the end thereof the following new subsection:

"(i) RECAPTURE OF ENTIRE AMOUNT OF DEPRECIATION IN CASE OF PROPERTY TO WHICH SECTION 1022 APPLIES.—

"(1) IN GENERAL.—In the case of any taxpayer other than a corporation—

"(A) subsection (a) shall be applied with respect to any disposition of section 1250 property to which section 1022 applies as if it read as follows:

" '(a) GENERAL RULE.—Except as otherwise provided in this section, if section 1250 property is disposed of, the lesser of—

" '(1) the depreciation adjustments in respect of such property, or

" '(2) the excess of—

" '(A) the amount realized (or, in the case of a disposition other than sale, exchange, or involuntary conversion, the fair market value of such property), over

" '(B) the adjusted basis of such property,

shall be treated as gain which is ordinary income. Such gain shall be recognized notwithstanding any other provision of this subtitle.', and

"(B) in the case of any disposition described in subparagraph (A), subsections (e) and (f) shall not apply and appropriate adjustments shall be made in the provisions of subsection (d).

"(2) SPECIAL RULES FOR CERTAIN ENTITIES.—For purposes of paragraph (1), the following shall not be treated as a corporation:

"(A) An S corporation.

"(B) A regulated investment company.

"(C) A real estate investment trust.

"(3) COORDINATION WITH SECTION 453(i).—Subsection (i) of section 453 shall be applied without regard to this subsection."

(d) 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 certain assets acquired on or after February 1, 1992, for purposes of determining gain."

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to the disposition of any property the holding period of which begins on or after February 1, 1992.

(2) CERTAIN TRANSACTIONS BETWEEN RELATED PERSONS.—The amendments made by this section shall not apply to the disposition of any property acquired on or after February 1, 1992, 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.

(f) ELECTION TO RECOGNIZE GAIN ON READILY TRADABLE SECURITIES HELD ON FEBRUARY 1, 1992.—

(1) IN GENERAL.—If a taxpayer other than a corporation holds any readily tradable security on February 1, 1992, the taxpayer may elect to treat such security as having been sold on the last business day before such date for an amount equal to its closing market price on such last business day (and as having been reacquired on such last business day for an amount equal to such closing market price).

(2) TREATMENT OF GAIN OR LOSS.—

(A) Any gain resulting from an election under paragraph (1) shall be treated as received or accrued on the last business day referred to in paragraph (1).

(B) Any loss resulting from an election under paragraph (1) shall not be allowed for any taxable year.

(3) ELECTION.—An election under paragraph (1) shall be made in such manner as the Secretary may prescribe and shall specify the readily tradable securities for which such election is made. Such an election, once made with respect to any readily tradable security, shall be irrevocable.

(4) READILY TRADABLE SECURITY.—For purposes of this subsection, the term "readily tradable security" means any stock or other security which, as of February 1, 1992, is readily tradable on an established securities market or otherwise.

SEC. 2102. 50-PERCENT EXCLUSION FOR GAIN OF INDIVIDUALS FROM CERTAIN SMALL BUSINESS STOCK.

(a) GENERAL RULE.—Part I of subchapter P of chapter 1 (relating to capital gains and losses) is amended by adding at the end thereof the following new section:

"SEC. 1202. 50-PERCENT EXCLUSION FOR GAIN OF INDIVIDUALS FROM CERTAIN SMALL BUSINESS STOCK.

"(a) GENERAL RULE.—In the case of a taxpayer other than a corporation, gross income shall not include 50 percent of any gain from the sale or exchange of qualified small business stock held for more than 5 years.

"(b) QUALIFIED SMALL BUSINESS STOCK.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this section, the term 'qualified small business stock' means any stock in a corporation which is originally issued on or after February 1, 1992, if—

"(A) as of the date of issuance, such corporation is a qualified small business, and

"(B) except as provided in subsections (d) and (e), such stock is acquired by the taxpayer at its original issue (directly or through an underwriter)—

"(i) in exchange for money or other property (not including stock), or

"(ii) as compensation for services (other than services performed as an underwriter of such stock).

"(2) ACTIVE BUSINESS REQUIREMENT.—Stock in a corporation shall not be treated as qualified small business stock unless, during substantially all of the taxpayer's holding period for such stock, such corporation meets the active business requirements of subsection (d).

"(3) CERTAIN PURCHASES BY CORPORATION OF ITS OWN STOCK.—

"(A) IN GENERAL.—Stock issued by a corporation shall not be treated as qualified small business stock if such corporation has purchased or purchases any of its stock within the 2-year period beginning 1 year before the date of the issuance of such stock.

"(B) WAIVER WHERE BUSINESS PURPOSE.—Subparagraph (A) shall not apply where the issuing corporation establishes that there was a business purpose for the purchase of the stock and such purchase is not inconsistent with the purposes of this section.

"(C) MEMBERS OF AFFILIATED GROUP.—For purposes of this paragraph, the purchase by any corporation which is a member of the same affiliated group (within the meaning of section 1504) as the issuing corporation of any stock in any corporation which is a member of such group shall be treated as a purchase by the issuing corporation of its stock.

"(c) QUALIFIED SMALL BUSINESS.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified small business' means any domestic corporation if—

"(A) the aggregate capitalization of such corporation (or any predecessor thereof) at all times on or after February 1, 1992, and before the issuance did not exceed $100,000,000, and

"(B) the aggregate capitalization of such corporation immediately after the issuance (determined by taking into account amounts to be received in the issuance) does not exceed $100,000,000.

"(2) AGGREGATE CAPITALIZATION.—For purposes of paragraph (1), the term 'aggregate capitalization' means the excess of—

"(A) the amount of cash and the aggregate adjusted bases of other property held by the corporation, over

"(B) the aggregate amount of the short-term indebtedness of the corporation.

For purposes of the preceding sentence, the term 'short-term indebtedness' means any indebtedness which, when incurred, did not have a term in excess of 1 year.

"(3) LOOK-THRU IN CASE OF SUBSIDIARIES.—In determining whether a corporation meets the requirements of this subsection—

"(1) stock and debt of any subsidiary (as defined in subsection (d)(4)(C)) held by such corporation shall be disregarded, and

"(2) such corporation shall be treated as holding its ratable share of the assets of such subsidiary and as being liable for its ratable share of the indebtedness of such subsidiary.

"(d) ACTIVE BUSINESS REQUIREMENT.—For purposes of this section—

"(1) IN GENERAL.—For purposes of subsection (b)(2), the requirements of this subsection are met for any period if during such period—

"(A) the corporation is engaged in the active conduct of a trade or business,

"(B) substantially all of the assets of such corporation are used in the active conduct of a trade or business, and

"(C) such corporation is an eligible corporation.

"(2) SPECIAL RULE FOR CERTAIN ACTIVITIES.—For purposes of paragraph (1), if, in connection with any future trade or business, a corporation is engaged in—

"(A) start-up activities described in section 195(c)(1)(A),

"(B) activities resulting in the payment or incurring of expenditures which may be treated as research and experimental expenditures under section 174, or

"(C) activities with respect to in-house research expenses described in section 41(b)(4),

such corporation shall be treated with respect to such activities as engaged in (and assets used in such activities shall be treated as used in) the active conduct of a trade or business. Any determination under this paragraph shall be made without regard to whether a corporation has any gross income from such activities at the time of the determination.

"(3) ELIGIBLE CORPORATION.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'eligible corporation' means any domestic corporation; except that such term shall not include—

"(i) any corporation predominantly engaged in a disqualified business,

"(ii) any corporation the principal activity of which is the performance of personal services,

"(iii) a DISC,

"(iv) a corporation with respect to which an election under 936 is in effect,

"(v) any regulated investment company, real estate investment trust, or REMIC, and

"(vi) any cooperative.

"(B) DISQUALIFIED BUSINESS.—The term 'disqualified business' means—

"(i) any banking, insurance, financing, or similar business,

"(ii) any farming business,

"(iii) any business involving the production or extraction of products of a character with respect to which a deduction is allowable under section 613 or 613A, and

"(iv) any business of operating a hotel, motel, or restaurant or similar business.

"(4) STOCK IN OTHER CORPORATIONS.—

"(A) LOOK-THRU IN CASE OF SUBSIDIARIES.—For purposes of this subsection, stock and debt in any subsidiary corporation shall be disregarded and the parent corporation shall be deemed to own its ratable share of the subsidiary's assets, and to conduct its ratable share of the subsidiary's activities.

"(B) PORTFOLIO STOCK OR SECURITIES.—A corporation shall be treated as failing to meet the requirements of paragraph (1) for any period during which more than 10 percent of the value of its assets (in excess of liabilities) consist of stock or securities in other corporations which are not subsidiaries of such corporation.

"(C) SUBSIDIARY.—For purposes of this paragraph, a corporation shall be considered a subsidiary if the parent owns at least 50 percent of the combined voting power of all classes of stock entitled to vote, or at least 50 percent in value of all outstanding stock, of such corporation.

"(5) WORKING CAPITAL.—For purposes of paragraph (1)(B), any assets which—

"(A) are held for investment, and

"(B) are to be used to finance future research and experimentation or working capital needs of the corporation,

shall be treated as used in the active conduct of a trade or business.

"(6) MAXIMUM REAL ESTATE HOLDINGS.—A corporation shall not be treated as meeting the requirements of paragraph (1) for any period during which more than 10 percent of the total value of its assets is real property which is not used in the active conduct of a trade or business. For purposes of the preceding sentence, the ownership of, dealing in, or renting of real property shall not be treated as the active conduct of a trade or business.

"(7) COMPUTER SOFTWARE ROYALTIES.—For purposes of paragraph (1), rights to computer software which produces income described in section 543(d) shall be treated as an asset used in the active conduct of a trade or business.

"(e) STOCK ACQUIRED ON CONVERSION OF PREFERRED STOCK.—If any stock is acquired through the conversion of other stock which is qualified small business stock in the hands of the taxpayer—

"(1) the stock so acquired shall be treated as qualified small business stock in the hands of the taxpayer, and

"(2) the stock so acquired shall be treated as having been held during the period during which the converted stock was held.

"(f) TREATMENT OF PASS-THRU ENTITIES.—

"(1) IN GENERAL.—Any amount included in income by reason of holding an interest in a pass-thru entity shall be treated as gain described in subsection (a) if such amount meets the requirements of paragraph (2).

"(2) REQUIREMENTS.—An amount meets the requirements of this paragraph if—

"(A) such amount is attributable to gain on the sale or exchange by the pass-thru entity of stock which is qualified small business stock in the hands of such entity and which was held by such entity for more than 5 years, and

"(B) such amount is includible in the gross income of the taxpayer by reason of the holding of an interest in such entity which was held by the taxpayer on the date on which such pass-thru entity acquired such stock and at all times thereafter before the disposition of such stock by such pass-thru entity.

"(3) PASS-THRU ENTITY.—For purposes of this subsection, the term 'pass-thru entity' means—

"(A) any partnership,

"(B) any S corporation,

"(C) any regulated investment company, and

"(D) any common trust fund.

"(g) CERTAIN TAX-FREE AND OTHER TRANSFERS.—For purposes of this section—

"(1) IN GENERAL.—In the case of a transfer of stock to which this subsection applies, the transferee shall be treated as—

"(A) having acquired such stock in the same manner as the transferor, and

"(B) having held such stock during any continuous period immediately preceding the transfer during which it was held (or treated as held under this subsection) by the transferor.

"(2) TRANSFERS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any transfer—

"(A) by gift, or

"(B) at death.

"(3) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of section 1244(d)(2) shall apply for purposes of this section.

"(4) INCORPORATIONS AND REORGANIZATIONS INVOLVING NONQUALIFIED STOCK.—

"(A) IN GENERAL.—In the case of a transaction described in section 351 or a reorganization described in section 368, if a qualified small business stock is transferred for other stock, such transfer shall be treated as a transfer to which this subsection applies solely with respect to the person receiving such other stock.

"(B) LIMITATION.—This section shall apply to the sale or exchange of stock treated as qualified small business stock by reason of subparagraph (A) only to the extent of the gain (if any) which would have been recognized at the time of the transfer described in subparagraph (A) if section 351 or 368 had not applied at such time.

"(C) SUCCESSIVE APPLICATION.—For purposes of this paragraph, stock treated as qualified small business stock under subparagraph (A) shall be so treated for subsequent transactions or reorganizations, except that the limitation of subparagraph (B) shall be applied as of the time of the first transfer to which subparagraph (A) applied.

"(D) CONTROL TEST.—Except in the case of a transaction described in section 368, this paragraph shall apply only if, immediately after the transaction, the corporation issuing the stock owns directly or indirectly stock representing control (within the meaning of section 368(c)) of the corporation whose stock was transferred.

"(h) BASIS RULES.—

"(1) STOCK EXCHANGED FOR PROPERTY.—For purposes of this section, in the case where the taxpayer transfers property (other than money or stock) to a corporation in exchange for stock in such corporation—

"(A) such stock shall be treated as having been acquired by the taxpayer on the date of such exchange, and

"(B) the basis of such stock in the hands of the taxpayer shall in no event be less than the fair market value of the property exchanged.

"(2) BASIS OF S CORPORATION STOCK.—For purposes of this section, the adjusted basis of stock in an S corporation shall in no event be less than its adjusted basis determined without regard to any adjustment to the basis of such stock under section 1367.

"(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including regulations to prevent the avoidance of the purposes of this section through split-ups or otherwise."

(b) EXCLUSION TREATED AS PREFERENCE FOR MINIMUM TAX.—

(1) IN GENERAL.—Subsection (a) of section 57 (relating to items of tax preference) is amended by adding at the end thereof the following new paragraph:

"(8) EXCLUSION FOR GAINS ON SALE OF CERTAIN SMALL BUSINESS STOCK.—An amount equal to the amount excluded from gross income for the taxable year under section 1202."

(2) CONFORMING AMENDMENT.—Subclause (II) of section 53(d)(2)(B)(ii) is amended by striking "and (6)" and inserting "(6), and (8)".

(c) CONFORMING AMENDMENTS.—

(1)(A) Section 172(d)(2) (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 includable on account of gains from sales or exchanges of capital assets; and

"(B) the exclusion 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)".

(2) 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 described in section 1202(a), proper adjustment shall be made for any exclusion allowable to the estate or trust under section 1202. In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income)."

(3) Paragraph (3) of section 643(a) is amended by adding at the end thereof the following new sentence: "The exclusion under section 1202 shall not be taken into account."

(4) Paragraph (4) of section 691(c) is amended by striking "1201, and 1211" and inserting "1201, 1202, and 1211".

(5) 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 and" after "except that".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to stock issued on or after February 1, 1992.

Subtitle C—Real Estate Provisions

PART I—MODIFICATION OF PASSIVE LOSS RULES

SEC. 2201. MODIFICATION OF PASSIVE LOSS RULES.

(a) GENERAL RULE.—Subsection (c) of section 469 (relating to passive activity losses and credits limited) is amended by adding at the end thereof the following new paragraphs:

"(7) TAXPAYERS ENGAGED IN THE REAL PROPERTY BUSINESS.—

"(A) IN GENERAL.—In the case of a taxpayer engaged in the real property business, the determination of what constitutes an activity and whether an activity is a passive activity shall be made by treating the taxpayer's rental real property operations, undertakings, and activities in the same manner as nonrental trade or business operations, undertakings, and activities.

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply with respect to—

"(i) any interest held as a limited partner, and

"(ii) any rental activity with respect to any real property originally placed in service after the date of the enactment of this paragraph (whether or not by the taxpayer).

"(C) 20 PERCENT OF ITEMS REMAIN SUBJECT TO LIMITATION.—Notwithstanding subparagraph (A), 20 percent of the items of income, gain, loss, deduction, or credit allocable to any real property rental activity shall continue to be treated as items allocable to a passive activity. Any amount disallowed by reason of the preceding sentence shall be treated as an amount allocable to a former passive activity for purposes of applying subsection (f) (as modified by subparagraph (D) of this paragraph).

"(D) TREATMENT OF SUSPENDED LOSSES.—For purposes of applying subsection (f) with respect to any rental activity which is treated as not being a passive activity by reason of this paragraph, the holding and renting of each separate property shall be treated as a separate activity which may not be aggregated with rental activities with respect to other properties or with other real property operations.

"(8) INDIVIDUALS ENGAGED IN THE REAL PROPERTY BUSINESS.—For purposes of paragraph (7), an individual is engaged in the real property business if—

"(A) such individual spends at least 50 percent of such individual's working time in real property operations; and

"(B) such individual spends more than 500 hours during the taxable year in real property operations.

"(9) REAL PROPERTY OPERATIONS.—For purposes of paragraph (8), the term 'real property operations' means any real property development, redevelopment, construction, reconstruction, acquisition, conversion, rental, operation, management, leasing, brokerage, appraisal, and finance operations.

"(10) WORKING TIME.—For purposes of paragraph (8), the term 'working time' means any time spent as an employee, sole proprietor, S corporation shareholder, partner in a partnership, or beneficiary of a trust or estate.

"(11) CLOSELY HELD C CORPORATIONS ENGAGED IN THE REAL PROPERTY BUSINESS.—For purposes of paragraph (7), a closely held C corporation is engaged in the real property business if—

"(A) 1 or more shareholders owning stock representing more than 50 percent (by value) of the outstanding stock of such corporation materially participate in the aggregate real property activities of such corporation; or

"(B) such corporation meets the requirements of section 465(c)(7)(C) (without regard to clause (iv)) with respect to the aggregate real property activities of such corporation."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 469(c) is amended to read as follows:

"(2) PASSIVE ACTIVITY INCLUDES CERTAIN RENTAL ACTIVITIES.—Except for rental activities treated in the same manner as nonrental trade or business activities pursuant to paragraph (7), each rental activity is a passive activity without regard to whether or not the taxpayer materially participates in the rental activity."

(2) Paragraph (4) of such section 469(c) is amended to read as follows:

"(4) MATERIAL PARTICIPATION NOT REQUIRED FOR PARAGRAPH (3).—Paragraph (3) shall be applied without regard to whether or not the taxpayer materially participates in the activity."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

PART II—PROVISIONS RELATING TO REAL ESTATE INVESTMENTS BY PENSION FUNDS

SEC. 2211. REAL ESTATE PROPERTY ACQUIRED BY A QUALIFIED ORGANIZATION.

(a) MODIFICATIONS OF EXCEPTIONS.—Paragraph (9) of section 514(c) (relating to real property acquired by a qualified organization) is amended by adding at the end thereof the following new subparagraphs:

"(G) SPECIAL RULES FOR PURPOSES OF THE EXCEPTIONS.—Except as otherwise provided by regulations—

"(i) SMALL LEASES DISREGARDED.—For purposes of clauses (iii) and (iv) of subparagraph (B), a lease to a person described in such 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) COMMERCIALLY REASONABLE FINANCING.—Clause (v) of subparagraph (B) shall not apply if the financing is on commercially reasonable terms.

"(H) QUALIFYING SALES OUT OF FORECLOSURE BY FINANCIAL INSTITUTIONS.—

"(i) IN GENERAL.—In the case of a qualifying sale out of foreclosure by a financial institution, except as provided in regulations, clauses (i) and (ii) of subparagraph (B) shall not apply with respect to financing provided by such institution for such sale.

"(ii) QUALIFYING SALE.—For purposes of this clause, there is a qualifying sale out of foreclosure by a financial institution where—

"(I) a qualified organization acquires foreclosure property from a financial institution and the financial institution treats any income realized from the sale or exchange of the foreclosure property as ordinary income,

"(II) the stated principal amount of the financing provided by the financial institution does not exceed the amount of the outstanding indebtedness (including accrued but unpaid interest) of the financial institution with respect to the foreclosure property immediately before the acquisition referred to in clause (iv), and

"(III) the value (determined as of the time of the sale) of the amount pursuant to the financing that is determined by reference to the revenue, income, or profits derived from the property does not exceed 25 percent of the value of the property (determined as of such time).

"(iii) FINANCIAL INSTITUTION.—For purposes of this subparagraph, the term 'financial institution' means—

"(I) any financial institution described in section 581 or 591(a),

"(II) any other corporation which is a member of an affiliated group (as defined in section 1504(a)) which includes an institution referred to in subclause (I) but only if such other corporation is subject to supervision and examination by the same Federal or State agency as the institution referred to in subclause (I), and

"(III) any person acting as a conservator or receiver of an entity referred to in subclause (I) or (II).

"(iv) FORECLOSURE PROPERTY.—For purposes of this subparagraph, the term 'foreclosure property' means any real property acquired by the financial institution as the result of having bid on such property at foreclosure, or by operation of an agreement or process of law, after there was a default (or a default was imminent) on indebtedness which such property secured."

(b) CONFORMING AMENDMENT.—Paragraph (9) of section 514(c) is amended—

(1) by adding the following new sentence at the end of subparagraph (A): "For purposes of this paragraph, an interest in a mortgage shall in no event be treated as real property.", and

(2) by striking the last sentence of subparagraph (B).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to acquisitions on or after February 1, 1992.

SEC. 2212. SPECIAL RULES FOR INVESTMENTS IN PARTNERSHIPS.

(a) MODIFICATION TO ANTI-ABUSE RULES.—Paragraph (9) of section 514(c) (as amended by section 2211) is amended by adding at the end thereof the following new subparagraph:

"(I) 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) interests in such partnership were offered for sale in an offering registered with the Securities and Exchange Commission,

"(II) at least 50 percent of each class of interests in such partnership is owned by individuals who are not disqualified persons, and

"(III) the principal purpose of partnership allocations is not tax avoidance.

The Secretary may disregard inadvertent failures to meet the requirements of subclause (II).

"(ii) DISQUALIFIED PERSONS.—For purposes of this subparagraph, the term 'disqualified person' means any person described in clause (iii) or (iv) of subparagraph (B) and any person who is not a United States person."

(b) REPEAL OF SPECIAL TREATMENT OF PUBLICLY TRADED PARTNERSHIPS.—Subsection (c) of section 512 is amended—

(1) by striking paragraph (2),

(2) by redesignating paragraph (3) as paragraph (2), and

(3) 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.

SEC. 2213. TITLE-HOLDING COMPANIES PERMITTED TO RECEIVE SMALL AMOUNTS OF UNRELATED BUSINESS TAXABLE INCOME.

(a) GENERAL RULE.—Paragraph (25) of section 501(c) is amended by adding at the end thereof the following new subparagraph:

"(G)(i) An organization shall not be treated as failing to be described in this paragraph merely by reason of the receipt of any income which is incidentally derived from the holding of real property.

"(ii) Clause (i) shall not apply if the amount of gross income described in such clause exceeds 10 percent of the organization's gross income for the taxable year unless the organization establishes to the satisfaction of the Secretary that the receipt of gross income described in clause (i) in excess of such limitation was inadvertent and reasonable steps are being taken to correct the circumstances giving rise to such income."

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 501(c) is amended by adding at the end thereof the following new sentence: "Rules similar to the rules of subparagraph (G) of paragraph (25) shall apply for purposes of this paragraph.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 2214. EXCLUSION FROM UNRELATED BUSINESS TAX OF GAINS FROM CERTAIN PROPERTY.

(a) GENERAL RULE.—Subsection (b) of section 512 (relating to modifications) is amended by adding at the end thereof the following new paragraph:

"(16) Notwithstanding paragraph (5)(B), there shall be excluded all gains or losses from the sale, exchange, or other disposition of any real property if—

"(A) such property was acquired by the organization from—

"(i) a financial institution described in section 581 or 591(a) which is in conservatorship or receivership, or

"(ii) the conservator or receiver of such an institution,

"(B) such property is designated by the organization within the 6-month period beginning on the date of its acquisition as property held for sale,

"(C) such sale, exchange, or disposition occurs before the date 30 months after the date of such properties acquisition, and

"(D) while such property was held by the organization, such property was not substantially improved or renovated and there were no substantial development activities with respect to such property."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to property acquired on or after February 1, 1992.

SEC. 2215. TREATMENT OF PENSION FUND INVESTMENTS IN REAL ESTATE INVESTMENT TRUSTS.

(a) GENERAL RULE.—Subsection (h) of section 856 (relating to closely held determinations) is amended by adding at the end thereof the following new paragraph:

"(3) TREATMENT OF TRUSTS DESCRIBED IN SECTION 401(a).—

"(A) LOOK-THRU TREATMENT.—

"(i) IN GENERAL.—Except as provided in clause (ii), in determining whether the stock ownership requirement of section 542(a)(2) is met for purposes of paragraph (1)(A), any stock held by a qualified trust shall be treated as held directly by its beneficiaries in proportion to their actuarial interests in such trust and shall not be treated as held by such trust.

"(ii) CERTAIN RELATED TRUSTS NOT ELIGIBLE.—Clause (i) shall not apply to any qualified trust if one or more disqualified persons (as defined in section 4975(e)(2)) with respect to such qualified trust hold in the aggregate 5 percent or more in value of the interests in the real estate investment trust and such real estate investment trust has accumulated earnings and profits attributable to any period for which it did not qualify as a real estate investment trust.

"(B) COORDINATION WITH PERSONAL HOLDING COMPANY RULES.—If any entity qualifies as a real estate investment trust for any taxable year by reason of subparagraph (H), such entity shall not be treated as a personal holding company for such taxable year for purposes of part II of subchapter G of this chapter.

"(C) TREATMENT FOR PURPOSES OF UNRELATED BUSINESS TAX.—If any qualified trust holds 10 percent or more (by value) of the interests in any real estate investment trust described in subparagraph (D), any income of such qualified trust attributable to its interests in such real estate investment trust shall be taken into account under part III of subchapter F of this chapter under rules similar to the rules applicable to income attributable to interests in partnerships.

"(D) DESCRIPTION OF REAL ESTATE INVESTMENT TRUSTS.—

"(i) IN GENERAL.—A real estate investment trust is described in this subparagraph if such trust would not have qualified as a real estate investment trust but for the provisions of this paragraph and if—

"(I) interests in such trust are not readily tradable on an established securities market, or

"(II) interests in such trust are so tradable but such trust is predominantly held by qualified trusts.

"(ii) PREDOMINANTLY HELD.—For purposes of clause (i)(II), a real estate investment trust is predominantly held by qualified trusts if—

"(I) at least 1 qualified trust holds more than 25 percent (by value) of the interests in such real estate investment trust, or

"(II) 1 or more qualified trusts (each of whom own at least 10 percent by value of the interests in such real estate investment trust) hold in the aggregate more than 50 percent (by value) of the interests in such real estate investment trust.

"(E) QUALIFIED TRUST.—For purposes of this paragraph (D), the term 'qualified trust' means any trust described in section 401(a) and exempt from tax under section 501(a)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1991.

Subtitle D—Extension of Certain Expiring Tax Provisions

SEC. 2301. RESEARCH CREDIT.

(a) IN GENERAL.—Section 41 (relating to credit for increasing research activities) is amended by striking subsection (h).

(b) CONFORMING AMENDMENT.—Paragraph (1) section 28(b) is amended by striking subparagraph (D).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after June 30, 1992.

SEC. 2302. LOW-INCOME HOUSING CREDIT.

(a) EXTENSION.—

(1) IN GENERAL.—Section 42 (relating to low-income housing credit) is amended by striking subsection (o).

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to periods after June 30, 1992.

(b) ELECTION TO DETERMINE RENT LIMITATION BASED ON NUMBER OF BEDROOMS.—In the case of a building to which the amendments made by section 7108(e)(1) of the Revenue Reconciliation Act of 1989 did not apply, the taxpayer may elect to have such amendments apply to such building but only with respect to tenants first occupying any unit in the building after the date of the election. Such an election may be made only during the 180 day period beginning on the date of the enactment of this Act, and, once made, shall be irrevocable.

SEC. 2303. TARGETED JOBS CREDIT.

(a) IN GENERAL.—Subsection (c) of section 51 (relating to amount of targeted jobs credit) is amended by striking paragraph (4).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to individuals who begin work for the employer after June 30, 1992.

SEC. 2304. 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) TREATMENT OF RESALE PRICE CONTROL AND SUBSIDY LIEN PROGRAMS.—Subsection (k) of section 143 is amended by adding at the end thereof the following new paragraph:

"(10) TREATMENT OF RESALE PRICE CONTROL AND SUBSIDY LIEN PROGRAMS.—

"(A) IN GENERAL.—The interest of a governmental unit in any residence by reason of financing provided under any qualified program shall not be taken into account under this section (other than subsection (m)), and the acquisition cost of the residence which is taken into account under subsection (e) shall be such cost reduced by the amount of such financing.

"(B) QUALIFIED PROGRAM.—For purposes of subparagraph (A), the term 'qualified program' means any governmental program providing second mortgage loans—

"(i) which restricts the resale of the residence to a purchaser qualifying under this section and to a price determined by an index that reflects less than the full amount of any appreciation in the residence's value, or

"(ii) which provides for deferred or reduced interest payments on such financing and grants the governmental unit a share in the appreciation of the residence,

but only if such financing is not provided directly or indirectly through the use of any private activity bond."

(d) EFFECTIVE DATES.—

(1) BONDS.—The amendment made by subsection (a) shall apply to bonds issued after June 30, 1992.

(2) CERTIFICATES.—The amendment made by subsection (b) shall apply to elections for periods after June 30, 1992.

(3) PROGRAMS.—The amendment made by subsection (c) shall apply to qualified mortgage bonds issued and mortgage credit certificates provided on or after the date of the enactment of this Act.

SEC. 2305. QUALIFIED SMALL ISSUE BONDS.

(a) IN GENERAL.—Subparagraph (B) of section 144(a)(12) is amended to read as follows:

"(B) BONDS ISSUED TO FINANCE MANUFACTURING FACILITIES AND FARM PROPERTY.—Subparagraph (A) shall not apply to any bond issued as part of an issue 95 percent or more of the net proceeds of which are to be used to provide—

"(i) any manufacturing facility, or

"(ii) any land or property in accordance with section 147(c)(2)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to bonds issued after June 30, 1992.

SEC. 2306. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE.

(a) IN GENERAL.—Section 127 (relating to educational assistance programs) is amended by striking subsection (d) and by redesignating subsection (e) as subsection (d).

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 103 of the Tax Extension Act of 1991 is hereby repealed.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years ending after June 30, 1992.

SEC. 2307. EXCISE TAX ON CERTAIN VACCINES.

(a) TAX.—Paragraphs (2) and (3) of section 4131(c) (relating to tax on certain vaccines) are each amended by striking "1992" each place it appears and inserting "1994".

(b) TRUST FUND.—Paragraph (1) of section 9510(c) (relating to expenditures from Vaccine Injury Compensation Trust Fund) is amended by striking "1992" and inserting "1994".

(c) STUDY.—The Secretary of the Treasury, in consultation with the Secretary of Health and Human Services, shall conduct a study of—

(1) the estimated amount that will be paid from the Vaccine Injury Compensation Trust Fund with respect to vaccines administered after September 30, 1988, and before October 1, 1994,

(2) the rates of vaccine-related injury or death with respect to the various types of such vaccines,

(3) new vaccines and immunization practices being developed or used for which amounts may be paid from such Trust Fund, and

(4) whether additional vaccines should be included in the vaccine injury compensation program.

The report of such study shall be submitted not later than January 1, 1994, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

SEC. 2308. CERTAIN TRANSFERS TO RAILROAD RETIREMENT ACCOUNT.

Subsection (c)(1)(A) of section 224 of the Railroad Retirement Solvency Act of 1983 (relating to section 72(r) revenue increase transferred to certain railroad accounts) is amended by striking "with respect to benefits received before October 1, 1992".

Subtitle E—Modifications to Minimum Tax

SEC. 2401. REPEAL OF PREFERENCE FOR CONTRIBUTIONS OF APPRECIATED PROPERTY.

(a) IN GENERAL.—Subsection (a) of section 57 (relating to items of tax preference) is amended by striking paragraph (6) and by redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively.

(b) CONFORMING AMENDMENT.—Subclause (II) of section 53(d)(1)(B)(ii) is amended by striking "(6), and (8)" and inserting "and (7)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions in taxable years beginning after December 31, 1991.

(d) ADVANCE DETERMINATION OF VALUE OF CHARITABLE GIFTS.—The Secretary of the Treasury or his delegate shall develop and implement a procedure under which the value of donated property would be determined for Federal income tax purposes prior to the charitable transfer.

SEC. 2402. ELIMINATION OF ACE DEPRECIATION ADJUSTMENT.

(a) IN GENERAL.—Clause (i) of section 56(g)(4)(A) (relating to depreciation adjustments for computing adjusted current earnings) is amended by adding at the end the following new sentence: "The preceding sentence shall not apply to property placed in service on or after February 1, 1992, and the depreciation deduction with respect to such property shall be determined under the rules of subsection (a)(1)(A)."

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property placed in service on or after February 1, 1992, in taxable years ending after such date.

(2) COORDINATION WITH TRANSITIONAL RULES.—The amendments made by this section shall not apply to any property to which paragraph (1) of section 56(a) of the Internal Revenue Code of 1986 does not apply by reason of subparagraph (C)(i) of such paragraph (1).

Subtitle F—Repeal of Certain Luxury Excise Taxes; Imposition of Tax on Diesel Fuel Used in Noncommercial Motorboats

SEC. 2501. REPEAL OF LUXURY EXCISE TAXES OTHER THAN ON PASSENGER VEHICLES.

(a) IN GENERAL.—Subchapter A of chapter 31 (relating to retail excise taxes) is amended to read as follows:

"Subchapter A—Luxury Passenger Automobiles

"Sec. 4001. Imposition of tax.

"Sec. 4002. 1st retail sale; uses, etc. treated as sales; determination of price.

"Sec. 4003. Special rules.

"SEC. 4001. IMPOSITION OF TAX.

"(a) IMPOSITION OF TAX.—There is hereby imposed on the 1st retail sale of any passenger vehicle a tax equal to 10 percent of the price for which so sold to the extent such price exceeds $30,000.

"(b) PASSENGER VEHICLE.—

"(1) IN GENERAL.—For purposes of this subchapter, the term 'passenger vehicle' means any 4-wheeled vehicle—

"(A) which is manufactured primarily for use on public streets, roads, and highways, and

"(B) which is rated at 6,000 pounds unloaded gross vehicle weight or less.

"(2) SPECIAL RULES.—

"(A) TRUCKS AND VANS.—In the case of a truck or van, paragraph (1)(B) shall be applied by substituting 'gross vehicle weight' for 'unloaded gross vehicle weight'.

"(B) LIMOUSINES.—In the case of a limousine, paragraph (1) shall be applied without regard to subparagraph (B) thereof.

"(c) EXCEPTIONS FOR TAXICABS, ETC.—The tax imposed by this section shall not apply to the sale of any passenger vehicle for use by the purchaser exclusively in the active conduct of a trade or business of transporting persons or property for compensation or hire.

"(d) EXEMPTION FOR LAW ENFORCEMENT USES, ETC.—No tax shall be imposed by this section on the sale of any passenger vehicle—

"(1) to the Federal Government, or a State or local government, for use exclusively in police, firefighting, search and rescue, or other law enforcement or public safety activities, or in public works activities, or

"(2) to any person for use exclusively in providing emergency medical services.

"(e) INFLATION ADJUSTMENT.—

"(1) IN GENERAL.—In the case of any calendar year after 1991, the $30,000 amount in subsection (a) and section 4003(a) shall be increased by an amount equal to—

"(A) $30,000, multiplied by

"(B) the cost-of-living adjustment under section 1(f)(3) for such calendar year, determined by substituting 'calendar year 1990' for 'calendar year 1991' in subparagraph (B) thereof.

"(2) ROUNDING.—If any amount as adjusted under paragraph (1) is not a multiple of $100, such amount shall be rounded to the nearest multiple of $100 (or, if such amount is a multiple of $50 and not of $100, such amount shall be rounded to the next highest multiple of $100).

"(f) TERMINATION.—The tax imposed by this section shall not apply to any sale or use after December 31, 1999.

"SEC. 4002. 1ST RETAIL SALE; USES, ETC. TREATED AS SALES; DETERMINATION OF PRICE.

"(a) 1ST RETAIL SALE.—For purposes of this subchapter, the term '1st retail sale' means the 1st sale, for a purpose other than resale,

after manufacture, production, or importation.

"(b) USE TREATED AS SALE.—

"(1) IN GENERAL.—If any person uses a passenger vehicle (including any use after importation) before the 1st retail sale of such vehicle, then such person shall be liable for tax under this subchapter in the same manner as if such vehicle were sold at retail by him.

"(2) EXEMPTION FOR FURTHER MANUFACTURE.—Paragraph (1) shall not apply to use of a vehicle as material in the manufacture or production of, or as a component part of, another vehicle taxable under this subchapter to be manufactured or produced by him.

"(3) EXEMPTION FOR DEMONSTRATION USE.—Paragraph (1) shall not apply to any use of a passenger vehicle as a demonstrator for a potential customer while the potential customer is in the vehicle.

"(4) EXCEPTION FOR USE AFTER IMPORTATION OF CERTAIN VEHICLES.—Paragraph (1) shall not apply to the use of a vehicle after importation if the user or importer establishes to the satisfaction of the Secretary that the 1st use of the vehicle occurred before January 1, 1991, outside the United States.

"(5) COMPUTATION OF TAX.—In the case of any person made liable for tax by paragraph (1), the tax shall be computed on the price at which similar vehicles are sold at retail in the ordinary course of trade, as determined by the Secretary.

"(c) LEASES CONSIDERED AS SALES.—For purposes of this subchapter—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the lease of a vehicle (including any renewal or any extension of a lease or any subsequent lease of such vehicle) by any person shall be considered a sale of such vehicle at retail.

"(2) SPECIAL RULES FOR LONG-TERM LEASES.—

"(A) TAX NOT IMPOSED ON SALE FOR LEASING IN A QUALIFIED LEASE.—The sale of a passenger vehicle to a person engaged in a passenger vehicle leasing or rental trade or business for leasing by such person in a long-term lease shall not be treated as the 1st retail sale of such vehicle.

"(B) LONG-TERM LEASE.—For purposes of subparagraph (A), the term 'long-term lease' means any long-term lease (as defined in section 4052).

"(C) SPECIAL RULES.—In the case of a long-term lease of a vehicle which is treated as the 1st retail sale of such vehicle—

"(i) DETERMINATION OF PRICE.—The tax under this subchapter shall be computed on the lowest price for which the vehicle is sold by retailers in the ordinary course of trade.

"(ii) PAYMENT OF TAX.—Rules similar to the rules of section 4217(e)(2) shall apply.

"(iii) NO TAX WHERE EXEMPT USE BY LESSEE.—No tax shall be imposed on any lease payment under a long-term lease if the lessee's use of the vehicle under such lease is an exempt use (as defined in section 4003(b)) of such vehicle.

"(d) DETERMINATION OF PRICE.—

"(1) IN GENERAL.—In determining price for purposes of this subchapter—

"(A) there shall be included any charge incident to placing the article in condition ready for use,

"(B) there shall be excluded—

"(i) the amount of the tax imposed by this subchapter,

"(ii) if stated as a separate charge, the amount of any retail sales tax imposed by any State or political subdivision thereof or the District of Columbia, whether the liability for such tax is imposed on the vendor or vendee, and

"(iii) the value of any component of such article if—

"(I) such component is furnished by the 1st user of such article, and

"(II) such component has been used before such furnishing, and

"(C) the price shall be determined without regard to any trade-in.

"(2) OTHER RULES.—Rules similar to the rules of paragraphs (2) and (4) of section 4052(b) shall apply for purposes of this subchapter.

"SEC. 4003. SPECIAL RULES.

"(a) SEPARATE PURCHASE OF VEHICLE AND PARTS AND ACCESSORIES THEREFOR.—Under regulations prescribed by the Secretary—

"(1) IN GENERAL.—Except as provided in paragraph (2), if—

"(A) the owner, lessee, or operator of any passenger vehicle installs (or causes to be installed) any part or accessory on such vehicle, and

"(B) such installation is not later than the date 6 months after the date the vehicle was 1st placed in service,

then there is hereby imposed on such installation a tax equal to 10 percent of the price of such part or accessory and its installation.

"(2) LIMITATION.—The tax imposed by paragraph (1) on the installation of any part or accessory shall not exceed 10 percent of the excess (if any) of—

"(A) the sum of—

"(i) the price of such part or accessory and its installation,

"(ii) the aggregate price of the parts and accessories (and their installation) installed before such part or accessory, plus

"(iii) the price for which the passenger vehicle was sold, over

"(B) $30,000.

"(3) EXCEPTIONS.—Paragraph (1) shall not apply if—

"(A) the part or accessory installed is a replacement part or accessory,

"(B) the part or accessory is installed to enable or assist an individual with a disability to operate the vehicle, or to enter or exit the vehicle, by compensating for the effect of such disability, or

"(C) the aggregate price of the parts and accessories (and their installation) described in paragraph (1) with respect to the vehicle does not exceed $200 (or such other amount or amounts as the Secretary may by regulation prescribe).

"(4) INSTALLERS SECONDARILY LIABLE FOR TAX.—The owners of the trade or business installing the parts or accessories shall be secondarily liable for the tax imposed by this subsection.

"(b) IMPOSITION OF TAX ON SALES, ETC., WITHIN 2 YEARS OF VEHICLES PURCHASED TAX-FREE.—

"(1) IN GENERAL.—If—

"(A) no tax was imposed under this subchapter on the 1st retail sale of any passenger vehicle by reason of its exempt use, and

"(B) within 2 years after the date of such 1st retail sale, such vehicle is resold by the purchaser or such purchaser makes a substantial nonexempt use of such vehicle,

then such sale or use of such vehicle by such purchaser shall be treated as the 1st retail sale of such vehicle for a price equal to its fair market value at the time of such sale or use.

"(2) EXEMPT USE.—For purposes of this subsection, the term 'exempt use' means any use of a vehicle if the 1st retail sale of such vehicle is not taxable under this subchapter by reason of such use.

"(c) PARTS AND ACCESSORIES SOLD WITH TAXABLE ARTICLE.—Parts and accessories sold on, in connection with, or with the sale of any passenger vehicle shall be treated as part of the vehicle.

"(d) PARTIAL PAYMENTS, ETC.—In the case of a contract, sale, or arrangement described in paragraph (2), (3), or (4) of section 4216(c), rules similar to the rules of section 4217(e)(2) shall apply for purposes of this subchapter."

(b) TECHNICAL AMENDMENTS.—

(1) Subsection (c) of section 4221 is amended by striking "4002(b), 4003(c), 4004(a)" and inserting "4001(d)".

(5) Subsection (d) of section 4222 is amended by striking "4002(b), 4003(c), 4004(a)" and inserting "4001(d)".

(3) The table of subchapters for chapter 31 is amended by striking the item relating to subchapter A and inserting the following:

"Subchapter A. Luxury passenger vehicles."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on February 1, 1992.

SEC. 2502. TAX ON DIESEL FUEL USED IN NONCOMMERCIAL MOTORBOATS.

(a) GENERAL RULE.—

(1) Paragraph (2) of section 4092(a) (defining diesel fuel) is amended by striking "or a diesel-powered train" and inserting ", a diesel-powered train, or a diesel-powered motorboat".

(2) Paragraph (1) of section 4041(a) is amended—

(A) by striking "diesel-powered highway vehicle" each place it appears and inserting "diesel-powered highway vehicle or diesel-powered motorboat", and

(B) by striking "such vehicle" and inserting "such vehicle or motorboat".

(3) Subparagraph (B) of section 4092(b)(1) is amended by striking "commercial and noncommercial vessels" each place it appears and inserting "vessels for use in an off-highway business use (as defined in section 6421(e)(2)(B))".

(b) EXEMPTION FOR USE IN FISHERIES OR COMMERCIAL NAVIGATION.—Subparagraph (B) of section 6421(e)(2) is amended to read as follows:

"(B) USES IN MOTORBOATS.—The term 'off-highway business use' does not include any use in a motorboat; except that such term shall include any use in—

"(i) a vessel employed in the fisheries or in the whaling business, and

"(ii) a motorboat in the active conduct of—

"(I) a trade or business of commercial fishing or transporting persons or property for compensation or hire, or

"(II) any other trade or business unless the motorboat is used predominantly in any activity which is of a type generally considered to constitute entertainment, amusement or recreation."

(c) RETENTION OF TAXES IN GENERAL FUND.—

(1) TAXES IMPOSED AT HIGHWAY TRUST FUND FINANCING RATE.—Paragraph (4) of section 9503(b) (relating to transfers to Highway Trust Fund) is amended—

(A) by striking "and" at the end of subparagraph (A),

(B) by striking the period at the end of subparagraph (B) and inserting ", and", and

(C) by adding at the end thereof the following new subparagraph:

"(C) there shall not be taken into account the taxes imposed by sections 4041 and 4091 on diesel fuel sold for use or used as fuel in a diesel-powered motorboat."

(2) TAXES IMPOSED AT LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.—Subsection (b) of section 9508 (relating to transfers to Leaking Underground Storage Tank Trust Fund) is amended by adding at the end thereof the following new sentence: "For purposes of this subsection, there shall not be taken into account the taxes imposed by sections 4041 and 4091 on diesel fuel sold for use or used as fuel in a diesel-powered motorboat."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 1992.

Subtitle G—Urban Tax Enterprise Zones and Rural Development Investment Zones

SEC. 2601. STATEMENT OF PURPOSE.

It is the purpose of this subtitle to establish a demonstration program of providing incentives for the creation of tax enterprise zones in order—

(1) to revitalize economically and physically distressed areas, primarily by encouraging the formation of new businesses and the retention and expansion of existing businesses,

(2) to promote meaningful employment for tax enterprise zone residents, and

(3) to encourage individuals to reside in the tax enterprise zones in which they are employed.

PART I—DESIGNATION AND TAX INCENTIVES

SEC. 2602. DESIGNATION AND TREATMENT OF URBAN TAX ENTERPRISE ZONES AND RURAL DEVELOPMENT INVESTMENT ZONES.

(a) IN GENERAL.—Chapter 1 (relating to normal taxes and surtaxes) is amended by inserting after subchapter T the following new subchapter:

"Subchapter U—Designation and Treatment of Tax Enterprise Zones

"Part I. Designation of tax enterprise zones.

"Part II. Incentives for tax enterprise zones.

"PART I—DESIGNATION OF TAX ENTERPRISE ZONES

"Sec. 1391. Designation procedure.

"Sec. 1392. Eligibility and selection criteria.

"Sec. 1393. Definitions and special rules.

"SEC. 1391. DESIGNATION PROCEDURE.

"(a) IN GENERAL.—For purposes of this title, the term 'tax enterprise zone' means any area which is, under this part—

"(1) nominated by 1 or more local governments and the State in which it is located for designation as a tax enterprise zone, and

"(2) designated by—

"(A) the Secretary of Housing and Urban Development in the case of an urban tax enterprise zone, and

"(B) the Secretary of Agriculture, in consultation with the Secretary of Commerce, in the case of a rural development investment zone.

"(b) NUMBER OF DESIGNATIONS.—

"(1) AGGREGATE LIMIT.—The appropriate Secretaries may designate in the aggregate 35 nominated areas as tax enterprise zones under this section, subject to the availability of eligible nominated areas. Not more than 10 urban tax enterprise zones may be designated and not more than 25 rural development investment zones may be designated. Such designations may be made only during the calendar years 1993, 1994, and 1995.

"(2) ANNUAL LIMITS.—

"(A) URBAN TAX ENTERPRISE ZONES.—The number of urban tax enterprise zones designated under paragraph (1)—

"(i) in calendar year 1993 shall not exceed 5,

"(ii) in calendar year 1994 shall not exceed the sum of 3 plus the carryover amount for such year, and

"(iii) in calendar year 1995 shall not exceed the sum of 2 plus the carryover amount for such year.

"(B) RURAL DEVELOPMENT INVESTMENT ZONES.—The number of rural development investment zones designated under paragraph (1)—

"(i) in calendar year 1993 shall not exceed 12,

"(ii) in calendar year 1994 shall not exceed the sum of 7 plus the carryover amount for such year, and

"(iii) in calendar year 1995 shall not exceed the sum of 6 plus the carryover amount for such year.

"(C) CARRYOVER AMOUNT.—For purposes of subparagraphs (A) and (B), the carryover amount for any calendar year shall be equal to the amount by which—

"(i) the limitation under such subparagraph for the preceding calendar year, exceeds

"(ii) the number of designations made under paragraph (1) for the type of tax enterprise zone to which such subparagraph relates in such preceding calendar year.

"(3) ADVANCE DESIGNATIONS PERMITTED.—For purposes of this subchapter, a designation during any calendar year shall be treated as made on January 1 of the following calendar year if the appropriate Secretary, in making such designation, specifies that such designation is effective as of such January 1.

"(c) LIMITATIONS ON DESIGNATIONS.—The appropriate Secretary may not make any designation under subsection (a) unless—

"(1) the local governments and the State in which the nominated area is located have the authority—

"(A) to nominate the area for designation as a tax enterprise zone, and

"(B) to provide assurances satisfactory to the appropriate Secretary that the commitments under section 1392(c) will be fulfilled,

"(2) the local governments and the State in which the nominated area is located—

"(A) have designated a governmental official with responsibility for making allocations under section 1397A (relating to overall limitation on zone incentives), and

"(B) have established procedures to ensure that allocations under section 1397A are made in a manner designed primarily to increase economic activity in the tax enterprise zone over that which would otherwise have occurred,

"(3) a nomination of the area is submitted in a reasonable time before the calendar year for which designation as a tax enterprise zone is sought,

"(4) the appropriate Secretary determines that any information furnished is reasonably accurate, and

"(5) the State and local governments certify that no portion of the area nominated is already included in a tax enterprise zone or in an area otherwise nominated to be a tax enterprise zone.

"(d) PERIOD FOR WHICH DESIGNATION IS IN EFFECT.—

"(1) IN GENERAL.—Any designation of an area as a tax enterprise zone shall remain in effect during the period beginning on the date of the designation and ending on the earliest of—

"(A) December 31 of the 15th calendar year following the calendar year in which such date occurs,

"(B) the termination date designated by the State and local governments as provided for in their nomination, or

"(C) the date the appropriate Secretary revokes the designation under paragraph (2).

"(2) REVOCATION OF DESIGNATION.—

"(A) IN GENERAL.—The appropriate Secretary shall revoke the designation of an area as a tax enterprise zone if such Secretary determines that the local government or the State in which it is located—

"(i) has significantly modified the boundaries of the area, or

"(ii) is not complying substantially with the State and local commitments pursuant to section 1392(c).

"(B) APPLICABLE PROCEDURES.—A designation may be revoked by the appropriate Secretary under subparagraph (A) only after a hearing on the record involving officials of the State or local government involved.

"SEC. 1392. ELIGIBILITY AND SELECTION CRITERIA.

"(a) IN GENERAL.—The appropriate Secretary may make a designation of any nominated area under section 1391 only on the basis of the eligibility and selection criteria set forth in this section.

"(b) ELIGIBILITY CRITERIA.—

"(1) URBAN TAX ENTERPRISE ZONES.—A nominated area which is not a rural area shall be eligible for designation under section 1391 only if it meets the following criteria:

"(A) POPULATION.—The nominated area has a population (as determined by the most recent census data available) of not less than 4,000.

"(B) DISTRESS.—The nominated area is one of pervasive poverty, unemployment, and general distress.

"(C) SIZE.—The nominated area—

"(i) does not exceed 12 square miles,

"(ii) has a boundary which is continuous, or consists of not more than 3 noncontiguous parcels, and

"(iii) is located entirely within 1 State.

"(D) UNEMPLOYMENT RATE.—The unemployment rate (as determined by the appropriate available data) is not less than 1.5 times the national unemployment rate.

"(E) POVERTY RATE.—The poverty rate (as determined by the most recent census data available) for not less than 90 percent of the population census tracts (or where not tracted, the equivalent county divisions as defined by the Bureau of the Census for the purposes of defining poverty areas) within the nominated area is not less than 20 percent.

"(F) COURSE OF ACTION.—There has been adopted for the nominated area a course of action which meets the requirements of subsection (c).

"(2) RURAL DEVELOPMENT INVESTMENT ZONES.—A nominated area which is a rural area shall be eligible for designation under section 1391 only if it meets the following criteria:

"(A) POPULATION.—The nominated area has a population (as determined by the most recent census data available) of not less than 1,000.

"(B) DISTRESS.—The nominated area is one of general distress.

"(C) SIZE.—The nominated area—

"(i) does not exceed 10,000 square miles,

"(ii) consists of areas within not more than 4 contiguous counties,

"(iii) has a boundary which is continuous, or consists of not more than 3 noncontiguous parcels, and

"(iv) except in the case of nominated areas located in 1 or more Indian reservations, is located entirely within 1 State.

"(D) ADDITIONAL CRITERIA.—Not less than 2 of the following criteria:

"(i) UNEMPLOYMENT RATE.—The criterion set forth in paragraph (1)(D).

"(ii) POVERTY RATE.—The criterion set forth in paragraph (1)(E).

"(iii) JOB LOSS.—The amount of wages attributable to employment in the area, and subject to tax under section 3301 during the preceding calendar year, is not more than 95 percent of such wages during the 5th preceding calendar year.

"(iv) OUT-MIGRATION.—The population of the area decreased (as determined by the most recent census data available) by 10 percent or more between 1980 and 1990.

"(E) COURSE OF ACTION.—There has been adopted for the nominated area a course of action which meets the requirements of subsection (c).

"(c) REQUIRED STATE AND LOCAL COURSE OF ACTION.—

"(1) IN GENERAL.—No nominated area may be designated as a tax enterprise zone unless the local government and the State in which it is located agree in writing that, during any period during which the area is a tax enterprise zone, the governments will follow a specified course of action designed to reduce the various burdens borne by employers or employees in the area.

"(2) COURSE OF ACTION.—The course of action under paragraph (1) may be implemented by both governments and private nongovernmental entities, may not be funded from proceeds of any Federal program, and may include—

"(A) a reduction of tax rates or fees applying within the tax enterprise zone,

"(B) an increase in the level, or efficiency of delivery, of local public services within the tax enterprise zone,

"(C) actions to reduce, remove, simplify, or streamline government paperwork requirements applicable within the tax enterprise zone,

"(D) the involvement in the program by public authorities or private entities, organizations, neighborhood associations, and community groups, particularly those within the nominated area, including a written commitment to provide jobs and job training for, and technical, financial, or other assistance to, employers, employees, and residents of the nominated area,

"(E) the giving of special preference to contractors owned and operated by members of any minority,

"(F) the gift (or sale at below fair market value) of surplus land in the tax enterprise zone to neighborhood organizations agreeing to operate a business on the land,

"(G) the establishment of a program under which employers within the tax enterprise zone may purchase health insurance for their employees on a pooled basis,

"(H) the establishment of a program to encourage local financial institutions to satisfy their obligations under the Community Reinvestment Act of 1977 (12 U.S.C. 2901 et seq.) by making loans to tax enterprise zone businesses, with emphasis on startup and other small-business concerns (as defined in section 3(a) of the Small Business Act (15 U.S.C. 632(a)),

"(I) the giving of special preference to qualified low-income housing projects located in tax enterprise zones, in the allocation of the State housing credit ceiling applicable under section 42, and

"(J) the giving of special preference to facilities located in tax enterprise zones, in the allocation of the State ceiling on private activity bonds applicable under section 146.

"(3) RECOGNITION OF PAST EFFORTS.—In evaluating courses of action agreed to by any State or local government, the appropriate Secretary shall take into account the past efforts of the State or local government in reducing the various burdens borne by employers and employees in the area involved.

"(4) PROHIBITION OF ASSISTANCE FOR BUSINESS RELOCATIONS.—

"(A) IN GENERAL.—The course of action implemented under paragraph (1) may not include any action to assist any establishment in relocating from 1 area to another area.

"(B) EXCEPTION.—The limitation established in subparagraph (A) shall not be construed to prohibit assistance for the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary if the appropriate Secretary—

"(i) finds that the establishment of the new branch, affiliate, or subsidiary will not result in an increase in unemployment in the area of original location or in any other area where the existing business entity conducts business operations, and

"(ii) has no reason to believe that the new branch, affiliate, or subsidiary is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where the existing business entity conducts business operations.

"(d) SELECTION CRITERIA.—From among the nominated areas eligible for designation under subsection (b) by the appropriate Secretary, such appropriate Secretary shall make designations of tax enterprise zones on the basis of the following factors (each of which is to be given equal weight):

"(1) STATE AND LOCAL CONTRIBUTIONS.—The strength and quality of the contributions which have been promised as part of the course of action relative to the fiscal ability of the nominating State and local governments.

"(2) IMPLEMENTATION OF COURSE OF ACTION.—The effectiveness and enforceability of the guarantees that the course of action will actually be carried out.

"(3) PRIVATE COMMITMENTS.—The level of commitments by private entities of additional resources and contributions to the economy of the nominated area, including the creation of new or expanded business activities.

"(4) AVERAGE RANKINGS.—The average ranking with respect to—

"(A) the criteria set forth in subparagraphs (D) and (E) of subsection (b)(1), in the case of an area which is not a rural area, or

"(B) the 2 criteria set forth in subsection (b)(2)(D) that give the area a higher average ranking, in the case of a rural area.

"(5) REVITALIZATION POTENTIAL.—The potential for the revitalization of the nominated area as a result of zone designation, taking into account particularly the number of jobs to be created and retained.

"SEC. 1393. DEFINITIONS AND SPECIAL RULES.

"For purposes of this subchapter—

"(1) URBAN TAX ENTERPRISE ZONE.—The term 'urban tax enterprise zone' means a tax enterprise zone which meets the requirements of section 1392(b)(1).

"(2) RURAL DEVELOPMENT INVESTMENT ZONE.—The term 'rural development investment zone' means a tax enterprise zone which meets the requirements of section 1392(b)(2).

"(3) GOVERNMENTS.—If more than 1 local government seeks to nominate an area as a tax enterprise zone, any reference to, or requirement of, this subchapter shall apply to all such governments.

"(4) LOCAL GOVERNMENT.—The term 'local government' means—

"(A) any county, city, town, township, parish, village, or other general purpose political subdivision of a State, and

"(B) any combination of political subdivisions described in subparagraph (A) recognized by the appropriate Secretary.

"(5) NOMINATED AREA.—

"(A) IN GENERAL.—The term 'nominated area' means an area which is nominated by 1 or more local governments and the State in which it is located for designation as a tax enterprise zone under this subchapter.

"(B) INDIAN RESERVATIONS.—In the case of a nominated area on an Indian reservation, the reservation governing body (as determined by the Secretary of the Interior) shall be deemed to be both the State and local governments with respect to the area.

"(6) RURAL AREA.—The term 'rural area' means any area which is—

"(A) outside of a metropolitan statistical area (within the meaning of section 143(k)(2)(B)), or

"(B) determined by the Secretary of Agriculture, after consultation with the Secretary of Commerce, to be a rural area.

"(7) APPROPRIATE SECRETARY.—The term 'appropriate Secretary' means—

"(A) the Secretary of Housing and Urban Development in the case of urban tax enterprise zones, and

"(B) the Secretary of Agriculture in the case of rural development investment zones.

"(8) STATE-CHARTERED DEVELOPMENT CORPORATIONS.—An area shall be treated as nominated by a State and a local government if it is nominated by an economic development corporation chartered by the State.

"PART II—INCENTIVES FOR TAX ENTERPRISE ZONES

"SUBPART A. Enterprise zone employment credit.

"SUBPART B. Investment incentives.

"SUBPART C. General provisions.

"Subpart A—Enterprise Zone Employment Credit

"Sec. 1394. Enterprise zone employment credit.

"Sec. 1395. Other definitions and special rules.

"SEC. 1394. ENTERPRISE ZONE EMPLOYMENT CREDIT.

"(a) AMOUNT OF CREDIT.—

"(1) IN GENERAL.—For purposes of section 38, the amount of the enterprise zone employment credit determined under this section with respect to any small employer for any taxable year is 7.5 percent of the qualified zone wages paid or incurred during such taxable year.

"(2) LIMITATION.—The amount of the enterprise zone employment credit of any small employer for any taxable year with respect to any tax enterprise zone shall not exceed the employment credit amount allocated to such employer for such taxable year under section 1397A with respect to such zone.

"(b) QUALIFIED ZONE WAGES.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified zone wages' means any wages paid or incurred by a small employer for services performed by an employee while such employee is a qualified zone employee.

"(2) COORDINATION WITH TARGETED JOBS CREDIT.—The term 'qualified wages' shall not include wages attributable to service rendered during the 1-year period beginning with the day the individual begins work for the employer if any portion of such wages are qualified wages (as defined in section 51(b)).

"(c) QUALIFIED ZONE EMPLOYEE.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'qualified zone employee' means, with respect to any period, any employee of a small employer if—

"(A) substantially all of the services performed during such period by such employee for such employer are performed within a tax enterprise zone in a trade or business of the employer, and

"(B) the principal place of abode of such employee while performing such services is within such tax enterprise zone.

"(2) CREDIT ALLOWED ONLY FOR FIRST 5 YEARS.—An employee shall not be treated as a qualified zone employee for any period after the date 5 years after the day on which such employee first began work for the employer (whether or not in a tax enterprise zone).

"(3) INDIVIDUALS RECEIVING WAGES IN EXCESS OF $30,000 NOT ELIGIBLE.—An employee shall not be treated as a qualified zone employee for any taxable year of the employer if the total amount of the wages paid or incurred by such employer to such employee during such taxable year (whether or not for services in a tax enterprise zone) exceeds the amount determined at an annual rate of $30,000. The Secretary shall adjust the $30,000 amount contained in the preceding sentence for years beginning after 1992 at the same time and in the same manner as under section 415(d).

"(4) CERTAIN INDIVIDUALS NOT ELIGIBLE.—The term 'qualified zone employee' shall not include—

"(A) any individual described in subparagraph (A), (B), or (C) of section 51(i)(1), and

"(B) any 5-percent owner (as defined in section 416(i)(1)(B)).

"(d) SMALL EMPLOYER.—For purposes of this section, the term 'small employer' means, with respect to any taxable year, any employer if the average number of individuals employed full-time (within the meaning of the last sentence of section 44(b)) during such taxable year by such employer does not exceed 100.

"(e) EARLY TERMINATION OF EMPLOYMENT BY EMPLOYER.—

"(1) IN GENERAL.—If the employment of any employee is terminated by the taxpayer before the day 1 year after the day on which such employee began work for the employer—

"(A) no wages with respect to such employee shall be taken into account under subsection (a) for the taxable year in which such employment is terminated, and

"(B) the tax under this chapter for the taxable year in which such employment is terminated shall be increased by the aggregate credits (if any) allowed under section 38(a) for prior taxable years by reason of wages taken into account with respect to such employee.

"(2) CARRYBACKS AND CARRYOVERS ADJUSTED.—In the case of any termination of employment to which paragraph (1) applies, the carrybacks and carryovers under section 39 shall be properly adjusted.

"(3) SUBSECTION NOT TO APPLY IN CERTAIN CASES.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to—

"(i) a termination of employment of an employee who voluntarily leaves the employment of the taxpayer,

"(ii) a termination of employment of an individual who before the close of the period referred to in paragraph (1) becomes disabled to perform the services of such employment unless such disability is removed before the close of such period and the taxpayer fails to offer reemployment to such individual, or

"(iii) a termination of employment of an individual if it is determined under the applicable State unemployment compensation law that the termination was due to the misconduct of such individual.

"(B) CHANGES IN FORM OF BUSINESS.—For purposes of paragraph (1), the employment relationship between the taxpayer and an employee shall not be treated as terminated—

"(i) by a transaction to which section 381(a) applies if the employee continues to be employed by the acquiring corporation, or

"(ii) by reason of a mere change in the form of conducting the trade or business of the taxpayer if the employee continues to be employed in such trade or business and the taxpayer retains a substantial interest in such trade or business.

"(4) SPECIAL RULE.—Any increase in tax under paragraph (1) shall not be treated as a tax imposed by this chapter for purposes of—

"(A) determining the amount of any credit allowable under this chapter, and

"(B) determining the amount of the tax imposed by section 55.

"SEC. 1395. OTHER DEFINITIONS AND SPECIAL RULES.

"(a) WAGES.—For purposes of this subpart, the term 'wages' has the same meaning as when used in section 51 except that paragraph (4) of section 51(c) shall not apply.

"(b) CONTROLLED GROUPS.—For purposes of this subpart—

"(1) all employers treated as a single employer under subsection (a) or (b) of section 52 shall be treated as a single employer for purposes of this subpart, and

"(2) the credit (if any) determined under section 1394 with respect to each such employer shall be its proportionate share of the wages giving rise to such credit.

"(c) CERTAIN OTHER RULES MADE APPLICABLE.—For purposes of this subpart, rules similar to the rules of section 51(k) and subsections (c), (d), and (e) of section 52 shall apply.

"Subpart B—Investment Incentives

"Sec. 1396. Enterprise zone stock.

"Sec. 1397. Additional first-year depreciation allowance.

"SEC. 1396. ENTERPRISE ZONE STOCK.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a deduction an amount equal to the aggregate amount paid in cash by the taxpayer during the taxable year for the purchase of enterprise zone stock.

"(b) LIMITATIONS.—

"(1) CEILING.—

"(A) IN GENERAL.—The maximum amount allowed as a deduction under subsection (a) to a taxpayer shall not exceed whichever of the following is the least for the taxable year:

"(i) $25,000.

"(ii) The enterprise zone stock amount allocated under section 1397A to the taxpayer for such taxable year.

"(iii) The excess of $250,000 over the amount allowed as a deduction under this section to the taxpayer for all prior taxable years.

"(B) EXCESS AMOUNTS.—If the amount otherwise deductible by any person under subsection (a) exceeds the limitation under subparagraph (A)—

"(i) the amount of such excess shall be treated as an amount paid to which subsection (a) applies during the next taxable year, and

"(ii) the deduction allowed for any taxable year shall be allocated among the enterprise zone stock purchased by such person in accordance with the purchase price per share.

"(2) AGGREGATION WITH FAMILY MEMBERS.—The taxpayer and members of the taxpayer's family (as defined in section 267(c)(4)) shall be treated as one person for purposes of clauses (i) and (iii) of paragraph (1)(A), and the limitations contained in such clauses shall be allocated among the taxpayer and such members in accordance with their respective purchases of enterprise zone stock.

"(c) DISPOSITIONS OF STOCK.—

"(1) GAIN TREATED AS ORDINARY INCOME.—Except as otherwise provided in regulations, if a taxpayer disposes of any enterprise zone stock with respect to which a deduction was allowed under subsection (a), the amount realized on such disposition—

"(A) shall be recognized notwithstanding any other provision of this subtitle, and

"(B) to the extent such amount does not exceed the amount allowed as a deduction under subsection (a) with respect to such stock, shall be treated as ordinary income.

"(2) INTEREST CHARGED IF DISPOSITION WITHIN 5 YEARS OF PURCHASE.—

"(A) IN GENERAL.—If a taxpayer disposes of any enterprise zone stock with respect to which a deduction was allowed under subsection (a) before the end of the 5-year period beginning on the date such stock was purchased by the taxpayer, the tax imposed by this chapter for the taxable year in which such disposition occurs shall be increased by the amount determined under subparagraph (B).

"(B) ADDITIONAL AMOUNT.—For purposes of subparagraph (A), the additional amount shall be equal to the amount of interest (determined at the rate applicable under section 6621(a)(2)) that would accrue—

"(i) during the period beginning on the date the stock was purchased by the taxpayer and ending on the date such stock was disposed of by the taxpayer,

"(ii) on an amount equal to the aggregate decrease in tax of the taxpayer resulting from the deduction allowed under this subsection (a) with respect to the stock so disposed of.

"(C) SPECIAL RULE.—Any increase in tax under subparagraph (A) shall not be treated as a tax imposed by this chapter for purposes of—

"(i) determining the amount of any credit allowable under this chapter, and

"(ii) determining the amount of the tax imposed by section 55.

"(3) EXCEPTION FOR TRANSFERS AT DEATH.—This subsection shall not apply to a transfer at death.

"(d) DISQUALIFICATION.—

"(1) ISSUER OR STOCK CEASES TO QUALIFY.—If, during the 10-year period beginning on the date enterprise zone stock was purchased by the taxpayer—

"(A) the issuer of such stock ceases to be a qualified issuer (determined without regard to subsection (f)(1)(C)), or

"(B) the proceeds from the issuance of such stock fail or otherwise cease to be invested by the issuer in qualified enterprise zone property,

then, notwithstanding any provision of this subtitle other than paragraph (2), the taxpayer shall be treated for purposes of subsection (c) as disposing of such stock during the taxable year during which such cessation or failure occurs at its fair market value as of 1st day of such taxable year.

"(2) CESSATION OF ENTERPRISE ZONE STATUS NOT TO CAUSE RECAPTURE.—A corporation

shall not fail to be treated as a qualified issuer for purposes of paragraph (1) solely by reason of the termination or revocation of a tax enterprise zone designation.

"(e) ENTERPRISE ZONE STOCK.—For purposes of this section,

"(1) IN GENERAL.—The term 'enterprise zone stock' means stock of a corporation if—

"(A) such stock was acquired on original issue from the corporation, and

"(B) such corporation was, at the time of issue, a qualified issuer.

"(2) PROCEEDS MUST BE INVESTED IN QUALIFIED ENTERPRISE ZONE PROPERTY.—Such term shall include such stock only to the extent that the amount of proceeds of such issuance are used by such issuer during the 12-month period beginning on the date of issuance to acquire qualified enterprise zone property.

"(3) $5,000,000 LIMIT.—Not more than $5,000,000 of stock of such corporation and all related persons may be enterprise zone stock.

"(f) QUALIFIED ISSUER.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified issuer' means any domestic C corporation if—

"(A) such corporation does not have more than one class of stock,

"(B) such corporation meets the enterprise zone business requirements of paragraph (2),

"(C) the sum of—

"(i) the money,

"(ii) the aggregate unadjusted bases of property owned by such corporation, and

"(iii) the value of property leased to the corporation (as determined under regulations prescribed by the Secretary),

does not exceed $5,000,000, and

"(D) more than 20 percent of the total voting power, and 20 percent of the total value, of the stock of such corporation is owned by individuals or estates or indirectly by individuals through partnerships or trusts.

"(2) ENTERPRISE ZONE BUSINESS REQUIREMENTS.—

"(A) IN GENERAL.—A corporation meets the enterprise zone business requirements of this paragraph for any taxable year if—

"(i) at least 80 percent of the total gross income of such corporation for the taxable year is derived from the active conduct of a trade or business within a tax enterprise zone,

"(ii) less than 10 percent of the average of the aggregate unadjusted bases of the property of the corporation during such taxable year is attributable to securities (as defined in section 165(g)(2)),

"(iii) substantially all of the use of the tangible property of the corporation (whether owned or leased) is within a tax enterprise zone,

"(iv) substantially all of the services performed for the corporation by the employees of such corporation are performed in a tax enterprise zone, and

"(v) no more than an insubstantial portion of the property of the corporation constitutes collectibles (as defined in section 408(m)(2)), unless such collectibles constitute property held primarily for sale to customers in the ordinary course of such trade or business.

"(B) SPECIAL RULES.—

"(i) RENTAL REAL PROPERTY.—For purposes of subparagraph (A), real property located within a tax enterprise zone and held for use by customers other than related persons shall be treated as the active conduct of a trade or business.

"(ii) EXCESSIVE PROPERTY OR SERVICES PROVIDED TO OR BY RELATED PERSONS.—A corporation shall cease to meet the requirements of this paragraph if—

"(I) more than 50 percent (by value) of the property or services acquired by the corporation during the taxable year are acquired from related persons which do not meet the requirements of this paragraph; or

"(II) more than 50 percent of the gross income of the corporation for the taxable year is attributable to property or services provided to related persons which do not meet the requirements of this paragraph.

"(iii) NEW CORPORATIONS.—In the case of a new corporation, clauses (i) and (ii) of subparagraph (A) shall not apply to the 1st taxable year of such corporation.

"(3) QUALIFIED ENTERPRISE ZONE PROPERTY.—The term 'qualified enterprise zone property' means property to which section 168 applies—

"(A) the original use of which commences with the qualified issuer, and

"(B) substantially all of the use of which is in a tax enterprise zone.

"(4) RELATED PERSON.—A person shall be treated as related to another person if—

"(A) the relationship of such persons is described in section 267(b) or 707(b)(1), or

"(B) such persons are engaged in trades or businesses under common control (within the meaning of subsections (a) and (b) of section 52).

For purposes of subparagraph (A), in applying section 267(b) or 707(b)(1), '33 percent' shall be substituted for '50 percent'.

"(g) BASIS ADJUSTMENT.—For purposes of this subtitle, the taxpayer's basis (without regard to this subsection) for the enterprise zone stock shall be reduced by the deduction allowed under subsection (a) with respect to such stock.

"SEC. 1397. ADDITIONAL FIRST-YEAR DEPRECIATION ALLOWANCE.

"(a) IN GENERAL.—In the case of any qualified zone property—

"(1) the depreciation deduction provided by section 167(a) for the taxable year in which such property is placed in service shall include an allowance equal to 25 percent of the adjusted basis of such property, and

"(2) the adjusted basis of such property shall be reduced by the amount of such allowance before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

"(b) QUALIFIED ZONE PROPERTY.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified zone property' means any property to which section 168 applies—

"(A) which is section 1245 property (as defined in section 1245(a)(3)),

"(B) the original use of which commences with the taxpayer in a tax enterprise zone, and

"(C) substantially all of the use of which is in a tax enterprise zone and is in the active conduct of a trade or business by the taxpayer in such zone.

"(2) EXCEPTION FOR ALTERNATIVE DEPRECIATION PROPERTY.—The term 'qualified zone property' does not include any property to which the alternative depreciation system under section 168(g) applies, determined—

"(A) without regard to section 168(g)(7) (relating to election to use alternative depreciation system), and

"(B) after application of section 280F(b) (relating to listed property with limited business use).

"(c) LIMITATION.—The aggregate adjusted bases of property which may be taken into account under subsection (a) by any taxpayer for any taxable year with respect to any tax enterprise zone shall not exceed the additional first-year depreciation amount allocated to such taxpayer for such taxable year under section 1397A with respect to such zone.

"(d) SPECIAL RULES FOR SALE-LEASE-BACKS.—For purposes of subsection (b)(1)(B), if property is sold and leased back by the taxpayer within 3 months after the date such property was originally placed in service, such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback.

"(e) COORDINATION WITH SECTION 280F.—

"(1) AUTOMOBILES.—In the case of a passenger automobile (within the meaning of section 280F(d)(5)) which is qualified zone property, the Secretary shall increase the limitation under section 280F(a)(1)(A)(i), and decrease each other limitation under subparagraphs (A) and (B) of section 280F(a)(1), to appropriately reflect the amount of the allowance under subsection (a).

"(2) LISTED PROPERTY.—The allowance under subsection (a) shall be taken into account in computing any recapture amount under section 280F(b)(2).

"(f) COORDINATION WITH SECTION 169(j).—In the case of property for which a deduction would (but for this subsection) be allowable under section 168(j) and this section, section 168(j) shall not apply and this section shall be applied by substituting '40 percent' for '25 percent' in subsection (a).

"Subpart C—General Provisions

"Sec. 1397A. Overall limitation on zone incentives.

"Sec. 1397B. Regulations.

"SEC. 1397A. OVERALL LIMITATION ON ZONE INCENTIVES.

"(a) GENERAL RULE.—The allocating official of each tax enterprise zone shall make allocations of—

"(1) employment credit amounts,

"(2) enterprise zone stock amounts, and

"(3) additional first-year depreciation amounts.

"(b) LIMITATION ON AGGREGATE AMOUNTS ALLOCATED.—

"(1) LIMITATION.—

"(A) IN GENERAL.—No amount may be allocated under subsection (a) by the allocating official of any tax enterprise zone if such allocation would result in the zone limit for the calendar year of the allocation (or any succeeding calendar year) being reduced below zero.

"(B) COORDINATION WITH INCREASE.—For purposes of applying subparagraph (A) to an allocation during any calendar year, it shall be assumed that no increase in the zone limit will be made under paragraph (2)(B) for any succeeding calendar year unless—

"(i) the allocating official provides assurances satisfactory to the Secretary that the zone will be entitled to such an increase for such succeeding calendar year, and

"(ii) the allocating official agrees to such recapture provisions as the Secretary may require in cases where the zone is not entitled to such increase.

"(2) ZONE LIMIT.—For purposes of this section—

"(A) BASIC AMOUNT.—Except as otherwise provided in this paragraph, the zone limit for any tax enterprise zone for any calendar year is—

"(i) $13,000,000 in the case of an urban tax enterprise zone, and

"(ii) $5,000,000 in the case of a rural development investment zone.

"(B) INCREASE IN LIMIT FOR CERTAIN STATE OR LOCAL EXPENDITURES.—

"(i) IN GENERAL.—The amount of the zone limit for any tax enterprise zone for any cal-

endar year shall be increased by the lesser of—

"(I) 10 percent of the limit determined under subparagraph (A), or

"(II) the amount determined under clause (ii) with respect to such zone for such calendar year.

"(ii) AMOUNT OF INCREASE.—For purposes of clause (i), the amount determined under this clause with respect to any tax enterprise zone for any calendar year is the sum of—

"(I) the State and local business incentives with respect to such zone for the preceding calendar year, and

"(II) the qualified State and local governmental expenditures with respect to such zone for the preceding calendar year.

"(C) CARRYOVER OF UNUSED AMOUNTS.—

"(i) IN GENERAL.—Before the end of any calendar year, the allocating official of any tax enterprise zone may elect—

"(I) to reduce the zone limit applicable to such zone for such year, and

"(II) to increase the zone limit applicable to such zone for the succeeding calendar year by an amount equal to such reduction.

"(ii) LIMITATION.—The increase in a zone limit under clause (i)(II) for any calendar year shall not exceed 70 percent of the zone limit otherwise applicable to the tax enterprise zone for such year.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) STATE AND LOCAL BUSINESS INCENTIVES.—The State and local business incentives with respect to any tax enterprise zone for any calendar year is the sum of—

"(i) the aggregate of property tax or sales tax abatements provided during State or local fiscal years ending in such calendar year with respect to otherwise taxable property or sales in such tax enterprise zone,

"(ii) the aggregate grants made by any State or local government during such fiscal years to startup and other small business concerns in such tax enterprise zone, plus

"(iii) 5 percent of the total outstanding balance (as of the close of such fiscal years) of loans made by any State or local government to startup and other small business concerns in such tax enterprise zone.

No amount shall be taken into account under the preceding sentence if such amount consists of assistance which would be prohibited under section 1392(c)(4) (relating to prohibition of assistance for business relocations). No loan shall be taken into account under clause (iii) unless the State or local government bears the risk of any default with respect to such loan.

"(B) QUALIFIED STATE AND LOCAL GOVERNMENTAL EXPENDITURES.—

"(i) IN GENERAL.—The qualified State and local governmental expenditures with respect to any tax enterprise zone for any calendar year shall be the excess (if any) of—

"(I) the specified expenditures during State or local fiscal years ending in such calendar year with respect to such zone, over

"(II) the adjusted base period expenditures for such zone.

"(ii) SPECIFIED EXPENDITURES.—For purposes of this subparagraph, the term 'specified expenditures' means—

"(I) any expenditures by any State or local government for the acquisition, construction, repair, or maintenance of public improvements or facilities in the tax enterprise zone, plus

"(II) any expenditures by any State or local government for police or fire protection to the extent allocable to the tax enterprise zone.

"(iii) ADJUSTED BASE PERIOD EXPENDITURES.—For purposes of this subparagraph, the term 'adjusted base period expenditures' means, with respect to any calendar year—

"(I) the aggregate specified expenditures during State or local fiscal years ending in calendar year 1991 with respect to the tax enterprise zone, increased by

"(II) the cost-of-living adjustment for the calendar year for which the increase is being determined (as determined under section 1(f)(3) by substituting 'calendar year 1990' for 'calendar year 1991' in subparagraph (B) of such section).

"(iv) ADJUSTMENT FOR CERTAIN CAPITAL EXPENDITURES.—For purposes of clause (iii)(I), the appropriate Secretary may disregard any expenditures if such Secretary determines that such expenditures were unusual and not recurring and that inclusion of such expenditures would not be consistent with the purposes of this section.

"(C) DETERMINATIONS BY APPROPRIATE SECRETARY.—The amount of the State and local business incentives and qualified State or local governmental expenditures with respect to any tax enterprise zone for any calendar year shall be determined by the appropriate Secretary with respect to such zone and certified to the Secretary of the Treasury or his delegate.

"(D) SMALL BUSINESS CONCERN.—The term 'small business concern' has the meaning given such term by section 3(a) of the Small Business Act (15 U.S.C. 632(a)).

"(c) ALLOCATION PREFERENCE FOR SMALL BUSINESS CONCERNS.—In making allocations under subsection (a), the allocating official of each tax enterprise zone shall give preference to small business concerns (as defined in subsection (b)(3)(D)).

"(d) OPERATING RULES.—For purposes of this section—

"(1) EMPLOYMENT CREDIT AMOUNT.—Any allocation of an employment credit amount—

"(A) shall specify the employer and taxable year to which such allocation applies, and

"(B) shall reduce the zone limit for the calendar year in which such taxable year begins by 67 cents for each dollar of the amount so allocated.

"(2) ENTERPRISE ZONE STOCK AMOUNT.—Any allocation of an enterprise zone stock amount—

"(A) shall specify the stock purchases to which the allocation relates, and

"(B) shall reduce the zone limit for the calendar year in which such taxable year begins by 35 cents for each dollar of the amount so allocated.

"(3) ADDITIONAL FIRST-YEAR DEPRECIATION AMOUNT.—Any allocation of an additional first-year depreciation amount—

"(A) shall specify the adjusted basis of the property to which such allocation applies, and

"(B) shall reduce the zone limit for the calendar year in which the property is placed in service by 1.5 cents for each dollar so allocated.

"(e) RETROACTIVE ALLOCATIONS NOT EFFECTIVE.—

"(1) IN GENERAL.—No retroactive allocation under subsection (a) shall be effective.

"(2) RETROACTIVE ALLOCATION.—For purposes of subsection (a), the term 'retroactive allocation' means any allocation of—

"(A) an employment credit amount after the beginning of the taxable year to which such allocation applies,

"(B) an enterprise zone stock amount after the stock involved is acquired, or

"(C) an additional first-year depreciation amount after the property involved is placed in service.

"(f) ALLOCATING OFFICIAL.—For purposes of this section, the term 'allocating official' means the official designated as provided in section 1391(c)(2) as the official responsible for making allocations under this section.

"SEC. 1397B. REGULATIONS.

"The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including—

"(1) regulations limiting the benefit of this part in circumstances where such benefits, in combination with benefits provided under other Federal programs, would result in an activity being 100 percent or more subsidized by the Federal Government, and

"(2) regulations preventing avoidance of the provisions of this part."

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 1 is amended by inserting after the item relating to subchapter T the following new item:

"Subchapter U. Designation and treatment of tax enterprise zones."

SEC. 2603. TECHNICAL AND CONFORMING AMENDMENTS.

(a) ALTERNATIVE MINIMUM TAX.—

(1) ENTERPRISE ZONE STOCK.—Subsection (b) of section 56 (relating to adjustments to the alternative minimum taxable income of individuals) is amended by adding at the end thereof the following new paragraph:

"(4) ENTERPRISE ZONE STOCK.—Section 1396 shall not apply."

(2) ADDITIONAL FIRST-YEAR DEPRECIATION.—Subparagraph (A) of section 56(a)(1) (relating to adjustments in computing alternative minimum taxable income), as amended by section 2002, is amended—

(A) in clause (i), by striking "or (iii)" and inserting ", (iii), or (iv)", and

(B) by adding at the end thereof the following new clause:

"(iv) ADDITIONAL FIRST-YEAR DEPRECIATION FOR QUALIFIED TAX ENTERPRISE ZONE PROPERTY.—The allowance provided by section 1397(a) for qualified zone property shall be allowed."

(b) ENTERPRISE ZONE EMPLOYMENT CREDIT PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 (relating to current year business credit) is amended by striking "plus" at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting ", plus", and by adding at the end the following new paragraph:

"(8) in the case of a small employer (as defined in section 1394(d)), the enterprise zone employment credit determined under section 1394(a)."

(c) DENIAL OF DEDUCTION FOR PORTION OF WAGES EQUAL TO ENTERPRISE ZONE EMPLOYMENT CREDIT.—

(1) Subsection (a) of section 280C (relating to rule for targeted jobs credit) is amended—

(A) by striking "the amount of the credit determined for the taxable year under section 51(a)" and inserting "the sum of the credits determined for the taxable year under sections 51(a) and 1394(a)", and

(B) by striking "TARGETED JOBS CREDIT" in the subsection heading and inserting "EMPLOYMENT CREDITS".

(2) Subsection (c) of section 196 (relating to deduction for certain unused business credits) is amended by striking "and" at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting ", and", and by adding at the end the following new paragraph:

"(6) the enterprise zone employment credit determined under section 1394(a)."

(d) OTHER AMENDMENTS.—

(1) Subsection (c) of section 381 (relating to carryovers in certain corporate acquisitions)

is amended by adding at the end the following new paragraph:

"(26) ENTERPRISE ZONE PROVISIONS.—The acquiring corporation shall take into account (to the extent proper to carry out the purposes of this section and subchapter U, and under such regulations as may be prescribed by the Secretary) the items required to be taken into account for purposes of subchapter U in respect of the distributor or transferor corporation."

(2) Paragraph (1) of section 1371(d) (relating to coordination with investment credit recapture) is amended by inserting before the period at the end the following "and for purposes of sections 1394(e)(3)".

(3) Subsection (a) of section 1016 (relating to adjustments to basis) is amended by striking "and" at the end of paragraph (23); by striking the period at the end of paragraph (24) and inserting "; and"; and by adding at the end thereof the following new paragraph:

"(25) to the extent provided in section 1396(g), in the case of stock with respect to which a deduction was allowed under section 1396(a).".

SEC. 2604. EFFECTIVE DATE.

(a) GENERAL RULE.—The amendments made by this part shall take effect on the date of the enactment of this Act.

(b) REQUIREMENT FOR REGULATIONS.—Not later than the date 4 months after the date of the enactment of this Act, the appropriate Secretaries shall issue regulations—

(1) establishing the procedures for nominating areas for designation as tax enterprise zones,

(2) establishing a method for comparing the factors listed in section 1392(d) of the Internal Revenue Code of 1986 (as added by this part), and

(3) establishing recordkeeping requirements necessary or appropriate to assist the studies required by part III.

PART II—STUDIES

SEC. 2611. STUDIES OF EFFECTIVENESS OF TAX ENTERPRISE ZONE INCENTIVES.

(a) IN GENERAL.—The Secretary of the Treasury and the Comptroller General shall each conduct studies of the effectiveness of the incentives provided by this subtitle in achieving the purposes of this subtitle in tax enterprise zones.

(b) REPORTS.—The Secretary of the Treasury and the Comptroller General shall each submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

(1) not later than July 1, 1996, an interim report setting forth the findings as a result of such studies, and

(2) not later than July 1, 2001, a final report setting forth the findings as a result of such studies.

TITLE III—REVENUE INCREASES

Subtitle A—Treatment of Wealthy Individuals

SEC. 3001. INCREASE IN TOP MARGINAL RATE UNDER SECTION 1.

(a) GENERAL RULE.—Section 1 (relating to tax imposed) is amended by striking subsections (a) through (e) and inserting the following:

"(a) MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES.—There is hereby imposed on the taxable income of—

"(1) every married individual (as defined in section 7703) who makes a single return jointly with his spouse under section 6013, and

"(2) every surviving spouse (as defined in section 2(a)),

a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $35,800	15% of taxable income.
Over $35,800 but not over $86,500.	$5,370, plus 28% of the excess over $35,800.
Over $86,500 but not over $145,000.	$19,566, plus 31% of the excess over $86,500.
Over $145,000	$37,701, plus 35% of the excess over $145,000.

"(b) HEADS OF HOUSEHOLDS.—There is hereby imposed on the taxable income of every head of a household (as defined in section 2(b)) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $28,750	15% of taxable income.
Over $28,750 but not over $74,150.	$4,312.50, plus 28% of the excess over $28,750.
Over $74,150 but not over $125,000.	$17,024.50, plus 31% of the excess over $74,150.
Over $125,000	$32,788.50, plus 35% of the excess over $125,000.

"(c) UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS).—There is hereby imposed on the taxable income of every individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as defined in section 7703) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $21,450	15% of taxable income.
Over $21,450 but not over $51,900.	$3,217.50, plus 28% of the excess over $21,450.
Over $51,900 but not over $85,000.	$11,743.50, plus 31% of the excess over $51,900.
Over $85,000	$22,004.50, plus 35% of the excess over $85,000.

"(d) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—There is hereby imposed on the taxable income of every married individual (as defined in section 7703) who does not make a single return jointly with his spouse under section 6013, a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $17,900	15% of taxable income.
Over $17,900 but not over $43,250.	$2,685, plus 28% of the excess over $17,900.
Over $43,250 but not over $72,500.	$9,783, plus 31% of the excess over $43,250.
Over $72,500	$18,850.50, plus 35% of the excess over $72,500.

"(e) ESTATES AND TRUSTS.—There is hereby imposed on the taxable income of—

"(1) every estate, and

"(2) every trust,

taxable under this subsection a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $3,000	15% of taxable income.
Over $3,000 but not over $5,000.	$450, plus 28% of the excess over $3,000.
Over $5,000 but not over $7,000.	$1,010, plus 31% of the excess over $5,000.
Over $7,000	$1,630, plus 35% of the excess over $7,000."

(b) CONFORMING AMENDMENTS.—

(1) Section 541 is amended by striking "28 percent" and inserting "35 percent".

(2)(A) Subsection (f) of section 1 is amended—

(i) by striking "1990" in paragraph (1) and inserting "1992", and

(ii) by striking "1989" in paragraph (3)(B) and inserting "1991".

(B) Subparagraph (B) of section 32(i)(1) is amended by striking "1989" and inserting "1991".

(C) Subparagraph (C) of section 41(e)(5) is amended by striking "1989" each place it appears and inserting "1991".

(D) Subparagraph (B) of section 63(c)(4) is amended by striking "1989" and inserting "1991".

(E) Subparagraph (B) of section 68(b)(2) is amended by striking "1989" and inserting "1991".

(F) Clause (ii) of section 135(b)(2)(B) is amended by inserting ", determined by substituting 'calendar year 1989' for 'calendar year 1991' in subparagraph (B) thereof" before the period at the end thereof.

(G) Subparagraphs (A)(ii) and (B)(ii) of section 151(d)(4) are each amended by striking "1989" and inserting "1991".

(H) Clause (ii) of section 513(h)(2)(C) is amended by striking "1989" and inserting "1991".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 3002. INCREASE IN INDIVIDUAL MINIMUM TAX RATE.

(a) GENERAL RULE.—Subparagraph (A) of section 55(b)(1) (relating to tentative minimum tax) is amended by striking "24 percent" and inserting "25 percent".

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 897(a) is amended by striking "21" in the heading of such paragraph and in subparagraph (A) and inserting "25".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 3003. SURTAX ON INDIVIDUALS WITH INCOMES OVER $1,000,000.

(a) GENERAL RULE.—Subchapter A of chapter 1 (relating to determination of tax liability) is amended by adding at the end thereof the following new part:

"PART VIII—SURTAX ON INDIVIDUALS WITH INCOMES OVER $1,000,000

"Sec. 59B. Surtax on section 1 tax.

"Sec. 59C. Surtax on minimum tax.

"Sec. 59D. Special rules.

"SEC. 59B. SURTAX ON SECTION 1 TAX.

"In the case of an individual who has taxable income for the taxable year in excess of $1,000,000, the amount of the tax imposed under section 1 for such taxable year shall be increased by 10 percent of the amount which bears the same ratio to the tax imposed under section 1 (determined without regard to this section) as—

"(1) the amount by which the taxable income of such individual for such taxable year exceeds $1,000,000, bears to

"(2) the total amount of such individual's taxable income for such taxable year.

"SEC. 59C. SURTAX ON MINIMUM TAX.

"In the case of an individual who has alternative minimum taxable income for the taxable year in excess of $1,000,000, the amount of the tentative minimum tax determined under section 55 for such taxable year shall be increased by 2.5 percent of the amount by which the alternative minimum taxable income of such taxpayer for the taxable year exceeds $1,000,000.

"SEC. 59D. SPECIAL RULES.

"(a) SURTAX TO APPLY TO ESTATES AND TRUSTS.—For purposes of this part, the term 'individual' includes any estate or trust taxable under section 1.

"(b) TREATMENT OF MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—In the case of a married individual (within the meaning of section 7703) filing a separate return for the taxable year, sections 59B and 59C shall be applied by substituting '$500,000' for '$1,000,000'.

"(c) COORDINATION WITH OTHER PROVISIONS.—The provisions of this part—

"(1) shall be applied after the application of section 1(h), but

"(2) before the application of any other provision of this title which refers to the

amount of tax imposed by section 1 or 55, as the case may be."

(b) CLERICAL AMENDMENT.—The table of parts for subchapter A of chapter 1 is amended by adding at the end the following new item:

"Part VIII. Surtax on individuals with incomes over $1,000,000."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 3004. 2-YEAR EXTENSION OF OVERALL LIMITATION ON ITEMIZED DEDUCTIONS FOR HIGH-INCOME TAXPAYERS.

Subsection (f) of section 68 (relating to overall limitation on itemized deductions) is amended by striking "1995" and inserting "1997".

SEC. 3005. 2-YEAR EXTENSION OF PHASEOUT OF PERSONAL EXEMPTION OF HIGH-INCOME TAXPAYERS.

Subparagraph (E) of section 151(d)(3) (relating to phaseout of personal exemption) is amended by striking "1995" and inserting "1997".

SEC. 3006. DISALLOWANCE OF DEDUCTION FOR CERTAIN EMPLOYEE REMUNERATION IN EXCESS OF $1,000,000.

(a) GENERAL RULE.—Section 162 (relating to trade or business expenses) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) CERTAIN EXCESSIVE EMPLOYEE REMUNERATION.—

"(1) IN GENERAL.—No deduction shall be allowed under this chapter for employee remuneration with respect to any covered employee to the extent that the amount of such remuneration for the taxable year with respect to such employee exceeds $1,000,000.

"(2) COVERED EMPLOYEE.—For purposes of this subsection—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'covered employee' means any employee of the taxpayer who is an officer of the taxpayer.

"(B) EXCEPTION FOR EMPLOYEE-OWNERS OF PERSONAL SERVICE CORPORATIONS.—The term 'covered employee' shall not include any employee-owner (as defined in section 269A(b)) of a personal service corporation (as defined in section 269A(b)).

"(C) FORMER EMPLOYEES.—The term 'covered employee' includes any former employee who had been a covered employee at any time while performing services for the taxpayer.

"(3) EMPLOYEE REMUNERATION.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'employee remuneration' means, with respect to any covered employee for any taxable year, the aggregate amount allowable as a deduction under this chapter for such taxable year (determined without regard to this subsection) for remuneration for services performed by such employee (whether or not during the taxable year).

"(B) REMUNERATION.—For purposes of subparagraph (A), the term 'remuneration' includes any remuneration (including benefits) in any medium other than cash, but shall not include—

"(i) any payment referred to in so much of section 3121(a)(5) as precedes subparagraph (E) thereof,

"(ii) amounts referred to in section 3121(a)(19), and

"(iii) any benefit provided to or on behalf of an employee if at the time such benefit is provided it is reasonable to believe that the employee will be able to exclude such benefit from gross income under section 132.

"(4) TREATMENT OF CERTAIN EMPLOYERS.—

"(A) IN GENERAL.—All employers treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (n) of section 414 shall be treated as a single employer for purposes of this subsection.

"(B) CLARIFICATION OF OFFICER DEFINITION.—Any officer of any of the employers treated as a single employer under subparagraph (A) shall be treated as an officer of such single employer."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1991.

Subtitle B—Administrative Provisions

SEC. 3101. INDIVIDUAL ESTIMATED TAX PROVISIONS.

(a) GENERAL RULE.—Paragraph (1) of section 6654(d) (relating to amount of required installment) is amended—

(1) by striking "100 percent" in subparagraph (B)(ii) and inserting "115 percent", and

(2) by striking subparagraphs (C), (D), (E), and (F).

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1991.

(2) SPECIAL RULE FOR 1ST INSTALLMENT IN 1992.—The amendment made by subsection (a) shall not apply for purposes of determining the amount of the 1st required installment for any taxable year beginning in 1992. Any reduction in an installment by reason of the preceding sentence shall be recaptured by increasing the amount of the 1st succeeding required installment by the amount of such reduction.

SEC. 3102. CORPORATE ESTIMATED TAX PROVISIONS.

(a) GENERAL RULE.—Subsection (d) of section 6655 (relating to amount of required installments) is amended—

(1) by striking "90 percent" each place it appears in paragraph (1)(B)(i) and inserting "95 percent",

(2) by striking "90 PERCENT" in the heading of paragraph (2) and inserting "95 PERCENT", and

(3) by striking paragraph (3).

(b) CONFORMING AMENDMENTS.—

(1) Clause (ii) of section 6655(e)(2)(B) is amended by striking the table contained therein and inserting in lieu thereof:

"In the case of the following required installments:	The applicable percentage is:
1st	23.75
2nd	47.5
3rd	71.25
4th	95."

(2) Clause (i) of section 6655(e)(3)(A) is amended by striking "90 percent" and inserting "95 percent".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1994.

SEC. 3103. DISALLOWANCE OF INTEREST ON CERTAIN OVERPAYMENTS OF TAX.

(a) GENERAL RULE.—Subsection (e) of section 6611 is amended to read as follows:

"(e) DISALLOWANCE OF INTEREST ON CERTAIN OVERPAYMENTS.—

"(1) REFUNDS WITHIN 45 DAYS AFTER RETURN IS FILED.—If any overpayment of tax imposed by this title is refunded within 45 days after the last day prescribed for filing the return of such tax (determined without regard to any extension of time for filing the return) or, in the case of a return filed after such last date, is refunded within 45 days after the date the return is filed, no interest shall be allowed under subsection (a) on such overpayment.

"(2) REFUNDS AFTER CLAIM FOR CREDIT OR REFUND.—If the taxpayer files a claim for credit or refund of any overpayment of tax imposed by this title—

"(A) no interest shall be allowed under subsection (a) on such overpayment if such overpayment is refunded within 45 days after the day on which such claim is filed, and

"(B) if such overpayment is not so refunded, interest shall be allowed under subsection (a) on such overpayment but only for periods after the date on which such claim is filed."

(b) EFFECTIVE DATES.—

(1) Paragraph (1) of section 6611(e) of the Internal Revenue Code of 1986 (as amended by subsection (a)) shall apply in the case of returns the due date for which (determined without regard to extensions) is on or after July 1, 1992.

(2) Paragraph (2) of section 6611(e) of such Code (as so amended) shall apply in the case of claims for credit or refund of any overpayment filed on or after July 1, 1992.

Subtitle C—Other Revenue Provisions

SEC. 3201. CLARIFICATION OF TREATMENT OF CERTAIN FSLIC FINANCIAL ASSISTANCE.

(a) GENERAL RULE.—For purposes of chapter 1 of the Internal Revenue Code of 1986—

(1) any FSLIC assistance with respect to any loss of principal, capital, or similar amount upon the disposition of any asset shall be taken into account as compensation for such loss for purposes of section 165 of such Code, and

(2) any FSLIC assistance with respect to any debt shall be taken into account for purposes of section 166, 585, or 593 of such Code in determining whether such debt is worthless (or the extent to which such debt is worthless) and in determining the amount of any addition to a reserve for bad debts arising from the worthlessness or partial worthlessness of such debts.

(b) FSLIC ASSISTANCE.—For purposes of this section, the term "FSLIC assistance" means any assistance (or right to assistance) with respect to a domestic building and loan association (as defined in section 7701(a)(19) of such Code without regard to subparagraph (C) thereof) under section 406(f) of the National Housing Act or section 21A of the Federal Home Loan Bank Act (or under any similar provision of law).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection—

(A) The provisions of this section shall apply to taxable years ending after March 4, 1991, but only with respect to FSLIC assistance not credited before March 4, 1991.

(B) If any FSLIC assistance not credited before March 4, 1991, is with respect to a loss sustained or charge-off in a taxable year ending before March 4, 1991, for purposes of determining the amount of any net operating loss carryover to a taxable year ending after on or after March 4, 1991, the provisions of this section shall apply to such assistance for purposes of determining the amount of the net operating loss for the taxable year in which such loss was sustained or debt written off. Except as provided in the preceding sentence, this section shall not apply to any FSLIC assistance with respect to a loss sustained or charge-off in a taxable year ending before March 4, 1991.

(2) EXCEPTIONS.—The provisions of this section shall not apply to any assistance to which the amendments made by section 1401(a)(3) of the Financial Institution Reform, Recovery, and Enforcement Act of 1989 apply.

SEC. 3202. INCREASE IN RECOVERY PERIOD FOR REAL PROPERTY.

(a) GENERAL RULE.—Paragraph (1) of section 168(c) is amended by striking the items relating to residential rental property and nonresidential real property and inserting the following:

"Low income housing	27.5 years
Residential rental property other than low income housing.	31 years
Nonresidential real property.	40 years."

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 168(e) is amended by adding at the end thereof the following new subparagraph:

"(C) LOW INCOME HOUSING.—The term 'low income housing' means any property with respect to which the credit under section 42 is allowable."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property placed in service by the taxpayer after February 12, 1992.

(2) EXCEPTION.—The amendments made by this section shall not apply to property placed in service by the taxpayer before January 1, 1995, if—

(A) the taxpayer or a qualified person entered into a binding written contract to purchase or construct such property before February 13, 1992, or

(B) the construction of such property was commenced by or for the taxpayer or a qualified person before February 13, 1992.

For purposes of this paragraph, the term "qualified person" means any person who transfers his rights in such a contract or such property to the taxpayer but only if the property is not placed in service by such person before such rights are transferred to the taxpayer.

SEC. 3203. INCREASE IN MILEAGE REQUIREMENT FOR MOVING EXPENSE DEDUCTION.

(a) GENERAL RULE.—Paragraph (1) of section 217(c) (relating to conditions for allowance of moving expense deduction) is amended by striking "35 miles" each place it appears and insert "75 miles".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to expenses paid or incurred after the date of the enactment of this Act.

SEC. 3204. TAXATION OF PRECONTRIBUTION GAIN IN CASE OF CERTAIN DISTRIBUTIONS TO CONTRIBUTING PARTNER.

(a) GENERAL RULE.—Subpart C of part II of subchapter K of chapter 1 (relating to distributions by a partnership) is amended by adding at the end thereof the following new section:

"SEC. 737. RECOGNITION OF PRECONTRIBUTION GAIN IN CASE OF CERTAIN DISTRIBUTIONS TO CONTRIBUTING PARTNER.

"(a) GENERAL RULE.—In the case of any distribution by a partnership to a partner, such partner shall be treated as recognizing gain in an amount equal to the lesser of—

"(1) the excess (if any) of (A) the fair market value of property (other than money) received in the distribution over (B) the adjusted basis of such partner's interest in the partnership immediately before the distribution reduced (but not below zero) by the amount of money received in the distribution, or

"(2) the net precontribution gain of the partner.

Gain recognized under the preceding sentence shall be in addition to any gain recognized under section 731. The character of such gain shall be determined by reference to the proportionate character of the net precontribution gain.

"(b) NET PRECONTRIBUTION GAIN.—For purposes of this section, the term 'net precontribution gain' means the net gain (if any) which would have been recognized by the distributee partner under section 704(c)(1)(B) if all property which—

"(1) had been contributed to the partnership by the distributee partner within 5 years of the distribution, and

"(2) is held by such partnership immediately before the distribution,

had been distributed by such partnership to another partner.

"(c) EXCEPTIONS.—

"(1) DISTRIBUTIONS OF PREVIOUSLY CONTRIBUTED PROPERTY.—If any portion of the property distributed consists of property which had been contributed by the distributee partner to the partnership, such property shall not be taken into account under subsection (a)(1) and shall not be taken into account in determining the amount of the net precontribution gain. If the property distributed consists of an interest in an entity, the preceding sentence shall not apply to the extent that the value of such interest is attributable to property contributed to such entity after such interest had been contributed to the partnership.

"(2) COORDINATION WITH SECTION 751.—This section shall not apply to the extent section 751(b) applies to such distribution."

(b) BASIS ADJUSTMENTS.—

(1) Section 732 is amended by adding at the end thereof the following new subsection:

"(f) ADJUSTMENT FOR GAIN RECOGNIZED UNDER SECTION 737.—If gain is recognized by a partner under section 737 by reason of any distribution, appropriate adjustments in the adjusted basis of the distributed property other than money shall be made to reflect the gain so recognized."

(2) Subparagraph (A) of section 734(b)(1) is amended by striking "section 731(a)(1)" and inserting "section 731(a)(1) or 737".

(c) OTHER TECHNICAL AMENDMENTS.—

(1) Subparagraph (B) of section 704(c)(1) is amended by striking out "is distributed" in the material preceding clause (i) and inserting "is distributed (directly or indirectly)".

(2) Subsection (c) of section 731 is amended—

(A) by striking "and section 751" and inserting ", section 751", and

(B) by inserting before the period at the end thereof the following: ", and section 737 (relating to recognition of precontribution gain in case of certain distributions)".

(3) The table of sections for subpart B of part II of subchapter K of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 737. Recognition of precontribution gain in case of certain distributions to contributing partner."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after February 14, 1992.

SEC. 3205. CONFORM TAX ACCOUNTING TO FINANCIAL ACCOUNTING FOR SECURITIES DEALERS.

(a) GENERAL RULE.—Subpart D of part II of subchapter E of chapter 1 (relating to inventories) is amended by adding at the end thereof the following new section:

"SEC. 475. MARK TO MARKET INVENTORY METHOD FOR DEALERS IN SECURITIES.

"(a) GENERAL RULE.—If any dealer in securities holds any security or hedge at the close of any taxable year—

"(1) such dealer shall recognize gain or loss in the same manner as if such security or hedge were sold on the last business day of such taxable year, and

"(2) any gain or loss shall be taken into account for such taxable year.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence.

"(b) EXCEPTIONS.—Subsection (a) shall not apply to—

"(1) any security held for investment, and

"(2) any hedge of a security described in paragraph (1).

Any security or hedge shall not be treated as described in paragraph (1) or (2), as the case may be, unless such security or hedge is clearly identified in the dealer's records as being described in such paragraph before the close of the day on which it was acquired (or such earlier time as the Secretary may by regulations prescribe).

"(c) DEFINITIONS.—For purposes of this section—

"(1) DEALER IN SECURITIES DEFINED.—The term 'dealer in securities' means a taxpayer who—

"(A) regularly purchases securities from and sells securities to customers in the ordinary course of a trade or business; or

"(B) regularly offers to enter into, assume, offset, assign or otherwise terminate positions in securities with customers in the ordinary course of a trade or business.

"(2) SECURITY DEFINED.—The term 'security' means any—

"(A) share of stock in a corporation;

"(B) partnership or beneficial ownership interest in a widely held or publicly traded partnership or trust;

"(C) note, bond, debenture, or other evidence of indebtedness described in section 165(g)(2)(C);

"(D) derivative financial instrument in securities, including any option, forward contract, short position, and any similar financial instrument in securities (but not including any futures contract); and

"(E) notional principal contract and any similar financial instrument, including currency swap, option and forward contract on a notional principal contract, but not including any commodity-linked notional principal contract.

"(3) HEDGE DEFINED.—The term 'hedge' includes any long or short position in securities and commodities, including futures contracts, and any similar financial instrument, purchased, entered into or assumed by a dealer in securities in order to reduce the dealer's risk of loss with respect to securities.

"(d) SECTION 263A SHALL NOT APPLY.—The rules of section 263A shall not apply to securities and hedges to which subsection (a) applies.

"(e) REGULATORY AUTHORITY.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including rules to prevent the use of year-end transfers, related parties, or other arrangements to avoid the provisions of this section."

(b) CLERICAL AMENDMENT.—The table of sections for subpart D of part II of subchapter E of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 475. Marked-to-market inventory method for dealers in securities.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to all taxable years ending on or after December 31, 1992.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by this section to change its method of accounting for any taxable year—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary,

(C) the change in method of accounting shall be implemented by valuing the securities and hedges to which the amendments of this section apply at their fair market values on the last day of the first taxable year ending on or after December 31, 1992, and

(D) 10 percent of any increase or decrease in value by reason of subparagraph (C) shall be taken into account in each of the 10 taxable years beginning with the first taxable year ending on or after December 31, 1992.

TITLE IV—SIMPLIFICATION PROVISIONS

Subtitle A—Provisions Relating to Individuals

SEC. 4101. SIMPLIFICATION OF EARNED INCOME CREDIT.

(a) GENERAL RULE.—Section 32 (relating to earned income credit) is amended by striking subsections (a) and (b) and inserting the following:

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the credit percentage of so much of the taxpayer's earned income for the taxable year as does not exceed $5,714.

"(2) LIMITATION.—The amount of the credit allowable to a taxpayer under paragraph (1) for any taxable year shall not exceed the excess (if any) of—

"(A) the credit percentage of $5,714, over

"(B) the phaseout percentage of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds $9,000.

"(b) PERCENTAGES.—For purposes of subsection (a)—

"(1) IN GENERAL.—Except as otherwise provided in this subsection—

"In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
"1 qualifying child	23	16.43
"2 or more qualifying children	28.8	20.58.

"(2) TRANSITIONAL PERCENTAGES.—

"(A) In the case of a taxable year beginning in 1992:

"In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
"1 qualifying child	17.6	12.57
"2 or more qualifying children	22.2	15.84.

"(B) In the case of a taxable year beginning in 1993:

"In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
"1 qualifying child	18.5	13.21
"2 or more qualifying children	23.3	16.64."

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (B) of section 32(i)(2) is amended—

(A) by striking "subsection (b)(1)" in clause (i) and inserting "subsection (a)", and

(B) by striking "subsection (b)(1)(B)(ii)" in clause (ii) and inserting "subsection (a)(2)".

(2) Paragraph (3) of section 162(l) is amended to read as follows:

"(3) COORDINATION WITH MEDICAL DEDUCTION.—Any amount paid by a taxpayer for insurance to which paragraph (1) applies shall not be taken into account in computing the amount allowable to the taxpayer as a deduction under section 213(a)."

(3) Section 213 is amended by striking subsection (f).

(4) Subparagraph (B) of section 3507(c)(2) is amended by striking clauses (i) and (ii) and inserting the following:

"(i) of not more than the percentage (in effect under section 32(a)(1) for an eligible individual with 1 qualifying child) of earned income not in excess of the amount of earned income taken into account under section 32(a)(1), which

"(ii) phases out between the amount of earned income at which the phaseout begins under subsection (a)(2) of section 32 and the amount of earned income at which the credit under section 32 is phased out under such subsection for an individual with 1 qualifying child, or".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 4102. SIMPLIFICATION OF RULES ON ROLLOVER OF GAIN ON SALE OF PRINCIPAL RESIDENCE.

(a) RULES RELATING TO MULTIPLE SALES WITHIN ROLLOVER PERIOD.—

(1) Section 1034 (relating to rollover of gain on sale of principal residence) is amended by striking subsection (d).

(2) Paragraph (4) of section 1034(c) is amended to read as follows:

"(4) If the taxpayer, during the period described in subsection (a), purchases more than 1 residence which is used by him as his principal residence at some time within 2 years after the date of the sale of the old residence, only the first of such residences so used by him after the date of such sale shall constitute the new residence."

(3) Subsections (h)(1) and (k) of section 1034 are each amended by striking "(other than the 2 years referred to in subsection (c)(4))".

(b) TREATMENT IN CASE OF DIVORCES.—Subsection (c) of section 1034 is amended by adding at the end thereof the following new paragraph:

"(5) If—

"(A) a residence is sold by an individual pursuant to a divorce or marital separation, and

"(B) the taxpayer used such residence as his principal residence at any time during the 2-year period ending on the date of such sale,

for purposes of this section, such residence shall be treated as the taxpayer's principal residence at the time of such sale."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales of old residences (within the meaning of section 1034 of the Internal Revenue Code of 1986) after the date of the enactment of this Act.

SEC. 4103. DE MINIMIS EXCEPTION TO PASSIVE LOSS RULES.

(a) GENERAL RULE.—Section 469 (relating to passive activity losses and credits limited) is amended—

(1) by striking subsection (m),

(2) by redesignating subsection (l) as subsection (m), and

(3) by inserting after subsection (k) the following new subsection:

"(l) DE MINIMIS EXCEPTION.—

"(1) IN GENERAL.—In the case of a natural person, subsection (a) shall not apply to the passive activity loss for any taxable year if the amount of such loss does not exceed $200.

"(2) EXCEPTION FOR ITEMS ATTRIBUTABLE TO PUBLICLY TRADED PARTNERSHIPS.—This subsection shall not apply to items treated separately under subsection (k) (and such items shall not be taken into account in determining whether paragraph (1) applies to the taxpayer for the taxable year with respect to other items).

"(3) ESTATES ELIGIBLE.—For purposes of this subsection, an estate shall be treated as a natural person with respect to any taxable year ending less than 2 years after the death of the decedent.

"(4) MARRIED INDIVIDUALS FILING SEPARATELY.—

"(A) IN GENERAL.—This subsection shall not apply to a taxpayer who—

"(i) is a married individual filing a separate return for the taxable year, and

"(ii) does not live apart from his spouse at all times during such taxable year.

"(B) LIMITATION.—Paragraph (1) shall be applied by substituting '$100' for '$200' in the case of a married individual who files a separate return for the taxable year and to whom this subsection applies after the application of subparagraph (A)."

(b) CONFORMING AMENDMENTS.—

(1) Subsection (b) of section 58 is amended by inserting "and" at the end of paragraph (1), by striking paragraph (2), and by redesignating paragraph (3) as paragraph (2).

(2) Paragraph (4) of section 163(d) is amended by striking subparagraph (E).

(3) Subsection (d) of section 163 is amended by striking paragraph (6).

(4) Subsection (h) of section 163 is amended by striking paragraph (5).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 4104. PAYMENT OF TAX BY CREDIT CARD.

(a) GENERAL RULE.—Section 6311 is amended to read as follows:

"SEC. 6311. PAYMENT BY CHECK, MONEY ORDER, OR OTHER MEANS.

"(a) AUTHORITY TO RECEIVE.—It shall be lawful for the Secretary to receive for internal revenue taxes (or in payment for internal revenue stamps) checks, money orders, or any other commercially acceptable means that the Secretary deems appropriate, including payment by use of credit cards, to the extent and under the conditions provided in regulations prescribed by the Secretary.

"(b) ULTIMATE LIABILITY.—If a check, money order, or other method of payment so received is not duly paid, the person by whom such check, or money order, or other method of payment has been tendered shall remain liable for the payment of the tax or for the stamps, and for all legal penalties and additions, to the same extent as if such check, money order, or other method of payment had not been tendered.

"(c) LIABILITY OF BANKS AND OTHERS.—If any certified, treasurer's, or cashier's check (or other guaranteed draft), or any money order, or any other means of payment that has been guaranteed by a financial institution (such as a guaranteed credit card transaction) so received is not duly paid, the United States shall, in addition to its right to exact payment from the party originally indebted therefor, have a lien for—

"(1) the amount of such check (or draft) upon all assets of the financial institution on which drawn,

"(2) the amount of such money order upon all the assets of the issuer thereof, or

"(3) the guaranteed amount of any other transaction upon all the assets of the institution making such guarantee,

and such amount shall be paid out of such assets in preference to any other claims whatsoever against such financial institution, issuer, or guaranteeing institution, except the necessary costs and expenses of administration and the reimbursement of the United States for the amount expended in the redemption of the circulating notes of such financial institution.

"(d) PAYMENT BY OTHER MEANS.—

"(1) AUTHORITY TO PRESCRIBE REGULATIONS.—The Secretary shall prescribe such regulations as the Secretary deems necessary to receive payment by commercially acceptable means, including regulations that—

"(A) specify which methods of payment by commercially acceptable means will be acceptable,

"(B) specify when payment by such means will be considered received,

"(C) identify types of nontax matters related to payment by such means that are to be resolved by persons ultimately liable for payment and financial intermediaries, without the involvement of the Secretary, and

"(D) ensure that tax matters will be resolved by the Secretary, without the involvement of financial intermediaries.

"(2) AUTHORITY TO ENTER INTO CONTRACTS.—Notwithstanding section 3718(f) of title 31, United States Code, the Secretary is authorized to enter into contracts to obtain services related to receiving payment by other means where cost beneficial to the government and is further authorized to pay any fees required by such contracts.

"(3) SPECIAL PROVISIONS FOR USE OF CREDIT CARDS.—If use of credit cards is accepted as a method of payment of taxes pursuant to subsection (a)—

"(A) except as provided by regulations, subject to the provisions of section 6402, any refund due a person who makes a payment by use of a credit card shall be made directly to such person, notwithstanding any other provision of law or any contract made pursuant to paragraph (2),

"(B) any credit card transaction shall not be considered a 'sales transaction' under the Federal Truth-in-Lending Act (15 U.S.C. 1601 et seq.),

"(C) all nontax matters as defined by regulations prescribed under paragraph (1)(C), including billing errors as defined in section 161(b) of such Act, shall be resolved by the person tendering the credit card and the credit card issuer, without the involvement of the Secretary, and

"(D) the provisions of sections 161(e) and 170 of such Act shall not apply."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 64 is amended by striking the item relating to section 6311 and inserting the following:

"Sec. 6311. Payment by check, money order, or other means."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 4105. MODIFICATIONS TO ELECTION TO INCLUDE CHILD'S INCOME ON PARENT'S RETURN.

(a) ELIGIBILITY FOR ELECTION.—Clause (ii) of section 1(g)(7)(A) (relating to election to include certain unearned income of child on parent's return) is amended to read as follows:

"(i) such gross income is more than the amount described in paragraph (4)(A)(ii)(I) and less than 10 times the amount so described,".

(b) COMPUTATION OF TAX.—Subparagraph (B) of section 1(g)(7) (relating to income included on parent's return) is amended—

(1) by striking "$1,000" in clause (i) and inserting "twice the amount described in paragraph (4)(A)(ii)(I)", and

(2) by amending subclause (II) of clause (ii) to read as follows:

"(II) for each such child, 15 percent of the lesser of the amount described in paragraph (4)(A)(ii)(I) or the excess of the gross income of such child over the amount so described, and".

(c) MINIMUM TAX.—Subparagraph (B) of section 59(j)(1) is amended by striking "$1,000" and inserting "twice the amount in effect for the taxable year under section 63(c)(5)(A)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 4106. SIMPLIFIED FOREIGN TAX CREDIT LIMITATION FOR INDIVIDUALS.

(a) GENERAL RULE.—Section 904 (relating to limitations on foreign tax credit) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) SIMPLIFIED LIMITATION FOR CERTAIN INDIVIDUALS.—

"(1) IN GENERAL.—In the case of an individual to whom this subsection applies for any taxable year, the limitation of subsection (a) shall be the lesser of—

"(A) 25 percent of such individual's gross income for the taxable year from sources without the United States, or

"(B) the amount of the creditable foreign taxes paid or accrued by the individual during the taxable year (determined without regard to subsection (c)).

No taxes paid or accrued by the individual during such taxable year may be deemed paid or accrued in any other taxable year under subsection (c).

"(2) INDIVIDUALS TO WHOM SUBSECTION APPLIES.—This subsection shall apply to an individual for any taxable year if—

"(A) the entire amount of such individual's gross income for the taxable year from sources without the United States consists of qualified passive income,

"(B) the amount of the creditable foreign taxes paid or accrued by the individual during the taxable year does not exceed $200, and

"(C) such individual elects to have this subsection apply for the taxable year.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) QUALIFIED PASSIVE INCOME.—The term 'qualified passive income' means any item of gross income if—

"(i) such item of income is passive income (as defined in subsection (d)(2)(A) without regard to clause (iii) thereof), and

"(ii) such item of income is shown on a payee statement furnished to the individual.

"(B) CREDITABLE FOREIGN TAXES.—The term 'creditable foreign taxes' means any taxes for which a credit is allowable under section 901; except that such term shall not include any tax unless such tax is shown on a payee statement furnished to such individual.

"(C) PAYEE STATEMENT.—The term 'payee statement' has the meaning given to such term by section 6724(d)(2).

"(D) ESTATES AND TRUSTS NOT ELIGIBLE.—This subsection shall not apply to any estate or trust."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1991.

SEC. 4107. TREATMENT OF PERSONAL TRANSACTIONS BY INDIVIDUALS UNDER FOREIGN CURRENCY RULES.

(a) GENERAL RULE.—Subsection (e) of section 988 (relating to application to individuals) is amended to read as follows:

"(e) APPLICATION TO INDIVIDUALS.—

"(1) IN GENERAL.—The preceding provisions of this section shall not apply to any section 988 transaction entered into by an individual which is a personal transaction.

"(2) EXCLUSION FOR CERTAIN PERSONAL TRANSACTIONS.—If—

"(A) nonfunctional currency is disposed of by an individual in any transaction, and

"(B) such transaction is a personal transaction,

no gain shall be recognized for purposes of this subtitle by reason of changes in exchange rates after such currency was acquired by such individual and before such disposition. The preceding sentence shall not apply if the gain which would otherwise be recognized exceeds $200.

"(3) PERSONAL TRANSACTIONS.—For purposes of this subsection, the term 'personal transaction' means any transaction entered into by an individual, except that such term shall not include any transaction to the extent that expenses properly allocable to such transaction meet the requirements of section 162 or 212 (other than that part of section 212 dealing with expenses incurred in connection with taxes)."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 4108. EXCLUSION OF COMBAT PAY FROM WITHHOLDING LIMITED TO AMOUNT EXCLUDABLE FROM GROSS INCOME.

(a) IN GENERAL.—Paragraph (1) of section 3401(a) (defining wages) is amended by inserting before the semicolon the following: "to the extent remuneration for such service is excludable from gross income under such section".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to remuneration paid after December 31, 1992.

SEC. 4109. EXPANDED ACCESS TO SIMPLIFIED INCOME TAX RETURNS.

(a) GENERAL RULE.—The Secretary of the Treasury or his delegate shall take such actions as may be appropriate to expand access to simplified individual income tax returns and otherwise simplify the individual income tax returns.

(b) REPORT.—Not later than the date 1 year after the date of the enactment of this Act, the Secretary of the Treasury or his delegate shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, a report on his actions under subsection (a), together with such recommendations as he may deem advisable.

SEC. 4110. TREATMENT OF CERTAIN REIMBURSED EXPENSES OF RURAL MAIL CARRIERS.

(a) IN GENERAL.—Section 162 (relating to trade or business expenses) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) TREATMENT OF CERTAIN REIMBURSED EXPENSES OF RURAL MAIL CARRIERS.—

"(1) GENERAL RULE.—In the case of any employee of the United States Postal Service who performs services involving the collection and delivery of mail on a rural route and who receives qualified reimbursements for the expenses incurred by such employee for the use of a vehicle in performing such services—

"(A) the amount allowable as a deduction under this chapter for the use of a vehicle in

performing such services shall be equal to the amount of such qualified reimbursements; and

"(B) such qualified reimbursements shall be treated as paid under a reimbursement or other expense allowance arrangement for purposes of section 62(a)(2)(A) (and section 62(c) shall not apply to such qualified reimbursements).

"(2) DEFINITION OF QUALIFIED REIMBURSEMENTS.—For purposes of this subsection, the term 'qualified reimbursements' means the amounts paid by the United States Postal Service to employees as an equipment maintenance allowance under the 1991 collective bargaining agreement between the United States Postal Service and the National Rural Letter Carriers' Association. Amounts paid as an equipment maintenance allowance by such Postal Service under later collective bargaining agreements that supersede the 1991 agreement shall be considered qualified reimbursements if such amounts do not exceed the amounts that would have been paid under the 1991 agreement, adjusted for changes in the Consumer Price Index (as defined in section 1(f)(5)) since 1991."

(b) TECHNICAL AMENDMENT.—Section 6008 of the Technical and Miscellaneous Revenue Act of 1988 is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 4111. EXEMPTION FROM LUXURY EXCISE TAX FOR CERTAIN EQUIPMENT INSTALLED ON PASSENGER VEHICLES FOR USE BY DISABLED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (3) of section 4004(b) of the Internal Revenue Code of 1986 (relating to separate purchase of article and parts and accessories therefor) is amended—

(1) by striking "or" at the end of subparagraph (A),

(2) by redesignating subparagraph (B) as subparagraph (C), and

(3) by inserting after subparagraph (A) the following new subparagraph:

"(B) the part or accessory is installed on a passenger vehicle to enable or assist an individual with a disability to operate the vehicle, or to enter or exit the vehicle, by compensating for the effect of such disability, or".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 11221(a) of the Omnibus Budget Reconciliation Act of 1990.

Subtitle B—Pension Simplification

PART I—SIMPLIFIED DISTRIBUTION RULES

SEC. 4201. TAXABILITY OF BENEFICIARY OF QUALIFIED PLAN.

(a) IN GENERAL.—So much of section 402 (relating to taxability of beneficiary of employees' trust) as precedes subsection (g) thereof is amended to read as follows:

"SEC. 402. TAXABILITY OF BENEFICIARY OF EMPLOYEES' TRUST.

"(a) TAXABILITY OF BENEFICIARY OF EXEMPT TRUST.—Except as otherwise provided in this section, any amount actually distributed to any distributee by any employees' trust described in section 401(a) which is exempt from tax under section 501(a) shall be taxable to the distributee, in the taxable year of the distributee in which distributed, under section 72 (relating to annuities).

"(b) TAXABILITY OF BENEFICIARY OF NONEXEMPT TRUST.—

"(1) CONTRIBUTIONS.—Contributions to an employees' trust made by an employer during a taxable year of the employer which ends within or with a taxable year of the trust for which the trust is not exempt from tax under section 501(a) shall be included in the gross income of the employee in accordance with section 83 (relating to property transferred in connection with performance of services), except that the value of the employee's interest in the trust shall be substituted for the fair market value of the property for purposes of applying such section.

"(2) DISTRIBUTIONS.—The amount actually distributed or made available to any distributee by any trust described in paragraph (1) shall be taxable to the distributee, in the taxable year in which so distributed or made available, under section 72 (relating to annuities), except that distributions of income of such trust before the annuity starting date (as defined in section 72(c)(4)) shall be included in the gross income of the employee without regard to section 72(e)(5) (relating to amount not received as annuities).

"(3) GRANTOR TRUSTS.—A beneficiary of any trust described in paragraph (1) shall not be considered the owner of any portion of such trust under subpart E of part I of subchapter J (relating to grantors and others treated as substantial owners).

"(4) FAILURE TO MEET REQUIREMENTS OF SECTION 410(B).—

"(A) HIGHLY COMPENSATED EMPLOYEES.—If 1 of the reasons a trust is not exempt from tax under section 501(a) is the failure of the plan of which it is a part to meet the requirements of section 401(a)(26) or 410(b), then a highly compensated employee shall, in lieu of the amount determined under this subsection, include in gross income for the taxable year with or within which the taxable year of the trust ends an amount equal to the vested accrued benefit of such employee (other than the employee's investment in the contract) as of the close of such taxable year of the trust.

"(B) FAILURE TO MEET COVERAGE TESTS.—If a trust is not exempt from tax under section 501(a) for any taxable year solely because such trust is part of a plan which fails to meet the requirements of section 401(a)(26) or 410(b), this subsection shall not apply by reason of such failure to any employee who was not a highly compensated employee during—

"(i) such taxable year, or

"(ii) any preceding period for which service was creditable to such employee under the plan.

"(C) HIGHLY COMPENSATED EMPLOYEE.—For purposes of this paragraph, the term 'highly compensated employee' has the meaning given such term by section 414(q).

"(c) RULES APPLICABLE TO ROLLOVERS FROM EXEMPT TRUSTS.—

"(1) EXCLUSION FROM INCOME.—If—

"(A) any portion of the balance to the credit of an employee in a qualified trust is paid to the employee in an eligible rollover distribution,

"(B) the distributee transfers any portion of the property received in such distribution to an eligible retirement plan, and

"(C) in the case of a distribution of property other than money, the amount so transferred consists of the property distributed,

then such distribution (to the extent so transferred) shall not be includible in gross income for the taxable year in which paid.

"(2) MAXIMUM AMOUNT WHICH MAY BE ROLLED OVER.—In the case of any eligible rollover distribution, the maximum amount transferred to which paragraph (1) applies shall not exceed the portion of such distribution which is includible in gross income (determined without regard to paragraph (1)).

"(3) TRANSFER MUST BE MADE WITHIN 60 DAYS OF RECEIPT.—Paragraph (1) shall not apply to any transfer of a distribution made after the 60th day following the day on which the distributee received the property distributed.

"(4) ELIGIBLE ROLLOVER DISTRIBUTION.—For purposes of this subsection, the term 'eligible rollover distribution' means any distribution to an employee of all or any portion of the balance to the credit of the employee in a qualified trust; except that such term shall not include—

"(A) any distribution which is part of a series of substantially equal periodic payments (not less frequently than annually) made—

"(i) for the life (or life expectancy) of the employee or the joint lives (or joint life expectancies) of the employee and his designated beneficiary, or

"(ii) for a specified period of 10 years or more, and

"(B) any distribution to the extent such distribution is required under section 401(a)(9).

"(5) TRANSFER TREATED AS ROLLOVER CONTRIBUTION UNDER SECTION 408.—For purposes of this title, a transfer resulting in any portion of a distribution being excluded from gross income under paragraph (1) to an eligible retirement plan described in clause (i) or (ii) of paragraph (8)(B) shall be treated as a rollover contribution described in section 408(d)(3).

"(6) SALES OF DISTRIBUTED PROPERTY.—For purposes of this subsection—

"(A) TRANSFER OF PROCEEDS FROM SALE OF DISTRIBUTED PROPERTY TREATED AS TRANSFER OF DISTRIBUTED PROPERTY.—The transfer of an amount equal to any portion of the proceeds from the sale of property received in the distribution shall be treated as the transfer of property received in the distribution.

"(B) PROCEEDS ATTRIBUTABLE TO INCREASE IN VALUE.—The excess of fair market value of property on sale over its fair market value on distribution shall be treated as property received in the distribution.

"(C) DESIGNATION WHERE AMOUNT OF DISTRIBUTION EXCEEDS ROLLOVER CONTRIBUTION.—In any case where part or all of the distribution consists of property other than money, the taxpayer may designate—

"(i) the portion of the money or other property which is to be treated as attributable to the amount not included in gross income, and

"(ii) the portion of the money or other property which is to be treated as included in the rollover contribution.

Any designation under this subparagraph for a taxable year shall be made not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof). Any such designation, once made, shall be irrevocable.

"(D) TREATMENT WHERE NO DESIGNATION.—In any case where part or all of the distribution consists of property other than money and the taxpayer fails to make a designation under subparagraph (C) within the time provided therein, then—

"(i) the portion of the money or other property which is to be treated as attributable to the amount not included in gross income, and

"(ii) the portion of the money or other property which is to be treated as included in the rollover contribution,

shall be determined on a ratable basis.

"(E) NONRECOGNITION OF GAIN OR LOSS.—In the case of any sale described in subparagraph (A), to the extent that an amount

equal to the proceeds is transferred pursuant to paragraph (1), neither gain nor loss on such sale shall be recognized.

"(7) SPECIAL RULE FOR FROZEN DEPOSITS.—

"(A) IN GENERAL.—The 60-day period described in paragraph (3) shall not—

"(i) include any period during which the amount transferred to the employee is a frozen deposit, or

"(ii) end earlier than 10 days after such amount ceases to be a frozen deposit.

"(B) FROZEN DEPOSITS.—For purposes of this subparagraph, the term 'frozen deposit' means any deposit which may not be withdrawn because of—

"(i) the bankruptcy or insolvency of any financial institution, or

"(ii) any requirement imposed by the State in which such institution is located by reason of the bankruptcy or insolvency (or threat thereof) of 1 or more financial institutions in such State.

A deposit shall not be treated as a frozen deposit unless on at least 1 day during the 60-day period described in paragraph (3) (without regard to this paragraph) such deposit is described in the preceding sentence.

"(8) DEFINITIONS.—For purposes of this subsection—

"(A) QUALIFIED TRUST.—The term 'qualified trust' means an employees' trust described in section 401(a) which is exempt from tax under section 501(a).

"(B) ELIGIBLE RETIREMENT PLAN.—The term 'eligible retirement plan' means—

"(i) an individual retirement account described in section 408(a),

"(ii) an individual retirement annuity described in section 408(b) (other than an endowment contract),

"(iii) a qualified trust, and

"(iv) an annuity plan described in section 403(a).

"(9) ROLLOVER WHERE SPOUSE RECEIVES DISTRIBUTION AFTER DEATH OF EMPLOYEE.—If any distribution attributable to an employee is paid to the spouse of the employee after the employee's death, the preceding provisions of this subsection shall apply to such distribution in the same manner as if the spouse were the employee; except that a trust or plan described in clause (iii) or (iv) of paragraph (8)(B) shall not be treated as an eligible retirement plan with respect to such distribution.

"(d) TAXABILITY OF BENEFICIARY OF CERTAIN FOREIGN SITUS TRUSTS.—For purposes of subsections (a), (b), and (c), a stock bonus, pension, or profit-sharing trust which would qualify for exemption from tax under section 501(a) except for the fact that it is a trust created or organized outside the United States shall be treated as if it were a trust exempt from tax under section 501(a).

"(e) OTHER RULES APPLICABLE TO EXEMPT TRUSTS.—

"(1) ALTERNATE PAYEES.—

"(A) ALTERNATE PAYEE TREATED AS DISTRIBUTEE.—For purposes of subsection (a) and section 72, an alternate payee who is the spouse or former spouse of the participant shall be treated as the distributee of any distribution or payment made to the alternate payee under a qualified domestic relations order (as defined in section 414(p)).

"(B) ROLLOVERS.—If any amount is paid or distributed to an alternate payee who is the spouse or former spouse of the participant by reason of any qualified domestic relations order (within the meaning of section 414(p)), subsection (c) shall apply to such distribution in the same manner as if such alternate payee were the employee.

"(2) DISTRIBUTIONS BY UNITED STATES TO NONRESIDENT ALIENS.—The amount includible under subsection (a) in the gross income of a nonresident alien with respect to a distribution made by the United States in respect of services performed by an employee of the United States shall not exceed an amount which bears the same ratio to the amount includible in gross income without regard to this paragraph as—

"(A) the aggregate basic pay paid by the United States to such employee for such services, reduced by the amount of such basic pay which was not includible in gross income by reason of being from sources without the United States, bears to

"(B) the aggregate basic pay paid by the United States to such employee for such services.

In the case of distributions under the civil service retirement laws, the term 'basic pay' shall have the meaning provided in section 8331(3) of title 5, United States Code.

"(3) CASH OR DEFERRED ARRANGEMENTS.—For purposes of this title, contributions made by an employer on behalf of an employee to a trust which is a part of a qualified cash or deferred arrangement (as defined in section 401(k)(2)) shall not be treated as distributed or made available to the employee nor as contributions made to the trust by the employee merely because the arrangement includes provisions under which the employee has an election whether the contribution will be made to the trust or received by the employee in cash.

"(f) WRITTEN EXPLANATION TO RECIPIENTS OF DISTRIBUTIONS ELIGIBLE FOR ROLLOVER TREATMENT.—

"(1) IN GENERAL.—The plan administrator of any plan shall, when making an eligible rollover distribution, provide a written explanation to the recipient of the provisions under which such distribution will not be subject to tax if transferred to an eligible retirement plan within 60 days after the date on which the recipient received the distribution.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) ELIGIBLE ROLLOVER DISTRIBUTION.—The term 'eligible rollover distribution' has the same meaning as when used in subsection (c) of this section or paragraph (4) of section 403(a).

"(B) ELIGIBLE RETIREMENT PLAN.—The term 'eligible retirement plan' has the meaning given such term by subsection (c)(8)(B)."

(b) REPEAL OF $5,000 EXCLUSION OF EMPLOYEES' DEATH BENEFITS.—Subsection (b) of section 101 is hereby repealed.

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 55(c) is amended by striking "shall not include any tax imposed by section 402(e) and".

(2) Paragraph (8) of section 62(a) (relating to certain portion of lump-sum distributions from pension plans taxed under section 402(e)) is hereby repealed.

(3) Paragraph (4) of section 72(o) (relating to special rule for treatment of rollover amount) is amended by striking "sections 402(a)(5), 402(a)(7)" and inserting "sections 402(c)".

(4) Paragraph (2) of section 219(d) (relating to recontributed amount) is amended by striking "section 402(a)(5), 402(a)(7)" and inserting "section 402(c)".

(5) Paragraph (20) of section 401(a) is amended by striking "qualified total distribution described in section 402(a)(5)(E)(i)(I)" and inserting "distribution to a distributee on account of a termination of the plan of which the trust is a part, or in the case of a profit-sharing or stock bonus plan, a complete discontinuance of contributions under such plan".

(6) Section 401(a)(28)(B) (relating to coordination with distribution rules) is amended by striking clause (v).

(7) Subclause (IV) of section 401(k)(2)(B)(i) is amended by striking "section 402(a)(8)" and inserting "section 402(e)(3)".

(8) Subparagraph (B)(ii) of section 401(k)(10) (relating to distributions that must be lump-sum distributions) is amended to read as follows:

"(ii) LUMP SUM DISTRIBUTION.—For purposes of this subparagraph, the term 'lump sum distribution' means any distribution of the balance to the credit of an employee immediately before the distribution."

(9) Section 402(g)(1) is amended by striking "subsections (a)(8)" and inserting "subsections (e)(3)".

(10) Section 402(i) is amended by striking ", except as otherwise provided in subparagraph (A) of subsection (e)(4)".

(11) Subsection (j) of section 402 is hereby repealed.

(12)(A) Clause (i) of section 403(a)(4)(A) is amended by inserting "in an eligible rollover distribution" before the comma at the end thereof.

(B) Subparagraph (B) of section 403(a)(4) is amended to read as follows:

"(B) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of section 402(c) shall apply for purposes of subparagraph (A)."

(13)(A) Clause (i) of section 403(b)(8)(A) is amended by inserting "in an eligible rollover distribution" before the comma at the end thereof.

(B) Paragraph (8) of section 403(b) is amended by striking subparagraphs (B), (C), and (D) and inserting the following:

"(B) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of paragraphs (2), (3), (4), (5), (6), and (7) of section 402(c) shall apply for purposes of subparagraph (A)."

(14) Section 406(c) (relating to termination of status as deemed employee not to be treated as separation from service for purposes of limitation of tax) is hereby repealed.

(15) Section 407(c) (relating to termination of status as deemed employee not to be treated as separation from service for purposes of limitation of tax) is hereby repealed.

(16) Paragraph (1) of section 408(a) is amended by striking "section 402(a)(5), 402(a)(7)" and inserting "section 402(c)".

(17) Clause (ii) of section 408(d)(3)(A) is amended by striking "of a qualified total distribution (as defined in section 402(a)(5)(E)(i))" and inserting "(as defined in section 402(c)(1))".

(18) Clause (ii) of section 408(d)(3)(A) is amended—

(A) by striking "the entire amount received (including money and any other property) represents the entire amount in the account or the entire value of the annuity and", and

(B) by striking "the entire amount thereof" and inserting "the entire amount received (including money and any other property)".

(19) Subparagraph (B) of section 408(d)(3) (relating to limitations) is amended by striking the second sentence thereof.

(20) Subparagraph (F) of section 408(d)(3) (relating to frozen deposits) is amended by striking "section 402(a)(6)(H)" and inserting "section 402(c)(7)".

(21) Subclause (I) of section 414(n)(5)(C)(iii) is amended by striking "section 402(a)(8)" and inserting "section 402(e)(3)".

(22) Clause (i) of section 414(q)(7)(B) is amended by striking "402(a)(8)" and inserting "402(e)(3)".

(23) Paragraph (2) of section 414(s) (relating to employer may elect to treat certain deferrals as compensation) is amended by striking "402(a)(8)" and inserting "402(e)(3)".

(24) Subparagraph (A) of section 415(b)(2) (relating to annual benefit in general) is amended by striking "sections 402(a)(5)" and inserting "sections 402(c)".

(25) Subparagraph (B) of section 415(b)(2) (relating to adjustment for certain other forms of benefit) is amended by striking "sections 402(a)(5)" and inserting "sections 402(c)".

(26) Paragraph (2) of section 415(c) (relating to annual addition) is amended by striking "sections 402(a)(5)" and inserting "sections 402(c)".

(27) Subparagraph (B) of section 457(c)(2) is amended by striking "section 402(a)(8)" in clause (i) thereof and inserting "section 402(e)(3)".

(28) Section 691(c) (relating to coordination with section 402(e)) is amended by striking paragraph (5).

(29) Subparagraph (B) of section 871(a)(1) (relating to income other than capital gains) is amended by striking "402(a)(2), 403(a)(2), or".

(30) Paragraph (1) of section 871(b) (relating to imposition of tax) is amended by striking "section 1, 55, or 402(e)(1)" and inserting "section 1 or 55".

(31) Paragraph (1) of section 871(k) is amended by striking "section 402(a)(4)" and inserting "section 402(e)(2)".

(32) Subsection (b) of section 877 (relating to alternative tax) is amended by striking "section 1, 55, or 402(e)(1)" and inserting "section 1 or 55".

(33) Subsection (b) of section 1441 (relating to income items) is amended by striking "402(a)(2), 403(a)(2), or".

(34) Paragraph (5) of section 1441(c) (relating to special items) is amended by striking "402(a)(2), 403(a)(2), or".

(35) Subparagraph (A) of section 3121(v)(1) is amended by striking "section 402(a)(8)" and inserting "section 402(e)(3)".

(36) Subparagraph (A) of section 3306(r)(1) is amended by striking "section 402(a)(8)" and inserting "section 402(e)(3)".

(37) Subsection (a) of section 3405 is amended by striking "PENSIONS, ANNUITIES, ETC.—" from the heading thereof and inserting "PERIODIC PAYMENTS.—".

(38) Subsection (b) of section 3405 (relating to nonperiodic distribution) is amended—

(A) by striking "the amount determined under paragraph (2)" from paragraph (1) thereof and inserting "an amount equal to 10 percent of such distribution"; and

(B) by striking paragraph (2) (relating to amount of withholding) and redesignating paragraph (3) as paragraph (2).

(39) Paragraph (4) of section 3405(d) (relating to qualified total distributions) is hereby repealed.

(40) Paragraph (8) of section 3405(d) (relating to maximum amounts withheld) is amended to read as follows:

"(8) MAXIMUM AMOUNT WITHHELD.—The maximum amount to be withheld under this section on any designated distribution shall not exceed the sum of the amount of money and the fair market value of other property received in the distribution."

(41) Subparagraph (A) of section 4973(b)(1) is amended by striking "sections 402(a)(5), 402(a)(7)" and inserting "sections 402(c)".

(42) Paragraph (4) of section 4980A(c) (relating to special rule where taxpayer elects income averaging) is amended to read as follows:

"(4) ONE-TIME ELECTION FOR CERTAIN DISTRIBUTIONS.—If the taxpayer elects the application of this paragraph for any calendar year, paragraph (1) shall be applied for such calendar year as if the limitation under paragraph (1) were equal to 5 times such limitation determined without regard to this paragraph. No election may be made under this paragraph by any taxpayer if this paragraph applied to the taxpayer for any preceding calendar year."

(43) Subparagraph (C) of section 7701(j)(1) is amended by striking "section 402(a)(8)" and inserting "section 402(e)(3)".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

(2) PHASEOUT OF PRIOR TRANSITIONAL RULES.—

(A) In the case of any lump sum distribution in any taxable year beginning after December 31, 1992, paragraph (5) of section 1122(h) of the Tax Reform Act of 1986 shall apply to the phaseout percentage of any lump sum distribution which would have been eligible for the election of those provisions.

(B) For purposes of this paragraph—

In the case of distributions during calendar year:	The phaseout percentage is:
1993	60
1994	50
1995	45
1996 and thereafter	0.

SEC. 4202. SIMPLIFIED METHOD FOR TAXING ANNUITY DISTRIBUTIONS UNDER CERTAIN EMPLOYER PLANS.

(a) GENERAL RULE.—Subsection (d) of section 72 (relating to annuities; certain proceeds of endowment and life insurance contracts) is amended to read as follows:

"(d) SPECIAL RULES FOR QUALIFIED EMPLOYER RETIREMENT PLANS.—

"(1) SIMPLIFIED METHOD OF TAXING ANNUITY PAYMENTS.—

"(A) IN GENERAL.—In the case of any amount received as an annuity under a qualified employer retirement plan—

"(i) subsection (b) shall not apply, and

"(ii) the investment in the contract shall be recovered as provided in this paragraph.

"(B) METHOD OF RECOVERING INVESTMENT IN CONTRACT.—

"(i) IN GENERAL.—Gross income shall not include so much of any monthly annuity payment under a qualified employer retirement plan as does not exceed the amount obtained by dividing—

"(I) the investment in the contract (as of the annuity starting date), by

"(II) the number of anticipated payments determined under the table contained in clause (iii) (or, in the case of a contract to which subsection (c)(3)(B) applies, the number of monthly annuity payments under such contract).

"(ii) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of paragraphs (2) and (3) of subsection (b) shall apply for purposes of this paragraph.

"(iii) NUMBER OF ANTICIPATED PAYMENTS.—

"If the age of the primary annuitant on the annuity starting date is:	The number of anticipated payments is:
Not more than 55	300
More than 55 but not more than 60	260
More than 60 but not more than 65	240
More than 65 but not more than 70	170
More than 70	120

"(C) ADJUSTMENT FOR REFUND FEATURE NOT APPLICABLE.—For purposes of this paragraph, investment in the contract shall be determined under subsection (c)(1) without regard to subsection (c)(2).

"(D) SPECIAL RULE WHERE LUMP SUM PAID IN CONNECTION WITH COMMENCEMENT OF ANNUITY PAYMENTS.—If in connection with the commencement of annuity payments under any qualified employer plan the taxpayer receives a lump sum payment—

"(i) such payment shall be taxable under subsection (e) as if received before the annuity starting date, and

"(ii) the investment in the contract for purposes of this paragraph shall be determined as if such payment had been so received.

"(E) EXCEPTION.—This paragraph shall not apply in any case where the primary annuitant has attained age 75 on the annuity starting date unless there are fewer than 5 years of guaranteed payments under the annuity.

"(F) ADJUSTMENT WHERE ANNUITY PAYMENTS NOT ON MONTHLY BASIS.—In any case where the annuity payments are not made on a monthly basis, appropriate adjustments in the application of this paragraph shall be made to take into account the period on the basis of which such payments are made.

"(G) QUALIFIED EMPLOYER RETIREMENT PLAN.—For purposes of this paragraph, the term 'qualified employer retirement plan' means any plan or contract described in paragraph (1), (2), or (3) of section 4974(c).

"(2) TREATMENT OF EMPLOYEE CONTRIBUTIONS UNDER DEFINED CONTRIBUTION PLANS.—For purposes of this section, employee contributions (and any income allocable thereto) under a defined contribution plan may be treated as a separate contract."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply in cases where the annuity starting date is after December 31, 1992.

SEC. 4203. REQUIREMENT THAT QUALIFIED PLANS INCLUDE OPTIONAL TRUSTEE-TO-TRUSTEE TRANSFERS OF ELIGIBLE ROLLOVER DISTRIBUTIONS.

(a) GENERAL RULE.—Subsection (a) of section 401 (relating to requirements for qualification) is amended by inserting after paragraph (30) the following new paragraph:

"(31) OPTIONAL DIRECT TRANSFER OF ELIGIBLE ROLLOVER DISTRIBUTIONS.—

"(A) IN GENERAL.—A trust shall not constitute a qualified trust under this section unless the plan of which such trust is a part provides that if the distributee of any eligible rollover distribution—

"(i) elects to have such distribution paid directly to an eligible retirement plan, and

"(ii) specifies the eligible retirement plan to which such distribution is to be paid (in such form and at such time as the plan administrator may prescribe),

such distribution shall be made in the form of a direct trustee-to-trustee transfer to the eligible retirement plan so specified.

"(B) LIMITATION.—Subparagraph (A) shall apply only to the extent that the eligible rollover distribution would be includible in gross income if not transferred as provided in subparagraph (A) (determined without regard to sections 402(c) and 403(a)(4)).

"(C) ELIGIBLE ROLLOVER DISTRIBUTION.—For purposes of this paragraph, the term 'eligible rollover distribution' has the meaning given such term by section 402(f)(2)(A).

"(D) ELIGIBLE RETIREMENT PLAN.—For purposes of this paragraph, the term 'eligible retirement plan' has the meaning given such term by section 402(c)(8)(B), except that a qualified trust shall be considered an eligible

retirement plan only if it is a defined contribution plan, the terms of which permit the acceptance of rollover distributions."

(b) EMPLOYEE'S ANNUITIES.—Paragraph (2) of section 404(a) (relating to employee's annuities) is amended by striking "and (27)" and inserting "(27), and (31)".

(c) EXCLUSION FROM INCOME.—

(1) QUALIFIED TRUSTS.—Subsection (e) of section 402 (relating to taxability of beneficiary of employees' trust), as amended by section 3201, is amended by adding at the end the following new paragraph:

"(4) DIRECT TRUSTEE-TO-TRUSTEE TRANSFERS.—Any amount transferred in a direct trustee-to-trustee transfer in accordance with section 401(a)(31) shall not be includible in gross income for the taxable year of such transfer."

(2) EMPLOYEE ANNUITIES.—Subsection (a) of section 403 is amended by adding at the end the following new paragraph:

"(5) DIRECT TRUSTEE-TO-TRUSTEE TRANSFER.—Any amount transferred in a direct trustee-to-trustee transfer in accordance with section 401(a)(31) shall not be includible in gross income for the taxable year of such transfer."

(d) WRITTEN EXPLANATION.—Paragraph (1) of section 402(f) (as amended by section 3201) is amended to read as follows:

"(1) IN GENERAL.—The plan administrator of any plan shall, before making an eligible rollover distribution, provide a written explanation to the recipient of—

"(A) the optional direct transfer provisions provided pursuant to section 401(a)(31), and

"(B) the provisions under which such distribution will not be subject to tax if transferred to an eligible retirement plan within 60 days after the date on which the recipient received the distribution."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions in plan years beginning after December 31, 1992.

PART II—INCREASED ACCESS TO PENSION PLANS

SEC. 4211. SALARY REDUCTION ARRANGEMENTS OF SIMPLIFIED EMPLOYEE PENSIONS.

(a) SALARY REDUCTION ARRANGEMENTS.—

(1) IN GENERAL.—Paragraph (6) of section 408(k) (relating to salary reduction arrangements) is amended to read as follows:

"(6) EMPLOYEE MAY ELECT SALARY REDUCTION ARRANGEMENT.—

"(A) QUALIFIED ARRANGEMENTS.—A simplified employee pension shall not fail to meet the requirements of this subsection for a year merely because, under the terms of the pension, the employees may participate in a qualified salary reduction arrangement.

"(B) CERTAIN EMPLOYERS NOT ELIGIBLE.—This paragraph shall not apply with respect to any year in the case of a simplified employee pension maintained by an employer with more than 100 employees who were eligible to participate (or would have been required to be eligible to participate if a pension was maintained) at any time during the preceding year.

"(C) QUALIFIED SALARY REDUCTION ARRANGEMENT.—For purposes of this paragraph, the term 'qualified salary reduction arrangement' means a written arrangement of an eligible employer which meets the requirements of subparagraphs (D), (E), and (F) and under which—

"(i) an employee may elect to have the employer make payments—

"(I) as elective employer contributions to the simplified employee pension on behalf of the employee, or

"(II) to the employee directly in cash, and

"(ii) the amount which an employee may elect under clause (i) for any year may not exceed a total of $3,000 for any year.

An arrangement meets the requirements of clause (ii) only if, under the arrangement, the employer may not place a limit on the percentage of compensation an employee may elect to contribute.

"(D) NONELECTIVE CONTRIBUTIONS.—An arrangement meets the requirements of this subparagraph if, under the arrangement, the employer is required (without regard to whether the employee makes an elective contribution) to make a contribution to the simplified employee pension on behalf of each employee eligible to participate for the year in an amount equal to 1 percent of the employee's compensation (not in excess of $100,000) for the year.

"(E) ARRANGEMENT MAY BE ONLY PLAN OF EMPLOYER.—

"(i) IN GENERAL.—An arrangement shall not be treated as a qualified salary reduction arrangement for any year if the employer (or any predecessor employer) maintained a qualified plan with respect to which contributions were made, or amounts were accrued, for any year in the period beginning with the year such arrangement became effective and ending with the year for which the determination is being made.

"(ii) SERVICE CREDIT.—A qualified plan maintained by an employer shall provide that, in computing the accrued benefit of any employee, no credit shall be given with respect to any year for which such employee was eligible to participate in a qualified salary reduction arrangement of such employer.

"(F) RULES RELATING TO MATCHING CONTRIBUTIONS.—

"(i) IN GENERAL.—An arrangement meets the requirements of this subparagraph only if, under the arrangement, the employer is required to make a matching contribution described in clause (ii) to the simplified employee pension on behalf of each employee who makes elective contributions under subparagraph (C)(i)(I).

"(ii) RATES OF MATCHING CONTRIBUTIONS.—The level of an employer's matching contribution shall be equal to the sum of—

"(I) so much of the employee's elective contribution as does not exceed 3 percent of the employee's compensation, plus

"(II) an amount equal to 50 percent of so much of the employee's elective contribution as exceeds 3 percent of the employee's compensation but does not exceed 5 percent of the employee's compensation.

"(G) STATE AND LOCAL GOVERNMENTS NOT ELIGIBLE.—This paragraph shall not apply to a simplified employee pension maintained by a State or local government or political subdivision thereof, or any agency or instrumentality thereof.

"(H) QUALIFIED PLAN.—For purposes of this paragraph, the term 'qualified plan' means a plan, contract, pension, or trust described in subparagraph (A) or (B) of section 219(g)(5).

"(I) COMPENSATION.—For purposes of this paragraph, the term compensation has the same meaning as in section 414(q)(5)."

(2) CONFORMING AMENDMENT.—Subparagraph (B) of section 408(k)(7) is amended by striking "paragraph (2)(C)" and inserting "paragraphs (2)(C) and (6)(H)".

(b) COST-OF-LIVING ADJUSTMENTS.—Paragraph (8) of section 408(k) is amended to read as follows:

"(8) COST-OF-LIVING ADJUSTMENTS.—

"(A) IN GENERAL.—The Secretary shall adjust each of the following amounts at the same time and in the same manner as under section 415(d):

"(i) The $300 amount in paragraph (2)(C).

"(ii) The $200,000 amount in paragraph (3)(C).

"(iii) The $3,000 amount in paragraph (6)(C)(ii).

"(iv) The $100,000 amount in paragraph (6)(D)(i).

"(B) EXCEPTIONS.—

"(i) COORDINATION WITH SECTION 401(a)(17).—The amount described in clause (ii) of subparagraph (A) (as adjusted under such subparagraph) shall not exceed 100 percent of the amount in effect under section 401(a)(17).

"(ii) BASE PERIOD.—The base period taken into account under section 415(d) for the amounts described in clauses (iii) and (iv) of subparagraph (A) shall be the calendar quarter beginning October 1, 1991."

(c) REPORTING REQUIREMENTS.—

(1) IN GENERAL.—Section 408(l) is amended by adding at the end thereof the following new paragraph:

"(2) QUALIFIED SALARY REDUCTION ARRANGEMENTS UNDER SIMPLIFIED EMPLOYEE PENSIONS.—

"(A) IN GENERAL.—The employer maintaining any simplified employee pension established pursuant to a qualified salary reduction arrangement under subsection (k)(6) shall each year prepare, and provide to each employee eligible to participate in the arrangement, a description containing the following information:

"(i) The name and address of the employer and the trustee.

"(ii) The requirements for eligibility for participation.

"(iii) The benefits provided with respect to the arrangement.

"(iv) The time and method of making elections with respect to the arrangement.

"(v) The procedures for, and effects of, withdrawals from the arrangement.

"(B) TIME REPORT PROVIDED.—The description under subparagraph (A) for any year shall be provided to each employee during the 30-day period preceding the first date during such year on which the employee may make an election with respect to the arrangement."

(2) CONFORMING AMENDMENT.—Section 408(l) is amended by striking "An employer" and inserting—

"(1) IN GENERAL.—An employer".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to years beginning after December 31, 1991.

(2) TRANSITION RULE.—The amendments made by this section shall not apply to a simplified employee pension which was in effect on the date of the enactment of this Act and which maintained a salary reduction arrangement on such date, unless the employer elects to have such amendments apply for any year and all subsequent years.

SEC. 4212. TAX EXEMPT ORGANIZATIONS ELIGIBLE UNDER SECTION 401(k).

(a) GENERAL RULE.—Subparagraph (B) of section 401(k)(4) is amended to read as follows:

"(B) STATE AND LOCAL GOVERNMENTS NOT ELIGIBLE.—A cash or deferred arrangement shall not be treated as a qualified cash or deferred arrangement if it is part of a plan maintained by a State or local government or political subdivision thereof, or any agency or instrumentality thereof. This subparagraph shall not apply to a rural cooperative plan."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to plan

years beginning on or after December 31, 1992, but shall not apply to any cash or deferred arrangement to which clause (i) of section 1116(f)(2)(B) of the Tax Reform Act of 1986 applies.

SEC. 4213. DUTIES OF SPONSORS OF CERTAIN PROTOTYPE PLANS.

(a) IN GENERAL.—The Secretary of the Treasury may, as a condition of sponsorship, prescribe rules defining the duties and responsibilities of sponsors of master and prototype plans, regional prototype plans, and other Internal Revenue Service preapproved plans.

(b) DUTIES RELATING TO PLAN AMENDMENT, NOTIFICATION OF ADOPTERS, AND PLAN ADMINISTRATION.—The duties and responsibilities referred to in subsection (a) may include—

(1) the maintenance of lists of persons adopting the sponsor's plans, including the updating of such lists not less frequently than annually,

(2) the furnishing of notices at least annually to such persons and to the Secretary or his delegate, in such form and at such time as the Secretary shall prescribe,

(3) duties relating to administrative services to such persons in the operation of their plans, and

(4) other duties that the Secretary considers necessary to ensure that—

(A) the master and prototype, regional prototype, and other preapproved plans of adopting employers are timely amended to meet the requirements of the Internal Revenue Code of 1986 or of any rule or regulation of the Secretary, and

(B) adopting employers receive timely notification of amendments and other actions taken by sponsors with respect to their plans.

PART III—MISCELLANEOUS SIMPLIFICATION

SEC. 4221. MODIFICATION TO DEFINITION OF LEASED EMPLOYEE.

(a) GENERAL RULE.—Subparagraph (C) of section 414(n)(2) (defining leased employee) is amended to read as follows:

"(C) such services are performed under any significant direction or control by the recipient."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to years beginning after December 31, 1992, but shall not apply to any relationship determined under an Internal Revenue Service ruling issued before the date of the enactment of this Act pursuant to section 414(n)(2)(C) of the Internal Revenue Code of 1986 (as in effect on the day before such date) not to involve a leased employee.

SEC. 4222. SIMPLIFICATION OF NONDISCRIMINATION TESTS APPLICABLE UNDER SECTIONS 401(k) AND 401(m).

(a) CASH OR DEFERRED ARRANGEMENTS.—Clause (ii) of section 401(k)(3)(A) is amended—

(1) by striking "such year" and inserting "the plan year", and

(2) by striking "for such plan year" and inserting "the preceding plan year".

(b) MATCHING AND EMPLOYEE CONTRIBUTIONS.—Section 401(m)(2)(A) is amended—

(1) by inserting "for such plan year" after "highly compensated employee", and

(2) by inserting "for the preceding plan year" after "eligible employees" each place it appears in clause (i) and clause (ii).

(c) SPECIAL RULE FOR DETERMINING AVERAGE DEFERRAL PERCENTAGE FOR FIRST PLAN YEAR, ETC.—

(1) Paragraph (3) of section 401(k) is amended by adding at the end thereof the following new subparagraph:

"(E) For purposes of this paragraph, in the case of the first plan year of any plan, the amount taken into account as the average deferral percentage of nonhighly compensated employees for the preceding plan year shall be—

"(i) 3 percent, or

"(ii) if the employer makes an election under this subclause, the average deferral percentage of nonhighly compensated employees determined for such first plan year."

(2) Paragraph (3) of section 401(m) is amended by adding at the end thereof the following: "Rules similar to the rules of subsection (k)(3)(E) shall apply for purposes of this subsection.".

(d) ALTERNATIVE METHODS OF SATISFYING SECTION 401(k) AND 401(m) NONDISCRIMINATION TESTS.—

(1) SECTION 401(k).—Section 401(k) (relating to cash or deferred arrangements) is amended by adding at the end thereof the following new paragraph:

"(11) ALTERNATIVE METHODS OF MEETING NONDISCRIMINATION REQUIREMENTS.—

"(A) IN GENERAL.—A cash or deferred arrangement shall be treated as meeting the requirements of paragraph (3)(A)(ii) if such arrangement—

"(i) meets the contribution requirements of subparagraph (B) or (C), and

"(ii) meets the notice requirements of subparagraph (D).

"(B) MATCHING CONTRIBUTIONS.—

"(i) IN GENERAL.—The requirements of this subparagraph are met if, under the arrangement, the employer makes matching contributions on behalf of each employee who is not a highly compensated employee in an amount not less than—

"(I) 100 percent of the elective contributions of the employee to the extent such elective contributions do not exceed 3 percent of the employee's compensation, and

"(II) 50 percent of the elective contributions of the employee to the extent that such elective contributions exceed 3 percent but do not exceed 5 percent of the employee's compensation.

"(ii) RATE FOR HIGHLY COMPENSATED EMPLOYEES.—The requirements of this subparagraph are not met if, under the arrangement, the matching contribution with respect to any elective contribution of a highly compensated employee at any level of compensation is greater than that with respect to an employee who is not a highly compensated employee.

"(iii) ALTERNATIVE PLAN DESIGNS.—If the matching contribution with respect to any elective contribution at any specific level of compensation is not equal to the percentage required under clause (i), an arrangement shall not be treated as failing to meet the requirements of clause (i) if—

"(I) the level of an employer's matching contribution does not increase as an employee's elective contributions increase, and

"(II) the aggregate amount of matching contributions with respect to elective contributions not in excess of such level of compensation is at least equal to the amount of matching contributions which would be made if matching contributions were made on the basis of the percentages described in clause (i).

"(C) NONELECTIVE CONTRIBUTIONS.—The requirements of this subparagraph are met if, under the arrangement, the employer is required, without regard to whether the employee makes an elective contribution or employee contribution, to make a contribution to a defined contribution plan on behalf of each employee who is not a highly compensated employee and who is eligible to participate in the arrangement in an amount equal to at least 3 percent of the employee's compensation.

"(D) NOTICE REQUIREMENT.—An arrangement meets the requirements of this paragraph if, under the arrangement, each employee eligible to participate is, within a reasonable period before any year, given written notice of the employee's rights and obligations under the arrangement which—

"(i) is sufficiently accurate and comprehensive to appraise the employee of such rights and obligations, and

"(ii) is written in a manner calculated to be understood by the average employee eligible to participate.

"(E) OTHER REQUIREMENTS.—

"(i) WITHDRAWAL AND VESTING RESTRICTIONS.—An arrangement shall not be treated as meeting the requirements of subparagraph (B) or (C) unless the requirements of subparagraphs (B) and (C) of paragraph (2) are met with respect to employer contributions.

"(ii) SOCIAL SECURITY AND SIMILAR CONTRIBUTIONS NOT TAKEN INTO ACCOUNT.—An arrangement shall not be treated as meeting the requirements of subparagraph (B) or (C) unless such requirements are met without regard to subsection (l), and, for purposes of subsection (l), employer contributions under subparagraph (B) or (C) shall not be taken into account.

"(F) OTHER PLANS.—An arrangement shall be treated as meeting the requirements under subparagraph (A)(i) if any other qualified plan maintained by the employer meets such requirements with respect to employees eligible under the arrangement."

(2) SECTION 401(m).—Section 401(m) (relating to the nondiscrimination test for matching contributions and employee contributions) is amended by redesignating paragraph (10) as paragraph (11) and by adding after paragraph (9) the following new paragraph:

"(10) ALTERNATIVE METHOD OF SATISFYING TESTS.—

"(A) IN GENERAL.—A defined contribution plan shall be treated as meeting the requirements of paragraph (2) with respect to matching contributions if the plan—

"(i) meets the contribution requirements of subparagraph (B) or (C) of subsection (k)(11),

"(ii) meets the notice requirements of subsection (k)(11)(D), and

"(iii) meets the requirements of subparagraph (B).

"(B) LIMITATION ON MATCHING CONTRIBUTIONS.—The requirements of this subparagraph are met if—

"(i) matching contributions on behalf of any employee may not be made with respect to an employee's contributions or elective deferrals in excess of 6 percent of the employee's compensation,

"(ii) the level of an employer's matching contribution does not increase as an employee's contributions or elective deferrals increase, and

"(iii) the matching contribution with respect to any highly compensated employee at a specific level of compensation is not greater than that with respect to an employee who is not a highly compensated employee."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 1992.

SEC. 4223. DEFINITION OF HIGHLY COMPENSATED EMPLOYEE.

(a) GENERAL RULE.—Subsection (q) of section 414 (defining highly compensated employee) is amended to read as follows:

"(q) HIGHLY COMPENSATED EMPLOYEE.—

"(1) IN GENERAL.—The term 'highly compensated employee' means any employee who, during the year or the preceding year—

"(A) was a 5-percent owner, or

"(B) received compensation from the employer in excess of $50,000.

The Secretary shall adjust the $50,000 amount specified in subparagraph (B) at the same time and in the same manner as under section 415(d).

"(2) SPECIAL RULE FOR CURRENT YEAR.—In the case of the year for which the relevant determination is being made, an employee not described in subparagraph (B) of paragraph (1) for the preceding year (without regard to this paragraph) shall not be treated as described in such subparagraph for the year for which the determination is being made unless such employee is a member of the group consisting of the 100 employees paid the highest compensation during the year for which such determination is being made.

"(3) 5-PERCENT OWNER.—An employee shall be treated as a 5-percent owner for any year if at any time during such year such employee was a 5-percent owner (as defined in section 416(i)(1)) of the employer.

"(4) SPECIAL RULE IF NO EMPLOYEE DESCRIBED IN PARAGRAPH (1).—

"(A) IN GENERAL.—If no employee is treated as a highly compensated employee under paragraph (1), the employee who has the highest compensation for the year shall be treated as a highly compensated employee.

"(B) EXCEPTION.—This paragraph shall not apply to any plan—

"(i) which is maintained by an organization exempt from tax under this subtitle,

"(ii) which provides a nonforfeitable right to 100 percent of an employee's accrued benefit,

"(iii) which covers a fair cross section of employees, determined on the basis of their compensation, and

"(iv) which was in effect on February 1, 1992, and at all times thereafter.

"(5) COMPENSATION.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'compensation' means compensation within the meaning of section 415(c)(3).

"(B) CERTAIN PROVISIONS NOT TAKEN INTO ACCOUNT.—The determination under subparagraph (A) shall be made—

"(i) without regard to sections 125, 402(e)(3), 402(h)(1)(B), and 414(h)(2), and

"(ii) in the case of employer contributions made pursuant to a salary reduction agreement, without regard to sections 403(b) and 457.

"(6) FORMER EMPLOYEES.—A former employee shall be treated as a highly compensated employee if—

"(A) such employee was a highly compensated employee when such employee separated from service, or

"(B) such employee was a highly compensated employee at any time after attaining age 55.

"(7) COORDINATION WITH OTHER PROVISIONS.—Subsections (b), (c), (m), (n), and (o) shall be applied before the application of this section.

"(8) SPECIAL RULE FOR NONRESIDENT ALIENS.—For purposes of this subsection, any employee described in subsection (r)(9)(F) shall not be treated as an employee."

(b) CONFORMING AMENDMENTS.—

(1)(A) Section 414(r) is amended by adding at the end thereof the following new paragraph:

"(9) EXCLUDED EMPLOYEES.—For purposes of this subsection, the following employees shall be excluded:

"(A) Employees who have not completed 6 months of service.

"(B) Employees who normally work less than 17½ hours per week.

"(C) Employees who normally work not more than 6 months during any year.

"(D) Employees who have not attained the age of 21.

"(E) Except to the extent provided in regulations, employees who are included in a unit of employees covered by an agreement which the Secretary of Labor finds to be a collective bargaining agreement between employee representatives and the employer.

"(F) Employees who are nonresident aliens and who receive no earned income (within the meaning of section 911(d)(2)) from the employer which constitutes income from sources within the United States (within the meaning of section 861(a)(3)).

Except as provided by the Secretary, the employer may elect to apply subparagraph (A), (B), (C), or (D) by substituting a shorter period of service, smaller number of hours or months, or lower age for the period of service, number of hours or months, or age (as the case may be) specified in such subparagraph."

(B) Subparagraph (A) of section 414(r)(2) is amended by striking "subsection (q)(8)" and inserting "paragraph (9)".

(2) Paragraph (2) of section 414(s) is amended to read as follows:

"(2) EMPLOYER MAY ELECT TO TREAT CERTAIN DEFERRALS AS COMPENSATION.—An employer may elect to include all of the following amounts as compensation:

"(A) Amounts not includible in the gross income of the employee under section 125, 402(e)(3), 402(h)(1)(B), or 414(h)(2).

"(B) Amounts contributed by the employer under a salary reduction agreement and not includible in gross income under section 403(b) or 457".

(3) Paragraph (17) of section 401(a) is amended by striking the last sentence.

(4) Subsection (l) of section 404 is amended by striking the last sentence.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1992.

SEC. 4224. MODIFICATIONS OF COST-OF-LIVING ADJUSTMENTS.

(a) IN GENERAL.—Section 415(d) (relating to cost-of-living adjustments) is amended to read as follows:

"(d) COST-OF-LIVING ADJUSTMENTS.—

"(1) IN GENERAL.—The Secretary shall adjust annually—

"(A) the $90,000 amount in subsection (b)(1)(A), and

"(B) in the case of a participant who separated from service, the amount taken into account under subsection (b)(1)(B),

for increases in the cost-of-living in accordance with regulations prescribed by the Secretary.

"(2) METHOD.—

"(A) IN GENERAL.—The regulations prescribed under paragraph (1) shall provide for adjustment procedures which are similar to the procedures used to adjust benefit amounts under section 215(i)(2)(A) of the Social Security Act.

"(B) PERIODS FOR ADJUSTMENT OF DOLLAR AMOUNT.—For purposes of paragraph (1)—

"(i) IN GENERAL.—The adjustment with respect to any calendar year shall be based on the increase in the applicable index as of the close of the calendar quarter ending September 30 of the preceding calendar year over such index as of the close of the base period.

"(ii) BASE PERIOD.—For purposes of clause (i), the base period taken into account is—

"(I) for purposes of subparagraph (A) of paragraph (1), the calendar quarter beginning October 1, 1986, and

"(II) for purposes of paragraph (1)(B), the last calendar quarter of the calendar year preceding the calendar year in which the participant separated from service.

"(3) ROUNDING.—Any amount determined under paragraph (1) (or by reference to this subsection) shall be rounded to the nearest $1,000, except that the amounts under sections 402(g)(1), 408(k)(8)(A)(i) and (iii), and 457(e)(14) shall be rounded to the nearest $100."

(b) EFFECTIVE DATE.—The amendments made by this section apply to adjustments with respect to calendar years beginning after December 31, 1992.

SEC. 4225. PLANS COVERING SELF-EMPLOYED INDIVIDUALS.

(a) AGGREGATION RULES.—Section 401(d) (relating to additional requirements for qualification of trusts and plans benefiting owner-employees) is amended to read as follows:

"(d) CONTRIBUTION LIMIT ON OWNER-EMPLOYEES.—A trust forming part of a pension or profit-sharing plan which provides contributions or benefits for employees some or all of whom are owner-employees shall constitute a qualified trust under this section only if, in addition to meeting the requirements of subsection (a), the plan provides that contributions on behalf of any owner-employee may be made only with respect to the earned income of such owner-employee which is derived from the trade or business with respect to which such plan is established."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to years beginning after December 31, 1992.

SEC. 4226. ALTERNATIVE FULL-FUNDING LIMITATION.

(a) IN GENERAL.—Subsection (c) of section 412 (relating to minimum funding standards) is amended by redesignating paragraphs (8) through (11) as paragraphs (9) through (12), respectively, and by adding after paragraph (7) the following new paragraph:

"(8) ALTERNATIVE FULL-FUNDING LIMITATION.—

"(A) GENERAL RULE.—An employer may elect the full-funding limitation under this paragraph with respect to any defined benefit plan of the employer in lieu of the full-funding limitation determined under paragraph (7) if the requirements of subparagraphs (C) and (D) are met.

"(B) ALTERNATIVE FULL-FUNDING LIMITATION.—The full-funding limitation under this paragraph is the full-funding limitation determined under paragraph (7) without regard to subparagraph (A)(i)(I) thereof.

"(C) REQUIREMENTS RELATING TO PLAN ELIGIBILITY.—

"(i) IN GENERAL.—The requirements of this subparagraph are met with respect to a defined benefit plan if—

"(I) as of the 1st day of the election period, the accrued liability of participants accruing benefits under the plan is at least 90 percent of the plan's total accrued liability,

"(II) the plan is not a top-heavy plan (as defined in section 416(g)) for the 1st plan year of the election period or either of the 2 preceding plan years, and

"(III) each defined benefit plan of the employer (and each defined benefit plan of each employer who is a member of any controlled group which includes such employer) meets the requirements of subclauses (I) and (II).

"(ii) FAILURE TO CONTINUE TO MEET REQUIREMENTS.—

"(I) If any plan fails to meet the requirement of clause (i)(I) for any plan year during an election period, the benefits of the election under this paragraph shall be phased out under regulations prescribed by the Secretary.

"(II) If any plan fails to meet the requirement of clause (i)(II) for any plan year during an election period, such plan shall be treated as not meeting the requirements of clause (i) for the remainder of the election period.

If there is a failure period described in subclause (I) or (II) with respect to any plan, such plan (and each plan described in clause (i)(III) with respect to such plan) shall be treated as not meeting the requirements of clause (i) for any of the 10 plan years beginning after the election period.

"(D) REQUIREMENTS RELATING TO ELECTION.—The requirements of this subparagraph are met if—

"(i) FILING DATE.—Notice of such election is filed with the Secretary (in such form and manner and containing such information as the Secretary may provide) at least 425 days before the 1st day of the election period.

"(ii) CONSISTENT ELECTION.—Such an election is made for all defined benefit plans maintained by the employer or by any member of a controlled group which includes the employer.

"(E) TERM OF ELECTION.—Any election made under this paragraph shall apply for the election period.

"(F) OTHER CONSEQUENCES OF ELECTION.—

"(i) NO FUNDING WAIVERS.—In the case of a plan with respect to which an election is made under this paragraph, no waiver may be granted under subsection (d) for any plan year beginning after the date the election was made and ending at the close of the election period with respect thereto.

"(ii) FAILURE TO MAKE SUCCESSIVE ELECTIONS.—If an election is made under this paragraph with respect to any plan and such an election does not apply for each successive plan year of such plan, such plan shall be treated as not meeting the requirements of subparagraph (C) for the period of 10 plans years beginning after the close of the last election period for such plan.

"(G) DEFINITIONS.—For purposes of this paragraph—

"(i) ELECTION PERIOD.—The term 'election period' means the period of 5 consecutive plan years beginning with the 1st plan year for which the election is made.

"(ii) CONTROLLED GROUP.—The term 'controlled group' means all persons who are treated as a single employer under subsection (b), (c), (m), or (o) of section 414.

"(H) PROCEDURES IF ALTERNATIVE FUNDING LIMITATION REDUCES NET FEDERAL REVENUES.—

"(i) IN GENERAL.—At least once with respect to each fiscal year, the Secretary shall estimate whether the application of this paragraph will result in a net reduction in Federal revenues for such fiscal year.

"(ii) ADJUSTMENT OF FULL-FUNDING LIMITATION IF REVENUE SHORTFALL.—If the Secretary estimates that the application of this paragraph will result in a more than insubstantial net reduction in Federal revenues for any fiscal year, the Secretary—

"(I) shall make the adjustment described in clause (iii), and

"(II) to the extent such adjustment is not sufficient to reduce such reduction to an insubstantial amount, shall make the adjustment described in clause (iv).

Such adjustments shall apply only to defined benefit plans with respect to which an election under this paragraph is not in effect.

"(iii) REDUCTION IN LIMITATION BASED ON 150 PERCENT OF CURRENT LIABILITY.—The adjustment described in this clause is an adjustment which substitutes a percentage (not lower than 140 percent) for the percentage described in paragraph (7)(A)(i)(I) determined by reducing the percentage of current liability taken into account with respect to participants who are not accruing benefits under the plan.

"(iv) REDUCTION IN LIMITATION BASED ON ACCRUED LIABILITY.—The adjustment described in this clause is an adjustment which reduces the percentage of accrued liability taken into account under paragraph (7)(A)(i)(II). In no event may the amount of accrued liability taken into account under such paragraph after the adjustment be less than 140 of current liability."

(b) ALTERATION OF DISCRETIONARY REGULATORY AUTHORITY.—Subparagraph (D) of section 412(c)(7) is amended by striking "provide—" and all that follows through "(iii) for" and inserting "provide for".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 4227. DISTRIBUTIONS UNDER RURAL COOPERATIVE PLANS.

(a) DISTRIBUTIONS AFTER AGE 59½.—Section 401(k)(7) is amended by adding at the end thereof the following new subparagraph:

"(C) SPECIAL RULE FOR CERTAIN DISTRIBUTIONS.—A rural cooperative plan which includes a qualified cash or deferred arrangement shall not be treated as violating the requirements of section 401(a) merely by reason of a distribution to a participant after attainment of age 59½."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to distributions after the date of the enactment of this Act.

SEC. 4228. SPECIAL RULES FOR PLANS COVERING PILOTS.

(a) GENERAL RULE.—

(1) Subparagraph (B) of section 410(b)(3) is amended to read as follows:

"(B) in the case of a plan established or maintained by one or more employers to provide contributions or benefits for air pilots employed by one or more common carriers engaged in interstate or foreign commerce or air pilots employed by carriers transporting mail for or under contract with the United States Government, all employees who are not air pilots."

(2) Paragraph (3) of section 410(b) is amended by striking the last sentence and inserting the following new sentence: "Subparagraph (B) shall not apply in the case of a plan which provides contributions or benefits for employees who are not air pilots or for air pilots whose principal duties are not customarily performed aboard aircraft in flight."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to years beginning after December 31, 1992.

SEC. 4229. ELIMINATION OF SPECIAL VESTING RULE FOR MULTIEMPLOYER PLANS.

(a) IN GENERAL.—Paragraph (2) of section 411(a) of the Internal Revenue Code of 1986 (relating to minimum vesting standards) is amended—

(1) by striking "subparagraph (A), (B), or (C)" and inserting "subparagraph (A) or (B)"; and

(2) by striking subparagraph (C).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning on or after the earlier of—

(1) the later of—

(A) January 1, 1993, or

(B) the date on which the last of the collective bargaining agreements pursuant to which the plan is maintained terminates (determined without regard to any extension thereof after the date of the enactment of this Act), or

(2) January 1, 1995.

Such amendments shall not apply to any individual who does not have more than 1 hour of service under the plan on or after the 1st day of the 1st plan year to which such amendments apply.

SEC. 4230. TREATMENT OF DEFERRED COMPENSATION PLANS OF STATE AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANIZATIONS.

(a) SPECIAL RULES FOR PLAN DISTRIBUTIONS.—Paragraph (9) of section 457(e) (relating to other definitions and special rules) is amended to read as follows:

"(9) BENEFITS NOT TREATED AS MADE AVAILABLE BY REASON OF CERTAIN ELECTIONS, ETC.—

"(A) TOTAL AMOUNT PAYABLE IS $3,500 OR LESS.—The total amount payable to a participant under the plan shall not be treated as made available merely because the participant may elect to receive such amount (or the plan may distribute such amount without the participant's consent) if—

"(i) such amount does not exceed $3,500, and

"(ii) such amount may be distributed only if—

"(I) no amount has been deferred under the plan with respect to such participant during the 2-year period ending on the date of the distribution, and

"(II) there has been no prior distribution under the plan to such participant to which this subparagraph applied.

A plan shall not be treated as failing to meet the distribution requirements of subsection (d) by reason of a distribution to which this subparagraph applies.

"(B) ELECTION TO DEFER COMMENCEMENT OF DISTRIBUTIONS.—The total amount payable to a participant under the plan shall not be treated as made available merely because the participant may elect to defer commencement of distributions under the plan if—

"(i) such election is made after amounts may be available under the plan in accordance with subsection (d)(1)(A) and before commencement of such distributions, and

"(ii) the participant may make only 1 such election."

(b) COST-OF-LIVING ADJUSTMENT OF MAXIMUM DEFERRAL AMOUNT.—Subsection (e) of section 457 is amended by adding at the end thereof the following new paragraph:

"(14) COST-OF-LIVING ADJUSTMENT OF MAXIMUM DEFERRAL AMOUNT.—The Secretary shall adjust the $7,500 amount specified in subsections (b)(2) and (c)(1) at the same time and in the same manner as under section 415(d) with respect to months after 1991."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 4231. TREATMENT OF GOVERNMENTAL PLANS UNDER SECTION 415.

(a) DEFINITION OF COMPENSATION.—Subsection (k) of section 415 (regarding limitations on benefits and contributions under qualified plans) is amended by adding immediately after paragraph (2) thereof the following new paragraph:

"(3) DEFINITION OF COMPENSATION FOR GOVERNMENTAL PLANS.—For purposes of this section, in the case of a governmental plan (as

defined in section 414(d)), the term 'compensation' includes, in addition to the amounts described in subsection (c)(3)—

"(A) any elective deferral (as defined in section 402(g)(3)), and

"(B) any amount which is contributed by the employer at the election of the employee and which is not includible in the gross income of an employee under section 125 or 457."

(b) COMPENSATION LIMIT.—Subsection (b) of section 415 is amended by adding immediately after paragraph (10) the following new paragraph:

"(11) SPECIAL LIMITATION RULE FOR GOVERNMENTAL PLANS.—In the case of a governmental plan (as defined in section 414(d)), subparagraph (B) of paragraph (1) shall not apply."

(c) TREATMENT OF CERTAIN EXCESS BENEFIT PLANS.—

(1) IN GENERAL.—Section 415 is amended by adding at the end thereof the following new subsection:

"(m) TREATMENT OF QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENTS.—

"(1) GOVERNMENTAL PLAN NOT AFFECTED.—In determining whether a governmental plan (as defined in section 414(d)) meets the requirements of this section, benefits provided under a qualified governmental excess benefit arrangement shall not be taken into account. Income accruing to a governmental plan (or to a trust that is maintained solely for the purpose of providing benefits under a qualified governmental excess benefit arrangement) in respect of a qualified governmental excess benefit arrangement shall constitute income derived from the exercise of an essential governmental function upon which such governmental plan (or trust) shall be exempt from tax under section 115.

"(2) TAXATION OF PARTICIPANT.—For purposes of this chapter—

"(A) the taxable year or years for which amounts in respect of a qualified governmental excess benefit arrangement are includible in gross income by a participant, and

"(B) the treatment of such amounts when so includible by the participant,

shall be determined as if such qualified governmental excess benefit arrangement were treated as a plan for the deferral of compensation which is maintained by a corporation not exempt from tax under this chapter and which does not meet the requirements for qualification under section 401.

"(3) QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENT.—For purposes of this subsection, the term 'qualified governmental excess benefit arrangement' means a portion of a governmental plan if—

"(A) such portion is maintained solely for the purpose of providing to participants in the plan that part of the participant's annual benefit otherwise payable under the terms of the plan that exceeds the limitations on benefits imposed by this section,

"(B) under such portion no election is provided at any time to the participant (directly or indirectly) to defer compensation, and

"(C) benefits described in subparagraph (A) are not paid from a trust forming a part of such governmental plan unless such trust is maintained solely for the purpose of providing such benefits."

(2) COORDINATION WITH SECTION 457.—Subsection (e) of section 457 is amended by adding at the end thereof the following new paragraph:

"(15) TREATMENT OF QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENTS.—Subsections (b)(2) and (c)(1) shall not apply to any qualified governmental excess benefit arrangement (as defined in section 415(m)(3)), and benefits provided under such an arrangement shall not be taken into account in determining whether any other plan is an eligible deferred compensation plan."

(3) CONFORMING AMENDMENT.—Paragraph (2) of section 457(f) is amended by striking the word "and" at the end of subparagraph (C), by striking the period after subparagraph (D) and inserting the words ", and", and by inserting immediately thereafter the following new subparagraph:

"(E) a qualified governmental excess benefit arrangement described in section 415(m)."

(d) EXEMPTION FOR SURVIVOR AND DISABILITY BENEFITS.—Paragraph (2) of section 415(b) is amended by adding at the end thereof the following new subparagraph:

"(I) EXEMPTION FOR SURVIVOR AND DISABILITY BENEFITS PROVIDED UNDER GOVERNMENTAL PLANS.—Subparagraph (B) of paragraph (1), subparagraph (C) of this paragraph, and paragraph (5) shall not apply to—

"(i) income received from a governmental plan (as defined in section 414(d)) as a pension, annuity, or similar allowance as the result of the recipient becoming disabled by reason of personal injuries or sickness, or

"(ii) amounts received from a governmental plan by the beneficiaries, survivors, or the estate of an employee as the result of the death of the employee."

(e) REVOCATION OF GRANDFATHER ELECTION.—Subparagraph (C) of section 415(b)(10) is amended by adding at the end thereof the following new sentence: "An election made pursuant to the preceding sentence to have the provisions of this paragraph applied to the plan may be revoked not later than the last day of the 3rd plan year beginning after the date of enactment with respect to all plan years as to which such election has been applicable and all subsequent plan years; provided that any amount paid by the plan in a taxable year ending after revocation of such election in respect of benefits attributable to a taxable year during which such election was in effect shall be includible in income by the recipient in accordance with the rules of this chapter in the taxable year in which such amount is received (except that such amount shall be treated as received for purposes of the limitations imposed by this section in the earlier taxable year or years to which such amount is attributable)."

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), (c), and (d) shall apply to taxable years beginning on or after the date of the enactment of this Act. The amendments made by subsection (e) shall apply with respect to election revocations adopted after the date of the enactment of this Act.

(2) TREATMENT FOR YEARS BEGINNING BEFORE DATE OF ENACTMENT.—In the case of a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986), such plan shall be treated as satisfying the requirements of section 415 of such Code for all taxable years beginning before the date of the enactment of this Act.

SEC. 4232. USE OF EXCESS ASSETS OF BLACK LUNG BENEFIT TRUSTS FOR HEALTH CARE BENEFITS.

(a) GENERAL RULE.—Paragraph (21) of section 501(c) is amended to read as follows:

"(21)(A) A trust or trusts established in writing, created or organized in the United States, and contributed to by any person (except an insurance company) if—

"(i) the purpose of such trust or trusts is exclusively—

"(I) to satisfy, in whole or in part, the liability of such person for, or with respect to, claims for compensation for disability or death due to pneumoconiosis under Black Lung Acts,

"(II) to pay premiums for insurance exclusively covering such liability,

"(III) to pay administrative and other incidental expenses of such trust in connection with the operation of the trust and the processing of claims against such person under Black Lung Acts, and

"(IV) to pay accident or health benefits for retired miners and their spouses and dependents (including administrative and other incidental expenses of such trust in connection therewith) or premiums for insurance exclusively covering such benefits; and

"(ii) no part of the assets of the trust may be used for, or diverted to, any purpose other than—

"(I) the purposes described in clause (i),

"(II) investment (but only to the extent that the trustee determines that a portion of the assets is not currently needed for the purposes described in clause (i)) in qualified investments, or

"(III) payment into the Black Lung Disability Trust Fund established under section 9501, or into the general fund of the United States Treasury (other than in satisfaction of any tax or other civil or criminal liability of the person who established or contributed to the trust).

"(B) No deduction shall be allowed under this chapter for any payment described in subparagraph (A)(i)(IV) from such trust.

"(C) Payments described in subparagraph (A)(i)(IV) may be made from such trust during a taxable year only to the extent that the aggregate amount of such payments during such taxable year does not exceed the lesser of—

"(i) the excess (if any) (as of the close of the preceding taxable year) of—

"(I) the fair market value of the assets of the trust, over

"(II) 110 percent of the present value of the liability described in subparagraph (A)(i)(I) of such person, or

"(ii) the excess (if any) of—

"(I) the sum of a similar excess determined as of the close of the last taxable year ending before the date of the enactment of this subparagraph plus earnings thereon as of the close of the taxable year preceding the taxable year involved, over

"(II) the aggregate payments described in subparagraph (A)(i)(IV) made from the trust during all taxable years beginning after the date of the enactment of this subparagraph.

The determinations under the preceding sentence shall be made by an independent actuary using actuarial methods and assumptions (not inconsistent with the regulations prescribed under section 192(c)(1)(A)) each of which is reasonable and which are reasonable in the aggregate.

"(D) For purposes of this paragraph:

"(i) The term 'Black Lung Acts' means part C of title IV of the Federal Mine Safety and Health Act of 1977, and any State law providing compensation for disability or death due to that pneumoconiosis.

"(ii) The term 'qualified investments' means—

"(I) public debt securities of the United States,

"(II) obligations of a State or local government which are not in default as to principal or interest, and

"(III) time or demand deposits in a bank (as defined in section 581) or an insured credit union (within the meaning of section 101(6)

of the Federal Credit Union Act, 12 U.S.C. 1752(6)) located in the United States.

"(iii) The term 'miner' has the same meaning as such term has when used in section 402(d) of the Black Lung Benefits Act (30 U.S.C. 902(d)).

"(iv) The term 'incidental expenses' includes legal, accounting, actuarial, and trustee expenses.".

(b) EXCEPTION FROM TAX ON SELF-DEALING.—Section 4951(f) is amended by striking "clause (i) of section 501(c)(21)(A)" and inserting "subclause (I) or (IV) of section 501(c)(21)(A)(i)".

(c) TECHNICAL AMENDMENT.—Paragraph (4) of section 192(c) is amended by striking "clause (ii) of section 501(c)(21)(B)" and inserting "subclause (II) of section 501(c)(21)(A)(ii)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 4233. TREATMENT OF EMPLOYER REVERSIONS REQUIRED BY CONTRACT TO BE PAID TO THE UNITED STATES.

(a) IN GENERAL.—Subparagraph (B) of section 4980(c)(2) (defining employer reversion) is amended by striking "or" at the end of clause (i), by striking the period at the end of clause (ii) and inserting ", or", and by adding at the end thereof the following new clause:

"(iii) any distribution to the employer to the extent that the distribution is paid within a reasonable period to the United States in satisfaction of a Federal claim for an equitable share of the plan's surplus assets, as determined pursuant to Federal contracting regulations."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to reversions on or after the date of the enactment of this Act.

SEC. 4234. CONTINUATION HEALTH COVERAGE FOR EMPLOYEES OF FAILED FINANCIAL INSTITUTIONS.

(a) ENFORCEMENT OF CONTINUATION OF HEALTH PLAN REQUIREMENTS OF SUCCESSORS OF FAILED DEPOSITORY INSTITUTIONS.—Subsection (f) of section 4980B (relating to continuation of coverage requirements of group health plans) is amended by adding after paragraph (8) the following new paragraph:

"(9) SPECIAL RULES FOR SUCCESSORS OF FAILED DEPOSITORY INSTITUTIONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), any successor of a failed depository institution—

"(i) shall have the same obligation to provide a group health plan meeting the requirements of this subsection with respect to former employees of such institution in the same manner as the failed depository institution would have had but for its failure, and

"(ii) shall be treated as the employer of such former employees for purposes of this section.

"(B) TAX NOT TO APPLY IF FDIC OR RTC PROVIDE CONTINUATION COVERAGE.—Subparagraph (A) shall not apply if the Federal Deposit Insurance Corporation or the Resolution Trust Corporation are, outside of their respective capacities as successors of a failed depository institution, providing a group health plan meeting the requirements of this subsection to former employees of a failed depository institution.

"(C) SUCCESSOR.—For purposes of this paragraph, an entity is a successor of a failed depository institution during any period if—

"(i) such entity holds substantially all of the assets or liabilities of such institution, and

"(ii)(I) such entity is a bridge bank, or

"(II) such entity acquired such assets or liabilities from the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, or a bridge bank.

"(D) FAILED DEPOSITORY INSTITUTION.—For purposes of this section, the term 'failed depository institution' means any depository institution (as defined in section 3(c) of the Federal Deposit Insurance Act) for which a receiver or conservator has been appointed."

(b) TREATMENT OF DEPOSITORY INSTITUTION FAILURES AS QUALIFYING EVENTS FOR RETIREES OF SUCH INSTITUTIONS.—

(1) IN GENERAL.—Subparagraph (F) of section 4908B(f)(3) is amended—

(A) by striking "A proceeding" and inserting "(i) A proceeding",

(B) by striking the period at the end and inserting ", or", and

(C) by inserting after clause (i) the following new clause:

"(ii) the appointment of a receiver or conservator for a failed depository institution from whose employment the covered employee retired at any time."

(2) CONFORMING AMENDMENT.—Subclause (III) of section 4980B(f)(2)(B)(i) is amended—

(A) by inserting "OR FAILURES OF DEPOSITORY INSTITUTIONS" after "PROCEEDINGS" in the heading, and

(B) by inserting "and failures of depository institutions" after "proceedings".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply as if included in section 451 of the Federal Deposit Insurance Corporation Improvement Act of 1991 as of the date of the enactment of such Act.

Subtitle C—Treatment of Large Partnerships

PART I—GENERAL PROVISIONS

SEC. 4301. SIMPLIFIED FLOW-THROUGH FOR LARGE PARTNERSHIPS.

(a) GENERAL RULE.—Subchapter K (relating to partners and partnerships) is amended by adding at the end thereof the following new part:

"PART IV—SPECIAL RULES FOR LARGE PARTNERSHIPS

"Sec. 771. Application of subchapter to large partnerships.

"Sec. 772. Simplified flow-through.

"Sec. 773. Computations at partnership level.

"Sec. 774. Other modifications.

"Sec. 775. Large partnership defined.

"Sec. 776. Special rules for partnerships holding oil and gas properties.

"Sec. 777. Regulations.

"SEC. 771. APPLICATION OF SUBCHAPTER TO LARGE PARTNERSHIPS.

"The preceding provisions of this subchapter to the extent inconsistent with the provisions of this part shall not apply to a large partnership and its partners.

"SEC. 772. SIMPLIFIED FLOW-THROUGH.

"(a) GENERAL RULE.—In determining the income tax of a partner of a large partnership, such partner shall take into account separately such partner's distributive share of the partnership's—

"(1) taxable income or loss from passive loss limitation activities,

"(2) taxable income or loss from other activities,

"(3) net capital gain (or net capital loss)—

"(A) to the extent allocable to passive loss limitation activities, and

"(B) to the extent allocable to other activities,

"(4) tax-exempt interest,

"(5) applicable net AMT adjustment separately computed for—

"(A) passive loss limitation activities, and

"(B) other activities,

"(6) general credits,

"(7) low-income housing credit determined under section 42,

"(8) rehabilitation credit determined under section 47,

"(9) foreign income taxes, and

"(10) the credit allowable under section 29.

"(b) SEPARATE COMPUTATIONS.—In determining the amounts required under subsection (a) to be separately taken into account by any partner, this section and section 773 shall be applied separately with respect to such partner by taking into account such partner's distributive share of the items of income, gain, loss, deduction, or credit of the partnership.

"(c) TREATMENT AT PARTNER LEVEL.—

"(1) IN GENERAL.—Except as provided in this subsection, rules similar to the rules of section 702(b) shall apply to any partner's distributive share of the amounts referred to in subsection (a).

"(2) INCOME OR LOSS FROM PASSIVE LOSS LIMITATION ACTIVITIES.—For purposes of this chapter, any partner's distributive share of any income or loss described in subsection (a)(1) shall be treated as an item of income or loss (as the case may be) from the conduct of a trade or business which is a single passive activity (as defined in section 469). A similar rule shall apply to a partner's distributive share of amounts referred to in paragraphs (3)(A) and (5)(A) of subsection (a).

"(3) INCOME OR LOSS FROM OTHER ACTIVITIES.—

"(A) IN GENERAL.—For purposes of this chapter, any partner's distributive share of any income or loss described in subsection (a)(2) shall be treated as an item of income or expense (as the case may be) with respect to property held for investment.

"(B) DEDUCTIONS FOR LOSS NOT SUBJECT TO SECTION 67.—The deduction under section 212 for any loss described in subparagraph (A) shall not be treated as a miscellaneous itemized deduction for purposes of section 67.

"(4) TREATMENT OF NET CAPITAL GAIN OR LOSS.—For purposes of this chapter, any partner's distributive share of any gain or loss described in subsection (a)(3) shall be treated as a long-term capital gain or loss, as the case may be.

"(5) MINIMUM TAX TREATMENT.—In determining the alternative minimum taxable income of any partner, such partner's distributive share of any applicable net AMT adjustment shall be taken into account in lieu of making the separate adjustments provided in sections 56, 57, and 58 with respect to the items of the partnership. Except as provided in regulations, the applicable net AMT adjustment shall be treated, for purposes of section 53, as an adjustment or item of tax preference not specified in section 53(d)(1)(B)(ii).

"(6) GENERAL CREDITS.—A partner's distributive share of the amount referred to in paragraph (6) of subsection (a) shall be taken into account as a current year business credit.

"(d) OPERATING RULES.—For purposes of this section—

"(1) PASSIVE LOSS LIMITATION ACTIVITY.—The term 'passive loss limitation activity' means—

"(A) any activity which involves the conduct of a trade or business, and

"(B) any rental activity.

For purposes of the preceding sentence, the term 'trade or business' includes any activity treated as a trade or business under paragraph (5) or (6) of section 469(c).

"(2) TAX-EXEMPT INTEREST.—The term 'tax-exempt interest' means interest excludable from gross income under section 103.

"(3) APPLICABLE NET AMT ADJUSTMENT.—

"(A) IN GENERAL.—The applicable net AMT adjustment is—

"(i) with respect to taxpayers other than corporations, the net adjustment determined by using the adjustments applicable to individuals, and

"(ii) with respect to corporations, the net adjustment determined by using the adjustments applicable to corporations.

"(B) NET ADJUSTMENT.—The term 'net adjustment' means the net adjustment in the items attributable to passive loss activities or other activities (as the case may be) which would result if such items were determined with the adjustments of sections 56, 57, and 58.

"(4) TREATMENT OF CAPITAL GAINS AND LOSSES.—

"(A) EXCLUSION FOR CERTAIN PURPOSES.—In determining the amounts referred to in paragraphs (1) and (2) of subsection (a), any net capital gain or net capital loss (as the case may be) shall be excluded.

"(B) ALLOCATION RULES.—The net capital gain shall be treated—

"(i) as allocable to passive loss limitation activities to the extent the net capital gain does not exceed the net capital gain determined by only taking into account gains and losses from sales and exchanges of property used in connection with such activities, and

"(ii) as allocable to other activities to the extent such gain exceeds the amount allocated under clause (i).

A similar rule shall apply for purposes of allocating any net capital loss.

"(C) NET CAPITAL LOSS.—The term 'net capital loss' means the excess of the losses from sales or exchanges of capital assets over the gains from sales or exchange of capital assets.

"(5) GENERAL CREDITS.—The term 'general credits' means any credit other than the low-income housing credit, the rehabilitation credit, the foreign tax credit, and the credit allowable under section 29.

"(6) FOREIGN INCOME TAXES.—The term 'foreign income taxes' means taxes described in section 901 which are paid or accrued to foreign countries and to possessions of the United States.

"(e) SPECIAL RULE FOR UNRELATED BUSINESS TAX.—In the case of a partner which is an organization subject to tax under section 511, such partner's distributive share of any items shall be taken into account separately to the extent necessary to comply with the provisions of section 512(c)(1).

"(f) SPECIAL RULES FOR APPLYING PASSIVE LOSS LIMITATIONS.—If any person holds an interest in a large partnership other than as a limited partner—

"(1) paragraph (2) of subsection (c) shall not apply to such partner, and

"(2) such partner's distributive share of the partnership items allocable to passive loss limitation activities shall be taken into account separately to the extent necessary to comply with the provisions of section 469.

The preceding sentence shall not apply to any items allocable to an interest held as a limited partner.

"SEC. 773. COMPUTATIONS AT PARTNERSHIP LEVEL.

"(a) GENERAL RULE.—

"(1) TAXABLE INCOME.—The taxable income of a large partnership shall be computed in the same manner as in the case of an individual except that—

"(A) the items described in section 772(a) shall be separately stated, and

"(B) the modifications of subsection (b) shall apply.

"(2) ELECTIONS.—All elections affecting the computation of the taxable income of a large partnership or the computation of any credit of a large partnership shall be made by the partnership; except that the election under section 901 shall be made by each partner separately.

"(3) LIMITATIONS, ETC.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), all limitations and other provisions affecting the computation of the taxable income of a large partnership or the computation of any credit of a large partnership shall be applied at the partnership level (and not at the partner level).

"(B) CERTAIN LIMITATIONS APPLIED AT PARTNER LEVEL.—The following provisions shall be applied at the partner level (and not at the partnership level):

"(i) Section 68 (relating to overall limitation on itemized deductions).

"(ii) Sections 49 and 465 (relating to at risk limitations).

"(iii) Section 469 (relating to limitation on passive activity losses and credits).

"(iv) Any other provision specified in regulations.

"(4) COORDINATION WITH OTHER PROVISIONS.—Paragraphs (2) and (3) shall apply notwithstanding any other provision of this chapter other than this part.

"(b) MODIFICATIONS TO DETERMINATION OF TAXABLE INCOME.—In determining the taxable income of a large partnership—

"(1) CERTAIN DEDUCTIONS NOT ALLOWED.—The following deductions shall not be allowed:

"(A) The deduction for personal exemptions provided in section 151.

"(B) The net operating loss deduction provided in section 172.

"(C) The additional itemized deductions for individuals provided in part VII of subchapter B (other than section 212 thereof).

"(2) CHARITABLE DEDUCTIONS.—In determining the amount allowable under section 170, the limitation of section 170(b)(2) shall apply.

"(3) COORDINATION WITH SECTION 67.—In lieu of applying section 67, 70 percent of the amount of the miscellaneous itemized deductions shall be disallowed.

"(c) SPECIAL RULES FOR INCOME FROM DISCHARGE OF INDEBTEDNESS.—If a large partnership has income from the discharge of any indebtedness—

"(1) such income shall be excluded in determining the amounts referred to in section 772(a), and

"(2) in determining the income tax of any partner of such partnership—

"(A) such income shall be treated as an item required to be separately taken into account under section 772(a), and

"(B) the provisions of section 108 shall be applied without regard to this part.

"SEC. 774. OTHER MODIFICATIONS.

"(a) TREATMENT OF CERTAIN OPTIONAL ADJUSTMENTS, ETC.—In the case of a large partnership—

"(1) computations under section 773 shall be made without regard to any adjustment under section 743(b) or 108(b), but

"(2) a partner's distributive share of any amount referred to in section 772(a) shall be appropriately adjusted to take into account any adjustment under section 743(b) or 108(b) with respect to such partner.

"(b) DEFERRED SALE TREATMENT OF CONTRIBUTED PROPERTY.—

"(1) TREATMENT OF PARTNERSHIP.—In the case of any contribution of property to which this subsection applies—

"(A) the basis of such property to the partnership shall be its fair market value as of the time of such contribution, and

"(B) section 704(c) shall not apply to such property.

"(2) TREATMENT OF CONTRIBUTING PARTNER.—

"(A) IN GENERAL.—In the case of any partner who makes a contribution of property to which this subsection applies—

"(i) such partner shall recognize the precontribution gain or loss from such property as provided in this paragraph, and

"(ii) appropriate adjustments to the basis of such partner's interest in the partnership shall be made for the amounts recognized under this paragraph.

"(B) CHARACTER.—The character of any gain or loss recognized under this paragraph shall be determined by reference to the character which would have resulted if the property had been sold to the partnership at the time of the contributions; except that any gain or loss recognized under subparagraph (C)(i) shall be treated as ordinary income or loss, as the case may be.

"(C) TRANSACTIONS AT PARTNERSHIP LEVEL.—

"(i) DEPRECIATION, ETC.—If any partnership deduction for depreciation, depletion, or amortization is increased by reason of an increase in the basis of any property under paragraph (1), the contributing partner shall recognize so much of the precontribution gain with respect to such property as does not exceed the increase in such deduction. If there is a precontribution loss, a similar rule shall apply to any decrease in such a deduction.

"(ii) DISPOSITIONS.—

"(I) IN GENERAL.—Except as otherwise provided in this clause, any precontribution gain or loss with respect to any property (to the extent not previously taken into account under this paragraph) shall be recognized by the contributing partner if the partnership makes any disposition of the property.

"(II) DISTRIBUTIONS TO CONTRIBUTING PARTNER.—No gain or loss shall be recognized under subclause (I) by reason of any distribution of the contributed property to the contributing partner (and subparagraph (D)(ii) shall not apply to any such distribution). In any such case, no adjustment shall be made under section 734 on account of such distribution and the adjusted basis of such property in the hands of the contributing partner shall be its adjusted basis immediately before the contribution properly adjusted for gain or loss previously recognized under this paragraph.

"(iii) YEAR FOR WHICH AMOUNT TAKEN INTO ACCOUNT.—Any amount recognized under this subparagraph shall be taken into account for the partner's taxable year in which or with which ends the partnership taxable year of the deduction or disposition.

"(D) TRANSACTIONS AT PARTNER LEVEL.—

"(i) IN GENERAL.—If the contributing partner makes a disposition of any portion of his interest in the partnership, a corresponding portion of any precontribution gain or loss which was not previously taken into account under this paragraph shall be recognized for the partner's taxable year in which the disposition occurs. The preceding sentence shall not apply to a disposition at death.

"(ii) TREATMENT OF CERTAIN DISTRIBUTIONS.—If—

"(I) the amount of cash and the fair market value of property distributed to a partner, exceeds

"(II) the adjusted basis of such partner's interest in the partnership immediately be-

fore the distribution (determined without regard to any adjustment under subparagraph (A)(ii) resulting from such distribution),

the contributing partner shall recognize so much of any precontribution gain as does not exceed such excess.

"(iii) SPECIAL RULE.—Except as provided in clause (ii)(II), any basis adjustment under subparagraph (A)(ii) resulting from any gain or loss recognized under this subparagraph shall be treated as occurring immediately before the disposition or distribution involved.

"(E) SECTION 267 AND 707(b) PRINCIPLES TO APPLY.—No loss shall be recognized under subparagraph (C)(ii) or (D) by reason of any disposition (directly or indirectly) to a person related (within the meaning of section 267(b) or 707(b)(1)) to the contributing partner.

"(F) TREATMENT OF CERTAIN NONTAXABLE EXCHANGES.—

"(i) SECTION 1031 AND 1033 TRANSACTIONS.—If the disposition referred to in subclause (I) of subparagraph (C)(ii) is an exchange described in section 1031 or a compulsory or involuntary conversion within the meaning of section 1033—

"(I) the amount of gain or loss recognized by the contributing partner under such subclause (I) shall not exceed the gain or loss recognized by the partnership on the disposition, and

"(II) the replacement property shall be treated as the contributed property for purposes of this paragraph.

For purposes of the preceding sentence, the term 'replacement property' means the property the basis of which is determined under section 1031(d) or 1033(b), whichever is applicable.

"(ii) CONTRIBUTIONS TO CONTROLLED PARTNERSHIP.—If the disposition referred to in subclause (I) of subparagraph (C)(ii) is a contribution of the property to another partnership which is a controlled partnership—

"(I) the rules of subclause (I) of clause (i) shall apply, and

"(II) the partnership shall be treated as continuing to hold the contributed property so long as the other partnership continues to be a controlled partnership and continues to hold such property.

For purposes of the preceding sentence, the term 'controlled partnership' means any partnership in which the partnership making the disposition owns more than 50 percent of the capital interest or profits interest.

"(3) PRECONTRIBUTION GAIN OR LOSS.—For purposes of this subsection—

"(A) PRECONTRIBUTION GAIN.—The term 'precontribution gain' means the excess (if any) of—

"(i) the fair market value of the contributed property as of the time of the contribution, over

"(ii) the adjusted basis of such property immediately before such contribution.

"(B) PRECONTRIBUTION LOSS.—The term 'precontribution loss' means the excess (if any) of the amount referred to in clause (ii) of subparagraph (A) over the amount referred to in clause (i) of subparagraph (A).

"(4) CONTRIBUTIONS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any contribution of property (other than cash) which is made by any partner to a partnership if—

"(A) as of the time of such contribution, such partnership is a large partnership, or

"(B) such contribution is to a partnership reasonably expected to become a large partnership.

This subsection shall not apply to any contribution made before the date of the enactment of this part.

"(c) CREDIT RECAPTURE DETERMINED AT PARTNERSHIP LEVEL.—

"(1) IN GENERAL.—In the case of a large partnership—

"(A) any credit recapture shall be taken into account by the partnership, and

"(B) the amount of such recapture shall be determined as if the credit with respect to which the recapture is made had been fully utilized to reduce tax.

"(2) METHOD OF TAKING RECAPTURE INTO ACCOUNT.—A large partnership shall take into account a credit recapture by reducing the amount of the appropriate current year credit to the extent thereof, and if such recapture exceeds the amount of such current year credit, the partnership shall be liable to pay such excess.

"(3) DISPOSITIONS NOT TO TRIGGER RECAPTURE.—No credit recapture shall be required by reason of any transfer of an interest in a large partnership.

"(4) CREDIT RECAPTURE.—For purposes of this subsection, the term 'credit recapture' means any increase in tax under section 42(j) or 50(a).

"(d) PARTNERSHIP NOT TERMINATED BY REASON OF CHANGE IN OWNERSHIP.—Subparagraph (B) of section 708(b)(1) shall not apply to a large partnership.

"(e) PARTNERSHIP ENTITLED TO CERTAIN CREDITS.—The following shall be allowed to a large partnership and shall not be taken into account by the partners of such partnership:

"(1) The credit provided by section 34.

"(2) Any credit or refund under section 852(b)(3)(D).

"(f) TREATMENT OF REMIC RESIDUALS.—For purposes of applying section 860E(e)(6) to any large partnership—

"(1) all interests in such partnership shall be treated as held by disqualified organizations,

"(2) in lieu of applying subparagraph (C) of section 860E(e)(6), the amount subject to tax under section 860E(e)(6) shall be excluded from the gross income of such partnership, and

"(3) subparagraph (D) of section 860E(e)(6) shall not apply.

"(g) SPECIAL RULES FOR APPLYING CERTAIN INSTALLMENT SALE RULES.—In the case of a large partnership—

"(1) the provisions of sections 453(l)(3) and 453A shall be applied at the partnership level, and

"(2) in determining the amount of interest payable under such sections, such partnership shall be treated as subject to tax under this chapter at the highest rate of tax in effect under section 1 or 11.

"SEC. 775. LARGE PARTNERSHIP.

"(a) GENERAL RULE.—For purposes of this part—

"(1) IN GENERAL.—Except as otherwise provided in this section or section 776, the term 'large partnership' means, with respect to any partnership taxable year, any partnership if the number of persons who were partners in such partnership in such taxable year or any preceding partnership taxable year beginning after December 31, 1992, equaled or exceeded 250. To the extent provided in regulations, a partnership shall cease to be treated as a large partnership for any partnership taxable year if in such taxable year fewer than 100 persons were partners in such partnership.

"(2) ELECTION FOR PARTNERSHIPS WITH AT LEAST 100 PARTNERS.—If a partnership makes an election under this paragraph, paragraph (1) shall be applied by substituting '100' for '250'. Such an election shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.

"(b) SPECIAL RULES FOR CERTAIN SERVICE PARTNERSHIPS.—

"(1) CERTAIN PARTNERS NOT COUNTED.—For purposes of this section, the term 'partner' does not include any individual performing substantial services in connection with the activities of the partnership and holding an interest in such partnership, or an individual who formerly performed substantial services in connection with such activities and who held an interest in such partnership at the time the individual performed such services.

"(2) EXCLUSION.—For purposes of this part, the term 'large partnership' does not include any partnership if substantially all the partners of such partnership—

"(A) are individuals performing substantial services in connection with the activities of such partnership or are personal service corporations (as defined in section 269A(b)) the owner-employees (as defined in section 269A(b)) of which perform such substantial services,

"(B) are retired partners who had performed such substantial services, or

"(C) are spouses of partners who are performing (or had previously performed) such substantial services.

"(3) SPECIAL RULE FOR LOWER TIER PARTNERSHIPS.—For purposes of this subsection, the activities of a partnership shall include the activities of any other partnership in which the partnership owns directly an interest in the capital and profits of at least 80 percent.

"(c) EXCLUSION OF COMMODITY POOLS.—For purposes of this part, the term 'large partnership' does not include any partnership the principal activity of which is the buying and selling of commodities (not described in section 1221(1)), or options, futures, or forwards with respect to such commodities.

"(d) SECRETARY MAY RELY ON TREATMENT ON RETURN.—If, on the partnership return of any partnership, such partnership is treated as a large partnership, such treatment shall be binding on such partnership and all partners of such partnership but not on the Secretary.

"SEC. 776. SPECIAL RULES FOR PARTNERSHIPS HOLDING OIL AND GAS PROPERTIES.

"(a) EXCEPTION FOR PARTNERSHIPS HOLDING SIGNIFICANT OIL AND GAS PROPERTIES.—

"(1) IN GENERAL.—For purposes of this part, the term 'large partnership' shall not include any partnership if the average percentage of assets (by value) held by such partnership during the taxable year which are oil or gas properties is at least 25 percent. For purposes of the preceding sentence, any interest held by a partnership in another partnership shall be disregarded, except that the partnership shall be treated as holding its proportionate share of the assets of such other partnership.

"(2) ELECTION TO WAIVE EXCEPTION.—Any partnership may elect to have paragraph (1) not apply. Such an election shall apply to the partnership taxable year for which made and all subsequent partnership taxable years unless revoked with the consent of the Secretary.

"(b) SPECIAL RULES WHERE PART APPLIES.—

"(1) COMPUTATION OF PERCENTAGE DEPLETION.—In the case of a large partnership, except as provided in paragraph (2)—

"(A) the allowance for depletion under section 611 with respect to any partnership oil

or gas property shall be computed at the partnership level without regard to any provision of section 613A requiring such allowance to be computed separately by each partner,

"(B) such allowance shall be determined without regard to the provisions of section 613A(c) limiting the amount of production for which percentage depletion is allowable and without respect to paragraph (1) of section 613A(d), and

"(C) paragraph (3) of section 705(a) shall not apply.

"(2) TREATMENT OF CERTAIN PARTNERS.—

"(A) IN GENERAL.—In the case of a disqualified person, the treatment under this chapter of such person's distributive share of any item of income, gain, loss, deduction, or credit attributable to any partnership oil or gas property shall be determined without regard to this part. Such person's distributive share of any such items shall be excluded for purposes of making determinations under sections 772 and 773.

"(B) DISQUALIFIED PERSON.—For purposes of subparagraph (A), the term 'disqualified person' means, with respect to any partnership taxable year—

"(i) any person referred to in paragraph (2) or (4) of section 613A(d) for such person's taxable year in which such partnership taxable year ends, and

"(ii) any other person if such person's average daily production of domestic crude oil and natural gas for such person's taxable year in which such partnership taxable year ends exceeds 500 barrels.

"(C) AVERAGE DAILY PRODUCTION.—For purposes of subparagraph (B), a person's average daily production of domestic crude oil and natural gas for any taxable year shall be computed as provided in section 613A(c)(2)—

"(i) by taking into account all production of domestic crude oil and natural gas (including such person's proportionate share of any production of a partnership),

"(ii) by treating 6,000 cubic feet of natural gas as a barrel of crude oil, and

"(iii) by treating as 1 person all persons treated as 1 taxpayer under section 613A(c)(8) or among whom allocations are required under such section.

"SEC. 777. REGULATIONS.

"The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this part."

(b) CLERICAL AMENDMENT.—The table of parts for subchapter K of chapter 1 is amended by adding at the end thereof the following new item:

"Part IV. Special rules for large partnerships."

SEC. 4302. SIMPLIFIED AUDIT PROCEDURES FOR LARGE PARTNERSHIPS.

(a) GENERAL RULE.—Chapter 63 is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER D—TREATMENT OF LARGE PARTNERSHIPS

"Part I. Treatment of partnership items and adjustments.

"Part II. Partnership level adjustments.

"Part III. Definitions and special rules.

"PART I—TREATMENT OF PARTNERSHIP ITEMS AND ADJUSTMENTS

"Sec. 6240. Application of subchapter.

"Sec. 6241. Partner's return must be consistent with partnership return.

"Sec. 6242. Procedures for taking partnership adjustments into account.

"SEC. 6240. APPLICATION OF SUBCHAPTER.

"(a) GENERAL RULE.—This subchapter shall only apply to large partnerships and partners in such partnerships.

"(b) COORDINATION WITH OTHER PARTNERSHIP AUDIT PROCEDURES.—

"(1) IN GENERAL.—Subchapter C of this chapter shall not apply to any large partnership other than in its capacity as a partner in another partnership which is not a large partnership.

"(2) TREATMENT WHERE PARTNER IN OTHER PARTNERSHIP.—If a large partnership is a partner in another partnership which is not a large partnership—

"(A) subchapter C of this chapter shall apply to items of such large partnership which are partnership items with respect to such other partnership, but

"(B) any adjustment under such subchapter C shall be taken into account in the manner provided by section 6242.

"SEC. 6241. PARTNER'S RETURN MUST BE CONSISTENT WITH PARTNERSHIP RETURN.

"(a) GENERAL RULE.—A partner of any large partnership shall, on the partner's return, treat each partnership item attributable to such partnership in a manner which is consistent with the treatment of such partnership item on the partnership return.

"(b) UNDERPAYMENT DUE TO INCONSISTENT TREATMENT ASSESSED AS MATH ERROR.—Any underpayment of tax by a partner by reason of failing to comply with the requirements of subsection (a) shall be assessed and collected in the same manner as if such underpayment were on account of a mathematical or clerical error appearing on the partner's return. Paragraph (2) of section 6213(b) shall not apply to any assessment of an underpayment referred to in the preceding sentence.

"(c) ADJUSTMENTS NOT TO AFFECT PRIOR YEAR OF PARTNERS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), subsections (a) and (b) shall apply without regard to any adjustment to the partnership item under part II.

"(2) CERTAIN CHANGES IN DISTRIBUTIVE SHARE TAKEN INTO ACCOUNT BY PARTNER.—

"(A) IN GENERAL.—To the extent that any adjustment under part II involves a change under section 704 in a partner's distributive share of the amount of any partnership item shown on the partnership return, such adjustment shall be taken into account in applying this title to such partner for the partner's taxable year for which such item was required to be taken into account.

"(B) COORDINATION WITH DEFICIENCY PROCEDURES.—

"(i) IN GENERAL.—Subchapter B shall not apply to the assessment or collection of any underpayment of tax attributable to an adjustment referred to in subparagraph (A).

"(ii) ADJUSTMENT NOT PRECLUDED.—Notwithstanding any other law or rule of law, nothing in subchapter B (or in any proceeding under subchapter B) shall preclude the assessment or collection of any underpayment of tax (or the allowance of any credit or refund of any overpayment of tax) attributable to an adjustment referred to in subparagraph (A) and such assessment or collection or allowance (or any notice thereof) shall not preclude any notice, proceeding, or determination under subchapter B.

"(C) PERIOD OF LIMITATIONS.—The period for—

"(i) assessing any underpayment of tax, or

"(ii) filing a claim for credit or refund of any overpayment of tax,

attributable to an adjustment referred to in subparagraph (A) shall not expire before the close of the period prescribed by section 6248 for making adjustments with respect to the partnership taxable year involved.

"(D) TIERED STRUCTURES.—If the partner referred to in subparagraph (A) is another partnership or an S corporation, the rules of this paragraph shall also apply to persons holding interests in such partnership or S corporation (as the case may be); except that, if such partner is a large partnership, the adjustment referred to in subparagraph (A) shall be taken into account in the manner provided by section 6242.

"(d) ADDITION TO TAX FOR FAILURE TO COMPLY WITH SECTION.—

"For addition to tax in case of partner's disregard of requirements of this section, see part II of subchapter A of chapter 68.

"SEC. 6242. PROCEDURES FOR TAKING PARTNERSHIP ADJUSTMENTS INTO ACCOUNT.

"(a) ADJUSTMENTS FLOW THROUGH TO PARTNERS FOR YEAR IN WHICH ADJUSTMENT TAKES EFFECT.—

"(1) IN GENERAL.—If any partnership adjustment with respect to any partnership item takes effect (within the meaning of subsection (d)(2)) during any partnership taxable year and if an election under paragraph (2) does not apply to such adjustment, such adjustment shall be taken into account in determining the amount of such item for the partnership taxable year in which such adjustment takes effect. In applying this title to any person who is (directly or indirectly) a partner in such partnership during such partnership taxable year, such adjustment shall be treated as an item actually arising during such taxable year.

"(2) PARTNERSHIP LIABLE IN CERTAIN CASES.—If—

"(A) a partnership elects under this paragraph to not take an adjustment into account under paragraph (1),

"(B) a partnership does not make such an election but in filing its return for any partnership taxable year fails to take fully into account any partnership adjustment as required under paragraph (1), or

"(C) any partnership adjustment involves a reduction in a credit which exceeds the amount of such credit determined for the partnership taxable year in which the adjustment takes effect,

the partnership shall pay to the Secretary an amount determined by applying the rules of subsection (b)(4) to the adjustments not so taken into account and any excess referred to in subparagraph (C).

"(3) OFFSETTING ADJUSTMENTS TAKEN INTO ACCOUNT.—If a partnership adjustment requires another adjustment in a taxable year after the adjusted year and before the partnership taxable year in which such partnership adjustment takes effect, such other adjustment shall be taken into account under this subsection for the partnership taxable year in which such partnership adjustment takes effect.

"(4) COORDINATION WITH PART II.—Amounts taken into account under this subsection for any partnership taxable year shall continue to be treated as adjustments for the adjusted year for purposes of determining whether such amounts may be readjusted under part II.

"(b) PARTNERSHIP LIABLE FOR INTEREST AND PENALTIES.—

"(1) IN GENERAL.—If a partnership adjustment takes effect during any partnership taxable year and such adjustment results in an imputed underpayment for the adjusted year, the partnership—

"(A) shall pay to the Secretary interest computed under paragraph (2), and

"(B) shall be liable for any penalty, addition to tax, or additional amount as provided in paragraph (3).

"(2) DETERMINATION OF AMOUNT OF INTEREST.—The interest computed under this paragraph with respect to any partnership adjustment is the interest which would be determined under chapter 67—

"(A) on the imputed underpayment determined under paragraph (4) with respect to such adjustment,

"(B) for the period beginning on the day after the return due date for the adjusted year and ending on the return due date for the partnership taxable year in which such adjustment takes effect (or, if earlier, in the case of any adjustment to which subsection (a)(2) applies, the date on which the payment under subsection (a)(2) is made).

Proper adjustments in the amount determined under the preceding sentence shall be made for adjustments required for partnership taxable years after the adjusted year and before the year in which the partnership adjustment takes effect by reason of such partnership adjustment.

"(3) PENALTIES.—A partnership shall be liable for any penalty, addition to tax, or additional amount for which it would have been liable if such partnership had been an individual subject to tax under chapter 1 for the adjusted year and the imputed underpayment determined under paragraph (4) were an actual underpayment (or understatement) for such year.

"(4) IMPUTED UNDERPAYMENT.—For purposes of this subsection, the imputed underpayment determined under this paragraph with respect to any partnership adjustment is the underpayment (if any) which would result—

"(A) by netting all adjustments to items of income, gain, loss, or deduction and—

"(i) if such netting results in a net increase in income, by treating such net increase as an underpayment equal to the amount of such net increase multiplied by the highest rate of tax in effect under section 1 or 11 for the adjusted year, or

"(ii) if such netting results in a net decrease in income, by treating such net decrease as an overpayment equal to such net decrease multiplied by such highest rate, and

"(B) by taking adjustments to credits into account as increases or decreases (whichever is appropriate) in the amount of tax.

For purposes of the preceding sentence, any net decrease in a loss shall be treated as an increase in income and a similar rule shall apply to a net increase in a loss.

"(c) ADMINISTRATIVE PROVISIONS.—

"(1) IN GENERAL.—Any payment required by subsection (a)(2) or (b)(1)(A)—

"(A) shall be assessed and collected in the same manner as if it were a tax imposed by subtitle C, and

"(B) shall be paid on or before the return due date for the partnership taxable year in which the partnership adjustment takes effect.

"(2) INTEREST.—For purposes of determining interest, any payment required by subsection (a)(2) or (b)(1)(A) shall be treated as an underpayment of tax.

"(3) PENALTIES.—

"(A) IN GENERAL.—In the case of any failure by any partnership to pay on the date prescribed therefor any amount required by subsection (a)(2) or (b)(1)(A), there is hereby imposed on such partnership a penalty of 10 percent of the underpayment. For purposes of the preceding sentence, the term 'underpayment' means the excess of any payment required under this section over the amount (if any) paid on or before the date prescribed therefor.

"(B) ACCURACY-RELATED AND FRAUD PENALTIES MADE APPLICABLE.—For purposes of part II of subchapter A of chapter 68, any payment required by subsection (a)(2) shall be treated as an underpayment of tax.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) PARTNERSHIP ADJUSTMENT.—The term 'partnership adjustment' means any adjustment in the amount of any partnership item of a large partnership.

"(2) WHEN ADJUSTMENT TAKES EFFECT.—A partnership adjustment takes effect—

"(A) in the case of an adjustment pursuant to the decision of a court in a proceeding brought under part II, when such decision becomes final,

"(B) in the case of an adjustment pursuant to any administrative adjustment request under section 6251, when such adjustment is allowed by the Secretary, or

"(C) in any other case, when such adjustment is made.

"(3) ADJUSTED YEAR.—The term 'adjusted year' means the partnership taxable year to which the item being adjusted relates.

"(4) RETURN DUE DATE.—The term 'return due date' means, with respect to any taxable year, the date prescribed for filing the partnership return for such taxable year (determined without regard to extensions).

"(5) ADJUSTMENTS INVOLVING CHANGES IN CHARACTER.—Under regulations, appropriate adjustments in the application of this section shall be made for purposes of taking into account partnership adjustments which involve a change in the character of any item of income, gain, loss, or deduction.

"(e) PAYMENTS NONDEDUCTIBLE.—No deduction shall be allowed under subtitle A for any payment required to be made by a large partnership under this section.

"PART II—PARTNERSHIP LEVEL ADJUSTMENTS

"Subpart A. Adjustments by Secretary.

"Subpart B. Claims for adjustments by partnership.

"Subpart A—Adjustments by Secretary

"Sec. 6245. Secretarial authority.

"Sec. 6246. Restrictions on partnership adjustments.

"Sec. 6247. Judicial review of partnership adjustment.

"Sec. 6248. Period of limitations for making adjustments.

"SEC. 6245. SECRETARIAL AUTHORITY.

"(a) GENERAL RULE.—The Secretary is authorized and directed to make adjustments at the partnership level in any partnership item to the extent necessary to have such item be treated in the manner required.

"(b) NOTICE OF PARTNERSHIP ADJUSTMENT.—

"(1) IN GENERAL.—If the Secretary determines that a partnership adjustment is required, the Secretary is authorized to send notice of such adjustment to the partnership by certified mail or registered mail. Such notice shall be sufficient if mailed to the partnership at its last known address even if the partnership has terminated its existence.

"(2) FURTHER NOTICES RESTRICTED.—If the Secretary mails a notice of a partnership adjustment to any partnership for any partnership taxable year and the partnership files a petition under section 6247 with respect to such notice, in the absence of a showing of fraud, malfeasance, or misrepresentation of a material fact, the Secretary shall not mail another such notice to such partnership with respect to such taxable year.

"(3) AUTHORITY TO RESCIND NOTICE WITH PARTNERSHIP CONSENT.—The Secretary may, with the consent of the partnership, rescind any notice of a partnership adjustment mailed to such partnership. Any notice so rescinded shall not be treated as a notice of a partnership adjustment, for purposes of this section, section 6246, and section 6247, and the taxpayer shall have no right to bring a proceeding under section 6247 with respect to such notice. Nothing in this subsection shall affect any suspension of the running of any period of limitations during any period during which the rescinded notice was outstanding.

"SEC. 6246. RESTRICTIONS ON PARTNERSHIP ADJUSTMENTS.

"(a) GENERAL RULE.—Except as otherwise provided in this chapter, no adjustment to any partnership item may be made (and no levy or proceeding in any court for the collection of any amount resulting from such adjustment may be made, begun or prosecuted) before—

"(1) the close of the 90th day after the day on which a notice of a partnership adjustment was mailed to the partnership, and

"(2) if a petition is filed under section 6247 with respect to such notice, the decision of the court has become final.

"(b) PREMATURE ACTION MAY BE ENJOINED.—Notwithstanding section 7421(a), any action which violates subsection (a) may be enjoined in the proper court, including the Tax Court. The Tax Court shall have no jurisdiction to enjoin any action under this subsection unless a timely petition has been filed under section 6247 and then only in respect of the adjustments that are the subject of such petition.

"(c) EXCEPTIONS TO RESTRICTIONS ON ADJUSTMENTS.—

"(1) ADJUSTMENTS ARISING OUT OF MATH OR CLERICAL ERRORS.—

"(A) IN GENERAL.—If the partnership is notified that, on account of a mathematical or clerical error appearing on the partnership return, an adjustment to a partnership item is required, rules similar to the rules of paragraphs (1) and (2) of section 6213(b) shall apply to such adjustment.

"(B) SPECIAL RULE.—If a large partnership is a partner in another large partnership, any adjustment on account of such partnership's failure to comply with the requirements of section 6241(a) with respect to its interest in such other partnership shall be treated as an adjustment referred to in subparagraph (A), except that paragraph (2) of section 6213(b) shall not apply to such adjustment.

"(2) PARTNERSHIP MAY WAIVE RESTRICTIONS.—The partnership shall at any time (whether or not a notice of partnership adjustment has been issued) have the right, by a signed notice in writing filed with the Secretary, to waive the restrictions provided in subsection (a) on the making of any partnership adjustment.

"(d) LIMIT WHERE NO PROCEEDING BEGUN.—If no proceeding under section 6247 is begun with respect to any notice of a partnership adjustment during the 90-day period described in subsection (a), the amount for which the partnership is liable under section 6242 (and any increase in any partner's liability for tax under chapter 1 by reason of any adjustment under section 6242(a)) shall not exceed the amount determined in accordance with such notice.

"SEC. 6247. JUDICIAL REVIEW OF PARTNERSHIP ADJUSTMENT.

"(a) GENERAL RULE.—Within 90 days after the date on which a notice of a partnership

adjustment is mailed to the partnership with respect to any partnership taxable year, the partnership may file a petition for a readjustment of the partnership items for such taxable year with—

"(1) the Tax Court,

"(2) the district court of the United States for the district in which the partnership's principal place of business is located, or

"(3) the Claims Court.

"(b) JURISDICTIONAL REQUIREMENT FOR BRINGING ACTION IN DISTRICT COURT OR CLAIMS COURT.—

"(1) IN GENERAL.—A readjustment petition under this section may be filed in a district court of the United States or the Claims Court only if the partnership filing the petition deposits with the Secretary, on or before the date the petition is filed, the amount for which the partnership would be liable under section 6242(b) (as of the date of the filing of the petition) if the partnership items were adjusted as provided by the notice of partnership adjustment. The court may by order provide that the jurisdictional requirements of this paragraph are satisfied where there has been a good faith attempt to satisfy such requirement and any shortfall of the amount required to be deposited is timely corrected.

"(2) INTEREST PAYABLE.—Any amount deposited under paragraph (1), while deposited, shall not be treated as a payment of tax for purposes of this title (other than chapter 67).

"(c) SCOPE OF JUDICIAL REVIEW.—A court with which a petition is filed in accordance with this section shall have jurisdiction to determine all partnership items of the partnership for the partnership taxable year to which the notice of partnership adjustment relates and the proper allocation of such items among the partners (and the applicability of any penalty, addition to tax, or additional amount for which the partnership may be liable under section 6242(b)).

"(d) DETERMINATION OF COURT REVIEWABLE.—Any determination by a court under this section shall have the force and effect of a decision of the Tax Court or a final judgment or decree of the district court or the Claims Court, as the case may be, and shall be reviewable as such. The date of any such determination shall be treated as being the date of the court's order entering the decision.

"(e) EFFECT OF DECISION DISMISSING ACTION.—If an action brought under this section is dismissed other than by reason of a rescission under section 6245(b)(3), the decision of the court dismissing the action shall be considered as its decision that the notice of partnership adjustment is correct, and an appropriate order shall be entered in the records of the court.

"SEC. 6248. PERIOD OF LIMITATIONS FOR MAKING ADJUSTMENTS.

"(a) GENERAL RULE.—Except as otherwise provided in this section, no adjustment under this subpart to any partnership item for any partnership taxable year may be made after the date which is 3 years after the later of—

"(1) the date on which the partnership return for such taxable year was filed, or

"(2) the last day for filing such return for such year (determined without regard to extensions).

"(b) EXTENSION BY AGREEMENT.—The period described in subsection (a) (including an extension period under this subsection) may be extended by an agreement entered into by the Secretary and the partnership before the expiration of such period.

"(c) SPECIAL RULE IN CASE OF FRAUD, ETC.—

"(1) FALSE RETURN.—In the case of a false or fraudulent partnership return with intent to evade tax, the adjustment may be made at any time.

"(2) SUBSTANTIAL OMISSION OF INCOME.—If any partnership omits from gross income an amount properly includible therein which is in excess of 25 percent of the amount of gross income stated in its return, subsection (a) shall be applied by substituting '6 years' for '3 years'.

"(3) NO RETURN.—In the case of a failure by a partnership to file a return for any taxable year, the adjustment may be made at any time.

"(4) RETURN FILED BY SECRETARY.—For purposes of this section, a return executed by the Secretary under subsection (b) of section 6020 on behalf of the partnership shall not be treated as a return of the partnership.

"(d) SUSPENSION WHEN SECRETARY MAILS NOTICE OF ADJUSTMENT.—If notice of a partnership adjustment with respect to any taxable year is mailed to the partnership, the running of the period specified in subsection (a) (as modified by the other provisions of this section) shall be suspended—

"(1) for the period during which an action may be brought under section 6247 (and, if a petition is filed under section 6247 with respect to such notice, until the decision of the court becomes final), and

"(2) for 1 year thereafter.

"Subpart B—Claims for Adjustments by Partnership

"Sec. 6251. Administrative adjustment requests.

"Sec. 6252. Judicial review where administrative adjustment request is not allowed in full.

"SEC. 6251. ADMINISTRATIVE ADJUSTMENT REQUESTS.

"(a) GENERAL RULE.—A partnership may file a request for an administrative adjustment of partnership items for any partnership taxable year at any time which is—

"(1) within 3 years after the later of—

"(A) the date on which the partnership return for such year is filed, or

"(B) the last day for filing the partnership return for such year (determined without regard to extensions), and

"(2) before the mailing to the partnership of a notice of a partnership adjustment with respect to such taxable year.

"(b) SECRETARIAL ACTION.—If a partnership files an administrative adjustment request under subsection (a), the Secretary may allow any part of the requested adjustments.

"(c) SPECIAL RULE IN CASE OF EXTENSION UNDER SECTION 6248.—If the period described in section 6248(a) is extended pursuant to an agreement under section 6248(b), the period prescribed by subsection (a)(1) shall not expire before the date 6 months after the expiration of the extension under section 6248(b).

"SEC. 6252. JUDICIAL REVIEW WHERE ADMINISTRATIVE ADJUSTMENT REQUEST IS NOT ALLOWED IN FULL.

"(a) IN GENERAL.—If any part of an administrative adjustment request filed under section 6251 is not allowed by the Secretary, the partnership may file a petition for an adjustment with respect to the partnership items to which such part of the request relates with—

"(1) the Tax Court,

"(2) the district court of the United States for the district in which the principal place of business of the partnership is located, or

"(3) the Claims Court.

"(b) PERIOD FOR FILING PETITION.—A petition may be filed under subsection (a) with respect to partnership items for a partnership taxable year only—

"(1) after the expiration of 6 months from the date of filing of the request under section 6251, and

"(2) before the date which is 2 years after the date of such request.

The 2-year period set forth in paragraph (2) shall be extended for such period as may be agreed upon in writing by the partnership and the Secretary.

"(c) COORDINATION WITH SUBPART A.—

"(1) NOTICE OF PARTNERSHIP ADJUSTMENT BEFORE FILING OF PETITION.—No petition may be filed under this section after the Secretary mails to the partnership a notice of a partnership adjustment for the partnership taxable year to which the request under section 6251 relates.

"(2) NOTICE OF PARTNERSHIP ADJUSTMENT AFTER FILING BUT BEFORE HEARING OF PETITION.—If the Secretary mails to the partnership a notice of a partnership adjustment for the partnership taxable year to which the request under section 6251 relates after the filing of a petition under this subsection but before the hearing of such petition, such petition shall be treated as an action brought under section 6247 with respect to such notice, except that subsection (b) of section 6247 shall not apply.

"(3) NOTICE MUST BE BEFORE EXPIRATION OF STATUTE OF LIMITATIONS.—A notice of a partnership adjustment for the partnership taxable year shall be taken into account under paragraphs (1) and (2) only if such notice is mailed before the expiration of the period prescribed by section 6248 for making adjustments to partnership items for such taxable year.

"(d) SCOPE OF JUDICIAL REVIEW.—Except in the case described in paragraph (2) of subsection (c), a court with which a petition is filed in accordance with this section shall have jurisdiction to determine only those partnership items to which the part of the request under section 6251 not allowed by the Secretary relates and those items with respect to which the Secretary asserts adjustments as offsets to the adjustments requested by the partnership.

"(e) DETERMINATION OF COURT REVIEWABLE.—Any determination by a court under this subsection shall have the force and effect of a decision of the Tax Court or a final judgment or decree of the district court or the Claims Court, as the case may be, and shall be reviewable as such. The date of any such determination shall be treated as being the date of the court's order entering the decision.

"PART III—DEFINITIONS AND SPECIAL RULES

"Sec. 6255. Definitions and special rules.

"SEC. 6255. DEFINITIONS AND SPECIAL RULES.

"(a) DEFINITIONS.—For purposes of this subchapter—

"(1) LARGE PARTNERSHIP.—The term 'large partnership' has the meaning given to such term by section 775 without regard to section 776(a).

"(2) PARTNERSHIP ITEM.—The term 'partnership item' has the meaning given to such term by section 6231(a)(3).

"(b) PARTNERS BOUND BY ACTIONS OF PARTNERSHIP, ETC.—

"(1) DESIGNATION OF PARTNER.—Each large partnership shall designate (in the manner prescribed by the Secretary) a partner (or other person) who shall have the sole authority to act on behalf of such partnership under this subchapter. In any case in which such a designation is not in effect, the Sec-

retary may select any partner as the partner with such authority.

"(2) BINDING EFFECT.—A large partnership and all partners of such partnership shall be bound—

"(A) by actions taken under this subchapter by the partnership, and

"(B) by any decision in a proceeding brought under this subchapter.

"(c) PARTNERSHIPS HAVING PRINCIPAL PLACE OF BUSINESS OUTSIDE THE UNITED STATES.—For purposes of sections 6247 and 6252, a principal place of business located outside the United States shall be treated as located in the District of Columbia.

"(d) TREATMENT WHERE PARTNERSHIP CEASES TO EXIST.—If a partnership ceases to exist before a partnership adjustment under this subchapter takes effect, such adjustment shall be taken into account by the former partners of such partnership under regulations prescribed by the Secretary.

"(e) DATE DECISION BECOMES FINAL.—For purposes of this subchapter, the principles of section 7481(a) shall be applied in determining the date on which a decision of a district court or the Claims Court becomes final.

"(f) PARTNERSHIPS IN CASES UNDER TITLE 11 OF THE UNITED STATES CODE.—The running of any period of limitations provided in this subchapter on making a partnership adjustment (or provided by section 6501 or 6502 on the assessment or collection of any amount required to be paid under section 6242) shall, in a case under title 11 of the United States Code, be suspended during the period during which the Secretary is prohibited by reason of such case from making the adjustment (or assessment or collection) and—

"(1) for adjustment or assessment, 60 days thereafter, and

"(2) for collection, 6 months thereafter.

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this subchapter, including regulations—

"(1) to prevent abuse through manipulation of the provisions of this subchapter, and

"(2) providing that this subchapter shall not apply to any case described in section 6231(c)(1) (or the regulations prescribed thereunder) where the application of this subchapter to such a case would interfere with the effective and efficient enforcement of this title.

In any case to which this subchapter does not apply by reason of paragraph (2), rules similar to the rules of sections 6229(f) and 6255(f) shall apply."

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 63 is amended by adding at the end thereof the following new item:

"SUBCHAPTER D. Treatment of large partnerships."

SEC. 4303. DUE DATE FOR FURNISHING INFORMATION TO PARTNERS OF LARGE PARTNERSHIPS.

(a) GENERAL RULE.—Subsection (b) of section 6031 (relating to copies to partners) is amended by adding at the end thereof the following new sentence: "In the case of a large partnership (as defined in sections 775 and 776(a)), such information shall be furnished on or before the first March 15 following the close of such taxable year."

(b) TREATMENT AS INFORMATION RETURN.—Section 6724 is amended by adding at the end thereof the following new subsection:

"(e) SPECIAL RULE FOR CERTAIN PARTNERSHIP RETURNS.—If any partnership return under section 6031(a) is required under section 6011(e) to be filed on magnetic media or in other machine-readable form, for purposes of this part, each schedule required to be included with such return with respect to each partner shall be treated as a separate information return."

SEC. 4304. RETURNS MAY BE REQUIRED ON MAGNETIC MEDIA.

Paragraph (2) of section 6011(e) (relating to returns on magnetic media) is amended by adding at the end thereof the following new sentence:

"The preceding sentence shall not apply in the case of the partnership return of a large partnership (as defined in sections 775 and 776(a)) or any other partnership with 250 or more partners."

SEC. 4305. EFFECTIVE DATE.

(a) GENERAL RULE.—Except as provided in subsection (b), the amendments made by this part shall apply to partnership taxable years ending on or after December 31, 1992.

(b) SPECIAL RULE FOR SECTION 3304.—In the case of a partnership which is not a large partnership (as defined in sections 775 and 776(a) of the Internal Revenue Code of 1986, as added by this part), the amendment made by section 3304 shall only apply to partnership taxable years ending on or after December 31, 1998.

PART II—PROVISIONS RELATED TO TEFRA PARTNERSHIP PROCEEDINGS

SEC. 4311. TREATMENT OF PARTNERSHIP ITEMS IN DEFICIENCY PROCEEDINGS.

(a) IN GENERAL.—Subchapter C of chapter 63 is amended by adding at the end thereof the following new section:

"SEC. 6234. DECLARATORY JUDGMENT RELATING TO TREATMENT OF ITEMS OTHER THAN PARTNERSHIP ITEMS WITH RESPECT TO AN OVERSHELTERED RETURN.

"(a) GENERAL RULE.—If—

"(1) a taxpayer files an oversheltered return for a taxable year,

"(2) the Secretary makes a determination with respect to the treatment of items (other than partnership items) of such taxpayer for such taxable year, and

"(3) the adjustments resulting from such determination do not give rise to a deficiency (as defined in section 6211) but would give rise to a deficiency if there were no net loss from partnership items,

the Secretary is authorized to send a notice of adjustment reflecting such determination to the taxpayer by certified or registered mail.

"(b) OVERSHELTERED RETURN.—For purposes of this section, the term 'oversheltered return' means an income tax return which—

"(1) shows no taxable income for the taxable year, and

"(2) shows a net loss from partnership items.

"(c) JUDICIAL REVIEW IN THE TAX COURT.—Within 90 days, or 150 days if the notice is addressed to a person outside the United States, after the day on which the notice of adjustment authorized in subsection (a) is mailed to the taxpayer, the taxpayer may file a petition with the Tax Court for redetermination of the adjustments. Upon the filing of such a petition, the Tax Court shall have jurisdiction to make a declaration with respect to all items (other than partnership items and affected items which require partner level determinations as described in section 6230(a)(2)(A)(i)) for the taxable year to which the notice of adjustment relates, in accordance with the principles of section 6214(a). Any such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

"(d) FAILURE TO FILE PETITION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), if the taxpayer does not file a petition with the Tax Court within the time prescribed in subsection (c), the determination of the Secretary set forth in the notice of adjustment that was mailed to the taxpayer shall be deemed to be correct.

"(2) EXCEPTION.—Paragraph (1) shall not apply after the date that the taxpayer—

"(A) files a petition with the Tax Court within the time prescribed in subsection (c) with respect to a subsequent notice of adjustment relating to the same taxable year, or

"(B) files a claim for refund of an overpayment of tax under section 6511 for the taxable year involved.

If a claim for refund is filed by the taxpayer, then solely for purposes of determining (for the taxable year involved) the amount of any computational adjustment in connection with a partnership proceeding under this subchapter (other than under this section) or the amount of any deficiency attributable to affected items in a proceeding under section 6230(a)(2), the items that are the subject of the notice of adjustment shall be presumed to have been correctly reported on the taxpayer's return during the pendency of the refund claim (and, if within the time prescribed by section 6532 the taxpayer commences a civil action for refund under section 7422, until the decision in the refund action becomes final).

"(e) LIMITATIONS PERIOD.—

"(1) IN GENERAL.—Any notice to a taxpayer under subsection (a) shall be mailed before the expiration of the period prescribed by section 6501 (relating to the period of limitations on assessment).

"(2) SUSPENSION WHEN SECRETARY MAILS NOTICE OF ADJUSTMENT.—If the Secretary mails a notice of adjustment to the taxpayer for a taxable year, the period of limitations on the making of assessments shall be suspended for the period during which the Secretary is prohibited from making the assessment (and, in any event, if a proceeding in respect of the notice of adjustment is placed on the docket of the Tax Court, until the decision of the Tax Court becomes final), and for 60 days thereafter.

"(3) RESTRICTIONS ON ASSESSMENT.—Except as otherwise provided in section 6851, 6852, or 6861, no assessment of a deficiency with respect to any tax imposed by subtitle A attributable to any item (other than a partnership item or any item affected by a partnership item) shall be made—

"(A) until the expiration of the applicable 90-day or 150-day period set forth in subsection (c) for filing a petition with the Tax Court, or

"(B) if a petition has been filed with the Tax Court, until the decision of the Tax Court has become final.

"(f) FURTHER NOTICES OF ADJUSTMENT RESTRICTED.—If the Secretary mails a notice of adjustment to the taxpayer for a taxable year and the taxpayer files a petition with the Tax Court within the time prescribed in subsection (c), the Secretary may not mail another such notice to the taxpayer with respect to the same taxable year in the absence of a showing of fraud, malfeasance, or misrepresentation of a material fact.

"(g) COORDINATION WITH OTHER PROCEEDINGS UNDER THIS SUBCHAPTER.—

"(1) IN GENERAL.—The treatment of any item that has been determined pursuant to subsection (c) or (d) shall be taken into account in determining the amount of any computational adjustment that is made in connection with a partnership proceeding

under this subchapter (other than under this section), or the amount of any deficiency attributable to affected items in a proceeding under section 6230(a)(2), for the taxable year involved. Notwithstanding any other law or rule of law pertaining to the period of limitations on the making of assessments, for purposes of the preceding sentence, any adjustment made in accordance with this section shall be taken into account regardless of whether any assessment has been made with respect to such adjustment.

"(2) SPECIAL RULE IN CASE OF COMPUTATIONAL ADJUSTMENT.—In the case of a computational adjustment that is made in connection with a partnership proceeding under this subchapter (other than under this section), the provisions of paragraph (1) shall apply only if the computational adjustment is made within the period prescribed by section 6229 for assessing any tax under subtitle A which is attributable to any partnership item or affected item for the taxable year involved.

"(3) CONVERSION TO DEFICIENCY PROCEEDING.—If—

"(A) after the notice referred to in subsection (a) is mailed to a taxpayer for a taxable year but before the expiration of the period for filing a petition with the Tax Court under subsection (c) (or, if a petition is filed with the Tax Court, before the Tax Court makes a declaration for that taxable year), the treatment of any partnership item for the taxable year is finally determined, or any such item ceases to be a partnership item pursuant to section 6231(b), and

"(B) as a result of that final determination or cessation, a deficiency can be determined with respect to the items that are the subject of the notice of adjustment,

the notice of adjustment shall be treated as a notice of deficiency under section 6212 and any petition filed in respect of the notice shall be treated as an action brought under section 6213.

"(4) FINALLY DETERMINED.—For purposes of this subsection, the treatment of partnership items shall be treated as finally determined if—

"(A) the Secretary enters into a settlement agreement (within the meaning of section 6224) with the taxpayer regarding such items,

"(B) a notice of final partnership administrative adjustment has been issued and—

"(i) no petition has been filed under section 6226 and the time for doing so has expired, or

"(ii) a petition has been filed under section 6226 and the decision of the court has become final, or

"(C) the period within which any tax attributable to such items may be assessed against the taxpayer has expired.

"(h) SPECIAL RULES IF SECRETARY INCORRECTLY DETERMINES APPLICABLE PROCEDURE.—

"(1) SPECIAL RULE IF SECRETARY ERRONEOUSLY MAILS NOTICE OF ADJUSTMENT.—If the Secretary erroneously determines that subchapter B does not apply to a taxable year of a taxpayer and consistent with that determination timely mails a notice of adjustment to the taxpayer pursuant to subsection (a) of this section, the notice of adjustment shall be treated as a notice of deficiency under section 6212 and any petition that is filed in respect of the notice shall be treated as an action brought under section 6213.

"(2) SPECIAL RULE IF SECRETARY ERRONEOUSLY MAILS NOTICE OF DEFICIENCY.—If the Secretary erroneously determines that subchapter B applies to a taxable year of a taxpayer and consistent with that determination timely mails a notice of deficiency to the taxpayer pursuant to section 6212, the notice of deficiency shall be treated as a notice of adjustment under subsection (a) and any petition that is filed in respect of the notice shall be treated as an action brought under subsection (c)."

(b) TREATMENT OF PARTNERSHIP ITEMS IN DEFICIENCY PROCEEDINGS.—Section 6211 (defining deficiency) is amended by adding at the end thereof the following new subsection:

"(c) COORDINATION WITH SUBCHAPTER C.—In determining the amount of any deficiency for purposes of this subchapter, adjustments to partnership items shall be made only as provided in subchapter C."

(c) CLERICAL AMENDMENT.—The table of sections for subchapter C of chapter 63 is amended by adding at the end thereof the following new item:

"Sec. 6234. Declaratory judgment relating to treatment of items other than partnership items with respect to an oversheltered return.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 4312. PARTNERSHIP RETURN TO BE DETERMINATIVE OF AUDIT PROCEDURES TO BE FOLLOWED.

(a) IN GENERAL.—Section 6231 (relating to definitions and special rules) is amended by adding at the end thereof the following new subsection:

"(g) PARTNERSHIP RETURN TO BE DETERMINATIVE OF WHETHER SUBCHAPTER APPLIES.—

"(1) DETERMINATION THAT SUBCHAPTER APPLIES.—If, on the basis of a partnership return for a taxable year, the Secretary reasonably determines that this subchapter applies to such partnership for such year but such determination is erroneous, then the provisions of this subchapter are hereby extended to such partnership (and its items) for such taxable year and to partners of such partnership.

"(2) DETERMINATION THAT SUBCHAPTER DOES NOT APPLY.—If, on the basis of a partnership return for a taxable year, the Secretary reasonably determines that this subchapter does not apply to such partnership for such year but such determination is erroneous, then the provisions of this subchapter shall not apply to such partnership (and its items) for such taxable year or to partners of such partnership."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 4313. PROVISIONS RELATING TO STATUTE OF LIMITATIONS.

(a) SUSPENSION OF STATUTE WHERE UNTIMELY PETITION FILED.—Paragraph (1) of section 6229(d) (relating to suspension where Secretary makes administrative adjustment) is amended by striking all that follows "section 6226" and inserting the following: "(and, if a petition is filed under section 6226 with respect to such administrative adjustment, until the decision of the court becomes final), and".

(b) SUSPENSION OF STATUTE DURING BANKRUPTCY PROCEEDING.—Section 6229 is amended by adding at the end thereof the following new subsection:

"(h) SUSPENSION DURING PENDENCY OF BANKRUPTCY PROCEEDING.—If a petition is filed naming a partner as a debtor in a bankruptcy proceeding under title 11 of the United States Code, the running of the period of limitations provided in this section with respect to such partner shall be suspended—

"(1) for the period during which the Secretary is prohibited by reason of such bankruptcy proceeding from making an assessment, and

"(2) for 60 days thereafter."

(c) TAX MATTERS PARTNER IN BANKRUPTCY.—Section 6229(b) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) SPECIAL RULE WITH RESPECT TO DEBTORS IN TITLE 11 CASES.—Notwithstanding any other law or rule of law, if an agreement is entered into under paragraph (1)(B) and the agreement is signed by a person who would be the tax matters partner but for the fact that, at the time that the agreement is executed, the person is a debtor in a bankruptcy proceeding under title 11 of the United States Code, such agreement shall be binding on all partners in the partnership unless the Secretary has been notified of the bankruptcy proceeding in accordance with regulations prescribed by the Secretary."

(d) EFFECTIVE DATES.—

(1) SUBSECTIONS (a) AND (b).—The amendments made by subsections (a) and (b) shall apply to partnership taxable years with respect to which the period under section 6229 of the Internal Revenue Code of 1986 for assessing tax has not expired on or before the date of the enactment of this Act.

(2) SUBSECTION (c).—The amendment made by subsection (c) shall apply to agreements entered into after the date of the enactment of this Act.

SEC. 4314. EXPANSION OF SMALL PARTNERSHIP EXCEPTION.

(a) IN GENERAL.—Clause (i) of section 6231(a)(1)(B) (relating to exception for small partnerships) is amended to read as follows:

"(i) IN GENERAL.—The term 'partnership' shall not include any partnership having 10 or fewer partners each of whom is an individual (other than a nonresident alien), a C corporation, or an estate of a deceased partner. For purposes of the preceding sentence, a husband and wife (and their estates) shall be treated as 1 partner."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 4315. EXCLUSION OF PARTIAL SETTLEMENTS FROM 1 YEAR LIMITATION ON ASSESSMENT.

(a) IN GENERAL.—Subsection (f) of section 6229 (relating to items becoming nonpartnership items) is amended—

(1) by striking "(f) ITEMS BECOMING NONPARTNERSHIP ITEMS.—If" and inserting the following:

"(f) SPECIAL RULES.—

"(1) ITEMS BECOMING NONPARTNERSHIP ITEMS.—If",

(2) by moving the text of such subsection 2 ems to the right, and

(3) by adding at the end thereof the following new paragraph:

"(2) SPECIAL RULE FOR PARTIAL SETTLEMENT AGREEMENTS.—If a partner enters into a settlement agreement with the Secretary with respect to the treatment of some of the partnership items in dispute for a partnership taxable year but other partnership items for such year remain in dispute, the period of limitations for assessing any tax attributable to the settled items shall be determined as if such agreement had not been entered into."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 4316. EXTENSION OF TIME FOR FILING A REQUEST FOR ADMINISTRATIVE ADJUSTMENT.

(a) IN GENERAL.—Section 6227 (relating to administrative adjustment requests) is amended by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting after subsection (a) the following new subsection:

"(b) SPECIAL RULE IN CASE OF EXTENSION OF PERIOD OF LIMITATIONS UNDER SECTION 6229.—The period prescribed by subsection (a)(1) for filing of a request for an administrative adjustment shall be extended—

"(1) for the period within which an assessment may be made pursuant to an agreement (or any extension thereof) under section 6229(b), and

"(2) for 6 months thereafter."

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

SEC. 4317. AVAILABILITY OF INNOCENT SPOUSE RELIEF IN CONTEXT OF PARTNERSHIP PROCEEDINGS.

(a) IN GENERAL.—Subsection (a) of section 6230 is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE IN CASE OF ASSERTION BY PARTNER'S SPOUSE OF INNOCENT SPOUSE RELIEF.—

"(A) Notwithstanding section 6404(b), if the spouse of a partner asserts that section 6013(e) applies with respect to a liability that is attributable to any adjustment to a partnership item, then such spouse may file with the Secretary within 60 days after the notice and demand (or notice of computational adjustment) is mailed to the spouse a request for abatement of the assessment specified in such notice. Upon receipt of such request, the Secretary shall abate the assessment. Any reassessment of the tax with respect to which an abatement is made under this subparagraph shall be subject to the deficiency procedures prescribed by subchapter B. The period for making any such reassessment shall not expire before the expiration of 60 days after the date of such abatement.

"(B) If the spouse files a petition with the Tax Court pursuant to section 6213 with respect to the request for abatement described in subparagraph (A), the Tax Court shall only have jurisdiction pursuant to this section to determine whether the requirements of section 6013(e) have been satisfied. For purposes of such determination, the treatment of partnership items under the settlement, the final partnership administrative adjustment, or the decision of the court (whichever is appropriate) that gave rise to the liability in question shall be conclusive.

"(C) Rules similar to the rules contained in subparagraphs (B) and (C) of paragraph (2) shall apply for purposes of this paragraph."

(b) CLAIMS FOR REFUND.—Subsection (c) of section 6230 is amended by adding at the end thereof the following new paragraph:

"(5) RULES FOR SEEKING INNOCENT SPOUSE RELIEF.—

"(A) IN GENERAL.—The spouse of a partner may file a claim for refund on the ground that the Secretary failed to relieve the spouse under section 6013(e) from a liability that is attributable to an adjustment to a partnership item.

"(B) TIME FOR FILING CLAIM.—Any claim under subparagraph (A) shall be filed within 6 months after the day on which the Secretary mails to the spouse the notice and demand (or notice of computational adjustment) referred to in subsection (a)(3)(A).

"(C) SUIT IF CLAIM NOT ALLOWED.—If the claim under subparagraph (B) is not allowed, the spouse may bring suit with respect to the claim within the period specified in paragraph (3).

"(D) PRIOR DETERMINATIONS ARE BINDING.—For purposes of any claim or suit under this paragraph, the treatment of partnership items under the settlement, the final partnership administrative adjustment, or the decision of the court (whichever is appropriate) that gave rise to the liability in question shall be conclusive."

(c) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 6230(a) is amended by striking "paragraph (2)" and inserting "paragraph (2) or (3)".

(2) Subsection (a) of section 6503 is amended by striking "section 6230(a)(2)(A)" and inserting "paragraph (2)(A) or (3) of section 6230(a)".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

SEC. 4318. DETERMINATION OF PENALTIES AT PARTNERSHIP LEVEL.

(a) IN GENERAL.—Section 6221 (relating to tax treatment determined at partnership level) is amended by striking "item" and inserting "item (and the applicability of any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item)".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (f) of section 6226 is amended—

(A) by striking "relates and" and inserting "relates,", and

(B) by inserting before the period ", and the applicability of any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item".

(2) Clause (i) of section 6230(a)(2)(A) is amended to read as follows:

"(i) affected items which require partner level determinations (other than penalties, additions to tax, and additional amounts that relate to adjustments to partnership items), or".

(3)(A) Subparagraph (A) of section 6230(a)(3), as added by section 3317, is amended by inserting "(including any liability for any penalty, addition to tax, or additional amount relating to such adjustment)" after "partnership item".

(B) Subparagraph (B) of such section is amended by inserting "(and the applicability of any penalties, additions to tax, or additional amounts)" after "partnership items".

(C) Subparagraph (A) of section 6230(c)(5), as added by section 3317, is amended by inserting before the period "(including any liability for any penalties, additions to tax, or additional amounts relating to such adjustment)".

(D) Subparagraph (D) of section 6230(c)(5), as added by section 3317, is amended by inserting "(and the applicability of any penalties, additions to tax, or additional amounts)" after "partnership items".

(4) Paragraph (1) of section 6230(c) is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or", and by adding at the end thereof the following new subparagraph:

"(C) the Secretary erroneously imposed any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item."

(5) So much of subparagraph (A) of section 6230(c)(2) as precedes "shall be filed" is amended to read as follows:

"(A) UNDER PARAGRAPH (1)(A) or (C).—Any claim under subparagraph (A) or (C) of paragraph (1)".

(6) Paragraph (4) of section 6230(c) is amended by adding at the end thereof the following: "In addition, the determination under the final partnership administrative adjustment or under the decision of the court (whichever is appropriate) concerning the applicability of any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item shall also be conclusive.

Notwithstanding the preceding sentence, the partner shall be allowed to assert any partner level defenses that may apply or to challenge the amount of the computational adjustment."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 4319. PROVISIONS RELATING TO COURT JURISDICTION, ETC.

(a) TAX COURT JURISDICTION TO ENJOIN PREMATURE ASSESSMENTS OF DEFICIENCIES ATTRIBUTABLE TO PARTNERSHIP ITEMS.—Subsection (b) of section 6225 is amended by striking "the proper court." and inserting "the proper court, including the Tax Court. The Tax Court shall have no jurisdiction to enjoin any action or proceeding under this subsection unless a timely petition for a readjustment of the partnership items for the taxable year has been filed and then only in respect of the adjustments that are the subject of such petition."

(b) JURISDICTION TO CONSIDER STATUTE OF LIMITATIONS WITH RESPECT TO PARTNERS.—Paragraph (1) of section 6226(d) is amended by adding at the end thereof the following new sentence:

"Notwithstanding subparagraph (B), any person treated under subsection (c) as a party to an action shall be permitted to participate in such action (or file a readjustment petition under subsection (b) or paragraph (2) of this subsection) solely for the purpose of asserting that the period of limitations for assessing any tax attributable to partnership items has expired with respect to such person, and the court having jurisdiction of such action shall have jurisdiction to consider such assertion."

(c) TAX COURT JURISDICTION TO DETERMINE OVERPAYMENTS ATTRIBUTABLE TO AFFECTED ITEMS.—

(1) Paragraph (6) of section 6230(d) is amended by striking "(or an affected item)".

(2) Paragraph (3) of section 6512(b) is amended by adding at the end thereof the following new sentence:

"In the case of a credit or refund relating to an affected item (within the meaning of section 6229), the preceding sentence shall be applied by substituting the periods under sections 6229 and 6230(d) for the periods under section 6511(b)(2), (c), and (d)."

(d) VENUE ON APPEAL.—

(1) Paragraph (1) of section 7482(b) is amended by striking "or" at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting ", or", and by inserting after subparagraph (E) the following new subparagraph:

"(F) in the case of a petition under section 6234(c)—

"(i) the legal residence of the petitioner if the petitioner is not a corporation, and

"(ii) the place or office applicable under subparagraph (B) if the petitioner is a corporation."

(2) The last sentence of section 7482(b) is amended by striking "or 6228(a)" and inserting ", 6228(a), or 6234(c)"

(e) OTHER PROVISIONS.—

(1) Subsection (c) of section 7459 is amended by striking "or section 6228(a)" and inserting ", 6228(a), or 6234(c)".

(2) Subsection (o) of section 6501 is amended by adding at the end thereof the following new paragraph:

"(3) For declaratory judgment relating to treatment of items other than partnership items with respect to an oversheltered return, see section 6234."

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 4320. TREATMENT OF PREMATURE PETITIONS FILED BY NOTICE PARTNERS OR 5-PERCENT GROUPS.

(a) IN GENERAL.—Subsection (b) of section 6226 (relating to judicial review of final partnership administrative adjustments) is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) TREATMENT OF PREMATURE PETITIONS.—If—

"(A) a petition for a readjustment of partnership items for the taxable year involved is filed by a notice partner (or a 5-percent group) during the 90-day period described in subsection (a), and

"(B) no action is brought under paragraph (1) during the 60-day period described therein with respect to such taxable year which is not dismissed,

such petition shall be treated for purposes of paragraph (1) as filed on the last day of such 60-day period."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to petitions filed after the date of the enactment of this Act.

SEC. 4321. BONDS IN CASE OF APPEALS FROM TEFRA PROCEEDING.

(a) IN GENERAL.—Subsection (b) of section 7485 (relating to bonds to stay assessment of collection) is amended—

(1) by inserting "penalties," after "any interest,", and

(2) by striking "aggregate of such deficiencies" and inserting "aggregate liability of the parties to the action".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

SEC. 4322. SUSPENSION OF INTEREST WHERE DELAY IN COMPUTATIONAL ADJUSTMENT RESULTING FROM TEFRA SETTLEMENTS.

(a) IN GENERAL.—Subsection (c) of section 6601 (relating to interest on underpayment, nonpayment, or extension of time for payment, of tax) is amended by adding at the end thereof the following new sentence: "In the case of a settlement under section 6224(c) which results in the conversion of partnership items to nonpartnership items pursuant to section 6231(b)(1)(C), the preceding sentence shall apply to a computational adjustment resulting from such settlement in the same manner as if such adjustment were a deficiency and such settlement were a waiver referred to in the preceding sentence."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to settlements entered into after the date of the enactment of this Act.

Subtitle D—Foreign Provisions

PART I—SIMPLIFICATION OF TREATMENT OF PASSIVE FOREIGN CORPORATIONS

SEC. 4401. REPEAL OF FOREIGN PERSONAL HOLDING COMPANY RULES AND FOREIGN INVESTMENT COMPANY RULES.

(a) GENERAL RULE.—The following provisions are hereby repealed:

(1) Part III of subchapter G of chapter 1 (relating to foreign personal holding companies).

(2) Section 1246 (relating to gain on foreign investment company stock).

(3) Section 1247 (relating to election by foreign investment companies to distribute income currently).

(b) EXEMPTION OF FOREIGN CORPORATIONS FROM ACCUMULATED EARNINGS TAX AND PERSONAL HOLDING COMPANY RULES.—

(1) ACCUMULATED EARNINGS TAX.—Subsection (b) of section 532 (relating to exceptions) is amended—

(A) by striking paragraph (2) and inserting the following:

"(2) a foreign corporation, or",

(B) by striking ", or" at the end of paragraph (3) and inserting a period, and

(C) by striking paragraph (4).

(2) PERSONAL HOLDING COMPANY RULES.—Subsection (c) of section 542 (relating to exceptions) is amended—

(A) by striking paragraph (5) and inserting the following:

"(5) a foreign corporation,",

(B) by striking paragraphs (7) and (10) and by redesignating paragraphs (8) and (9) as paragraphs (7) and (8), respectively,

(C) by inserting "and" at the end of paragraph (7) (as so redesignated), and

(D) by striking "; and" at the end of paragraph (8) (as so redesignated) and inserting a period.

(c) TREATMENT OF CERTAIN SERVICE CONTRACTS UNDER SUBPART F.—

(1) Paragraph (1) of section 954(c) (defining foreign personal holding company income) is amended by adding at the end thereof the following new subparagraph:

"(F) PERSONAL SERVICE CONTRACTS.—

"(i) Amounts received under a contract under which the corporation is to furnish personal services, if some person other than the corporation has the right to designate (by name or by description) the individual who is to perform the services, or if the individual who is to perform the services is designated (by name or by description) in the contract.

"(ii) Amounts received from the sale or other disposition of such contract.

This subparagraph shall apply with respect to amounts received for services under a particular contract only if at some time during the taxable year 25 percent or more in value of the outstanding stock of the corporation is owned, directly or indirectly, by or for the individual who has performed, is to perform, or may be designated (by name or by description) as the one to perform, such services. For purposes of the preceding sentence, the attribution rules of section 544 shall apply, determined as if any reference to section 543(a)(7) were a reference to this subparagraph."

(2) Clause (iii) of section 904(d)(2)(A) is amended by striking "and" at the end of subclause (III), by striking the period at the end of subclause (IV) and inserting ", and", and by adding at the end thereof the following new subclause:

"(V) any income described in section 954(c)(1)(F) (relating to personal service contracts)."

SEC. 4402. REPLACEMENT FOR PASSIVE FOREIGN INVESTMENT COMPANY RULES.

(a) GENERAL RULE.—Part VI of subchapter P of chapter 1 (relating to treatment of certain passive foreign investment companies) is amended to read as follows:

"PART VI—TREATMENT OF PASSIVE FOREIGN CORPORATIONS

"Subpart A. Current taxation rules.

"Subpart B. Interest on holdings to which subpart A does not apply.

"Subpart C. General provisions.

"Subpart A—Current Taxation Rules

"Sec. 1291. Stock in certain passive foreign corporations marked to market.

"Sec. 1292. Inclusion of income of certain passive foreign corporations.

"SEC. 1291. STOCK IN CERTAIN PASSIVE FOREIGN CORPORATIONS MARKED TO MARKET.

"(a) GENERAL RULE.—In the case of marketable stock in a passive foreign corporation which is owned (or treated under subsection (g) as owned) by a United States person at the close of any taxable year of such person—

"(1) If the fair market value of such stock as of the close of such taxable year exceeds its adjusted basis, such United States person shall include in gross income for such taxable year an amount equal to the amount of such excess.

"(2) If the adjusted basis of such stock exceeds the fair market value of such stock as of the close of such taxable year, such United States person shall be allowed a deduction for such taxable year equal to the lesser of—

"(A) the amount of such excess, or

"(B) the unreversed inclusions with respect to such stock.

"(b) BASIS ADJUSTMENTS.—

"(1) IN GENERAL.—The adjusted basis of stock in a passive foreign corporation—

"(A) shall be increased by the amount included in the gross income of the United States person under subsection (a)(1) with respect to such stock , and

"(B) shall be decreased by the amount allowed as a deduction to the United States person under subsection (a)(2) with respect to such stock.

"(2) SPECIAL RULE FOR STOCK CONSTRUCTIVELY OWNED.—In the case of stock in a passive foreign corporation which the United States person is treated as owning under subsection (g)—

"(A) the adjustments under paragraph (1) shall apply to such stock in the hands of the person actually holding such stock but only for purposes of determining the subsequent treatment under this chapter of the United States person with respect to such stock, and

"(B) similar adjustments shall be made to the adjusted basis of the property by reason of which the United States person is treated as owning such stock.

"(c) CHARACTER AND SOURCE RULES.—

"(1) ORDINARY TREATMENT.—

"(A) GAIN.—Any amount included in gross income under subsection (a)(1), and any gain on the sale or other disposition of marketable stock in a passive foreign corporation, shall be treated as ordinary income.

"(B) LOSS.—Any—

"(i) amount allowed as a deduction under subsection (a)(2), and

"(ii) loss on the sale or other disposition of marketable stock in a passive foreign corporation to the extent that the amount of such loss does not exceed the unreversed inclusions with respect to such stock,

shall be treated as an ordinary loss. The amount so treated shall be treated as a deduction allowable in computing adjusted gross income.

"(2) SOURCE.—The source of any amount included in gross income under subsection (a)(1) (or allowed as a deduction under subsection (a)(2)) shall be determined in the same manner as if such amount were gain or loss (as the case may be) from the sale of stock in the passive foreign corporation.

"(d) UNREVERSED INCLUSIONS.—For purposes of this section, the term 'unreversed inclusions' means, with respect to any stock in a passive foreign corporation, the excess (if any) of—

"(1) the amount included in gross income of the taxpayer under subsection (a)(1) with respect to such stock for prior taxable years, over

"(2) the amount allowed as a deduction under subsection (a)(2) with respect to such stock for prior taxable years.

The amount referred to in paragraph (1) shall include any amount which would have been included in gross income under subsection (a)(1) with respect to such stock for any prior taxable year but for section 1293.

"(e) COORDINATION WITH SECTION 1292.—This section shall not apply with respect to any stock in a passive foreign corporation—

"(1) which is U.S. controlled,

"(2) which is a qualified electing fund with respect to the United States person for the taxable year, or

"(3) in which the United States person is a 25-percent shareholder.

"(f) TREATMENT OF CONTROLLED FOREIGN CORPORATIONS WHICH ARE SHAREHOLDERS IN PASSIVE FOREIGN CORPORATIONS.—In the case of a foreign corporation which is a controlled foreign corporation (or is treated as a controlled foreign corporation under section 1292) and which owns (or is treated under subsection (g) as owning) stock in a passive foreign corporation—

"(1) this section (other than subsection (c)(2) thereof) shall apply to such foreign corporation in the same manner as if such corporation were a United States person, and

"(2) for purposes of subpart F of part III of subchapter N—

"(A) any amount included in gross income under subsection (a)(1) shall be treated as foreign personal holding company income described in section 954(c)(1)(A), and

"(B) any amount allowed as a deduction under subsection (a)(2) shall be treated as a deduction allocable to foreign personal holding company income so described.

"(g) STOCK OWNED THROUGH CERTAIN FOREIGN ENTITIES.—Except as provided in regulations—

"(1) IN GENERAL.—For purposes of this section, stock owned, directly or indirectly, by or for a foreign partnership or foreign trust or foreign estate shall be considered as being owned proportionately by its partners or beneficiaries. Stock considered to be owned by a person by reason of the application of the preceding sentence shall, for purposes of applying such sentence, be treated as actually owned by such person.

"(2) TREATMENT OF CERTAIN DISPOSITIONS.—In any case in which a United States person is treated as owning stock in a passive foreign corporation by reason of paragraph (1)—

"(A) any disposition by the United States person or by any other person which results in the United States person being treated as no longer owning such stock, and

"(B) any disposition by the person owning such stock,

shall be treated as a disposition by the United States person of the stock in the passive foreign corporation.

"(h) COORDINATION WITH SECTION 851(b).—For purposes of paragraphs (2) and (3) of section 851(b), any amount included in gross income under subsection (a) shall be treated as a dividend.

"(i) TRANSITION RULES.—

"(1) INDIVIDUALS BECOMING SUBJECT TO U.S. TAX.—If any individual becomes a United States person in a taxable year beginning after December 31, 1992, solely for purposes of this section, the adjusted basis (before adjustments under subsection (b)) of any marketable stock in a passive foreign corporation owned (or treated as owned under subsection (g)) by such individual on the first day of such taxable year shall be treated as being the greater of its fair market value on such first day or its adjusted basis on such first day.

"(2) MARKETABLE STOCK HELD BEFORE EFFECTIVE DATE.—

"(A) IN GENERAL.—If any marketable stock in a passive foreign corporation is owned (or treated under subsection (g) as owned) by a United States person on the first day of such person's first taxable year, beginning after December 31, 1992—

"(i) paragraph (2) of section 1294(a) shall apply to such stock as if it became marketable during such first taxable year; except that—

"(I) section 1293 shall not apply to the amount included in gross income under subsection (a) to the extent such amount is attributable to increases in fair market value during such first taxable year, and

"(II) the taxpayer's holding period shall be treated as having ended on the last day of the preceding taxable year for purposes of allocating amounts under section 1293(a)(1)(A), and

"(ii) such person may elect to extend the time for the payment of the applicable section 1293 deferred tax as provided in subparagraph (B).

"(B) ELECTION TO EXTEND TIME FOR PAYMENT.—

"(i) IN GENERAL.—At the election of the taxpayer, the time for the payment of the applicable section 1293 deferred tax shall be extended to the extent and subject to the limitations provided in this subparagraph.

"(ii) TERMINATION OF EXTENSION.—

"(I) DISTRIBUTIONS.—If any distribution is received with respect to any stock to which an extension under clause (i) relates and such distribution would be an excess distribution within the meaning of section 1293 if such section applied to such stock, then the extension under clause (i) for the appropriate portion (as determined under regulations) of the applicable section 1293 deferred tax shall expire on the last day prescribed by law (determined without regard to extensions) for filing the return of tax for the taxable year in which the distribution is received.

"(II) REVERSAL OF INCLUSION.—If an amount is allowable as a deduction under subsection (a)(2) with respect to any stock to which an extension under clause (i) relates and the amount so allowable is allocable to the amount which gave rise to the applicable section 1293 deferred tax, then the extension under clause (i) for the appropriate portion (as determined under regulations) of the applicable section 1293 deferred tax shall expire on the last day prescribed by law (determined without regard to extensions) for filing the return of the tax for the taxable year for which such deduction is allowed.

"(III) DISPOSITIONS, ETC.—If stock in a passive foreign corporation is disposed of during the taxable year, all extensions under clause (i) for payment of the applicable section 1293 deferred tax attributable to such stock which have not expired before the date of such disposition shall expire on the last date prescribed by law (determined without regard to extensions) for filing the return of tax for the taxable year in which such disposition occurs. To the extent provided in regulations, the preceding sentence shall not apply in the case of a disposition in a transaction with respect to which gain or loss is not recognized (in whole or in part), and the person acquiring such stock in such transaction shall succeed to the treatment under this section of the person making such disposition.

"(iii) OTHER RULES.—

"(I) ELECTION.—The election under clause (i) shall be made not later than the time prescribed by law (including extensions) for filing the return of tax imposed by this chapter for the first taxable year referred to in subparagraph (A).

"(II) TREATMENT OF LOANS TO SHAREHOLDER.—For purposes of this subparagraph, any loan by a passive foreign corporation (directly or indirectly) to a shareholder of such corporation shall be treated as a distribution to such shareholder.

"(C) CROSS REFERENCE.—

"For provisions providing for interest for the period of the extension under this paragraph, see section 6601.

"(D) APPLICABLE SECTION 1293 DEFERRED TAX.—For purposes of this paragraph, the term 'applicable section 1293 deferred tax' means the deferred tax amount determined under section 1293 with respect to the amount which, but for section 1293, would have been included in gross income for the first taxable year referred to in subparagraph (A). Such term also includes the tax imposed by this chapter for such first taxable year to the extent attributable to the amounts allocated under section 1293(a)(1)(A) to a period described in section 1293(a)(1)(B)(ii).

"(3) SPECIAL RULES FOR REGULATED INVESTMENT COMPANIES.—

"(A) IN GENERAL.—If any marketable stock in a passive foreign corporation is owned (or treated under subsection (g) as owned) by a regulated investment company on the first day of such company's first taxable year beginning after December 31, 1992—

"(i) section 1293 shall not apply to such stock with respect to any distribution or disposition during, or amount included in gross income under this section for, such first taxable year, but

"(ii) such company's tax under this chapter for such first taxable year shall be increased by the aggregate amount of interest which would have been determined under section 1293(c)(3) if section 1293 were applied without regard to this subparagraph.

"(B) DISALLOWANCE OF DEDUCTION.—No deduction shall be allowed to any regulated investment company for the increase in tax under subparagraph (A)(ii).

"SEC. 1292. CURRENT INCLUSION OF INCOME OF CERTAIN PASSIVE FOREIGN CORPORATIONS.

"(a) PASSIVE FOREIGN CORPORATIONS WHICH ARE U.S. CONTROLLED.—

"(1) TREATMENT UNDER SUBPART F.—

"(A) IN GENERAL.—If a passive foreign corporation is United States controlled, then for purposes of subpart F of part III of subchapter N—

"(i) such corporation, if not otherwise a controlled foreign corporation, shall be treated as a controlled foreign corporation,

"(ii) the term 'United States shareholder' means, with respect to such corporation, any United States person who owns (within the meaning of section 958(a)) any stock in such corporation,

"(iii) the entire gross income of such corporation shall, after being reduced under the principles of paragraph (5) of section 954(b), be treated as foreign base company income, and

"(iv) sections 970 and 971 shall not apply.

Except as provided in regulations, the preceding sentence shall also apply for purposes of section 904(d).

"(B) SPECIAL RULES.—If any taxpayer is treated as being a United States shareholder in a controlled foreign corporation solely by reason of this section—

"(i) section 954(b)(4) (relating to exception for certain income subject to high foreign taxes) shall not apply for purposes of determining the amount included in the gross income of such taxpayer under section 951 by reason of being so treated with respect to such corporation, and

"(ii) the amount so included in the gross income of such taxpayer under section 951 with respect to such corporation shall be treated as long-term capital gain to the extent attributable to the net capital gain of such corporation.

"(2) U.S. CONTROLLED.—For purposes of this subpart, a passive foreign corporation is United States controlled if—

"(A) such corporation is a controlled foreign corporation determined without regard to this subsection, or

"(B) at any time during the taxable year more than 50 percent of—

"(i) the total combined voting power of all classes of stock of such corporation entitled to vote, or

"(ii) the total value of the stock of such corporation,

is owned directly or indirectly by 5 or fewer United States persons.

"(3) CONSTRUCTIVE OWNERSHIP RULES FOR PURPOSES OF PARAGRAPH (2)(B).—For purposes of paragraph (2)(B), the attribution rules provided in section 544 shall apply, determined as if any reference to a personal holding company were a reference to a corporation described in paragraph (2)(B) (and any reference to the stock ownership requirement provided in section 542(a)(2) were a reference to the requirement of paragraph (2)(B)); except that—

"(A) subsection (a)(4) of such section shall be applied by substituting 'Paragraphs (1), (2), and (3)' for 'Paragraphs (2) and (3)',

"(B) stock owned by a nonresident alien individual shall not be considered by reason of attribution through family membership as owned by a citizen or resident alien individual who is not the spouse of the nonresident alien individual and who does not otherwise own stock in the foreign corporation (determined after the application of such attribution rules other than attribution through family membership), and

"(C) stock of a corporation owned by any foreign person shall not be considered by reason of attribution through partners as owned by a citizen or resident of the United States who does not otherwise own stock in the foreign corporation (determined after the application of such attribution rules and subparagraph (A), other than attribution through partners).

"(b) TAXPAYERS ELECTING CURRENT INCLUSION AND 25-PERCENT SHAREHOLDERS.—

"(1) IN GENERAL.—If a passive foreign corporation which is not United States controlled is a qualified electing fund with respect to any taxpayer or the taxpayer is a 25-percent shareholder in such corporation, then for purposes of subpart F of part III of subchapter N—

"(A) such passive foreign corporation shall be treated as a controlled foreign corporation with respect to such taxpayer,

"(B) such taxpayer shall be treated as a United States shareholder in such corporation, and

"(C) the modifications of clauses (iii) and (iv) of subsection (a)(1)(A) and of subparagraph (B) of subsection (a)(1) shall apply in determining the amount included under such subpart F in the gross income of such taxpayer (and the character of the amount so included).

For purposes of section 904(d), any amount included in the gross income of the taxpayer under the preceding sentence shall be treated as a dividend from a foreign corporation which is not a controlled foreign corporation.

"(2) QUALIFIED ELECTING FUND.—For purposes of this subpart, the term 'qualified electing fund' means any passive foreign corporation if—

"(A) an election by the taxpayer under paragraph (3) applies to such corporation for the taxable year of the taxpayer, and

"(B) such corporation complies with such requirements as the Secretary may prescribe for purposes of carrying out the purposes of this subpart.

"(3) ELECTION.—

"(A) IN GENERAL.—A taxpayer may make an election under this paragraph with respect to any passive foreign corporation for any taxable year of the taxpayer. Such an election, once made with respect to any corporation, shall apply to all subsequent taxable years of the taxpayer with respect to such corporation unless revoked by the taxpayer with the consent of the Secretary.

"(B) WHEN MADE.—An election under this subsection may be made for any taxable year of the taxpayer at any time on or before the due date (determined with regard to extensions) for filing the return of the tax imposed by this chapter for such taxable year. To the extent provided in regulations, such an election may be made later than as required in the preceding sentence where the taxpayer fails to make a timely election because the taxpayer reasonably believes that the corporation was not a passive foreign corporation.

"(4) 25-PERCENT SHAREHOLDER.—For purposes of this subpart, the term '25-percent shareholder' means, with respect to any passive foreign corporation, any United States person who owns (within the meaning of section 958(a)), or is considered as owning by applying the rules of section 958(b), 25 percent or more (by vote or value) of the stock of such corporation.

"SUBPART B—INTEREST ON HOLDINGS TO WHICH SUBPART A DOES NOT APPLY

"Sec. 1293. Interest on tax deferral.

"Sec. 1294. Definitions and special rules.

"SEC. 1293. INTEREST ON TAX DEFERRAL.

"(a) TREATMENT OF DISTRIBUTIONS AND STOCK DISPOSITIONS.—

"(1) DISTRIBUTIONS.—If a United States person receives an excess distribution in respect of stock to which this section applies, then—

"(A) the amount of the excess distribution shall be allocated ratably to each day in the taxpayer's holding period for the stock,

"(B) with respect to such excess distribution, the taxpayer's gross income for the current year shall include (as ordinary income) only the amounts allocated under subparagraph (A) to—

"(i) the current year, or

"(ii) any period in the taxpayer's holding period before the first day of the first taxable year of the corporation which begins after December 31, 1986, and for which it was a passive foreign corporation, and

"(C) the tax imposed by this chapter for the current year shall be increased by the deferred tax amount (determined under subsection (c)).

"(2) DISPOSITIONS.—If the taxpayer disposes of stock to which this section applies, then the rules of paragraph (1) shall apply to any gain recognized on such disposition in the same manner as if such gain were an excess distribution.

"(3) DEFINITIONS.—For purposes of this subpart—

"(A) HOLDING PERIOD.—The taxpayer's holding period shall be determined under section 1223; except that—

"(i) for purposes of applying this section to an excess distribution, such holding period shall be treated as ending on the date of such distribution, and

"(ii) if section 1291 applied to such stock with respect to the taxpayer for any prior taxable year, such holding period shall be treated as beginning on the first day of the first taxable year beginning after the last taxable year for which section 1291 so applied.

"(B) CURRENT YEAR.—The term 'current year' means the taxable year in which the excess distribution or disposition occurs.

"(b) EXCESS DISTRIBUTION.—

"(1) IN GENERAL.—For purposes of this section, the term 'excess distribution' means any distribution in respect of stock received during any taxable year to the extent such distribution does not exceed its ratable portion of the total excess distribution (if any) for such taxable year.

"(2) TOTAL EXCESS DISTRIBUTION.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'total excess distribution' means the excess (if any) of—

"(i) the amount of the distributions in respect of the stock received by the taxpayer during the taxable year, over

"(ii) 125 percent of the average amount received in respect of such stock by the taxpayer during the 3 preceding taxable years (or, if shorter, the portion of the taxpayer's holding period before the taxable year).

For purposes of clause (ii), any excess distribution received during such 3-year period shall be taken into account only to the extent it was included in gross income under subsection (a)(1)(B).

"(B) NO EXCESS FOR FIRST YEAR.—The total excess distributions with respect to any stock shall be zero for the taxable year in which the taxpayer's holding period in such stock begins.

"(3) ADJUSTMENTS.—Under regulations prescribed by the Secretary—

"(A) determinations under this subsection shall be made on a share-by-share basis, except that shares with the same holding period may be aggregated,

"(B) proper adjustments shall be made for stock splits and stock dividends,

"(C) if the taxpayer does not hold the stock during the entire taxable year, distributions received during such year shall be annualized,

"(D) if the taxpayer's holding period includes periods during which the stock was

held by another person, distributions received by such other person shall be taken into account as if received by the taxpayer,

"(E) if the distributions are received in a foreign currency, determinations under this subsection shall be made in such currency and the amount of any excess distribution determined in such currency shall be translated into dollars,

"(F) proper adjustment shall be made for amounts not includable in gross income by reason of section 959(a) or for which a deduction is allowable under section 245(c), and

"(G) if a charitable deduction was allowable under section 642(c) to a trust for any distribution of its income, proper adjustments shall be made for the deduction so allowable to the extent allocable to distributions or gain in respect of stock in a passive foreign corporation.

For purposes of subparagraph (F), any amount not includible in gross income by reason of section 551(d) (as in effect on January 1, 1992) or 1293(c) (as so in effect) shall be treated as an amount not includable in gross income by reason of section 959(a).

"(c) DEFERRED TAX AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—The term 'deferred tax amount' means, with respect to any distribution or disposition to which subsection (a) applies, an amount equal to the sum of—

"(A) the aggregate increases in taxes described in paragraph (2), plus

"(B) the aggregate amount of interest (determined in the manner provided under paragraph (3)) on such increases in tax.

Any increase in the tax imposed by this chapter for the current year under subsection (a) to the extent attributable to the amount referred to in subparagraph (B) shall be treated as interest paid under section 6601 on the due date for the current year.

"(2) AGGREGATE INCREASES IN TAXES.—For purposes of paragraph (1)(A), the aggregate increases in taxes shall be determined by multiplying each amount allocated under subsection (a)(1)(A) to any taxable year (other than the current year) by the highest rate of tax in effect for such taxable year under section 1 or 11, whichever applies.

"(3) COMPUTATION OF INTEREST.—

"(A) IN GENERAL.—The amount of interest referred to in paragraph (1)(B) on any increase determined under paragraph (2) for any taxable year shall be determined for the period—

"(i) beginning on the due date for such taxable year, and

"(ii) ending on the due date for the taxable year with or within which the distribution or disposition occurs,

by using the rates and method applicable under section 6621 for underpayments of tax for such period.

"(B) DUE DATE.—For purposes of this subsection, the term 'due date' means the date prescribed by law (determined without regard to extensions) for filing the return of the tax imposed by this chapter for the taxable year.

"(C) SPECIAL RULE.—For purposes of determining the amount of interest referred to in paragraph (1)(B), the amount of any increase in tax determined under paragraph (2) shall be determined without regard to any reduction under section 1294(d) for a tax described in paragraph (2)(A)(ii) thereof.

"SEC. 1294. DEFINITIONS AND SPECIAL RULES.

"(a) STOCK TO WHICH SECTION 1293 APPLIES.—

"(1) IN GENERAL.—Except as otherwise provided in this paragraph, section 1293 shall apply to any stock in a passive foreign corporation unless—

"(A) such stock is marketable stock as of the time of the distribution or disposition involved, or

"(B)(i) with respect to each of such corporation's taxable years which begin after December 31, 1992, and include any portion of the taxpayer's holding period in such stock—

"(I) such corporation was U.S. controlled (within the meaning of section 1292(a)(2)), or

"(II) such corporation was treated as a controlled foreign corporation under section 1292(b) with respect to the taxpayer, and

"(ii) with respect to each of such corporation's taxable years which begin after December 31, 1986, and before January 1, 1993, and include any portion of the taxpayer's holding period in such stock, such corporation was treated as a qualified electing fund under this part (as in effect on January 1, 1992) with respect to the taxpayer.

"(2) TREATMENT WHERE STOCK BECOMES MARKETABLE.—If any stock in a passive foreign corporation becomes marketable stock after the beginning of the taxpayer's holding period in such stock, section 1293 shall apply to—

"(A) any distributions with respect to, or disposition of, such stock in the taxable year of the taxpayer in which it becomes so marketable, and

"(B) any amount which, but for section 1293, would have been included in gross income under section 1291(a) with respect to such stock for such taxable year in the same manner as if such amount were gain on the disposition of such stock.

"(3) ELECTION TO RECOGNIZE GAIN WHERE COMPANY BECOMES SUBJECT TO CURRENT INCLUSIONS.—

"(A) IN GENERAL.—If—

"(i) a passive foreign corporation first meets the requirements of clause (i) of paragraph (1)(B) with respect to the taxpayer for a taxable year of such taxpayer which begins after December 31, 1992,

"(ii) the taxpayer holds stock in such company on the first day of such taxable year, and

"(iii) the taxpayer establishes to the satisfaction of the Secretary the fair market value of such stock on such first day,

the taxpayer may elect to recognize gain as if he sold such stock on such first day for such fair market value.

"(B) ADDITIONAL ELECTION FOR SHAREHOLDER OF CONTROLLED FOREIGN CORPORATIONS.—

"(i) IN GENERAL.—If—

"(I) a passive foreign corporation first meets the requirements of subclause (I) of paragraph (1)(B)(i) with respect to the taxpayer for a taxable year of such taxpayer which begins after December 31, 1992,

"(II) the taxpayer holds stock in such corporation on the first day of such taxable year, and

"(III) such corporation is a controlled foreign corporation without regard to this part,

the taxpayer may elect to be treated as receiving a dividend on such first day in an amount equal to the portion of the post-1986 earnings and profits of such corporation attributable (under regulations prescribed by the Secretary) to the stock in such corporation held by the taxpayer on such first day. The amount treated as a dividend under the preceding sentence shall be treated as an excess distribution and shall be allocated under section 1293(a)(1)(A) only two days during periods taken into account in determining the post-1986 earnings and profits so attributable.

"(ii) POST-1986 EARNINGS AND PROFITS.—For purposes of clause (i), the term 'post-1986 earnings and profits' means earnings and profits which were accumulated in taxable years of the corporation beginning after December 31, 1986, and during the period or periods the stock was held by the taxpayer while the corporation was a passive foreign corporation.

"(iii) COORDINATION WITH SECTION 959(e).—For purposes of section 959(e), any amount treated as a dividend under this subparagraph shall be treated as included in gross income under section 1248(a).

"(C) ADJUSTMENTS.—In the case of any stock to which subparagraph (A) or (B) applies—

"(i) the adjusted basis of such stock shall be increased by the gain recognized under subparagraph (A) or the amount treated as a dividend under subparagraph (B), as the case may be, and

"(ii) the taxpayer's holding period in such stock shall be treated as beginning on the first day referred to in such subparagraph.

"(b) RULES RELATING TO STOCK ACQUIRED FROM A DECEDENT.—

"(1) BASIS.—In the case of stock of a passive foreign corporation acquired by bequest, devise, or inheritance (or by the decedent's estate), notwithstanding section 1014, the basis of such stock in the hands of the person so acquiring it shall be the adjusted basis of such stock in the hands of the decedent immediately before his death (or, if lesser, the basis which would have been determined under section 1014 without regard to this paragraph).

"(2) DEDUCTION FOR ESTATE TAX.—If stock in a passive foreign corporation is acquired from a decedent, the taxpayer shall, under regulations prescribed by the Secretary, be allowed (for the taxable year of the sale or exchange) a deduction from gross income equal to that portion of the decedent's estate tax deemed paid which is attributable to the excess of (A) the value at which such stock was taken into account for purposes of determining the value of the decedent's gross estate, over (B) the basis determined under paragraph (1).

"(3) EXCEPTIONS.—This subsection shall not apply to any stock in a passive foreign corporation if—

"(A) section 1293 would not have applied to a disposition of such stock by the decedent immediately before his death, or

"(B) the decedent was a nonresident alien at all times during his holding period in such stock.

"(c) RECOGNITION OF GAIN.—Except as otherwise provided in regulations, in the case of any transfer of stock in a passive foreign company to which section 1293 applies, where (but for this subsection) there is not full recognition of gain, the excess (if any) of—

"(1) the fair market value of such stock, over

"(2) its adjusted basis,

shall be treated as gain from the sale or exchange of such stock and shall be recognized notwithstanding any provision of law. Proper adjustment shall be made to the basis of property for gain recognized under the preceding sentence.

"(d) COORDINATION WITH FOREIGN TAX CREDIT RULES.—

"(1) IN GENERAL.—If there are creditable foreign taxes with respect to any distribution in respect of stock in a passive foreign corporation—

"(A) the amount of such distribution shall be determined for purposes of section 1293 with regard to section 78,

"(B) the excess distribution taxes shall be allocated ratably to each day in the taxpayer's holding period for the stock, and

"(C) to the extent—

"(i) that such excess distribution taxes are allocated to a taxable year referred to in section 1293(a)(1)(B), such taxes shall be taken into account under section 901 for the current year, and

"(ii) that such excess distribution taxes are allocated to any other taxable year, such taxes shall reduce (subject to the principles of section 904 and not below zero) the increase in tax determined under section 1293(c)(2) for such taxable year by reason of such distribution (but such taxes shall not be taken into account under section 901).

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) CREDITABLE FOREIGN TAXES.—The term 'creditable foreign taxes' means, with respect to any distribution—

"(i) any foreign taxes deemed paid under section 902 with respect to such distribution, and

"(ii) any withholding tax imposed with respect to such distribution,

but only if the taxpayer chooses the benefits of section 901 and such taxes are creditable under section 901 (determined without regard to paragraph (1)(C)(ii)).

"(B) EXCESS DISTRIBUTION TAXES.—The term 'excess distribution taxes' means, with respect to any distribution, the portion of the creditable foreign taxes with respect to such distribution which is attributable (on a pro rata basis) to the portion of such distribution which is an excess distribution.

"(C) SECTION 1248 GAIN.—The rules of this subsection also shall apply in the case of any gain which but for this section would be includible in gross income as a dividend under section 1248.

"(e) ATTRIBUTION OF OWNERSHIP.—For purposes of this subpart—

"(1) ATTRIBUTION TO UNITED STATES PERSONS.—This subsection—

"(A) shall apply to the extent that the effect is to treat stock of a passive foreign corporation as owned by a United States person, and

"(B) except as provided in paragraph (3) or in regulations, shall not apply to treat stock owned (or treated as owned under this subsection) by a United States person as owned by any other person.

"(2) CORPORATIONS.—

"(A) IN GENERAL.—If 50 percent or more in value of the stock of a corporation (other than an S corporation) is owned, directly or indirectly, by or for any person, such person shall be considered as owning the stock owned directly or indirectly by or for such corporation in that proportion which the value of the stock which such person so owns bears to the value of all stock in the corporation.

"(B) 50-PERCENT LIMITATION NOT TO APPLY IN CERTAIN CASES.—For purposes of determining whether a shareholder of a passive foreign corporation (or whether a United States shareholder of a controlled foreign corporation which is not a passive foreign corporation) is treated as owning stock owned directly or indirectly by or for such corporation, subparagraph (A) shall be applied without regard to the 50-percent limitation contained therein.

"(C) FAMILY AND PARTNER ATTRIBUTION FOR 50-PERCENT LIMITATION.—For purposes of determining whether the 50-percent limitation of subparagraph (A) is met, the constructive ownership rules of section 544(a)(2) shall apply in addition to the other rules of this subsection.

"(3) PARTNERSHIPS, ETC.—Except as provided in regulations, stock owned, directly or indirectly, by or for a partnership, S corporation, estate, or trust shall be considered as being owned proportionately by its partners, shareholders, or beneficiaries (as the case may be).

"(4) OPTIONS.—To the extent provided in regulations, if any person has an option to acquire stock, such stock shall be considered as owned by such person. For purposes of this paragraph, an option to acquire such an option, and each one of a series of such options, shall be considered as an option to acquire such stock.

"(5) SUCCESSIVE APPLICATION.—Stock considered to be owned by a person by reason of the application of paragraph (2), (3), or (4) shall, for purposes of applying such paragraphs, be considered as actually owned by such person.

"(f) OTHER SPECIAL RULES.—For purposes of this subpart—

"(1) TIME FOR DETERMINATION.—Stock held by a taxpayer shall be treated as stock in a passive foreign corporation if, at any time during the holding period of the taxpayer with respect to such stock, such corporation (or any predecessor) was a passive foreign corporation. The preceding sentence shall not apply if the taxpayer elects to recognize gain (as of the last day of the last taxable year for which the company was a passive foreign corporation) under rules similar to the rules of subsection (a)(3)(A).

"(2) APPLICATION OF SUBPART WHERE STOCK HELD BY OTHER ENTITY.—Under regulations—

"(A) IN GENERAL.—In any case in which a United States person is treated as owning stock in a passive foreign corporation by reason of subsection (e)—

"(i) any transaction which results in the United States person being treated as no longer owning such stock,

"(ii) any disposition of such stock by the person owning such stock, and

"(iii) any distribution of property in respect of such stock to the person holding such stock,

shall be treated as a disposition by, or distribution to, the United States person with respect to the stock in the passive foreign corporation.

"(B) AMOUNT TREATED IN SAME MANNER AS PREVIOUSLY TAXED INCOME.—Rules similar to the rules of section 959(b) shall apply to any amount described in subparagraph (A) in respect of stock which the taxpayer is treated as owning under subsection (e).

"(C) COORDINATION WITH SECTION 951.—If, but for this subparagraph, an amount would be taken into account under section 1293 by reason of subparagraph (A) and such amount would also be included in the gross income of the taxpayer under section 951, such amount shall only be taken into account under section 1293.

"(3) DISPOSITIONS.—Except as provided in regulations, if a taxpayer uses any stock in a passive foreign corporation as security for a loan, the taxpayer shall be treated as having disposed of such stock.

"SUBPART C—GENERAL PROVISIONS

"Sec. 1296. Passive foreign corporation.

"Sec. 1297. Special rules.

"SEC. 1296. PASSIVE FOREIGN CORPORATION.

"(a) IN GENERAL.—For purposes of this part, except as otherwise provided in this subpart, the term 'passive foreign corporation' means any foreign corporation if—

"(1) 60 percent or more of the gross income of such corporation for the taxable year is passive income,

"(2) the average percentage of assets (by value) held by such corporation during the taxable year which produce passive income or which are held for the production of passive income is at least 50 percent, or

"(3) such corporation is registered under the Investment Company Act of 1940, as amended (15 U.S.C. 80a-1 to 80b-2), either as a management company or as a unit investment trust.

A foreign corporation may elect to have the determination under paragraph (2) based on the adjusted bases of its assets in lieu of their value. Such an election, once made, may be revoked only with the consent of the Secretary.

"(b) PASSIVE INCOME.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'passive income' means any income which is of a kind which would be foreign personal holding company income as defined in section 954(c) without regard to paragraph (3) thereof.

"(2) EXCEPTIONS.—Except as provided in regulations, the term 'passive income' does not include any income—

"(A) derived in the active conduct of a banking business by an institution licensed to do business as a bank in the United States (or, to the extent provided in regulations, by any other corporation),

"(B) derived in the active conduct of an insurance business by a corporation which is predominantly engaged in an insurance business and which would be subject to tax under subchapter L if it were a domestic corporation,

"(C) which is interest, a dividend, or a rent or royalty, which is received or accrued from a related person (within the meaning of section 954(d)(3)) to the extent such amount is properly allocable (under regulations prescribed by the Secretary) to income of such related person which is not passive income, or

"(D) any foreign trade income of a FSC.

For purposes of subparagraph (C), the term 'related person' has the meaning given such term by section 954(d)(3) determined by substituting 'foreign corporation' for 'controlled foreign corporation' each place it appears in section 954(d)(3).

"(3) TREATMENT OF INCOME FROM CERTAIN ASSETS.—To the extent that any asset is properly treated as not held for the production of passive income for purposes of subsection (a)(2), all income from such asset shall be treated as income which is not passive income.

"(c) LOOK-THROUGH IN CASE OF 25-PERCENT OWNED CORPORATION.—If a foreign corporation owns (directly or indirectly) at least 25 percent (by value) of the stock of another corporation, for purposes of determining whether such foreign corporation is a passive foreign corporation, such foreign corporation shall be treated as if it—

"(1) held its proportionate share of the assets of such other corporation, and

"(2) received directly its proportionate share of the income of such other corporation.

"SEC. 1297. SPECIAL RULES.

"(a) UNITED STATES PERSON.—For purposes of this part, the term 'United States person' has the meaning given to such term by section 7701(a)(30).

"(b) CONTROLLED FOREIGN CORPORATION.—For purposes of this part, the term 'controlled foreign corporation' has the meaning given such term by section 957(a).

"(c) MARKETABLE STOCK.—For purposes of this part—

"(1) IN GENERAL.—The term 'marketable stock' means—

"(A) any stock which is regularly traded on—

"(i) a national securities exchange which is registered with the Securities and Exchange Commission or the national market system established pursuant to section 11A of the Securities and Exchange Act of 1934, or

"(ii) any exchange or other market which the Secretary determines has rules adequate to carry out the purposes of this part, and

"(B) to the extent provided in regulations, stock in any foreign corporation which is comparable to a regulated investment company and which offers for sale or has outstanding any stock of which it is the issuer and which is redeemable at its net asset value.

"(2) SPECIAL RULE FOR REGULATED INVESTMENT COMPANIES.—In the case of any regulated investment company which is offering for sale or has outstanding any stock of which it is the issuer and which is redeemable at its net asset value, all stock in a passive foreign corporation which it owns (or is treated under section 1291(g) as owning) shall be treated as marketable stock for purposes of this part. Except as provided in regulations, a similar rule shall apply in the case of any other regulated investment company.

"(d) OTHER SPECIAL RULES.—For purposes of this part—

"(1) CERTAIN CORPORATIONS NOT TREATED AS PASSIVE.—A corporation shall not be treated as a passive foreign corporation for the 1st taxable year such corporation has gross income (hereinafter in this paragraph referred to as the 'start-up year') if—

"(A) no predecessor of such corporation was a passive foreign corporation,

"(B) it is established to the satisfaction of the Secretary that such corporation will not be a passive foreign corporation for either of the 1st 2 taxable years following the start-up year, and

"(C) such corporation is not a passive foreign corporation for either of the 1st 2 taxable years following the start-up year.

"(2) CERTAIN CORPORATIONS CHANGING BUSINESSES.—A corporation shall not be treated as a passive foreign corporation for any taxable year if—

"(A) neither such corporation (nor any predecessor) was a passive foreign corporation for any prior taxable year,

"(B) it is established to the satisfaction of the Secretary that—

"(i) substantially all of the passive income of the corporation for the taxable year is attributable to proceeds from the disposition of 1 or more active trades or businesses, and

"(ii) such corporation will not be a passive foreign corporation for either of the 1st 2 taxable years following the taxable year, and

"(C) such corporation is not a passive foreign corporation for either of such 2 taxable years.

For purposes of section 1296(c), any passive income referred to in subparagraph (B)(i) shall be treated as income which is not passive income and any assets which produce income so described shall be treated as assets producing income other than passive income.

"(3) TREATMENT OF CERTAIN FOREIGN CORPORATIONS OWNING STOCK IN 25-PERCENT OWNED DOMESTIC CORPORATION.—

"(A) IN GENERAL.—If a foreign corporation owns at least 25 percent (by value) of the stock of a domestic corporation, for purposes of determining whether such foreign corporation is a passive foreign corporation, any qualified stock held by such domestic corporation shall be treated as an asset which does not produce passive income (and is not held for the production of passive income) and any amount included in gross income with respect to such stock shall not be treated as passive income.

"(B) QUALIFIED STOCK.—For purposes of subparagraph (A), the term 'qualified stock' means any stock in a C corporation which is a domestic corporation and which is not a regulated investment company or real estate investment trust.

"(4) TREATMENT OF CORPORATION WHICH WAS A PFIC.—A corporation shall be treated as a passive foreign corporation for any taxable year beginning before January 1, 1993, if and only if such corporation was a passive foreign investment company under this part as in effect for such taxable year.

"(5) SEPARATE INTERESTS TREATED AS SEPARATE CORPORATIONS.—Under regulations prescribed by the Secretary, where necessary to carry out the purposes of this part, separate classes of stock (or other interests) in a corporation shall be treated as interests in separate corporations.

"(e) TREATMENT OF CERTAIN LEASED PROPERTY.—For purposes of section 1296(a)(2)—

"(1) IN GENERAL.—Any tangible personal property with respect to which the foreign corporation is the lessee under a lease with a term of at least 12 months shall be treated as an asset actually held by such corporation.

"(2) DETERMINATION OF VALUE.—

"(A) IN GENERAL.—The value of any asset to which paragraph (1) applies shall be the lesser of—

"(i) the fair market value of such property, or

"(ii) the unamortized portion (as determined under regulations prescribed by the Secretary) of the present value of the payments under the lease for the use of such property.

"(B) PRESENT VALUE.—For purposes of subparagraph (A), the present value of payments described in subparagraph (A)(ii) shall be determined in the manner provided in regulations prescribed by the Secretary—

"(i) as of the beginning of the lease term, and

"(ii) except as provided in such regulations, by using a discount rate equal to the applicable Federal rate determined under section 1274(d)—

"(I) by substituting the lease term for the term of the debt instrument, and

"(II) without regard to paragraph (2) or (3) thereof.

"(3) EXCEPTIONS.—This subsection shall not apply in any case where—

"(A) the lessor is a related person (as defined in the last sentence of section 1296(b)(2)) with respect to the foreign corporation, or

"(B) a principal purpose of leasing the property was to avoid the provisions of this part.

"(f) ELECTION BY CERTAIN PASSIVE FOREIGN CORPORATIONS TO BE TREATED AS A DOMESTIC CORPORATION.—

"(1) IN GENERAL.—For purposes of this title, if—

"(A) a passive foreign corporation would qualify as a regulated investment company under part I of subchapter M if such passive foreign corporation were a domestic corporation,

"(B) such passive foreign corporation meets such requirements as the Secretary shall prescribe to ensure that the taxes imposed by this title on such passive foreign corporation are paid, and

"(C) such passive foreign corporation makes an election to have this paragraph apply and waives all benefits which are granted by the United States under any treaty and to which such corporation would otherwise be entitled by reason of being a resident of another country,

such corporation shall be treated as a domestic corporation.

"(2) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of paragraphs (2), (3), (4)(A), and (5) of section 953(d) shall apply with respect to any corporation making an election under paragraph (1).

"(g) SPECIAL RULES FOR CERTAIN TAXPAYERS.—

"(1) TAX-EXEMPT ORGANIZATIONS.—In the case of any organization exempt from tax under section 501—

"(A) this part shall apply to any stock in a passive foreign corporation owned (or treated as owned under section 1294(e)) by such organization only to the extent that a dividend on such stock would be taken into account in determining the unrelated business taxable income of such organization, and

"(B) to the extent that this part applies to any such stock, this part shall be applied in the same manner as if such organization were not exempt from tax under section 501(a).

"(2) TREATMENT OF STOCK HELD BY POOLED INCOME FUND.—If stock in a passive foreign corporation is owned (or treated as owned under section 1294(e)) by a pooled income fund (as defined in section 642(c)(5)) and no portion of any gain from a disposition of such stock may be allocated to income under the terms of the governing instrument of such fund—

"(A) section 1293 shall not apply to any gain on a disposition of such stock by such fund if (without regard to section 1293) a deduction would be allowable with respect to such gain under section 642(c)(3),

"(B) subpart A shall not apply with respect to such stock, and

"(C) in determining whether section 1293 applies to any distribution in respect of such stock, such stock shall be treated as failing to qualify for the exceptions under section 1294(a)(1).

"(h) INFORMATION FROM SHAREHOLDERS.—Every United States person who owns stock in any passive foreign corporation shall furnish with respect to such corporation such information as the Secretary may prescribe.

"(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including regulations—

"(1) providing that gross income shall be determined without regard to section 1293 for such purposes as may be specified in such regulations, and

"(2) to prevent avoidance of the provisions of this part through changes in citizenship or residence status."

(b) INSTALLMENT SALES TREATMENT NOT AVAILABLE.—Paragraph (2) of section 453(k) is amended by striking "or" at the end of subparagraph (A), by inserting "or" at the end of subparagraph (B), and by adding at the end thereof the following new subparagraph:

"(C) stock in a passive foreign corporation (as defined in section 1296) if section 1293 applies to such sale,".

(c) TREATMENT OF MARK-TO-MARKET GAIN UNDER SECTION 4982.—

(1) Subsection (e) of section 4982 is amended by adding at the end thereof the following new paragraph:

"(6) TREATMENT OF GAIN RECOGNIZED UNDER SECTION 1291.—For purposes of determining a regulated investment company's ordinary income—

"(A) notwithstanding paragraph (1)(C), section 1291 shall be applied as if such company's taxable year ended on October 31, and

"(B) any ordinary gain or loss from an actual disposition of stock in a passive foreign corporation during the portion of the calendar year after October 31 shall be taken into account in determining such company's ordinary income for the following calendar year.

In the case of a company making an election under paragraph (4), the preceding sentence shall be applied by substituting the last day of the company's taxable year for October 31."

(2) Subsection (b) of section 852 is amended by adding at the end thereof the following new paragraph:

"(10) SPECIAL RULE FOR CERTAIN LOSSES ON STOCK IN PASSIVE FOREIGN CORPORATIONS.—To the extent provided in regulations, the taxable income of a regulated investment company (other than a company to which an election under section 4982(e)(4) applies) shall be computed without regard to any net reduction in the value of any stock of a passive foreign corporation to which section 1291 applies occurring after October 31 of the taxable year, and any such reduction shall be treated as occurring on the first day of the following taxable year."

(3) Subsection (c) of section 852 is amended by inserting after "October 31 of such year" the following: ", without regard to any net reduction in the value of any stock of a passive foreign corporation to which section 1291 applies occurring after December 31 of such year,".

(d) TREATMENT OF CERTAIN PREVIOUSLY TAXED AMOUNTS.—Subsection (e) of section 959 is amended—

(1) by adding at the end thereof the following new sentence: "A similar rule shall apply in the case of amounts included in gross income under section 1293 (as in effect on January 1, 1992).", and

(2) by striking "AMOUNTS PREVIOUSLY TAXED UNDER SECTION 1248" in the subsection heading and inserting "CERTAIN PREVIOUSLY TAXED AMOUNTS".

SEC. 4403. TECHNICAL AND CONFORMING AMENDMENTS.

(a) GENERAL RULE.—

(1) Paragraph (2) of section 171(c) is amended—

(A) by striking ", or by a foreign personal holding company, as defined in section 552", and

(B) by striking ", or a foreign personal holding company".

(2) Section 312 is amended by striking subsection (j).

(3) Subsection (m) of section 312 is amended by striking ", a foreign investment company (within the meaning of section 1246(b)), or a foreign personal holding company (within the meaning of section 552)" and inserting "or a passive foreign corporation (as defined in section 1296)".

(4) Subsection (e) of section 443 is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(5) Clause (ii) of section 465(c)(7)(B) is amended to read as follows:

"(ii) a passive foreign corporation with respect to which the stock ownership requirements of section 1292(a)(2)(B) are met, or".

(6) Subsection (b) of section 535 is amended by striking paragraph (9).

(7) Subsection (d) of section 535 is hereby repealed.

(8) Paragraph (1) of section 543(b) is amended by inserting "and" at the end of subparagraph (A), by striking ", and" at the end of subparagraph (B) and inserting a period, and by striking subparagraph (C).

(9) Paragraph (1) of section 562(b) is amended by striking "or a foreign personal holding company described in section 552".

(10) Section 563 is amended—

(A) by striking subsection (c),

(B) by redesignating subsection (d) as subsection (c), and

(C) by striking "subsection (a), (b), or (c)" in subsection (c) (as so redesignated) and inserting "subsection (a) or (b)".

(11) Paragraph (2) of section 751(d) is amended by striking "subsection (a) of section 1246 (relating to gain on foreign investment company stock)" and inserting "section 1291 (relating to stock in certain passive foreign corporations marked to market)".

(12) Subsection (b) of section 851 is amended by striking the sentence following paragraph (4)(B) which contains a reference to section 1293(a).

(13) Subsection (d) of section 904 is amended by striking paragraphs (2)(A)(ii), (2)(E)(iii), and (3)(I).

(14)(A) Subparagraph (A) of section 904(g)(1) is amended to read as follows:

"(A) Any amount included in gross income under section 951(a) (relating to amounts included in gross income of United States shareholders)."

(B) The paragraph heading of paragraph (2) of section 904(g) is amended by striking "AND FOREIGN PERSONAL HOLDING OR PASSIVE FOREIGN INVESTMENT COMPANY".

(15) Section 951 is amended by striking subsections (c), (d), and (f), and by redesignating subsection (e) as subsection (c).

(16) Paragraph (1) of section 986(c) is amended by striking "or 1293(c)".

(17) Paragraph (3) of section 989(b) is amended by striking ", 551(a), or 1293(a)".

(18) Paragraph (5) of section 1014(b) is hereby repealed.

(19) Subsection (a) of section 1016 is amended by striking paragraph (13) and by redesignating the following paragraphs accordingly.

(20) Paragraph (3) of section 1212(a) is amended—

(A) by striking subparagraph (A),

(B) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively, and

(C) by amending subparagraph (D) to read as follows:

"(C) for which it is a passive foreign corporation."

(21) Section 1223 is amended by striking paragraph (10) and by redesignating the following paragraphs accordingly.

(22) Subsection (d) of section 1248 is amended by striking paragraphs (5) and (7).

(23)(A) Subsection (a) of section 6035 is amended by striking "foreign personal holding company (as defined in section 552)" and inserting "passive foreign corporation with respect to which the stock ownership requirements of section 1292(a)(2)(B) are met".

(B) The section heading for section 6035 is amended by striking **"foreign personal holding companies" and inserting "closely held passive foreign corporations",.**

(C) The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by striking "foreign personal holding companies" in the item relating to section 6035 and inserting 'closely-held passive foreign corporations".

(24) Subparagraph (D) of section 6103(e)(1) is amended by striking clause (iv) and redesignating clauses (v) and (vi) as clauses (iv) and (v), respectively.

(25) Subparagraph (B) of section 6501(e)(1) is amended to read as follows:

"(B) CONSTRUCTIVE DIVIDENDS.—If the taxpayer omits from gross income an amount properly includible therein under section 951(a), the tax may be assessed, or a proceeding in court for the collection of such tax may be done without assessing, at any time within 6 years after the return was filed."

(26) Section 4947 and section 4948(c)(4) are each amended by striking "556(b)(2)," each place it appears.

(b) CLERICAL AMENDMENTS.—

(1) The table of parts for subchapter G of chapter 1 is amended by striking the item relating to part III.

(2) The table of sections for part IV of subchapter P of chapter 1 is amended by striking the items relating to sections 1246 and 1247.

(3) The table of parts for subchapter P of chapter 1 is amended by striking the item relating to part VI and inserting the following:

"Part VI. Treatment of passive foreign corporations."

SEC. 4404. EFFECTIVE DATE.

(a) GENERAL RULE.—Except as otherwise provided in this section, the amendments made by this part shall apply to—

(1) taxable years of United States persons beginning after December 31, 1992, and

(2) taxable years of foreign corporations ending with or within such taxable years of United States persons.

(b) DENIAL OF INSTALLMENT SALES TREATMENT.—The amendment made by section 3402(b) shall apply to dispositions after December 31, 1992.

(c) BASIS RULE.—The amendments made by this part shall not affect the determination of the basis of any stock acquired from a decedent in a taxable year beginning before January 1, 1993.

PART II—TREATMENT OF CONTROLLED FOREIGN CORPORATIONS

SEC. 4411. GAIN ON CERTAIN STOCK SALES BY CONTROLLED FOREIGN CORPORATIONS TREATED AS DIVIDENDS.

(a) GENERAL RULE.—Section 964 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new subsection:

"(f) GAIN ON CERTAIN STOCK SALES BY CONTROLLED FOREIGN CORPORATIONS TREATED AS DIVIDENDS.—

"(1) IN GENERAL.—If a controlled foreign corporation sells or exchanges stock in any other foreign corporation, gain recognized on such sale or exchange shall be included in the gross income of such controlled foreign corporation as a dividend to the same extent that it would have been so included under section 1248(a) if such controlled foreign corporation were a United States person. For purposes of determining the amount which would have been so includible, the determination of whether such other foreign corporation was a controlled foreign corporation shall be made without regard to the preceding sentence.

"(2) SAME COUNTRY EXCEPTION NOT APPLICABLE.—Clause (i) of section 954(c)(3)(A) shall not apply to any amount treated as a dividend by reason of paragraph (1).

"(3) CLARIFICATION OF DEEMED SALES.—For purposes of this subsection, a controlled foreign corporation shall be treated as having sold or exchanged any stock if, under any provision of this subtitle, such controlled foreign corporation is treated as having gain from the sale or exchange of such stock.".

(b) AMENDMENT OF SECTION 904(d).—Clause (i) of section 904(d)(2)(E) is amended by striking "and except as provided in regulations, the taxpayer was a United States shareholder in such corporation".

(c) EFFECTIVE DATES.—

(1) The amendment made by subsection (a) shall apply to gain recognized on transactions occurring after the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall apply to distributions after the date of the enactment of this Act

SEC. 4412. AUTHORITY TO PRESCRIBE SIMPLIFIED METHOD FOR APPLYING SECTION 960(b)(2).

(a) GENERAL RULE.—Paragraph (2) of section 960(b) is amended by adding at the end thereof the following new sentence: "The Secretary may prescribe regulations requiring the use of simplified methods set forth in such regulations for determining the amount of the increase referred to in the preceding sentence."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 4413. MISCELLANEOUS MODIFICATIONS TO SUBPART F.

(a) SECTION 1248 GAIN TAKEN INTO ACCOUNT IN DETERMINING PRO RATA SHARE.—

(1) IN GENERAL.—Paragraph (2) of section 951(a) (defining pro rata share of subpart F income) is amended by adding at the end thereof the following new sentence: "For purposes of subparagraph (B), any gain included in the gross income of any person as a dividend under section 1248 shall be treated as a distribution received by such person with respect to the stock involved."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to dispositions after the date of the enactment of this Act.

(b) BASIS ADJUSTMENTS IN STOCK HELD BY FOREIGN CORPORATION.—

(1) IN GENERAL.—Section 961 (relating to adjustments to basis of stock in controlled foreign corporations and of other property) is amended by adding at the end thereof the following new subsection:

"(c) BASIS ADJUSTMENTS IN STOCK HELD BY FOREIGN CORPORATION.—Under regulations prescribed by the Secretary, if a United States shareholder is treated under section 958(a)(2) as owning any stock in a controlled foreign corporation which is actually owned by another controlled foreign corporation, adjustments similar to the adjustments provided by subsections (a) and (b) shall be made to the basis of such stock in the hands of such other controlled foreign corporation, but only for the purposes of determining the amount included under section 951 in the gross income of such United States shareholder (or any other United States shareholder who acquires from any person any portion of the interest of such United States shareholder by reason of which such shareholder was treated as owning such stock, but only to the extent of such portion, and subject to such proof of identity of such interest as the Secretary may prescribe by regulations)."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply for purposes of determining inclusions for taxable years of United States shareholders beginning after December 31, 1992.

(c) DETERMINATION OF PREVIOUSLY TAXED INCOME IN SECTION 304 DISTRIBUTIONS, ETC.—

(1) IN GENERAL.—Section 959 (relating to exclusion from gross income of previously taxed earnings and profits) is amended by adding at the end thereof the following new subsection:

"(f) ADJUSTMENTS FOR CERTAIN TRANSACTIONS.—If by reason of—

"(1) a transaction to which section 304 applies,

"(2) the structure of a United States shareholder's holdings in controlled foreign corporations, or

"(3) other circumstances,

there would be a multiple inclusion of any item in income (or an inclusion or exclusion without an appropriate basis adjustment) by reason of this subpart, the Secretary may prescribe regulations providing such modifications in the application of this subpart as may be necessary to eliminate such multiple inclusion or provide such basis adjustment, as the case may be."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(d) CLARIFICATION OF TREATMENT OF BRANCH TAX EXEMPTIONS OR REDUCTIONS.—

(1) IN GENERAL.—Subsection (b) of section 952 is amended by adding at the end thereof the following new sentence: "For purposes of this subsection, any exemption (or reduction) with respect to the tax imposed by section 884 shall not be taken into account."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1986.

SEC. 4414. INDIRECT FOREIGN TAX CREDIT ALLOWED FOR CERTAIN LOWER TIER COMPANIES.

(a) SECTION 902 CREDIT.—

(1) IN GENERAL.—Subsection (b) of section 902 (relating to deemed taxes increased in case of certain 2nd and 3rd tier foreign corporations) is amended to read as follows:

"(b) DEEMED TAXES INCREASED IN CASE OF CERTAIN LOWER TIER CORPORATIONS.—

"(1) IN GENERAL.—If—

"(A) any foreign corporation is a member of a qualified group, and

"(B) such foreign corporation owns 10 percent or more of the voting stock of another member of such group from which it receives dividends in any taxable year,

such foreign corporation shall be deemed to have paid the same proportion of such other member's post-1986 foreign income taxes as would be determined under subsection (a) if such foreign corporation were a domestic corporation.

"(2) QUALIFIED GROUP.—For purposes of paragraph (1), the term 'qualified group' means—

"(A) the foreign corporation described in subsection (a), and

"(B) any other foreign corporation if—

"(i) the domestic corporation owns at least 5 percent of the voting stock of such other foreign corporation indirectly through a chain of foreign corporations connected through stock ownership of at least 10 percent of their voting stock,

"(ii) the foreign corporation described in subsection (a) is the first tier corporation in such chain, and

"(iii) such other corporation is not below the sixth tier in such chain,

The term 'qualified group' shall not include any foreign corporation below the third tier in the chain referred to in clause (i) unless such foreign corporation is a controlled foreign corporation (as defined in section 957) and the domestic corporation is a United States shareholder (as defined in section 951(b)) in such foreign corporation. Paragraph (1) shall apply to those taxes paid by a member of the qualified group below the third tier only with respect to periods during which it was a controlled foreign corporation."

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (B) of section 902(c)(3) is amended by adding "or" at the end of clause (i) and by striking clauses (ii) and (iii) and inserting the following new clause:

"(ii) the requirements of subsection (b)(2) are met with respect to such foreign corporation."

(B) Subparagraph (B) of section 902(c)(4) is amended by striking "3rd foreign corporation" and inserting "sixth tier foreign corporation".

(C) The heading for paragraph (3) of section 902(c) is amended by striking "WHERE DOMESTIC CORPORATION ACQUIRES 10 PERCENT OF FOREIGN CORPORATION" and inserting "WHERE FOREIGN CORPORATION FIRST QUALIFIES".

(D) Paragraph (3) of section 902(c) is amended by striking "ownership" each place it appears.

(b) SECTION 960 CREDIT.—Paragraph (1) of section 960(a) (relating to special rules for foreign tax credits) is amended to read as follows:

"(1) DEEMED PAID CREDIT.—For purposes of subpart A of this part, if there is included under section 951(a) in the gross income of a domestic corporation any amount attributable to earnings and profits of a foreign corporation which is a member of a qualified group (as defined in section 902(b)) with respect to the domestic corporation, then, except to the extent provided in regulations, section 902 shall be applied as if the amount so included were a dividend paid by such foreign corporation (determined by applying section 902(c) in accordance with section 904(d)(3)(B))."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxes of foreign corporations for taxable years of such corporations beginning after the date of enactment of this Act.

(2) SPECIAL RULE.—In the case of any chain of foreign corporations described in clauses (i) and (ii) of section 902(b)(2)(B) of the Internal Revenue Code of 1986 (as amended by this section), no liquidation, reorganization, or similar transaction in a taxable year beginning after the date of the enactment of this Act shall have the effect of permitting taxes to be taken into account under section 902 of the Internal Revenue Code of 1986 which could not have been taken into account under such section but for such transaction.

PART III—OTHER PROVISIONS

SEC. 4421. EXCHANGE RATE USED IN TRANSLATING FOREIGN TAXES.

(a) ACCRUED TAXES TRANSLATED BY USING AVERAGE RATE FOR YEAR TO WHICH TAXES RELATE.—

(1) IN GENERAL.—Subsection (a) of section 986 (relating to translation of foreign taxes) is amended to read as follows:

"(a) FOREIGN INCOME TAXES.—

"(1) TRANSLATION OF ACCRUED TAXES.—

"(A) IN GENERAL.—For purposes of determining the amount of the foreign tax credit, in the case of a taxpayer who takes foreign income taxes into account when accrued, the amount of any foreign income taxes (and any adjustment thereto) shall be translated into dollars by using the average exchange rate for the taxable year to which such taxes relate.

"(B) EXCEPTION FOR TAXES NOT PAID WITHIN FOLLOWING 2 YEARS.—

"(i) Subparagraph (A) shall not apply to any foreign income taxes paid after the date 2 years after the close of the taxable year to which such taxes relate.

"(ii) Subparagraph (A) shall not apply to taxes paid before the beginning of the taxable year to which such taxes relate.

"(C) EXCEPTION FOR INFLATIONARY CURRENCIES.—To the extent provided in regulations, subparagraph (A) shall not apply to any foreign income taxes the liability for which is denominated in any currency determined to be an inflationary currency under such regulations.

"(D) CROSS REFERENCE.—

"For adjustments where tax is not paid within 2 years, see section 905(c).

"(2) TRANSLATION OF TAXES TO WHICH PARAGRAPH (1) DOES NOT APPLY.—For purposes of determining the amount of the foreign tax credit, in the case of any foreign income taxes to which subparagraph (A) of paragraph (1) does not apply—

"(A) such taxes shall be translated into dollars using the exchange rates as of the time such taxes were paid to the foreign country or possession of the United States, and

"(B) any adjustment to the amount of such taxes shall be translated into dollars using—

"(i) except as provided in clause (ii), the exchange rate as of the time when such adjustment is paid to the foreign country or possession, or

"(ii) in the case of any refund or credit of foreign income taxes, using the exchange rate as of the time of the original payment of such foreign income taxes.

"(3) FOREIGN INCOME TAXES.—For purposes of this subsection, the term 'foreign income taxes' means any income, war profits, or excess profits taxes paid or accrued to any foreign country or to any possession of the United States."

(2) ADJUSTMENT WHEN NOT PAID WITHIN 2 YEARS AFTER YEAR TO WHICH TAXES RELATE.—Subsection (c) of section 905 is amended to read as follows:

"(c) ADJUSTMENTS TO ACCRUED TAXES.—

"(1) IN GENERAL.—If—

"(A) accrued taxes when paid differ from the amounts claimed as credits by the taxpayer,

"(B) accrued taxes are not paid before the date 2 years after the close of the taxable year to which such taxes relate, or

"(C) any tax paid is refunded in whole or in part,

the taxpayer shall notify the Secretary, who shall redetermine the amount of the tax for the year or years affected.

"(2) SPECIAL RULE FOR TAXES NOT PAID WITHIN 2 YEARS.—In making the redetermination under paragraph (1), no credit shall be allowed for accrued taxes not paid before the date referred to in subparagraph (B) of paragraph (1). Any such taxes if subsequently paid shall be taken into account for the taxable year in which paid and no redetermination under this section shall be made on account of such payment.

"(3) ADJUSTMENTS.—The amount of tax due on any redetermination under paragraph (1) (if any) shall be paid by the taxpayer on notice and demand by the Secretary, and the amount of tax overpaid (if any) shall be credited or refunded to the taxpayer in accordance with subchapter B of chapter 66 (section 6511 et seq.).

"(4) BOND REQUIREMENTS.—In the case of any tax accrued but not paid, the Secretary, as a condition precedent to the allowance of the credit provided in this subpart, may require the taxpayer to give a bond, with sureties satisfactory to and approved by the Secretary, in such sum as the Secretary may require, conditioned on the payment by the taxpayer of any amount of tax found due on any such redetermination. Any such bond shall contain such further conditions as the Secretary may require.

"(5) OTHER SPECIAL RULES.—In any redetermination under paragraph (1) by the Secretary of the amount of tax due from the taxpayer for the year or years affected by a refund, the amount of the taxes refunded for which credit has been allowed under this section shall be reduced by the amount of any tax described in section 901 imposed by the foreign country or possession of the United States with respect to such refund; but no credit under this subpart, or deduction under section 164, shall be allowed for any taxable year with respect to any such tax imposed on the refund. No interest shall be assessed or collected on any amount of tax due on any redetermination by the Secretary, resulting from a refund to the taxpayer, for any period before the receipt of such refund, except to the extent interest was paid by the foreign country or possession of the United States on such refund for such period."

(b) AUTHORITY TO USE AVERAGE RATES.—

(1) IN GENERAL.—Subsection (a) of section 986 (relating to foreign taxes) is amended by adding at the end thereof the following new paragraph:

"(3) AUTHORITY TO PERMIT USE OF AVERAGE RATES.—To the extent prescribed in regulations, the average exchange rate for the period (specified in such regulations) during which the taxes or adjustment is paid may be used instead of the exchange rate as of the time of such payment."

(2) DETERMINATION OF AVERAGE RATES.—Subsection (c) of section 989 is amended by striking "and" at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting ", and", and by adding at the end thereof the following new paragraph:

"(6) setting forth procedures for determining the average exchange rate for any period."

(3) CONFORMING AMENDMENTS.—Subsection (b) of section 989 is amended by striking "weighted" each place it appears.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxes paid or accrued in taxable years beginning after December 31, 1991.

SEC. 4422. ELECTION TO USE SIMPLIFIED SECTION 904 LIMITATION FOR ALTERNATIVE MINIMUM TAX.

(a) GENERAL RULE.—Subsection (a) of section 59 (relating to alternative minimum tax foreign tax credit) is amended by adding at the end thereof the following new paragraph:

"(3) ELECTION TO USE SIMPLIFIED SECTION 904 LIMITATION.—

"(A) IN GENERAL.—In determining the alternative minimum tax foreign tax credit for any taxable year to which an election under this paragraph applies—

"(i) subparagraph (B) of paragraph (1) shall not apply, and

"(ii) the limitation of section 904 shall be based on the proportion which—

"(I) the taxpayer's taxable income (as determined for purposes of the regular tax) from sources without the United States (but not in excess of the taxpayer's entire alternative minimum taxable income), bears to

"(II) the taxpayer's entire alternative minimum taxable income for the taxable year.

"(B) ELECTION.—

"(i) IN GENERAL.—An election under this paragraph may be made only for the taxpayer's first taxable year which begins after December 31, 1992, and for which the taxpayer claims an alternative minimum tax foreign tax credit.

"(ii) ELECTION REVOCABLE ONLY WITH CONSENT.—An election under this paragraph, once made, shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 4423. MODIFICATION OF SECTION 1491.

(a) GENERAL RULE.—So much of chapter 5 (relating to tax on transfers to avoid income tax) as precedes section 1492 is amended to read as follows:

"CHAPTER 5—TREATMENT OF TRANSFERS TO AVOID INCOME TAX

"Sec. 1491. Recognition of gain.

"Sec. 1492. Exceptions.

"SEC. 1491. RECOGNITION OF GAIN.

"In the case of any transfer of property by a United States person to a foreign corporation as paid-in surplus or as a contribution to capital, to a foreign estate or trust, or to a foreign partnership, for purposes of this subtitle, such transfer shall be treated as a sale or exchange for an amount equal to the fair market value of the property transferred, and the transferor shall recognize as gain the excess of—

"(1) the fair market value of the property so transferred, over

"(2) the adjusted basis (for purposes of determining gain) of such property in the hands of the transferor."

(b) CONFORMING AMENDMENTS.—

(1) Section 1057 is hereby repealed.

(2) Section 1492 is amended to read as follows:

"SEC. 1492. EXCEPTIONS.

"The provisions of section 1491 shall not apply—

"(1) If the transferee is an organization exempt from income tax under part I of subchapter F of chapter 1 (other than an organization described in section 401(a)),

"(2) To a transfer described in section 367, or

"(3) To any other transfer, to the extent provided in regulations in accordance with principles similar to the principles of section 367 or otherwise consistent with the purpose of section 1491."

(3) Section 1494 is hereby repealed.

(4) The table of sections for part IV of subchapter O of chapter 1 is amended by striking the item relating to section 1057.

(5) The table of chapters for subtitle A is amended by striking "Tax on" in the item relating to chapter 5 and inserting "Treatment of".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers after the date of the enactment of this Act.

SEC. 4424. MODIFICATION OF SECTION 367(b).

(a) GENERAL RULE.—Paragraph (1) of section 367(b) is amended to read as follows:

"(1) IN GENERAL.—In the case of any transaction described in section 332, 351, 354, 355, 356, or 361 in which the status of a foreign corporation as a corporation is a general condition for nonrecognition by 1 or more of the parties to the transaction, income shall be required to be recognized to the extent provided in regulations prescribed by the Secretary which are necessary or appropriate to prevent the avoidance of Federal income taxes. This subsection shall not apply to a transaction in which the foreign corporation is not treated as a corporation under subsection (a)(1)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to transfers after December 31, 1993.

Subtitle E—Treatment of Intangibles

SEC. 4501. AMORTIZATION OF GOODWILL AND CERTAIN OTHER INTANGIBLES.

(a) GENERAL RULE.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding at the end thereof the following new section:

"SEC. 197. AMORTIZATION OF GOODWILL AND CERTAIN OTHER INTANGIBLES.

"(a) GENERAL RULE.—A taxpayer shall be entitled to an amortization deduction with respect to any amortizable section 197 intangible. The amount of such deduction shall be determined by amortizing the adjusted basis (for purposes of determining gain) of such intangible ratably over the 14-year period beginning with the month in which such intangible was acquired.

"(b) NO OTHER DEPRECIATION OR AMORTIZATION DEDUCTION ALLOWABLE.—Except as provided in subsection (a), no depreciation or amortization deduction shall be allowable with respect to any amortizable section 197 intangible.

"(c) AMORTIZABLE SECTION 197 INTANGIBLE.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this section, the term 'amortizable section 197 intangible' means any section 197 intangible—

"(A) which is acquired by the taxpayer after the date of the enactment of this section, and

"(B) which is held in connection with the conduct of a trade or business or an activity described in section 212.

"(2) EXCLUSION OF SELF-CREATED INTANGIBLES, ETC.—The term 'amortizable section 197 intangible' shall not include any section 197 intangible—

"(A) which is not described in subparagraph (D), (E), or (F) of subsection (d)(1), and

"(B) which is created by the taxpayer.

This paragraph shall not apply if the intangible is created in connection with a transaction (or series of related transactions) involving the acquisition of assets constituting a trade or business or substantial portion thereof.

"(3) ANTI-CHURNING RULES.—

"For exclusion of intangibles acquired in certain transactions, see subsection (f)(9).

"(d) SECTION 197 INTANGIBLE.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this section, the term 'section 197 intangible' means—

"(A) goodwill,

"(B) going concern value,

"(C) any of the following intangible items:

"(i) workforce in place including its composition and terms and conditions (contractual or otherwise) of its employment,

"(ii) business books and records, operating systems, or any other information base (including lists or other information with respect to current or prospective customers),

"(iii) any patent, copyright, formula, process, design, pattern, knowhow, format, or other similar item,

"(iv) any customer-based intangible,

"(v) any supplier-based intangible, and

"(vi) any other similar item,

"(D) any license, permit, or other right granted by a governmental unit or an agency or instrumentality thereof,

"(E) any covenant not to compete (or other arrangement to the extent such arrangement has substantially the same effect as a covenant not to compete) entered into in connection with an acquisition (directly or indirectly) of an interest in a trade or business or substantial portion thereof, and

"(F) any franchise, trademark, or trade name.

"(2) CUSTOMER-BASED INTANGIBLE.—

"(A) IN GENERAL.—The term 'customer-based intangible' means—

"(i) composition of market,

"(ii) market share, and

"(iii) any other value resulting from future provision of goods or services pursuant to relationships (contractual or otherwise) in the ordinary course of business with customers.

"(B) SPECIAL RULE FOR FINANCIAL INSTITUTIONS.—In the case of a financial institution, the term 'customer-based intangible' includes deposit base and similar items.

"(3) SUPPLIER-BASED INTANGIBLE.—The term 'supplier-based intangible' means any value resulting from future acquisitions of goods or services pursuant to relationships (contractual or otherwise) in the ordinary course of business with suppliers of goods or services to be used or sold by the taxpayer.

"(e) EXCEPTIONS.—For purposes of this section, the term 'section 197 intangible' shall not include any of the following:

"(1) FINANCIAL INTERESTS.—Any interest—

"(A) in a corporation, partnership, trust, or estate, or

"(B) under an existing futures contract, foreign currency contract, notional principal contract, interest rate swap, or other similar financial contract.

"(2) LAND.—Any interest in land.

"(3) COMPUTER SOFTWARE.—Any—

"(A) computer software which is readily available for purchase by the general public, is subject to a nonexclusive license, and has not been substantially modified, and

"(B) other computer software which is not acquired in a transaction (or series of related transactions) involving the acquisition of assets constituting a trade or business or substantial portion thereof.

For purposes of the preceding sentence, the term 'computer software' means any program designed to cause a computer to perform a desired function; except that such term shall not include any data base or similar item.

"(4) CERTAIN INTERESTS OR RIGHTS ACQUIRED SEPARATELY.—Any of the following not acquired in a transaction (or series of related transactions) referred to in paragraph (3)(B):

"(A) Any interest in a film, sound recording, video tape, book, or similar property.

"(B) Any right to receive tangible property or services under a contract or granted by a governmental unit or agency or instrumentality thereof.

"(C) Any interest in a patent or copyright.

"(5) INTERESTS UNDER LEASES AND DEBT INSTRUMENTS.—Any interest under—

"(A) an existing lease of tangible property, or

"(B) except as provided in subsection (d)(2)(B), any existing indebtedness.

"(6) TREATMENT OF SPORTS FRANCHISES.—A franchise to engage in professional football, basketball, baseball, or other professional sport, and any item acquired in connection with such a franchise.

"(f) SPECIAL RULES.—

"(1) TREATMENT OF CERTAIN DISPOSITIONS, ETC.—If there is a disposition of any amortizable section 197 intangible acquired in a transaction or series of related transactions (or any such intangible becomes worthless) and one or more other amortizable section 197 intangibles acquired in such transaction or series of related transactions are retained—

"(A) no loss shall be recognized by reason of such disposition (or such worthlessness), and

"(B) appropriate adjustments to the adjusted bases of such retained intangibles shall be made for any loss not recognized under subparagraph (A).

All persons treated as a single taxpayer under section 41(f) shall be so treated for purposes of the preceding sentence.

"(2) TREATMENT OF CERTAIN TRANSFERS.—

"(A) IN GENERAL.—In the case of any section 197 intangible transferred in a transaction described in subparagraph (B), the transferee shall be treated as the transferor for purposes of applying this section with respect to so much of the adjusted basis in the hands of the transferee as does not exceed the adjusted basis in the hands of the transferor.

"(B) TRANSACTIONS COVERED.—The transactions described in this subparagraph are—

"(i) any transaction described in section 332, 351, 361, 721, 731, 1031, or 1033, and

"(ii) any transaction between members of the same affiliated group during any taxable year for which a consolidated return is made by such group.

"(3) TREATMENT OF AMOUNTS PAID PURSUANT TO COVENANTS NOT TO COMPETE, ETC.—Any amount paid or incurred pursuant to a covenant or arrangement referred to in subsection (d)(1)(E) shall be treated as an amount chargeable to capital account.

"(4) TREATMENT OF FRANCHISES, ETC.—

"(A) FRANCHISE.—The term 'franchise' has the meaning given to such term by section 1253(b)(1).

"(B) TREATMENT OF RENEWALS.—Any renewal of a franchise, trademark, or trade name (or of a license, a permit, or other right referred to in subsection (d)(1)(D)) shall be treated as an acquisition. The preceding sentence shall only apply with respect to costs incurred in connection with such renewal.

"(C) CERTAIN AMOUNTS NOT TAKEN INTO ACCOUNT.—Any amount to which section 1253(d)(1) applies shall not be taken into account under this section.

"(5) TREATMENT OF CERTAIN REINSURANCE TRANSACTIONS.—In the case of any amortizable section 197 intangible resulting from an assumption reinsurance transaction, the amount taken into account as the adjusted basis of such intangible under this section shall be the excess of—

"(A) the amount paid or incurred by the acquirer under the assumption reinsurance transaction, over

"(B) the amount required to be capitalized under section 848 in connec*COM003*tion with such transaction.

Subsection (b) shall not apply to any amount required to be capitalized under section 848.

"(6) TREATMENT OF CERTAIN SUBLEASES.—For purposes of this section, a sublease shall be treated in the same manner as a lease of the underlying property involved.

"(7) TREATMENT AS DEPRECIABLE.—For purposes of this chapter, any amortizable section 197 intangible shall be treated as property which is of a character subject to the allowance for depreciation provided in section 167.

"(8) TREATMENT OF CERTAIN INCREMENTS IN VALUE.—This section shall not apply to any increment in value if, without regard to this section, such increment is properly taken into account in determining the cost of property which is not a section 197 intangible.

"(9) ANTI-CHURNING RULES.—For purposes of this section—

"(A) IN GENERAL.—The term 'amortizable section 197 intangible' shall not include any section 197 intangible which is described in subparagraph (A) or (B) of subsection (d)(1)

(or for which depreciation or amortization would not have been allowable but for this section) and which is acquired by the taxpayer after the date of the enactment of this section, if—

"(i) the intangible was held or used at any time on or after July 25, 1991, and on or before such date of enactment by the taxpayer or a related person,

"(ii) the intangible was acquired from a person who held such intangible at any time on or after July 25, 1991, and on or before such date of enactment, and, as part of the transaction, the user of such intangible does not change, or

"(iii) the taxpayer grants the right to use such intangible to a person (or a person related to such person) who held or used such intangible at any time on or after July 25, 1991, and on or before such date of enactment.

For purposes of this subparagraph, the determination of whether the user of property changes as part of a transaction shall be determined in accordance with regulations prescribed by the Secretary.

"(B) RELATED PERSON DEFINED.—For purposes of this paragraph—

"(i) RELATED PERSON.—A person (hereinafter in this paragraph referred to as the 'related person') is related to any person if—

"(I) the related person bears a relationship to such person specified in section 267(b) or section 707(b)(1), or

"(II) the related person and such person are engaged in trades or businesses under common control (within the meaning of subparagraphs (A) and (B) of section 41(f)(1)).

For purposes of subclause (I), in applying section 267(b) or 707(b)(1), '20 percent' shall be substituted for '50 percent'.

"(ii) TIME FOR MAKING DETERMINATION.—A person shall be treated as related to another person if such relationship exists immediately before or immediately after the acquisition of the intangible involved.

"(C) ACQUISITIONS BY REASON OF DEATH.—Subparagraph (A) shall not apply to the acquisition of any property by the taxpayer if the basis of the property in the hands of the taxpayer is determined under section 1014(a).

"(D) SPECIAL RULE FOR PARTNERSHIPS.—With respect to any increase in the basis of partnership property under section 732, 734, or 743, determinations under this paragraph shall be made at the partner level and each partner shall be treated as having owned and used such partner's proportionate share of the partnership assets.

"(E) ANTI-ABUSE RULES.—The term 'amortizable section 197 intangible' does not include any section 197 intangible acquired in a transaction, one of the principal purposes of which is to avoid the requirement of subsection (c)(1) that the intangible be acquired after the date of the enactment of this section or to avoid the provisions of subparagraph (A).

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including such regulations as may be appropriate to prevent avoidance of the purposes of this section through related persons or otherwise."

(b) MODIFICATIONS TO DEPRECIATION RULES.—

(1) TREATMENT OF CERTAIN PROPERTY EXCLUDED FROM SECTION 197.—Section 167 (relating to depreciation deduction) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) TREATMENT OF CERTAIN PROPERTY EXCLUDED FROM SECTION 197.—

"(1) COMPUTER SOFTWARE.—

"(A) IN GENERAL.—If a depreciation deduction is allowable under subsection (a) with respect to any computer software, such deduction shall be computed by using the straight line method and a useful life of 36 months.

"(B) COMPUTER SOFTWARE.—For purposes of this section, the term 'computer software' has the meaning given to such term by the last sentence of section 197(e)(3); except that such term shall not include any such software which is an amortizable section 197 intangible.

"(2) CERTAIN INTERESTS OR RIGHTS ACQUIRED SEPARATELY.—If a depreciation deduction is allowable under subsection (a) with respect to any property described in subparagraph (B) or (C) of section 197(e)(4), such deduction shall be computed in accordance with regulations prescribed by the Secretary."

(2) ALLOCATION OF BASIS IN CASE OF LEASED PROPERTY.—Subsection (c) of section 167 is amended to read as follows:

"(c) BASIS FOR DEPRECIATION.—

"(1) IN GENERAL.—The basis on which exhaustion, wear and tear, and obsolescence are to be allowed in respect of any property shall be the adjusted basis provided in section 1011, for the purpose of determining the gain on the sale or other disposition of such property.

"(2) SPECIAL RULE FOR PROPERTY SUBJECT TO LEASE.—If any property is acquired subject to a lease—

"(A) no portion of the adjusted basis shall be allocated to the leasehold interest, and

"(B) the entire adjusted basis shall be taken into account in determining the depreciation deduction (if any) with respect to the property subject to the lease."

(c) AMENDMENTS TO SECTION 1253.—Subsection (d) of section 1253 is amended by striking paragraphs (2), (3), (4), and (5) and inserting the following:

"(2) OTHER PAYMENTS.—Any amount paid or incurred on account of a transfer, sale, or other disposition of a franchise, trademark, or trade name to which paragraph (1) does not apply shall be treated as an amount chargeable to capital account.

"(3) RENEWALS, ETC.—For purposes of determining the term of a transfer agreement under this section, there shall be taken into account all renewal options (and any other period for which the parties reasonably expect the agreement to be renewed)."

(d) AMENDMENT TO SECTION 848.—Subsection (g) of section 848 is amended by striking "this section" and inserting "this section or section 197".

(e) AMENDMENTS TO SECTION 1060.—

(1) Paragraph (1) of section 1060(b) is amended by striking "goodwill or going concern value" and inserting "section 197 intangibles".

(2) Paragraph (1) of section 1060(d) is amended by striking "goodwill or going concern value (or similar items)" and inserting "section 197 intangibles".

(f) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection (g) of section 167 (as redesignated by subsection (b)) is amended to read as follows:

"(g) CROSS REFERENCE.—

"(1) For additional rule applicable to depreciation of improvements in the case of mines, oil and gas wells, other natural deposits, and timber, see section 611.

"(2) For amortization of goodwill and certain other intangibles, see section 197."

(2) Subsection (f) of section 642 is amended by striking "section 169" and inserting "sections 169 and 197".

(3) Subsection (a) of section 1016 is amended by striking paragraph (19) and by redesignating the following paragraphs accordingly.

(4) Subparagraph (C) of section 1245(a)(2) is amended by striking "193, or 1253(d) (2) or (3)" and inserting "or 193".

(5) Paragraph (3) of section 1245(a) is amended by striking "section 185 or 1253(d) (2) or (3)".

(6) The table of sections for part VI of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 197. Amortization of goodwill and certain other intangibles."

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply with respect to property acquired after the date of the enactment of this Act.

(2) ELECTION TO HAVE AMENDMENTS APPLY TO PROPERTY ACQUIRED AFTER JULY 25, 1991.—

(A) IN GENERAL.—If an election under this paragraph applies to the taxpayer—

(i) the amendments made by this section shall apply to property acquired by the taxpayer after July 25, 1991,

(ii) subsection (c)(1)(A) of section 197 of the Internal Revenue Code of 1986 (as added by this section) (and so much of subsection (f)(9)(A) of such section 197 as precedes clause (i) thereof) shall be applied with respect to the taxpayer by treating July 25, 1991, as the date of the enactment of such section, and

(iii) in applying subsection (f)(9) of such section, with respect to any property acquired by the taxpayer on or before the date of the enactment of this Act, only holding or use on July 25, 1991, shall be taken into account.

(B) ELECTION.—An election under this paragraph shall be made at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe. Such an election by any taxpayer, once made—

(i) may be revoked only with the consent of the Secretary, and

(ii) shall apply to the taxpayer making such election and any other taxpayer under common control with the taxpayer (within the meaning of subparagraphs (A) and (B) of section 41(f)(1) of such Code) at any time after November 22, 1991, and on or before the date on which such election is made.

(3) ELECTION TO HAVE AMENDMENTS APPLY TO PROPERTY ACQUIRED IN ALL OPEN YEARS.—

(A) IN GENERAL.—If an election under this paragraph applies to the taxpayer—

(i) the amendments made by this section shall apply to property acquired by the taxpayer after the date referred to in subparagraph (B),

(ii) subsection (c)(1)(A) of section 197 of the Internal Revenue Code of 1986 (as added by this section) shall be applied with respect to the taxpayer by treating the date referred to in subparagraph (B) as the date of the enactment of such section,

(iii) subsection (f)(9) of such section 197 shall not apply with respect to any property acquired by the taxpayer on or before July 25, 1991, and

(iv) in applying subsection (f)(9) of such section 197 with respect to property acquired by the taxpayer after July 25, 1991, and on or before the date of the enactment of this Act, the modifications to such subsection contained in clauses (ii) and (iii) of paragraph (2)(A) shall apply.

(B) DATE.—For purposes of subparagraph (A), the date referred to in this subparagraph is the first day of the first taxable year in a series of consecutive taxable years all of which are open years. For purposes of the preceding sentence, a taxable year is an open year if the period prescribed by section 6501 of the Internal Revenue Code of 1986 for the assessment of any tax for such taxable year had not expired before July 25, 1991 (determined without regard to subparagraph (C)(iii)).

(C) EFFECT OF ELECTION.—

(i) 17-YEAR AMORTIZATION PERIOD.—If an election under this paragraph applies to the taxpayer, section 197(a) of the Internal Revenue Code of 1986 shall be applied with respect to all property to which the amendments made by this section apply and which are acquired by the taxpayer on or before the date of the enactment of this Act by substituting "17-year period" for "14-year period".

(ii) NO INTEREST ALLOWED ON REFUNDS.—No interest shall be payable on any refund of tax resulting from the provisions of this paragraph.

(iii) EXTENSION OF STATUTE.—If the assessment of any deficiency of tax attributable to an election under this paragraph is barred on the date of the enactment of this Act or at any time within the 2-year period beginning on the date on which such election is made by any law or rule of law, such deficiency may, nevertheless, be assessed if such assessment is made within such 2-year period. If credit or refund of any tax attributable to an election under this paragraph is barred on the date of the enactment of this Act or at any time within the 2-year period beginning on the date on which such election is made by any law or rule of law, such credit or refund may, nevertheless, be allowed or made if claim therefore is made within such 2-year period.

(D) ELECTION.—An election under this paragraph shall be made at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe. Such an election by any taxpayer, once made—

(i) may be revoked only with the consent of the Secretary, and

(ii) shall apply to the taxpayer making such election and any other taxpayer under common control with the taxpayer (within the meaning of subparagraphs (A) and (B) of section 41(f)(1) of such Code) at any time after November 22, 1991, and on or before the date on which such election is made.

(E) SPECIAL RULE FOR CERTAIN ACQUISITIONS IN CLOSED YEARS.—If—

(i) an election under this paragraph applies to the taxpayer,

(ii) there was an agreement between the taxpayer and the Internal Revenue Service with respect to the amortization of any intangibles which were acquired by the taxpayer before the date referred to in subparagraph (B), and

(iii) as of February 14, 1992, there was an active dispute between the taxpayer and the Internal Revenue Service by reason of the Internal Revenue Service taking a position inconsistent with such agreement,

the amortization of such intangibles in open years shall be made in accordance with the agreement referred to in clause (ii).

(4) ELECTIVE BINDING CONTRACT EXCEPTION.—

(A) IN GENERAL.—The amendments made by this section shall not apply to any acquisition of property by the taxpayer if—

(i) such acquisition is pursuant to a written binding contract in effect on February 14, 1992, and at all times thereafter before such acquisition,

(ii) an election under paragraph (2) or (3) does not apply to the taxpayer, and

(iii) the taxpayer makes an election under this paragraph with respect to such contract.

(B) ELECTION.—An election under this paragraph shall be made at such time and in such manner as the Secretary of the Treasury or his delegate shall prescribe. Such an election, once made—

(i) may be revoked only with the consent of the Secretary, and

(ii) shall apply to all property acquired pursuant to the contract with respect to which such election was made.

SEC. 4502. TREATMENT OF CERTAIN PAYMENTS TO RETIRED OR DECEASED PARTNER.

(a) SECTION 736(b) NOT TO APPLY IN CERTAIN CASES.—Subsection (b) of section 736 (relating to payments for interest in partnership) is amended by adding at the end thereof the following new paragraph:

"(3) LIMITATION ON APPLICATION OF PARAGRAPH (2).—Paragraph (2) shall apply only if—

"(A) capital is not a material income-producing factor for the partnership, and

"(B) the retiring or deceased partner was a general partner in the partnership."

(b) LIMITATION ON DEFINITION OF UNREALIZED RECEIVABLES.—

(1) IN GENERAL.—Subsection (c) of section 751 (defining unrealized receivables) is amended—

(A) by striking "sections 731, 736, and 741" each place they appear and inserting ", sections 731 and 741 (but not for purposes of section 736)", and

(B) by striking "section 731, 736, or 741" each place it appears and inserting "section 731 or 741".

(2) TECHNICAL AMENDMENTS.—

(A) Subsection (e) of section 751 is amended by striking "sections 731, 736, and 741" and inserting "sections 731 and 741".

(B) Section 736 is amended by striking subsection (c).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply in the case of partners retiring or dying after February 14, 1992.

(2) BINDING CONTRACT EXCEPTION.—The amendments made by this section shall not apply to any partner retiring after February 14, 1992, if a written contract to purchase such partner's interest in the partnership was binding on February 14, 1992, and at all times thereafter before such purchase.

Subtitle F—Other Income Tax Provisions

PART I—PROVISIONS RELATING TO SUBCHAPTER S CORPORATIONS

SEC. 4601. DETERMINATION OF WHETHER CORPORATION HAS 1 CLASS OF STOCK.

(a) GENERAL RULE.—Paragraph (4) of section 1361(c) is amended to read as follows:

"(4) DETERMINATION OF WHETHER CORPORATION HAS 1 CLASS OF STOCK.—For purposes of subsection (b)(1)(D), a corporation shall be treated as having 1 class of stock if all outstanding shares of stock of the corporation confer identical rights to distributions and liquidation proceeds. The preceding sentence shall apply whether or not there are differences in voting rights among such shares."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1982.

SEC. 4602. AUTHORITY TO VALIDATE CERTAIN INVALID ELECTIONS.

(a) GENERAL RULE.—Subsection (f) of section 1362 (relating to inadvertent terminations) is amended to read as follows:

"(f) INADVERTENT INVALID ELECTIONS OR TERMINATIONS.—If—

"(1) an election under subsection (a) by any corporation—

"(A) was not effective for the taxable year for which made (determined without regard to subsection (b)(2)) by reason of a failure to meet the requirements of section 1361(b) or to obtain shareholder consents, or

"(B) was terminated under paragraph (2) or (3) of subsection (d),

"(2) the Secretary determines that the circumstances resulting in such ineffectiveness or termination were inadvertent,

"(3) no later than a reasonable period of time after discovery of the circumstances resulting in such ineffectiveness or termination, steps were taken—

"(A) so that the corporation is a small business corporation, or

"(B) to acquire the required shareholder consents, and

"(4) the corporation, and each person who was a shareholder in the corporation at any time during the period specified pursuant to this subsection, agrees to make such adjustments (consistent with the treatment of the corporation as an S corporation) as may be required by the Secretary with respect to such period,

then, notwithstanding the circumstances resulting in such ineffectiveness or termination, such corporation shall be treated as an S corporation during the period specified by the Secretary."

(b) LATE ELECTIONS.—Subsection (b) of section 1362 is amended by adding at the end thereof the following new paragraph:

"(5) AUTHORITY TO TREAT LATE ELECTIONS AS TIMELY.—If—

"(A) an election under subsection (a) is made for any taxable year (determined without regard to paragraph (3)) after the date prescribed by this subsection for making such election for such taxable year, and

"(B) the Secretary determines that there was reasonable cause for the failure to timely make such election,

the Secretary may treat such election as timely made for such taxable year (and paragraph (3) shall not apply)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to elections for taxable years beginning after December 31, 1982.

SEC. 4603. TREATMENT OF DISTRIBUTIONS DURING LOSS YEARS.

(a) ADJUSTMENTS FOR DISTRIBUTIONS TAKEN INTO ACCOUNT BEFORE LOSSES.—

(1) Subparagraph (A) of section 1366(d)(1) is amended by striking "paragraph (1)" and inserting "paragraphs (1) and (2)(A)".

(2) Subsection (d) of section 1368 is amended by adding at the end thereof the following new sentence:

"In the case of any distribution made during any taxable year, the adjusted basis of the stock shall be determined with regard to the adjustments provided in paragraph (1) of section 1367(a) for the taxable year."

(b) ACCUMULATED ADJUSTMENTS ACCOUNT.—Paragraph (1) of section 1368(e) (relating to accumulated adjustments account) is amended by adding at the end thereof the following new subparagraph:

"(C) NET LOSS FOR YEAR DISREGARDED.—

"(i) IN GENERAL.—In applying this section to distributions made during any taxable year, the amount in the accumulated adjustments account as of the close of such taxable year shall be determined without regard to any net negative adjustment for such taxable year.

"(ii) NET NEGATIVE ADJUSTMENT.—For purposes of clause (i), the term 'net negative ad-

justment' means, with respect to any taxable year, the excess (if any) of—

"(I) the reductions in the account for the taxable year (other than for distributions), over

"(II) the increases in such account for such taxable year."

(c) CONFORMING AMENDMENTS.—Subparagraph (A) of section 1368(e)(1) is amended—

(1) by striking "as provided in subparagraph (B)" and inserting "as otherwise provided in this paragraph", and

(2) by striking "section 1367(b)(2)(A)" and inserting "section 1367(a)(2)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions in taxable years beginning after December 31, 1991.

SEC. 4604. OTHER MODIFICATIONS.

(a) TREATMENT OF S CORPORATIONS UNDER SUBCHAPTER C.—Subsection (a) of section 1371 (relating to application of subchapter C rules) is amended to read as follows:

"(a) APPLICATION OF SUBCHAPTER C RULES.—Except as otherwise provided in this title, and except to the extent inconsistent with this subchapter, subchapter C shall apply to an S corporation and its shareholders."

(b) S CORPORATIONS PERMITTED TO HOLD SUBSIDIARIES.—

(1) IN GENERAL.—Paragraph (2) of section 1361(b) (defining ineligible corporation) is amended by striking subparagraph (A) and by redesignating subparagraphs (B), (C), (D), and (E) as subparagraphs (A), (B), (C), and (D), respectively.

(2) CONFORMING AMENDMENTS.—

(A) Subsection (c) of section 1361 is amended by striking paragraph (6).

(B) Subsection (b) of section 1504 (defining includible corporation) is amended by adding at the end thereof the following new paragraph:

"(8) An S corporation."

(c) ELIMINATION OF PRE-1983 EARNINGS AND PROFITS.—

(1) IN GENERAL.—If—

(A) a corporation was an electing small business corporation under subchapter S of chapter 1 of the Internal Revenue Code of 1986 for any taxable year beginning before January 1, 1983, and

(B) such corporation is an S corporation under subchapter S of chapter 1 of such Code for its first taxable year beginning after December 31, 1991,

the amount of such corporation's accumulated earnings and profits (as of the beginning of such first taxable year) shall be reduced by an amount equal to the portion (if any) of such accumulated earnings and profits which were accumulated in any taxable year beginning before January 1, 1983, for which such corporation was an electing small business corporation under such subchapter S.

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (3) of section 1362(d) is amended—

(i) by striking "subchapter C" in the paragraph heading and inserting "accumulated",

(ii) by striking "subchapter C" in subparagraph (A)(i)(I) and inserting "accumulated", and

(iii) by striking subparagraph (B) and redesignating the following subparagraphs accordingly.

(B)(i) Subsection (a) of section 1375 is amended by striking "subchapter C" in paragraph (1) and inserting "accumulated".

(ii) Paragraph (3) of section 1375(b) is amended to read as follows:

"(3) PASSIVE INVESTMENT INCOME, ETC.—The terms 'passive investment income' and 'gross receipts' have the same respective meanings as when used in paragraph (3) of section 1362(d)."

(iii) The section heading for section 1375 is amended by striking "subchapter c" and inserting "accumulated".

(iv) The table of sections for part III of subchapter S of chapter 1 is amended by striking "subchapter C" in the item relating to section 1375 and inserting "accumulated".

(C) Clause (i) of section 1042(c)(4)(A) is amended by striking "section 1362(d)(3)(D)" and inserting "section 1362(d)(3)(C)".

(d) ADJUSTMENTS TO BASIS OF INHERITED S STOCK TO REFLECT CERTAIN ITEMS OF INCOME.—Subsection (b) of section 1367 (relating to adjustments to basis of stock of shareholders, etc.) is amended by adding at the end thereof the following new paragraph:

"(4) ADJUSTMENTS IN CASE OF INHERITED STOCK.—

"(A) IN GENERAL.—If any person acquires stock in an S corporation by reason of the death of a decedent or by bequest, devise, or inheritance, section 691 shall be applied with respect to any item of income of the S corporation in the same manner as if the decedent had held directly his pro rata share of such item.

"(B) ADJUSTMENTS TO BASIS.—The basis determined under section 1014 of any stock in an S corporation shall be reduced by the portion of the value of the stock which is attributable to items constituting income in respect of the decedent."

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1991.

(2) SUBSECTION (d).—The amendment made by subsection (d) shall apply in the case of decedents dying after the date of the enactment of this Act.

PART II—ACCOUNTING PROVISIONS

SEC. 4611. MODIFICATIONS TO LOOK-BACK METHOD FOR LONG-TERM CONTRACTS.

(a) LOOK-BACK METHOD NOT TO APPLY IN CERTAIN CASES.—Subsection (b) of section 460 (relating to percentage of completion method) is amended by adding at the end thereof the following new paragraph:

"(6) ELECTION TO HAVE LOOK-BACK METHOD NOT APPLY IN DE MINIMIS CASES.—

"(A) AMOUNTS TAKEN INTO ACCOUNT AFTER COMPLETION OF CONTRACT.—Paragraph (1)(B) shall not apply with respect to any taxable year (beginning after the taxable year in which the contract is completed) if—

"(i) the cumulative taxable income (or loss) under the contract as of the close of such taxable year, is within

"(ii) 10 percent of the cumulative look-back taxable income (or loss) under the contract as of the close of the most recent taxable year to which paragraph (1)(B) applied (or would have applied but for subparagraph (B)).

"(B) DE MINIMIS DISCREPANCIES.—Paragraph (1)(B) shall not apply in any case to which it would otherwise apply if—

"(i) the cumulative taxable income (or loss) under the contract as of the close of each prior contract year, is within

"(ii) 10 percent of the cumulative look-back income (or loss) under the contract as of the close of such prior contract year.

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) CONTRACT YEAR.—The term 'contract year' means any taxable year for which income is taken into account under the contract.

"(ii) LOOK-BACK INCOME OR LOSS.—The look-back income (or loss) is the amount which would be the taxable income (or loss) under the contract if the allocation method set forth in paragraph (2)(A) were used in determining taxable income.

"(iii) DISCOUNTING NOT APPLICABLE.—The amounts taken into account after the completion of the contract shall be determined without regard to any discounting under the 2nd sentence of paragraph (2).

"(D) CONTRACTS TO WHICH PARAGRAPH APPLIES.—This paragraph shall only apply if the taxpayer makes an election under this subparagraph. Unless revoked with the consent of the Secretary, such an election shall apply to all long-term contracts completed during the taxable year for which such election is made or during any subsequent taxable year."

(b) MODIFICATION OF INTEREST RATE.—

(1) IN GENERAL.—Subparagraph (C) of section 460(b)(2) is amended by striking "the overpayment rate established by section 6621" and inserting "the adjusted overpayment rate (as defined in paragraph (7))".

(2) ADJUSTED OVERPAYMENT RATE.—Subsection (b) of section 460 is amended by adding at the end thereof the following new paragraph:

"(7) ADJUSTED OVERPAYMENT RATE.—

"(A) IN GENERAL.—The adjusted overpayment rate for any interest accrual period is the overpayment rate in effect under section 6621 for the calendar quarter in which such interest accrual period begins.

"(B) INTEREST ACCRUAL PERIOD.—For purposes of subparagraph (A), the term 'interest accrual period' means the period—

"(i) beginning on the day after the return due date for any taxable year of the taxpayer, and

"(ii) ending on the return due date for the following taxable year.

For purposes of the preceding sentence, the term 'return due date' means the date prescribed for filing the return of the tax imposed by this chapter (determined without regard to extensions)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contracts completed in taxable years ending after the date of the enactment of this Act.

SEC. 4612. SIMPLIFIED METHOD FOR CAPITALIZING CERTAIN INDIRECT COSTS.

(a) GENERAL RULE.—Subsection (i) of section 263A (relating to regulations) is amended by striking "and" at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting ", and", and by adding at the end thereof the following:

"(3) regulations providing that allocations of costs of any administrative, service, or support function or department may be made on the basis of the base period percentage of the current costs of such function or department.

For purposes of paragraph (3), the term 'base period percentage' means, with respect to any function or department, the percentage of the costs of such function or department during a base period specified in regulations which were allocable to property to which this section applies."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

PART III—PROVISIONS RELATING TO REGULATED INVESTMENT COMPANIES

SEC. 4621. REPEAL OF 30-PERCENT GROSS INCOME LIMITATION.

(a) GENERAL RULE.—Subsection (b) of section 851 (relating to limitations) is amended by striking paragraph (3), by adding "and"

at the end of paragraph (2), and by redesignating paragraph (4) as paragraph (3).

(b) TECHNICAL AMENDMENTS.—

(1) The material following paragraph (3) of section 851 (as redesignated by subsection (a)) is amended—

(A) by striking out "paragraphs (2) and (3)" and inserting "paragraph (2)", and

(B) by striking out the last sentence thereof.

(2) Subsection (c) of section 851 is amended by striking "subsection (b)(4)" each place it appears (including the heading) and inserting "subsection (b)(3)".

(3) Subsection (d) of section 851 is amended by striking "subsections (b)(4)" and inserting "subsections (b)(3)".

(4) Paragraph (1) of section 851(e) is amended by striking "subsection (b)(4)" and inserting "subsection (b)(3)".

(5) Paragraph (4) of section 851(e) is amended by striking "subsections (b)(4)" and inserting "subsections (b)(3)".

(6) Section 851 is amended by striking subsection (g) and redesignating subsection (h) as subsection (g).

(7) Subsection (g) of section 851 (as redesignated by paragraph (6)) is amended by striking paragraph (3).

(8) Section 817(h)(2) is amended—

(A) by striking "851(b)(4)" in subparagraph (A) and inserting "851(b)(3)", and

(B) by striking "851(b)(4)(A)(i)" in subparagraph (B) and inserting "851(b)(3)(A)(i)".

(9) Section 1092(f)(2) is amended by striking "Except for purposes of section 851(b)(3), the" and inserting "The".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 4622. BASIS RULES FOR SHARES IN OPEN-END REGULATED INVESTMENT COMPANIES.

(a) ADDITIONAL REPORTING REQUIREMENT.—Section 6045 (relating to returns of brokers) is amended by adding at the end thereof the following new subsection:

"(f) ADDITIONAL INFORMATION REQUIRED WITH RESPECT TO OPEN-END REGULATED INVESTMENT COMPANIES.—

"(1) IN GENERAL.—If any person is required under subsection (a) to make a return regarding the gross proceeds from any disposition of stock in an open-end regulated investment company, such return shall include for each such disposition—

"(A) the basis of the stock disposed of (determined by reference to the average basis of all of the stock in the account from which the disposition was made immediately before the disposition), and

"(B) the portion of such gross proceeds attributable to stock held for more than 1 year and the portion not so attributable.

Determinations under subparagraph (B) shall be made on a first-in, first-out, basis and determinations of basis and holding period shall be made in such manner as the Secretary may prescribe.

"(2) OPEN-END REGULATED INVESTMENT COMPANY.—For purposes of this subsection, the term 'open-end regulated investment company' means any regulated investment company which is offering for sale or has outstanding any redeemable security (as defined in section 2(a)(32) of the Investment Company Act of 1940) of which it is the issuer.

"(3) INFORMATION TRANSFERS.—To the extent provided in regulations, there shall be such exchanges of information between brokers as such regulations may require for purposes of enabling brokers to meet the requirements of this subsection.

"(4) APPLICATION OF SUBSECTION.—This subsection shall not apply with respect to stock in any account—

"(A) which was established before January 1, 1994, or

"(B) which includes any stock not acquired by purchase."

(b) BASIS FOR INCOME TAX PURPOSES.—Section 1012 of such Code is amended—

(1) by striking "The basis" and inserting "(a) GENERAL RULE.—The basis", and

(2) by adding at the end thereof the following new subsection:

"(b) SPECIAL RULES FOR STOCK IN OPEN-END REGULATED INVESTMENT COMPANIES.—

"(1) IN GENERAL.—In the case of any disposition of stock from a covered account—

"(A) the basis of such stock shall be determined by reference to the average basis of all of the stock in such account immediately before such disposition, and

"(B) the determination of which stock in such account is so disposed of shall be made on a first-in, first-out, basis.

"(2) COVERED ACCOUNT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'covered account' means any account of stock in an open-end regulated investment company if section 6045(f) applies to such account.

"(B) ELECTION OUT.—The term 'covered account' shall not include any account if, on the taxpayer's return for his first taxable year in which a disposition from such account occurs, the taxpayer elects to have this subsection not apply to such account."

(c) TECHNICAL AMENDMENT.—Section 6724 of such Code is amended by adding at the end thereof the following new subsection:

"(e) SPECIAL RULE FOR CERTAIN REPORTS WITH RESPECT TO STOCK IN OPEN END REGULATED INVESTMENT COMPANIES.—For purposes of sections 6721(e)(2)(B) and 6722(c)(1)(B), the amount required to be reported under section 6045 shall be determined without regard to subsection (f) thereof."

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to returns and statements required for calendar year 1994 and subsequent calendar years.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to dispositions on or after December 31, 1993.

SEC. 4623. NONRECOGNITION TREATMENT FOR CERTAIN TRANSFERS BY COMMON TRUST FUNDS TO REGULATED INVESTMENT COMPANIES.

(a) GENERAL RULE.—Section 584 (relating to common trust funds) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) NONRECOGNITION TREATMENT FOR CERTAIN TRANSFERS TO REGULATED INVESTMENT COMPANIES.—

"(1) IN GENERAL.—If—

"(A) a common trust fund transfers substantially all of its assets to a regulated investment company in exchange solely for stock in such company, and

"(B) such stock is distributed by such common trust fund to participants in such common trust fund in exchange for their interests in such common trust fund,

no gain or loss shall be recognized by such common trust fund by reason of such transfer or distribution, and no gain or loss shall be recognized by any participant in such common trust fund by reason of such exchange.

"(2) BASIS RULES.—

"(A) REGULATED INVESTMENT COMPANY.—The basis of any asset received by a regulated investment company in a transfer referred to in paragraph (1)(A) shall be the same as it would be in the hands of the common trust fund.

"(B) PARTICIPANTS.—The basis of any stock in a regulated investment company which is received in an exchange referred to in paragraph (1)(B) shall be the same as that of the property exchanged.

"(3) COMMON TRUST FUND MUST MEET DIVERSIFICATION RULES.—This subsection shall not apply to any common trust fund which would not meet the requirements of section 368(a)(2)(F)(ii) if it were a corporation."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to transfers after the date of the enactment of this Act.

PART IV—TAX-EXEMPT BOND PROVISIONS

SEC. 4631. REPEAL OF $100,000 LIMITATION ON UNSPENT PROCEEDS UNDER 1-YEAR EXCEPTION FROM REBATE.

Subclause (I) of section 148(f)(4)(B)(ii) (relating to additional period for certain bonds) is amended by striking "the lesser of 5 percent of the proceeds of the issue or $100,000" and inserting "5 percent of the proceeds of the issue".

SEC. 4632. EXCEPTION FROM REBATE FOR EARNINGS ON BONA FIDE DEBT SERVICE FUND UNDER CONSTRUCTION BOND RULES.

Subparagraph (C) of section 148(f)(4) is amended by adding at the end thereof the following new clause:

"(xvii) TREATMENT OF BONA FIDE DEBT SERVICE FUNDS.—If the spending requirments of clause (ii) are met with respect to the available construction proceeds of a construction issue, then paragraph (2) shall not apply to earnings on a bona fide debt service fund for such issue."

SEC. 4633. AUTOMATIC EXTENSION OF INITIAL TEMPORARY PERIOD FOR CONSTRUCTION ISSUES.

Subsection (c) of section 148 (relating to temporary period exception) is amended by adding at the end thereof the following new paragraph:

"(3) EXTENSION OF INITIAL TEMPORARY PERIOD FOR CONSTRUCTION ISSUES.—If—

"(A) at least 85 percent of the available construction proceeds (as defined in subsection (f)(4)(C)) of a construction issue (as defined in such subsection) are spent as of the close of the initial temporary period (determined without regard to this paragraph), and

"(B) the issuer reasonably expects (as of the close of such period) that the remaining available construction proceeds of such issue will be spent within 1 year after the close of such period,

then such initial temporary period shall be extended 1 year."

SEC. 4634. AGGREGATION OF ISSUES RULES NOT TO APPLY TO TAX OR REVENUE ANTICIPATION BONDS.

Section 150 (relating to definitions and special rules) is amended by adding at the end thereof the following new subsection:

"(f) TAX OR REVENUE ANTICIPATION BONDS TREATED AS SEPARATE ISSUES.—For purposes of this part, if—

"(1) all of the bonds which are part of an issue are qualified 501(c)(3) bonds or bonds which are not private activity bonds, and

"(2) any portion of such issue consists of tax or revenue anticipation bonds which are reasonably expected to meet the requirements of section 148(f)(4)(B)(iii),

then such portion shall, subject to appropriate allocations specified in regulations prescribed by the Secretary, be treated as a separate issue."

SEC. 4635. REPEAL OF DISPROPORTIONATE PRIVATE BUSINESS USE TEST.

(a) IN GENERAL.—Subsection (b) of section 141 (relating to private business tests) is amended by striking paragraph (3) and by redesignating paragraphs (4) through (9) as paragraphs (3) through (8), respectively.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 141(d) is amended by striking "subsection (b)(4)" and inserting "subsection (b)(3)".

(2) Paragraph (2) of section 142(c) is amended by striking "section 141(b)(6)" and inserting "section 141(b)(5)".

(3) Subsections (k)(3) and (m)(1) of section 146 and section 149(f)(4)(B)(i) are each amended by striking "section 141(b)(5)" and inserting "section 141(b)(4)".

SEC. 4636. EXPANDED EXCEPTION FROM REBATE FOR ISSUERS ISSUING $10,000,000 OR LESS OF BONDS.

Subparagraph (D) of section 148(f) (relating to exception for governmental units issuing $5,000,000 or less of bonds) is amended by striking "$5,000,000" each place it appears (including the heading) and inserting "$10,000,000".

SEC. 4637. REPEAL OF DEBT SERVICE-BASED LIMITATION ON INVESTMENT IN CERTAIN NONPURPOSE INVESTMENTS.

Subsection (d) of section 148 (relating to special rules for reasonably required reserve or replacement fund) is amended by striking paragraph (3).

SEC. 4638. REPEAL OF EXPIRED PROVISIONS.

(a) Paragraph (2) of section 148(c) is amended by striking subparagraph (B) and by redesignating subparagraphs (C), (D), and (E) as subparagraph (B), (C), and (D), respectively.

(b) Paragraph (4) of section 148(f) is amended by striking subparagraph (E).

SEC. 4639. CLARIFICATION OF INVESTMENT-TYPE PROPERTY.

Subparagraph (D) of section 148(b)(2) is amended to read as follows:

"(D) any investment-type property, or".

SEC. 4640. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided in this section, the amendments made by this subtitle shall apply to bonds issued after the date of the enactment of this Act.

(b) SMALL ISSUER EXPANSION.—The amendment made by section 4636 shall apply to bonds issued in calendar years beginning after the date of the enactment of this Act.

(c) INVESTMENT-TYPE PROPERTY.—The amendment made by section 4639 shall take effect as if included in the amendments made by section 1301 of the Tax Reform Act of 1986.

PART V—ELECTION OF ALTERNATIVE TAXABLE YEARS

SEC. 4641. ELECTION OF TAXABLE YEAR OTHER THAN REQUIRED TAXABLE YEAR.

(a) LIMITATION ON TAXABLE YEAR WHICH MAY BE ELECTED.—Subsection (b) of section 444 (relating to limitations on taxable years which may be elected) is amended to read as follows:

"(b) LIMITATION ON TAXABLE YEAR WHICH MAY BE ELECTED.—An election may be made under subsection (a) only if the annual financial statements of the entity used for credit purposes or provided to shareholders, partners, or other proprietors, if any, are based on a fiscal year ending in the same month as the taxable year elected."

(b) EFFECT OF ELECTION.—Subsection (c) of section 444 (relating to effect of election) is amended to read as follows:

"(c) EFFECT OF ELECTION.—If an entity makes an election under subsection (a), then—

"(1) in the case of a partnership or S corporation, such entity shall make the payments required by section 7519(b) for each taxable year for which an election under this section is in effect,

"(2) in the case of a partnership or S corporation making or changing an election under subsection (a), such entity shall make the initial payment required by section 7519(c) for the 1st taxable year for which such election is in effect, and

"(3) in the case of a personal service corporation, such corporation shall be subject to the deduction limitations of section 280H."

(c) PERIOD OF ELECTION.—Paragraph (2) of section 444(d) (relating to period of election) is amended by striking subparagraph (B) and inserting the following:

"(B) NO FURTHER ELECTION WITHOUT CONSENT.—Except as provided in subparagraph (C), if an election is terminated under subparagraph (A), or paragraph (3)(A), the partnership, S corporation, or personal service corporation (or any successor) may not make another election under subsection (a) without the consent of the Secretary.

"(C) SPECIAL RULE FOR ENTITIES CHANGING SECTION 444 YEAR.—An entity with respect to which an election under subsection (a) is in effect on the date of enactment of this subparagraph may terminate such election and elect a new taxable year under this section without the consent of the Secretary, if such election is made before December 31, 1993."

(d) TIERED STRUCTURES.—Paragraph (3) of section 444(d) (relating to tiered structures, etc.) is amended by adding at the end the following new subparagraph:

"(C) EXCEPTION FOR CERTAIN STRUCTURES WHICH INCLUDE TRUSTS.—An entity shall not be considered to be part of a tiered structure to which subparagraph (A) applies solely because a trust which has a taxable year which is a calendar year holds an ownership interest in such entity."

(e) REGULATIONS.—Subsection (g) of section 444 (relating to regulations) is amended to read as follows:

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out this section, including regulations to prevent the carryback of a net operating loss arising in any short taxable year created pursuant to an election or termination of an election under this section to any preceding taxable year."

SEC. 4642. REQUIRED PAYMENTS FOR ENTITIES ELECTING NOT TO HAVE REQUIRED TAXABLE YEAR.

(a) REQUIRED PAYMENT.—Subsection (b) of section 7519 (relating to required payment) is amended to read as follows:

"(b) REQUIRED PAYMENT.—For purposes of this section, the term 'required payment' means, with respect to any applicable election year of a partnership or S corporation, an amount equal to—

"(1) the excess of the product of—

"(A) the adjusted highest section 1 rate, and

"(B) the net base year income of the entity, over

"(2) the net required payment balance.

For purposes of paragraph (1)(A), the term 'adjusted highest section 1 rate' means the highest rate of tax in effect under section 1 as of the end of the 1st required taxable year ending within such year plus 2 percentage points."

(b) INITIAL PAYMENT.—Section 7519 (relating to required payments for entities electing not to have required taxable year) is amended by redesignating subsections (c) through (g) as subsections (d) through (h), respectively, and by inserting after subsection (b) the following new subsection:

"(c) INITIAL PAYMENT.—

"(1) IN GENERAL.—For purposes of this section, the term 'initial payment' means, with respect to the 1st applicable election year of an entity, an amount equal to 75 percent of the amount of the payment determined under subsection (b) for such applicable election year.

"(2) SPECIAL RULE FOR ENTITIES CHANGING SECTION 444 YEAR.—In the case of an entity described in section 444(d)(2)(C), the term 'initial payment' means, with respect to the 1st new applicable election year of such entity, an amount equal to 75 percent of the amount by which—

"(A) the amount of the payment determined under subsection (b) for such applicable election year, exceeds

"(B) the amount of the payment determined under subsection (b) which would have been required with respect to the terminated applicable election year but for such termination."

(c) TERMINATION OF ELECTIONS.—Subparagraph (A) of section 7519(d)(2) (relating to termination of elections, etc.), as redesignated by subsection (b), is amended by inserting after "year" the following: "and the partnership or S corporation does not elect a new applicable election year".

(d) DATE REFUND PAYABLE.—Paragraph (3) of section 7519(d) (relating to date on which refund payable), as redesignated by subsection (b), is amended in the matter preceding subparagraph (A) by striking "on the later of" and inserting "by the later of".

(e) APPLICABLE PERCENTAGE.—Subsection (e) of section 7519 (relating to net base year income), as redesignated by subsection (b), is amended by striking paragraph (4) and by redesignating paragraph (5) as paragraph (4).

(f) DEFINITIONS AND SPECIAL RULES.—Subsection (f) of section 7519 (relating to other definitions and special rules), as redesignated by subsection (b), is amended to read as follows:

"(f) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) DEFERRAL PERIOD.—Except as provided in regulations, the term 'deferral period' means, with respect to any taxable year of the partnership or S corporation, the months between—

"(A) the beginning of such year, and

"(B) the close of the 1st required taxable year ending within such year.

"(2) YEARS.—

"(A) BASE YEAR.—The term 'base year' means, with respect to any applicable election year, the 1st 12-month (or 52- to 53-week) taxable year of the partnership or S corporation preceding such applicable election year.

"(B) APPLICABLE ELECTION YEAR.—The term 'applicable election year' means any taxable year of a partnership or S corporation with respect to which an election is in effect under section 444.

"(3) REQUIREMENT OF REPORTING.—Each partnership or S corporation which makes an election under section 444 shall include on any required return or statement such information as the Secretary shall prescribe as necessary to carry out the provisions of this section.

"(4) NET REQUIRED PAYMENT BALANCE.—The term 'net required payment balance' means the excess (if any) of—

"(A) the aggregate of the required payments under this section for all preceding applicable election years plus any initial payment, over

"(B) the aggregate amount allowable as a refund to the partnership or S corporation under subsection (c) for all preceding applicable election years.

Notwithstanding the preceding sentence, an initial payment shall not be taken into account for purposes of computing the net required payment balance until the 19th month following the due date of the initial payment."

(g) ADMINISTRATIVE PROVISIONS.—Subsection (g) of section 7519 (relating to administrative provisions), as redesignated by subsection (b), is amended to read as follows:

"(g) ADMINISTRATIVE PROVISIONS.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection or in regulations prescribed by the Secretary, any payment required by this section shall be assessed and collected in the same manner as if it were a tax imposed by subtitle C.

"(2) DUE DATE.—

"(A) ANNUAL REQUIRED PAYMENTS.—The amount of any payment required by this section, other than any initial payment, shall be paid on or before May 15 of the calendar year following the year in which the applicable election year begins.

"(B) INITIAL PAYMENT.—The amount of any initial payment required by this section shall be paid on or before September 15 of the calendar year in which the 1st applicable election year begins.

"(3) INTEREST.—For purposes of determining interest, any payment required by this section shall be treated as a tax; except that interest shall be allowed with respect to any refund of a payment under this section only with respect to the period from the latest date specified in subsection (d) for such refund to the actual date of payment of such refund.

"(4) PENALTIES.—

"(A) IN GENERAL.—In the case of any failure by any person to pay on the date prescribed therefor any amount required by this section, other than an initial payment, there shall be imposed on such person a penalty of 10 percent of the underpayment. For purposes of the preceding sentence, the term 'underpayment' means the excess of the amount of the payment required under this section over the amount (if any) of such payment paid on or before the date prescribed therefor.

"(B) INEFFECTIVE ELECTION.—In the case of any failure of a partnership or S corporation to make an initial payment required by this section on the date prescribed therefor, such entity shall be treated as having failed to make an election under section 444.

"(C) NEGLIGENCE AND FRAUD PENALTIES MADE APPLICABLE.—For purposes of part II of subchapter A of chapter 68, any payment required by this section shall be treated as a tax.

"(D) WILLFUL FAILURE.—If any partnership or S corporation willfully fails to comply with the requirements of this section, section 444 shall cease to apply with respect to such partnership or S corporation."

(h) REGULATIONS.—Paragraph (2) of 7519(h) (relating to regulations), as redesignated by subsection (b), is amended to read as follows:

"(2) there is no base year described in subsection (f)(2)."

SEC. 4643. LIMITATION ON CERTAIN AMOUNTS PAID TO EMPLOYEE-OWNERS OF PERSONAL SERVICE CORPORATIONS ELECTING ALTERNATIVE TAXABLE YEARS.

(a) CARRYOVER OF NONDEDUCTIBLE AMOUNTS.—Subsection (b) of section 280H (relating to carryover of nondeductible amounts) is amended to read as follows:

"(b) CARRYOVER OF NONDEDUCTIBLE AMOUNTS.—Any amount not allowed as a deduction for a taxable year pursuant to subsection (a) shall be allowed as a deduction in the succeeding taxable year."

(b) MINIMUM DISTRIBUTION REQUIREMENT.—Paragraph (1) of section 280H(c) (relating to minimum distribution requirement) is amended to read as follows:

"(1) IN GENERAL.—A personal service corporation meets the minimum distribution requirements of this subsection if the applicable amounts paid during the deferral period of the taxable year (determined without regard to subsection (b)) equal or exceed the lesser of—

"(A) 110 percent of the product of—

"(i) the applicable amounts paid during the preceding taxable year, divided by the number of months in such taxable year, and

"(ii) the number of months in the deferral period of the taxable year, or

"(B) 110 percent of the applicable percentage of the adjusted taxable income for the deferral period of the taxable year.

If such preceding taxable year is a taxable year of less than 12 months due to a change of taxable year, then subparagraph (A)(i) shall apply to the applicable amounts paid during the preceding 12-month (or 52- to 53-week) taxable year (if any)."

(c) DISALLOWANCE OF NET OPERATING LOSS CARRYOVERS.—Subsection (e) of section 280H (relating to disallowance of net operating loss carrybacks) is amended by striking "to (or from)" and inserting "from".

(d) DEFERRAL PERIOD.—Subparagraph (A) of section 280H(f)(3) (defining deferral period) is amended by striking "section 444(b)(4)" and inserting "section 7519(f)(1)".

SEC. 4644. EFFECTIVE DATE.

The amendments made by this part shall apply to taxable years beginning after December 31, 1991.

PART VI—OTHER PROVISIONS

SEC. 4651. CERTAIN GRANTOR TRUSTS TREATED AS ESTATES FOR CERTAIN PURPOSES.

(a) CHARITABLE SET-ASIDE.—Subsection (c) of section 642 (relating to deduction for amounts paid or permanently set aside for a charitable purpose) is amended by adding at the end thereof the following new paragraph:

"(7) TREATMENT OF CERTAIN GRANTOR TRUSTS.—For purposes of this subsection—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'estate' includes any trust—

"(i) all of which was treated under section 676 as owned by the decedent, and

"(ii) to which the residue of the decedent's estate will pass under the decedent's will (or, if there is no such trust, which is the trust primarily responsible for paying debts, taxes, and expenses of administration).

"(B) LIMITATIONS.—

"(i) YEARS TO WHICH SUBPARAGRAPH (A) APPLIES.—Subparagraph (A) shall apply only with respect to taxable years which end after the date of the decedent's death and which begin before the date which is 3 years and 9 months after the date of such death.

"(ii) LIMITATION ON SET-ASIDES.—In the case of a trust treated as an estate under paragraph (1), paragraph (2) shall not apply to any amount permanently set aside for a purpose described in such paragraph unless the terms of the governing instrument require that such amount shall be actually paid for such purpose before the close of the last taxable year for which such trust is treated as an estate under this paragraph."

(b) PASSIVE LOSS RULES.—Paragraph (4) of section 469(i) is amended by adding at the end thereof the following new subparagraph:

"(C) TREATMENT OF CERTAIN GRANTOR TRUSTS.—For purposes of this paragraph, the term 'estate' includes, with respect to any taxable year, any trust treated as an estate under section 642(c)(7)(A) for such taxable year. In the case of any such trust, in addition to any reduction under subparagraph (B), there shall be a similar reduction for the amount of any exemption allowable under paragraph (1) (without regard to paragraph (3)) to the actual estate of the decedent."

(c) EXEMPTION FROM TRUST THROWBACK RULES.—Section 665 is amended by adding at the end thereof the following new subsection:

"(f) TREATMENT OF CERTAIN GRANTOR TRUSTS.—If any trust is treated an an estate under section 642(c)(7) for any taxable year, for purposes of this subpart—

"(1) any undistributed net income of such trust for such taxable year, and

"(2) any taxes imposed on such trust for such taxable year,

shall be disregarded."

(d) CONFORMING AMENDMENT TO SECTION 6654.—Subparagraph (B) of section 6654(l)(2) is amended by striking clauses (i) and (ii) and inserting the following:

"(i) all of which was treated under section 676 as owned by the decedent, and

"(ii) to which the residue of the decedent's estate will pass under the decedent's will (or, if there is no such trust, which is the trust primarily responsible for paying debts, taxes, and expenses of administration)."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying after the date of the enactment of this Act.

SEC. 4652. CLOSING OF PARTNERSHIP TAXABLE YEAR WITH RESPECT TO DECEASED PARTNER.

(a) GENERAL RULE.—Subparagraph (A) of section 706(c)(2) (relating to disposition of entire interest) is amended to read as follows:

"(A) DISPOSITION OF ENTIRE INTEREST.—The taxable year of a partnership shall close with respect to a partner whose entire interest in the partnership terminates (whether by reason of death, liquidation, or otherwise)."

(b) CLERICAL AMENDMENT.—The paragraph heading for paragraph (2) of section 706(c) is amended to read as follows:

"(2) TREATMENT OF DISPOSITIONS.—".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years beginning after December 31, 1991.

SEC. 4653. REPEAL OF SPECIAL TREATMENT OF OWNERSHIP CHANGES IN DETERMINING ADJUSTED CURRENT EARNINGS.

(a) GENERAL RULE.—Paragraph (4) of section 56(g) (relating to adjustments) is amended by striking subparagraph (G) and by redesignating the following subparagraph as paragraph (G).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to ownership changes after the date of the enactment of this Act.

Subtitle G—Estate And Gift Tax Provisions

SEC. 4701. CLARIFICATION OF WAIVER OF CERTAIN RIGHTS OF RECOVERY.

(a) AMENDMENT TO SECTION 2207A.—Paragraph (2) of section 2207A(a) (relating to right of recovery in the case of certain marital deduction property) is amended to read as follows:

"(2) DECEDENT MAY OTHERWISE DIRECT.—Paragraph (1) shall not apply with respect to any property to the extent that the decedent in his will (or a revocable trust) specifically indicates an intent to waive any right of re-

covery under this subchapter with respect to such property."

(b) AMENDMENT TO SECTION 2207B.—Paragraph (2) of section 2207B(a) (relating to right of recovery where decedent retained interest) is amended to read as follows:

"(2) DECEDENT MAY OTHERWISE DIRECT.—Paragraph (1) shall not apply with respect to any property to the extent that the decedent in his will (or a revocable trust) specifically indicates an intent to waive any right of recovery under this subchapter with respect to such property."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to the estates of decedents dying after the date of the enactment of this Act.

SEC. 4702. ADJUSTMENTS FOR GIFTS WITHIN 3 YEARS OF DECEDENT'S DEATH.

(a) GENERAL RULE.—Section 2035 is amended to read as follows:

"SEC. 2035. ADJUSTMENTS FOR CERTAIN GIFTS MADE WITHIN 3 YEARS OF DECEDENT'S DEATH.

"(a) INCLUSION OF CERTAIN PROPERTY IN GROSS ESTATE.—If—

"(1) the decedent made a transfer (by trust or otherwise) of an interest in any property, or relinquished a power with respect to any property, during the 3-year period ending on the date of the decedent's death, and

"(2) the value of such property (or an interest therein) would have been included in the decedent's gross estate under section 2036, 2037, 2038, or 2042 if such transferred interest or relinquished power had been retained by the decedent on the date of his death,

the value of the gross estate shall include the value of any property (or interest therein) which would have been so included.

"(b) INCLUSION OF GIFT TAX ON GIFTS MADE DURING 3 YEARS BEFORE DECEDENT'S DEATH.—The amount of the gross estate (determined without regard to this subsection) shall be increased by the amount of any tax paid under chapter 12 by the decedent or his estate on any gift made by the decedent or his spouse during the 3-year period ending on the date of the decedent's death.

"(c) OTHER RULES RELATING TO TRANSFERS WITHIN 3 YEARS OF DEATH.—

"(1) IN GENERAL.—For purposes of—

"(A) section 303(b) (relating to distributions in redemption of stock to pay death taxes),

"(B) section 2032A (relating to special valuation of certain farms, etc., real property), and

"(C) subchapter C of chapter 64 (relating to lien for taxes),

the value of the gross estate shall include the value of all property to the extent of any interest therein of which the decedent has at any time made a transfer, by trust or otherwise, during the 3-year period ending on the date of the decedent's death.

"(2) COORDINATION WITH SECTION 6166.—An estate shall be treated as meeting the 35 percent of adjusted gross estate requirement of section 6166(a)(1) only if the estate meets such requirement both with and without the application of paragraph (1).

"(3) SMALL TRANSFERS.—Paragraph (1) shall not apply to any transfer (other than a transfer with respect to a life insurance policy) made during a calendar year to any donee if the decedent was not required by section 6019 (other than by reason of section 6019(a)(2)) to file any gift tax return for such year with respect to transfers to such donee.

"(d) EXCEPTION.—Subsection (a) shall not apply to any bona fide sale for an adequate and full consideration in money or money's worth.

"(e) TREATMENT OF CERTAIN REVOCABLE TRUSTS.—For purposes of this section and section 2038, any transfer from any portion of a trust with respect to which the decedent was the grantor during any period when the decedent held the power to revest in the decedent title to such portion shall be treated as a transfer made directly by the decedent."

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter A of chapter 11 is amended by striking "gifts" in the item relating to section 2035 and inserting "certain gifts".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying after the date of the enactment of this Act.

SEC. 4703. CLARIFICATION OF QUALIFIED TERMINABLE INTEREST RULES.

(a) GENERAL RULE.—

(1) ESTATE TAX.—Subparagraph (B) of section 2056(b)(7) (defining qualified terminable interest property) is amended by adding at the end thereof the following new clause:

"(v)(i) TREATMENT OF CERTAIN INCOME DISTRIBUTIONS.—An income interest shall not fail to qualify as a qualified income interest for life solely because income for the period after the last distribution date and on or before the date of the surviving spouse's death is not required to be distributed to the surviving spouse or to the estate of the surviving spouse."

(2) GIFT TAX.—Paragraph (3) of section 2523(f) is amended by striking "and (iv)" and inserting ", (iv), and (vi)".

(b) CLARIFICATION OF SUBSEQUENT INCLUSIONS.—Section 2044 is amended by adding at the end thereof the following new subsection:

"(d) CLARIFICATION OF INCLUSION OF CERTAIN INCOME.—The amount included in the gross estate under subsection (a) shall include the amount of any income from the property to which this section applies for the period after the last distribution date and on or before the date of the decedent's death if such income is not otherwise included in the decedent's gross estate."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to the estates of decedents dying, and gifts made, after the date of the enactment of this Act.

(2) APPLICATION OF SECTION 2044 TO TRANSFERS BEFORE DATE OF ENACTMENT.—In the case of the estate of any decedent dying after the date of the enactment of this Act, if there was a transfer of property on or before such date—

(A) such property shall not be included in the gross estate of the decedent under section 2044 of the Internal Revenue Code of 1986 if no prior marital deduction was allowed with respect to such a transfer of such property to the decedent, but

(B) such property shall be so included if such a deduction was allowed.

SEC. 4704. TREATMENT OF PORTIONS OF PROPERTY UNDER MARITAL DEDUCTION.

(a) ESTATE TAX.—Subsection (b) of section 2056 (relating to limitation in case of life estate or other terminable interest) is amended by adding at the end thereof the following new paragraph:

"(10) SPECIFIC PORTION.—For purposes of paragraphs (5), (6), and (7)(B)(iv), the term 'specific portion' only includes a portion determined on a fractional or percentage basis."

(b) GIFT TAX.—

(1) Subsection (e) of section 2523 is amended by adding at the end thereof the following new sentence: "For purposes of this subsection, the term 'specific portion' only includes a portion determined on a fractional or percentage basis."

(2) Paragraph (3) of section 2523(f) is amended by inserting before the period at the end thereof the following: "and the rules of section 2056(b)(10) shall apply".

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendment made by subsection (a) shall apply to the estates of decedents dying after the date of the enactment of this Act.

(B) EXCEPTION.—The amendment made by subsection (a) shall not apply to any interest in property which passes (or has passed) to the surviving spouse of the decedent pursuant to a will (or revocable trust) in existence on the date of the enactment of this Act if—

(i) the decedent dies on or before the date 3 years after such date of enactment, or

(ii) the decedent was, on such date of enactment, under a mental disability to change the disposition of his property and did not regain his competence to dispose of such property before the date of his death.

The preceding sentence shall not apply if such will (or revocable trust) is amended at any time after such date of enactment in any respect which will increase the amount of the interest which so passes or alters the terms of the transfer by which the interest so passes.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to gifts made after the date of the enactment of this Act.

SEC. 4705. TRANSITIONAL RULE UNDER SECTION 2056A.

(a) GENERAL RULE.—In the case of any trust created under an instrument executed before the date of the enactment of the Revenue Reconciliation Act of 1990, such trust shall be treated as meeting the requirements of paragraph (1) of section 2056A(a) of the Internal Revenue Code of 1986 if the trust instrument requires that all trustees of the trust be individual citizens of the United States or domestic corporations.

(b) EFFECTIVE DATE.—The provisions of subsection (a) shall take effect as if included in the provisions of section 11702(g) of the Revenue Reconciliation Act of 1990.

SEC. 4706. OPPORTUNITY TO CORRECT CERTAIN FAILURES UNDER SECTION 2032A.

(a) GENERAL RULE.—Paragraph (3) of section 2032A(d) (relating to modification of election and agreement to be permitted) is amended to read as follows:

"(3) MODIFICATION OF ELECTION AND AGREEMENT TO BE PERMITTED.—The Secretary shall prescribe procedures which provide that in any case in which the executor makes an election under paragraph (1) (and submits the agreement referred to in paragraph (2)) within the time prescribed therefor, but—

"(A) the notice of election, as filed, does not contain all required information, or

"(B) signatures of 1 or more persons required to enter into the agreement described in paragraph (2) are not included on the agreement as filed, or the agreement does not contain all required information,

the executor will have a reasonable period of time (not exceeding 90 days) after notification of such failures to provide such information or signatures."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to the estates of decedents dying after the date of the enactment of this Act.

Subtitle H—Excise Tax Simplification

PART I—FUEL TAX PROVISIONS

SEC. 4801. REPEAL OF CERTAIN RETAIL AND USE TAXES.

(a) IN GENERAL.—Section 4041 is amended to read as follows:

"SEC. 4041. SPECIAL MOTOR FUELS AND NONCOMMERCIAL AVIATION GASOLINE.

"(a) SPECIAL MOTOR FUELS.—

"(1) IN GENERAL.—There is hereby imposed a tax on benzol, benzene, naphtha, liquefied petroleum gas, casing head and natural gasoline, or any other liquid—

"(A) sold by any person to an owner, lessee, or other operator of a motor vehicle or a motorboat for use as a fuel in such motor vehicle or motorboat, or

"(B) used by any person as a fuel in a motor vehicle or motorboat unless there was a taxable sale of such liquid under subparagraph (A).

"(2) RATE OF TAX.—The rate of the tax imposed by this subsection shall be the aggregate rate of tax in effect under section 4081 at the time of such sale or use.

"(3) CERTAIN FUELS EXEMPT FROM TAX.—The tax imposed by this subsection shall not apply to gasoline (as defined in section 4082), diesel fuel (as defined in section 4092), kerosene, gas oil, or fuel oil.

"(4) REDUCED RATES OF TAX ON CERTAIN FUELS.—

"(A) QUALIFIED METHANOL AND ETHANOL FUEL.—

"(i) IN GENERAL.—In the case of any qualified methanol or ethanol fuel—

"(I) the Highway Trust Fund financing rate applicable under paragraph (2) shall be 5.4 cents per gallon less than the otherwise applicable rate (6 cents per gallon less in the case of a mixture none of the alcohol in which consists of ethanol), and

"(II) the Leaking Underground Storage Tank Trust Fund financing rate applicable under paragraph (2) shall be 0.05 cent per gallon.

"(ii) QUALIFIED METHANOL OR ETHANOL FUEL.—The term 'qualified methanol or ethanol fuel' means any liquid at least 85 percent of which consists of methanol, ethanol, or other alcohol produced from a substance other than petroleum or natural gas.

"(iii) TERMINATION.—Clause (i) shall not apply to any sale or use after September 30, 2000.

"(B) NATURAL GAS-DERIVED METHANOL OR ETHANOL FUEL.—

"(i) IN GENERAL.—In the case of natural gas-derived methanol or ethanol fuel—

"(I) the Highway Trust Fund financing rate applicable under paragraph (2) shall be 5.75 cents per gallon, and

"(II) the deficit reduction rate applicable under paragraph (2) shall be 1.25 cents per gallon.

"(ii) NATURAL GAS-DERIVED METHANOL OR ETHANOL FUEL.—The term 'natural-gas derived methanol or ethanol fuel' means any liquid at least 85 percent of which consists of methanol, ethanol, or other alcohol produced from natural gas.

"(C) OTHER FUELS CONTAINING ALCOHOL.—

"(i) IN GENERAL.—Under regulations prescribed by the Secretary, in the case of any liquid at least 10 percent of which consists of alcohol (as defined in section 4081(c)(3)), the Highway Trust Fund financing rate applicable under paragraph (2) shall be the comparable rate under section 4081.

"(ii) LATER SEPARATION.—If any person separates the liquid fuel from a mixture of the liquid fuel and alcohol to which clause (i) applies, such separation shall be treated as a sale of the liquid fuel. Any tax imposed on such sale shall be reduced by the amount (if any) of the tax imposed on the sale of such mixture.

"(iii) TERMINATION.—Clause (i) shall not apply to any sale or use after September 30, 2000.

"(D) LIQUEFIED PETROLEUM GAS.—The rate of tax applicable under paragraph (2) to liquefied petroleum gas shall be determined without regard to the Leaking Underground Storage Tank Trust Fund financing rate under section 4081.

"(5) EXEMPTION FOR OFF-HIGHWAY BUSINESS USE.—No tax shall be imposed by paragraph (1) on liquids sold for use or used in an off-highway business use (within the meaning of section 6420(f)).

"(b) NONCOMMERCIAL AVIATION GASOLINE.—

"(1) IN GENERAL.—There is hereby imposed a tax on gasoline—

"(A) sold by any person to an owner, lessee, or other operator of an aircraft for use as a fuel in such aircraft in noncommercial aviation, or

"(B) used by any person as a fuel in an aircraft in noncommercial aviation unless there was a taxable sale of such gasoline under subparagraph (A).

The tax imposed by this paragraph shall be in addition to any tax imposed by section 4081.

"(2) RATE OF TAX.—The rate of the tax imposed by paragraph (1) on any gasoline is the excess of 15 cents a gallon over the sum of the Highway Trust Fund financing rate plus the deficit reduction rate at which tax was imposed on such gasoline under section 4081.

"(3) NONCOMMERCIAL AVIATION.—For purposes of this subsection, the term 'noncommercial aviation' means any use of an aircraft other than use in a business of transporting persons or property for compensation or hire by air. Such term includes any use of an aircraft, in a business described in the preceding sentence, which is properly allocable to any transportation exempt from the taxes imposed by sections 4261 and 4271 by reason of section 4281 or 4282.

"(4) EXEMPTION FOR FUELS CONTAINING ALCOHOL.—No tax shall be imposed by this subsection on any liquid at least 10 percent of which consists of alcohol (as defined in section 4081(c)(3)).

"(5) EXEMPTION FOR CERTAIN HELICOPTER USES.—No tax shall be imposed by this subsection on gasoline sold for use or used in a helicopter for purposes of providing transportation with respect to which the requirements of subsection (e) or (f) of section 4261 are met.

"(6) REGISTRATION.—Except as provided in regulations prescribed by the Secretary, if any gasoline is sold by any person for use as a fuel in an aircraft, it shall be presumed for purposes of this subsection that a tax imposed by this subsection applies to the sale of such gasoline unless the purchaser is registered in such manner (and furnished such information in respect of the use of the gasoline) as the Secretary shall by regulations provide.

"(7) GASOLINE.—For purposes of this subsection, the term 'gasoline' has the meaning given such term by section 4082.

"(8) TERMINATION.—Paragraph (1) shall not apply to any sale or use after December 31, 1995.

"(c) EXEMPTION FOR FARM USE.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, no tax shall be imposed under this section on any liquid sold for use or used on a farm for farming purposes (determined in accordance with paragraphs (1), (2), and (3) of section 6420(e)).

"(2) TERMINATION.—Except with respect to so much of the tax imposed by subsection (a) as is determined by reference to the Leaking Underground Storage Tank Trust Fund financing rate under section 4081, paragraph (1) shall not apply after September 30, 1999.

"(d) EXEMPTIONS FOR STATE AND LOCAL GOVERNMENTS, SCHOOLS, EXPORTATION, AND SUPPLIES FOR VESSELS AND AIRCRAFT.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, no tax shall be imposed under this section on any liquid sold for use, or used, in an exempt use described in paragraph (4), (5), (6), or (7) of section 6420(b).

"(2) TERMINATION.—Except with respect to so much of the tax imposed by subsection (a) as is determined by reference to the Leaking Underground Storage Tank Trust Fund financing rate under section 4081, after September 30, 1999, paragraph (1) shall not apply to exempt uses described in paragraph (4) and (5) of section 6420(b).

"(e) EXEMPTION FOR USE BY CERTAIN AIRCRAFT MUSEUMS.—Under regulations prescribed by the Secretary, no tax shall be imposed under this section on any liquid sold for use or used in an exempt use described in section 6420(b)(11)."

(b) CERTAIN ADDITIONAL PURCHASERS OF FUEL TREATED AS PRODUCERS.—

(1) IN GENERAL.—Subparagraph (C) of section 4092(b)(1) is amended to read as follows:

"(C) REDUCED-TAX PURCHASERS TREATED AS PRODUCERS.—Any person to whom any fuel is sold in a sale on which the amount of tax otherwise required to be paid under section 4091 is reduced under section 4093 shall be treated as the producer of such fuel. The amount of tax imposed by section 4091 on any sale of such fuel by such person shall be reduced by the amount of tax imposed under section 4091 (and not credited or refunded) on any prior sale of such fuel."

(2) CONFORMING AMENDMENT.—Subsection (b) of section 4093 is amended by inserting "(as defined in section 4092(b) without regard to paragraph (1)(C) thereof)" after "producer".

SEC. 4802. REVISION OF FUEL TAX CREDIT AND REFUND PROCEDURES.

(a) REFUNDS TO CERTAIN SELLERS OF DIESEL FUEL AND AVIATION FUEL.—

(1) IN GENERAL.—Paragraph (2) of section 6416(b) is amended by striking "4091 or 4121" and inserting "4121 or 4091; except that this paragraph shall apply to a person selling diesel fuel or aviation fuel for a use described in the first sentence if such person meets such requirements as the Secretary may by regulations prescribe".

(2) LIMITATIONS ON AMOUNT OF TAX ONLY HIGHWAY TRUST FUND FINANCING RATE TO BE REFUNDABLE.—Paragraph (2) of section 6416(b) is amended by adding at the end thereof the following new sentence: "This paragraph shall not apply to the taxes imposed by sections 4081 and 4091 with respect to any use to the same extent that section 6420(a) does not apply to such use by reason of paragraph (1) or (2) of section 6420(c)."

(b) CONSOLIDATION OF REFUND PROVISIONS; REPEAL OF CONSENT REQUIREMENT FOR REFUND OF FUEL TAXES TO CROPDUSTERS, ETC.—Section 6420 (relating to gasoline used on farms) is amended to read as follows:

"SEC. 6420. CERTAIN TAXES ON FUELS USED FOR EXEMPT PURPOSES.

"(a) IN GENERAL.—Except as otherwise provided in this section, if any fuel on which tax was imposed under section 4041, 4081, or 4091 is used in an exempt use, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel the amount equal to the

aggregate tax imposed on such fuel under such sections.

"(b) EXEMPT USES.—For purposes of this section, the term 'exempt use' means—

"(1) in the case of diesel fuel, use other than as a fuel in a diesel-powered highway vehicle or a diesel-powered motorboat,

"(2) in the case of aviation fuel, use other than as a fuel in an aircraft,

"(3) in the case of gasoline or aviation fuel, use in an aircraft other than in noncommercial aviation (as defined in section 4041(b)),

"(4) use by any State, any political subdivision of a State, or the District of Columbia,

"(5) use by a nonprofit educational organization (as defined in section 4221(d)(5)),

"(6) export,

"(7) use as supplies for vessels or aircraft (within the meaning of section 4221(d)(3)),

"(8) use on a farm for farming purposes (within the meaning of subsection (e)),

"(9) use in an off-highway business use (within the meaning of subsection (f)),

"(10) use in qualified bus transportation (within the meaning of subsection (g)),

"(11) use by an aircraft museum (within the meaning of subsection (h)),

"(12) use in a nonpurpose use (within the meaning of subsection (i)),

"(13) use in a helicopter for purposes of providing transportation with respect to which the requirements of subsection (e) or (f) of section 4261 are met, and

"(14) use in producing a mixture of a fuel if at least 10 percent of such mixture consists of alcohol (as defined in section 4081(c)(3)) and if such mixture is sold or used in the trade or business of the person producing such mixture.

"(c) LIMITATIONS ON AMOUNT OF PAYMENT.—

"(1) NO REFUND OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND TAXES IN CERTAIN CASES.—Subsection (a) shall not apply to so much of the taxes imposed by sections 4081 and 4091 as are attributable to a Leaking Underground Storage Tank Trust Fund financing rate in the case of—

"(A) fuel used in a train, and

"(B) fuel used in any aircraft (except as supplies for vessels or aircraft within the meaning of section 4221(d)(3)).

"(2) NO REFUND OF DEFICIT REDUCTION TAX ON DIESEL FUEL USED IN TRAINS.—Subsection (a) shall not apply to so much of the tax imposed by section 4091 as is attributable to a deficit reduction rate in the case of diesel fuel used in a diesel-powered train.

"(3) NO REFUND OF PORTION OF TAX ON DIESEL FUEL USED IN CERTAIN BUSES.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the rate of tax taken into account under subsection (a) with respect to diesel fuel used in qualified bus transportation (within the meaning of subsection (g)(1)) shall be 3.1 cents per gallon less than the aggregate rate of tax imposed on such fuel by section 4091.

"(B) EXCEPTION FOR SCHOOL BUS TRANSPORTATION.—Subparagraph (A) shall not apply to fuel used in an automobile bus while engaged in transportation described in subsection (g)(1)(B).

"(C) EXCEPTION FOR CERTAIN INTRACITY TRANSPORTATION.—Subparagraph (A) shall not apply to fuel used in any automobile bus while engaged in furnishing (for compensation) intracity passenger land transportation—

"(i) which is available to the general public, and

"(ii) which is scheduled and along regular routes,

but only if such bus is a qualified local bus.

"(D) QUALIFIED LOCAL BUS.—For purposes of this paragraph, the term 'qualified local bus' means any local bus—

"(i) which has a seating capacity of at least 20 adults (not including the driver), and

"(ii) which is under contract with (or is receiving more than a nominal subsidy from) any State or local government (as defined in section 4221(d)) to furnish such transportation.

"(4) ALCOHOL FUELS.—

"(A) IN GENERAL.—In the case of a fuel used as described in subsection (b)(14) and on which tax was imposed at regular tax rate, the rate of tax taken into account under subsection (a) with respect to the fuel so used shall equal the excess of the regular tax rate over the incentive tax rate.

"(B) REGULAR TAX RATE.—The term 'regular tax rate' means—

"(i) in the case of gasoline, the aggregate rate of tax imposed by section 4081 determined without regard to subsection (c) thereof,

"(ii) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 on such fuel determined without regard to subsection (c) thereof, and

"(iii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 on such fuel determined without regard to subsection (d) thereof.

"(C) INCENTIVE TAX RATE.—The term 'incentive tax rate' means—

"(i) in the case of gasoline, the aggregate rate of tax imposed by section 4081 with respect to fuel described in subsection (c)(1) thereof,

"(ii) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (c)(1)(B) thereof, and

"(iii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (d)(1)(B) thereof.

"(D) TERMINATION.—This paragraph shall not apply with respect to any mixture sold or used after September 30, 1995.

"(5) GASOHOL USED IN NONCOMMERCIAL AVIATION.—If—

"(A) tax is imposed by section 4081 at the rate determined under subsection (c) thereof on gasohol (as defined in such subsection), and

"(B) such gasohol is used as a fuel in any aircraft in noncommercial aviation (as defined in section 4041(b)),

the payment under subsection (a) shall be equal to 1.4 cents (2 cents in the case of gasohol none of the alcohol in which consists of ethanol) per gallon of gasohol so used.

"(d) TIME FOR FILING CLAIMS; PERIOD COVERED.—

"(1) GENERAL RULE.—Except as provided in paragraphs (2) and (3), not more than one claim may be filed under this section by any person with respect to fuel used (or a qualified diesel powered highway vehicle purchased) during his taxable year; and no claim shall be allowed under this paragraph with respect to fuel used (or a qualified diesel powered highway vehicle purchased) during any taxable year unless filed by the purchaser not later than the time prescribed by law for filing a claim for credit or refund of overpayment of income tax for such taxable year. For purposes of this subsection, a person's taxable year shall be his taxable year for purposes of subtitle A.

"(2) EXCEPTIONS.—

"(A) IN GENERAL.—If as of the close of any quarter of a person's taxable year, $750 or more is payable under this section to such person with respect to fuel used (or a qualified diesel powered highway vehicle purchased) during such quarter or any prior quarter of such taxable year (and for which no other claim has been filed), a claim may be filed under this section with respect to fuel so used (or qualified diesel powered highway vehicles so purchased).

"(B) TIME FOR FILING CLAIM.—No claim filed under this paragraph shall be allowed unless filed during the first quarter following the last quarter included in the claim.

"(3) SPECIAL RULE FOR GASOHOL CREDIT.—

"(A) IN GENERAL.—A claim may be filed for gasoline used to produce gasohol (as defined in section 4081(c)(1)) for any period—

"(i) for which $200 or more is payable by reason of subsection (b)(14), and

"(ii) which is not less than 1 week.

"(B) PAYMENT OF CLAIM.—Notwithstanding subsection (a), if the Secretary has not paid a claim filed pursuant to subparagraph (A) within 20 days of the date of the filing of such claim, the claim shall be paid with interest from such date determined by using the overpayment rate and method under section 6621.

"(e) USE ON A FARM FOR FARMING.—For purposes of subsection (b)(8)—

"(1) IN GENERAL.—Fuel shall be treated as used on a farm for farming purposes only if used—

"(A) in carrying on a trade or business,

"(B) on a farm situated in the United States, and

"(C) for farming purposes.

"(2) FARM.—The term 'farm' includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

"(3) FARMING PURPOSES.—Fuel shall be treated as used for farming purposes only if used—

"(A) by the owner, tenant, or operator of a farm, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife, on a farm of which he is the owner, tenant, or operator;

"(B) by the owner, tenant, or operator of a farm, in handling, drying, packing, grading, or storing any agricultural or horticultural commodity in its unmanufactured state; but only if such owner, tenant, or operator produced more than one-half of the commodity which he so treated during the period with respect to which claim is filed;

"(C) by the owner, tenant, or operator of a farm, in connection with—

"(i) the planting, cultivating, caring for, or cutting of trees, or

"(ii) the preparation (other than milling) of trees for market, incidental to farming operations; or

"(D) by the owner, tenant, or operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment.

"(4) CERTAIN FARMING USE OTHER THAN BY OWNER, ETC.—In applying paragraph (3)(A) to a use on a farm for any purpose described in paragraph (3)(A) by any person other than the owner, tenant, or operator of such farm—

"(A) the owner, tenant, or operator of such farm shall be treated as the user and ultimate purchaser of the fuel, except that

"(B) if the person so using the fuel is an aerial or other applicator of fertilizers or other substances and is the ultimate purchaser of the fuel, then subparagraph (A) of this paragraph shall not apply and the aerial or other applicator shall be treated as having used such fuel on a farm for farming purposes.

"(f) OFF-HIGHWAY BUSINESS USE.—For purposes of subsection (b)(9)—

"(1) IN GENERAL.—The term 'off-highway business use' means any use by a person in a trade or business of such person or in an activity of such person described in section 212 (relating to production of income) otherwise than as a fuel in a highway vehicle—

"(A) which (at the time of such use) is registered, or is required to be registered, for highway use under the laws of any State or foreign country, or

"(B) which, in the case of a highway vehicle owned by the United States, is used on the highway.

"(2) USES IN MOTORBOATS.—The term 'off-highway business use' does not include any use in a motorboat; except that such term shall include any use in—

"(A) a vessel employed in the fisheries or in the whaling business, and

"(B) a motorboat in the active conduct of—

"(i) a trade or business of commercial fishing or transporting persons or property for compensation or hire, or

"(ii) any other trade or business unless the motorboat is used predominantly in any activity which is of a type generally considered to constitute entertainment, amusement or recreation.

"(g) QUALIFIED BUS TRANSPORTATION.—For purposes of subsection (b)(10)—

"(1) IN GENERAL.—Fuel is used in qualified bus transportation if it is used in an automobile bus while engaged in—

"(A) furnishing (for compensation) passenger land transportation available to the general public, or

"(B) the transportation of students and employees of schools (as defined in the last sentence of section 4221(d)(7)(C)).

"(2) LIMITATION IN THE CASE OF NONSCHEDULED INTERCITY OR LOCAL BUSES.—Paragraph (1)(A) shall not apply in respect of fuel used in any automobile bus while engaged in furnishing transportation which is not along regular routes unless the seating capacity of such bus is at least 20 adults (not including the driver).

"(h) USE BY AN AIRCRAFT MUSEUM.—For purposes of subsection (b)(11)—

"(1) IN GENERAL.—Fuel is used by an aircraft museum if it is used in an aircraft or vehicle owned by such museum and used exclusively for purposes set forth in paragraph (2)(C).

"(2) AIRCRAFT MUSEUM.—For purposes of this subsection, the term 'aircraft museum' means an organization—

"(A) described in section 501(c)(3) which is exempt from income tax under section 501(a),

"(B) operated as a museum under charter by a State or the District of Columbia, and

"(C) operated exclusively for the procurement, care, and exhibition of aircraft of the type used for combat or transport in World War II.

"(i) USE IN A NONPURPOSE USE.—For purposes of subsection (b)(12), fuel is used in a nonpurpose use if—

"(1) tax was imposed by section 4041 on the sale thereof and the purchaser—

"(A) uses such fuel other than for the use for which it is sold, or

"(B) resells such fuel, or

"(2) tax was imposed by section 4081 on any gasoline blend stock or product commonly used as an additive in gasoline and the purchaser establishes that the ultimate use of such blend stock or product is not to produce gasoline.

"(j) ADVANCE REPAYMENT OF INCREASED DIESEL FUEL TAX TO ORIGINAL PURCHASERS OF DIESEL-POWERED AUTOMOBILES AND LIGHT TRUCKS.—

"(1) IN GENERAL.—Except as provided in subsection (d), the Secretary shall pay (without interest) to the original purchaser of any qualified diesel-powered highway vehicle an amount equal to the diesel fuel differential amount.

"(2) QUALIFIED DIESEL-POWERED HIGHWAY VEHICLE.—For purposes of this subsection, the term 'qualified diesel-powered highway vehicle' means any diesel-powered highway vehicle which—

"(A) has at least 4 wheels,

"(B) has a gross vehicle weight rating of 10,000 pounds or less, and

"(C) is registered for highway use in the United States under the laws of any State.

"(3) DIESEL FUEL DIFFERENTIAL AMOUNT.—For purposes of this subsection, the term 'diesel fuel differential amount' means—

"(A) except as provided in subparagraph (B), $102, or

"(B) in the case of a truck or van, $198.

"(4) ORIGINAL PURCHASER.—For purposes of this subsection—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'original purchaser' means the first person to purchase the qualified diesel-powered vehicle for use other than resale.

"(B) EXCEPTION FOR CERTAIN PERSONS NOT SUBJECT TO FUELS TAX.—The term 'original purchaser' shall not include any State or local government (as defined in section 4221(d)(4)) or any nonprofit educational organization (as defined in section 4221(d)(5)).

"(C) TREATMENT OF DEMONSTRATION USE BY DEALER.—For purposes of subparagraph (A), use as a demonstrator by a dealer shall not be taken into account.

"(5) VEHICLES TO WHICH SUBSECTION APPLIES.—This subsection shall only apply to qualified diesel-powered highway vehicles originally purchased after January 1, 1985, and before January 1, 1995.

"(6) BASIS REDUCTION.—For the purposes of subtitle A, the basis of any qualified diesel-powered highway vehicle shall be reduced by the amount payable under this subsection with respect to such vehicle.

"(k) INCOME TAX CREDIT IN LIEU OF PAYMENT; OTHER SPECIAL RULES.—

"(1) INCOME TAX CREDIT IN LIEU OF PAYMENT.—

"(A) PERSONS NOT SUBJECT TO INCOME TAX.—Payment shall be made under this section only to—

"(i) the United States or an agency or instrumentality thereof, a State, a political subdivision of a State, or any agency or instrumentality of one or more States or political subdivisions, or

"(ii) an organization exempt from tax under section 501(a) (other than an organization required to make a return of the tax imposed under subtitle A for its taxable year).

"(B) EXCEPTION.—Subparagraph (A) shall not apply to a payment of a claim filed under paragraph (2) or (3) of subsection (d).

"(C) ALLOWANCE OF CREDIT AGAINST INCOME TAX.—

"For allowances of credit against the income tax imposed by subtitle A for fuel used by the purchaser in an exempt use, see section 34.

"(2) APPLICABLE LAWS.—

"(A) IN GENERAL.—All provisions of law, including penalties, applicable in respect of the tax with respect to which a payment is claimed under this section shall, insofar as applicable and not inconsistent with this section, apply in respect of such payment to the same extent as if such payment constituted a refund of overpayments of such tax.

"(B) EXAMINATION OF BOOKS AND WITNESSES.—For the purpose of ascertaining the correctness of any claim made under this section, or the correctness of any payment made in respect of any such claim, the Secretary shall have the authority granted by paragraphs (1), (2), and (3) of section 7602(a) (relating to examination of books and witnesses) as if the claimant were the person liable for tax.

"(3) COORDINATION WITH SECTION 6416, ETC.—No amount shall be payable under this section to any person with respect to any fuel if the Secretary determines that the amount of tax for which such payment is sought was not included in the price paid by such person for such fuel. The amount which would (but for this sentence) be payable under this section with respect to any fuel shall be reduced by any other amount which the Secretary determines is payable under this section, or is refundable under any other provision of this title, to any person with respect to such fuel.

"(4) REGULATIONS.—The Secretary may by regulations prescribe the conditions, not inconsistent with the provisions of this section, under which payments may be made under this section.

"(l) FUELS—For purposes of this section, the terms 'gasoline', 'diesel fuel', and 'aviation fuel' have the respective meanings given such terms by sections 4082 and 4092.

"(m) TERMINATION.—Except as otherwise provided in this section, this section shall not apply to any liquid purchased after September 30, 1999. The preceding sentence shall not apply to taxes attributable to any Leaking Underground Storage Tank Trust Fund financing rate."

SEC. 4803. AUTHORITY TO PROVIDE EXCEPTIONS FROM INFORMATION REPORTING WITH RESPECT TO DIESEL FUEL AND AVIATION FUEL.

(a) RETURNS BY PRODUCERS AND IMPORTERS.—Subparagraph (A) of section 4093(c)(4) (relating to returns by producers and importers) is amended by striking "Each producer" and inserting "Except as provided by the Secretary by regulations, each producer".

(b) RETURNS BY PURCHASERS.—Subparagraph (C) of section 4093(c)(4) (relating to returns by purchasers) is amended by striking "Each person" and inserting "Except as provided by the Secretary by regulations, each person".

SEC. 4804. TECHNICAL AND CONFORMING AMENDMENTS.

(1) Sections 6421 and 6427 are hereby repealed.

(2) Section 34 is amended to read as follows:

"SEC. 34. EXCISE TAXES ON FUEL USED FOR EXEMPT PURPOSES.

"There shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the excess of—

"(1) the aggregate amount payable to the taxpayer under section 6420 (determined without regard to section 6420(k)(1)) with respect to—

"(A) exempt uses (as defined in section 6420(b)) during such taxable year, and

"(B) qualified diesel-powered highway vehicles purchased during such taxable year, over

"(2) the portion of such amount for which a claim payable under section 6420(d) is timely filed."

(3) Subsection (c) of section 40 is amended by striking "subsection (b)(2), (k), or (m)" and inserting "subsection (a)(4) or (b)(4)"

(4) Paragraph (2) of section 451(e) is amended by striking "section 6420(c)(3)" and inserting "section 6420(e)(3)".

(5) Clause (i) of section 1274(c)(3)(A) is amended by striking "section 6420(c)(2)" and inserting "section 6420(e)(2)".

(6) Sections 874(a) and 1366(f)(1) are each amended by striking "gasoline and special" and inserting "taxable".

(7) Paragraph (2) of section 882(c) is amended by striking "gasoline" and inserting "taxable fuels".

(8) Subsection (b) of section 4042 is amended by striking paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(9) Subsection (b) of section 4082 is amended by striking "special fuels referred to in section 4041" and inserting "special motor fuels referred to in section 4041(a)".

(10) Section 4083 is amended to read as follows:

"SEC. 4083. CROSS REFERENCE.

"For provision allowing a credit or refund for gasoline used for exempt purposes, see section 6420."

(11) Subsections (c)(2) and (d)(2) of section 4091 are each amended by striking "section 6427(f)(1)" and inserting "section 6420(b)(14)".

(12) Paragraph (1) of section 4093(c) is amended by striking "by the purchaser" and all that follows and inserting "by the purchaser in an exempt use (as defined in section 6420(b) other than paragraph (14) thereof)."

(13) Subparagraph (C) of section 4093(c)(2) is amended by striking "section 6427(b)(2)(A)" and inserting "section 6420(c)(3)(A)".

(14) Clause (i) of section 4093(c)(4)(C) is amended to read as follows:

"(i) whether such use was an exempt use (as defined in section 6420(b)) and the amount of fuel so used,".

(15) Section 4093 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) USE BY PRODUCER OR IMPORTER.—If any producer or importer uses any taxable fuel, then such producer or importer shall be liable for tax under section 4091 in the same manner as if such fuel were sold by him for such use."

(16) Subsection (f) of section 4093, as redesignated by paragraph (15), is amended to read as follows:

"(e) CROSS REFERENCE.—

"For provision allowing a credit or refund for fuel used for exempt purposes, see section 6420."

(17) Section 6206 is amended to read as follows:

"SEC. 6206. SPECIAL RULES APPLICABLE TO EXCESSIVE FUEL TAX REFUND CLAIMS.

"Any portion of a payment made under section 6420 which constitutes an excessive amount (as defined in section 6675(b)), and any civil penalty provided by section 6675, may be assessed and collected as if—

"(1) it were a tax imposed by the section to which the claim relates, and

"(2) the person making the claim were liable for such tax.

The period for assessing any such portion, and for assessing any such penalty, shall be 3 years from the last day prescribed for filing the claim under section 6420."

(18) Subparagraph (A) of section 6416(a)(2) is amended by striking "(relating to tax on special fuels)" and inserting "(relating to special motor fuels and noncommercial aviation gasoline)".

(19) Paragraph (2) of section 6416(b) is amended—

(A) in the matter preceding subparagraph (A) by striking "subsection (a) or (d) of section 4041" and inserting "section 4041(a)", and

(B) in subparagraph (F) by striking "special fuels referred to in section 4041" and inserting "special motor fuels referred to in section 4041(a)".

(20) Paragraph (9) of section 6504 is amended to read as follows:

"(9) Assessments to recover excessive amounts paid under section 6420 (relating to certain taxes on fuels used for exempt purposes) and assessments of civil penalties under section 6675 for excessive claims under section 6420, see section 6206."

(21) Subsection (h) of section 6511 is amended by striking paragraphs (5) and (6), by redesignating paragraph (7) as paragraph (6), and by inserting after paragraph (4) the following new paragraph:

"(5) For limitations in the case of payments under section 6420 (relating to certain taxes on fuels used for exempt purposes), see section 6420(d)."

(22) Subsection (c) of section 6612 is amended by striking "6420 (relating to payments in the case of gasoline used on the farm for farming purposes) and 6421 (relating to payments in the case of gasoline used for certain nonhighway purposes or by local transit systems)" and inserting "and 6420 (relating to certain taxes on fuels used for exempt purposes)".

(23) Subsection (a) of section 6675 is amended by striking "section 6420 (relating to gasoline used on farms), 6421 (relating to gasoline used for certain nonhighway purposes or by local transit systems), or 6427 (relating to fuels not used for taxable purposes)" and inserting "section 6420 (relating to certain taxes on fuels used for exempt purposes)".

(24) Paragraph (1) of section 6675(b) is amended by striking ", 6421, or 6427, as the case may be,".

(25) Section 7210 is amended by striking "sections 6420(e)(2), 6421(g)(2), 6427(j)(2)" and inserting "sections 6420(k)(3)(B)".

(26) Section 7603, subsections (b) and (c)(2) of section 7604, section 7605, and 7610(c) are each amended by striking "section 6420(e)(2), 6421(g)(2), 6427(j)(2)," each place it appears and inserting "section 6420(k)(2)(B)".

(27) Sections 7605 and 7609(c)(1) are each amended by striking "section 6420(e)(2), 6421(g)(2), or 6427(j)(2)" and inserting "section 6420(k)(2)(B)".

(28) Paragraph (1) of section 9502(b) is amended by striking "subsections (c) and (e) of section 4041 (taxes on aviation fuel)" and inserting "section 4041(b) (relating to taxes on noncommercial aviation gasoline)".

(29) Paragraph (2) of section 9502(d) is amended by striking "fuel used in aircraft" and all that follows and inserting "fuel used in aircraft, under section 6420 (relating to certain taxes on fuels used for exempt purposes)."

(30) Paragraph (1) of section 9502(e) is amended by striking "4041(c)(1) and".

(31) Subparagraph (A) of section 9503(b)(1) is amended to read as follows:

"(A) section 4041 (relating to special motor fuels and noncommercial aviation gasoline),".

(32) Paragraph (4) of section 9503(b) is amended to read as follows:

"(4) CERTAIN ADDITIONAL TAXES NOT TRANSFERRED TO HIGHWAY TRUST FUND.—For purposes of paragraphs (1) and (2), the taxes imposed by sections 4041, 4081, and 4091 shall be taken into account only to the extent attributable to the Highway Trust Fund financing rates under such sections."

(33)(A) Clause (i) of section 9503(c)(2)(A) is amended to read as follows:

"(i) the amounts paid before July 1, 1996, under section 6420 (relating to certain taxes on fuels used for exempt purposes) on the basis of claims filed for periods ending before October 1, 1995, and".

(B) For purposes of section 9503(c)(2)(A)(i) of the Internal Revenue Code of 1986, the reference to section 6420 shall be treated as including a reference to sections 6420, 6421, and 6427 of such Code as in effect before the enactment of this Act.

(34) Clause (ii) of section 9503(c)(2)(A) is amended by striking "gasoline, special fuels, and lubricating oil" each place it appears and inserting "taxable fuels".

(35) Subparagraph (D) of section 9503(c)(4) is amended by striking "section 4041(a)(2)" and inserting "section 4041(a)".

(36) Subparagraph (A) of section 9503(e)(5) is amended by striking "section 6427(g)" and inserting "section 6420(j)".

(37) Paragraph (1) of section 9508(b) is amended to read as follows:

"(1) taxes received in the Treasury under section 4041 (relating to special motor fuels and noncommercial aviation gasoline) to the extent attributable to the Leaking Underground Storage Tank Trust Fund financing rates applicable under such section,".

(38) Subparagraph (A) of section 9508(c)(2) is amended by striking "equivalent to—" and all that follows and inserting the following: "equivalent to—

"(i) amounts paid under section 6420 (relating to certain taxes on fuels used for exempt purposes), and

"(ii) credits allowed under section 34,

with respect to so much of the taxes imposed by sections 4041, 4081, and 4091 as are attributable to the Leaking Underground Storage Tank Trust Fund financing rates applicable under such sections."

(39) The table of sections for subpart C of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 34 and inserting the following:

"Sec. 34. Excise taxes on fuels used for exempt purposes."

(40) The table of sections for subchapter B of chapter 31 is amended by striking the item relating to section 4041 and inserting the following:

"Sec. 4041. Special motor fuels and noncommercial aviation gasoline."

(41) The table of sections for subpart A of part III of subchapter A of chapter 32 is amended by striking the item relating to section 4083 and inserting the following:

"Sec. 4083. Cross reference."

(42) The table of sections for subchapter B of chapter 65 is amended by striking the items relating to sections 6421 and 6427 and by striking the item relating to section 6420 and inserting the following new item:

"Sec. 6420. Certain taxes on fuels used for exempt purposes."

(43) The table of sections for subchapter A of chapter 63 is amended by striking the item relating to section 6206 and inserting the following new item:

"Sec. 6206. Special rules applicable to excessive fuel tax refund claims."

SEC. 4805. EFFECTIVE DATE.

The amendments made by this part shall take effect on January 1, 1993.

PART II—PROVISIONS RELATED TO DISTILLED SPIRITS, WINES, AND BEER

SEC. 4811. CREDIT OR REFUND FOR IMPORTED BOTTLED DISTILLED SPIRITS RETURNED TO DISTILLED SPIRITS PLANT.

(a) IN GENERAL.—Paragraph (1) of section 5008(c) (relating to distilled spirits returned to bonded premises) is amended by striking "withdrawn from bonded premises on payment or determination of tax" and inserting "on which tax has been determined or paid".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4812. AUTHORITY TO CANCEL OR CREDIT EXPORT BONDS WITHOUT SUBMISSION OF RECORDS.

(a) IN GENERAL.—Subsection (c) of section 5175 (relating to export bonds) is amended by striking "on the submission of" and all that follows and inserting "if there is such proof of exportation as the Secretary may by regulations require."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4813. REPEAL OF REQUIRED MAINTENANCE OF RECORDS ON PREMISES OF DISTILLED SPIRITS PLANT.

(a) IN GENERAL.—Subsection (c) of section 5207 (relating to records and reports) is amended by striking "shall be kept on the premises where the operations covered by the record are carried on and".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4814. FERMENTED MATERIAL FROM ANY BREWERY MAY BE RECEIVED AT A DISTILLED SPIRITS PLANT.

(a) IN GENERAL.—Paragraph (2) of section 5222(b) (relating to production, receipt, removal, and use of distilling materials) is amended to read as follows:

"(2) beer conveyed without payment of tax from brewery premises, or".

(b) CLARIFICATION OF AUTHORITY TO PERMIT REMOVAL OF BEER WITHOUT PAYMENT OF TAX FOR USE AS DISTILLING MATERIAL.—Section 5053 (relating to exemptions) is amended by redesignating subsection (f) as subsection (i) and by inserting after subsection (e) the following new subsection:

"(f) REMOVAL FOR USE AS DISTILLING MATERIAL.—Subject to such regulations as the Secretary may prescribe, beer may be removed from a brewery without payment of tax to any distilled spirits plant for use as distilling material."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4815. REPEAL OF REQUIREMENT FOR WHOLESALE DEALERS IN LIQUORS TO POST SIGN.

(a) IN GENERAL.—Section 5115 (relating to sign required on premises) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) section 5681 is amended by striking ", and every wholesale dealer in liquors," and by striking "section 5115(a) or".

(2) Subsection (c) of section 5681 is amended—

(A) by striking "or wholesale liquor establishment, on which no sign required by section 5115(a) or" and inserting "on which no sign required by", and

(B) by striking "or wholesale liquor establishment, or who" and inserting "or who".

(3) The table of sections for subpart D of part II of subchapter A of chapter 51 is amended by striking the item relating to section 5115.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 4816. REFUND OF TAX TO WINE RETURNED TO BOND NOT LIMITED TO UNMERCHANTABLE WINE.

(a) IN GENERAL.—Subsection (a) of section 5044 (relating to refund of tax on unmerchantable wine) is amended by striking "as unmerchantable".

(b) CONFORMING AMENDMENTS.—

(1) Section 5361 is amended by striking "unmerchantable".

(2) The section heading for section 5044 is amended by striking "UNMERCHANTABLE".

(3) The item relating to section 5044 in the table of sections for subpart C of part I of subchapter A of chapter 51 is amended by striking "unmerchantable".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4817. USE OF ADDITIONAL AMELIORATING MATERIAL IN CERTAIN WINES.

(a) IN GENERAL.—Subparagraph (D) of section 5384(b)(2) (relating to ameliorated fruit and berry wines) is amended by striking "loganberries, currants, or gooseberries," and inserting "any fruit or berry with a natural fixed acid of 20 parts per thousand or more (before any correction of such fruit or berry)".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4818. DOMESTICALLY-PRODUCED BEER MAY BE WITHDRAWN FREE OF TAX FOR USE OF FOREIGN EMBASSIES, LEGATIONS, ETC.

(a) IN GENERAL.—Section 5053 (relating to exemptions) is amended by inserting after subsection (f) the following new subsection:

"(g) REMOVALS FOR USE OF FOREIGN EMBASSIES, LEGATIONS, ETC.—

"(1) IN GENERAL.—Subject to such regulations as the Secretary may prescribe—

"(A) beer may be withdrawn from the brewery without payment of tax for transfer to any customs bonded warehouse for entry pending withdrawal therefrom as provided in subparagraph (B), and

"(B) beer entered into any customs bonded warehouse under subparagraph (A) may be withdrawn for consumption in the United States by, and for the official and family use of, such foreign governments, organizations, and individuals as are entitled to withdraw imported beer from such warehouses free of tax.

Beer transferred to any customs bonded warehouse under subparagraph (A) shall be entered, stored, and accounted for in such warehouse under such regulations and bonds as the Secretary may prescribe, and may be withdrawn therefrom by such governments, organizations, and individuals free of tax under the same conditions and procedures as imported beer.

"(2) OTHER RULES TO APPLY.—Rules similar to the rules of paragraphs (2) and (3) of section 5362(e) of such section shall apply for purposes of this subsection."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4819. BEER MAY BE WITHDRAWN FREE OF TAX FOR DESTRUCTION.

(a) IN GENERAL.—Section 5053 is amended by inserting after subsection (g) the following new subsection:

"(h) REMOVALS FOR DESTRUCTION.—Subject to such regulations as the Secretary may prescribe, beer may be removed from the brewery without payment of tax for destruction."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4820. AUTHORITY TO ALLOW DRAWBACK ON EXPORTED BEER WITHOUT SUBMISSION OF RECORDS.

(a) IN GENERAL.—The first sentence of section 5055 (relating to drawback of tax on beer) is amended by striking "found to have been paid" and all that follows and inserting "paid on such beer if there is such proof of exportation as the Secretary may by regulations require."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4821. TRANSFER TO BREWERY OF BEER IMPORTED IN BULK WITHOUT PAYMENT OF TAX.

(a) IN GENERAL.—Part II of subchapter G of chapter 51 is amended by adding at the end thereof the following new section:

"SEC. 5418. BEER IMPORTED IN BULK.

"Beer imported or brought into the United States in bulk containers may, under such regulations as the Secretary may prescribe, be withdrawn from customs custody and transferred in such bulk containers to the premises of a brewery without payment of the internal revenue tax imposed on such beer. The proprietor of a brewery to which such beer is transferred shall become liable for the tax on the beer withdrawn from customs custody under this section upon release of the beer from customs custody, and the importer, or the person bringing such beer into the United States, shall thereupon be relieved of the liability for such tax."

(b) CLERICAL AMENDMENT.—The table of sections for such part II is amended by adding at the end thereof the following new item:

"Sec. 5418. Beer imported in bulk."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the 180th day after the date of the enactment of this Act.

PART III—OTHER EXCISE TAX PROVISIONS

SEC. 4831. AUTHORITY TO GRANT EXEMPTIONS FROM REGISTRATION REQUIREMENTS.

(a) IN GENERAL.—The first sentence of section 4222 (relating to registration) is amended to read as follows: "Except as provided in subsection (b), section 4221 shall not apply with respect to the sale of any article by or to any person who is required by the Secretary to be registered under this section and who is not so registered."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to sales after the 180th day after the date of the enactment of this Act.

SEC. 4832. REPEAL OF EXPIRED PROVISIONS.

(a) PIGGY-BACK TRAILERS.—Section 4051 is amended by striking subsection (d) and by redesignating subsection (e) as subsection (d).

(b) DEEP SEABED MINING.—

(1) Subchapter F of chapter 36 (relating to tax on removal of hard mineral resources from deep seabed) is hereby repealed.

(2) The table of subchapters for chapter 36 is amended by striking the item relating to subchapter F.

Subtitle I—Administrative Provisions

PART I—GENERAL PROVISIONS

SEC. 4901. SIMPLIFICATION OF DEPOSIT REQUIREMENTS FOR SOCIAL SECURITY, RAILROAD RETIREMENT, AND WITHHELD INCOME TAXES.

(a) IN GENERAL.—Subsection (g) of section 6302 (relating to deposits of social security taxes and withheld income taxes) is amended to read as follows:

"(g) DEPOSITS OF SOCIAL SECURITY, RAILROAD RETIREMENT, AND WITHHELD INCOME TAXES.—

"(1) GENERAL RULE.—Except as otherwise provided in this subsection—

"(A) employment taxes attributable to payments on Wednesday, Thursday, or Friday of any week shall be deposited on or before the following Tuesday, and

"(B) employment taxes attributable to payments on Saturday, Sunday, Monday, or Tuesday of any week shall be deposited on or before the following Friday.

"(2) SMALL DEPOSITORS.—

"(A) IN GENERAL.—If any person is a small depositor for any calendar quarter, such person shall make deposits of employment taxes attributable to payments during any month in such quarter on or before the 15th day of the following month.

"(B) SMALL DEPOSITOR.—For purposes of this subsection, a person is a small depositor for any calendar quarter if, for each calendar quarter in the base period, the amount of employment taxes attributable to payments made by such person during such calendar quarter was $12,000 or less. For purposes of the preceding sentence, the base period for any calendar quarter is the 4 calendar quarters ending with the second preceding calendar quarter.

"(C) CESSATION AS SMALL DEPOSITOR.—A person shall cease to be treated as a small depositor for a calendar quarter after any day on which such person is required to make a deposit under paragraph (3).

"(3) LARGE DEPOSITORS.—Notwithstanding paragraphs (1) and (2), if, on any day, any person has $100,000 or more of employment taxes for deposit, such taxes shall be deposited on or before the next day.

"(4) SAFE HARBOR.—

"(A) IN GENERAL.—A person shall be treated as depositing the required amount of employment taxes in any deposit if the shortfall does not exceed the greater of—

"(i) $100, or

"(ii) 2 percent of the amount of employment taxes required to be deposited in such deposit (determined without regard to this paragraph).

Such shortfall shall be deposited as required by the Secretary by regulations.

"(B) SHORTFALL.—For purposes of this paragraph, the term 'shortfall' means, with respect to any deposit, the excess of the amount of employment taxes required to be deposited in such deposit (determined without regard to this paragraph) over the amount (if any) thereof deposited on or before the last date prescribed therefor.

"(5) DEPOSIT REQUIRED ONLY ON BANKING DAYS.—If taxes are required to be deposited under this subsection on any day which is not a banking day, such taxes shall be treated as timely deposited if deposited on the first banking day thereafter.

"(6) EMPLOYMENT TAXES.—For purposes of this subsection, the term 'employment taxes' means the taxes imposed by chapters 21, 22, and 24.

"(7) SUBSECTION TO APPLY ONLY TO REQUIRED DEPOSITS.—This subsection shall not apply to employment taxes which are not required to be deposited under the regulations prescribed by the Secretary under this section.

"(8) REGULATIONS.—The Secretary may prescribe regulations—

"(A) specifying employment tax deposit requirements for persons who fail to comply with the requirements of this subsection,

"(B) specifying circumstances under which a person shall be treated as a small depositor for purposes of this subsection notwithstanding that such person is not described in paragraph (2)(B),

"(C) specifying modifications to the provisions of this subsection for end-of-quarter periods, and

"(D) establishing deposit requirements for taxes imposed by section 3406 which apply in lieu of the requirements of this subsection."

(b) CONFORMING AMENDMENT.—Section 226 of the Railroad Retirement Solvency Act of 1983 is hereby repealed.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts attributable to payments made after December 31, 1992.

SEC. 4902. SIMPLIFICATION OF EMPLOYMENT TAXES ON DOMESTIC SERVICES.

(a) THRESHOLD REQUIREMENT FOR SOCIAL SECURITY TAXES.—

(1) Subparagraph (B) of section 3121(a)(7) (defining wages) is amended to read as follows:

"(B) cash remuneration paid by an employer in any calendar year to an employee for domestic service in a private home of the employer, if the cash remuneration paid in such year by the employer to the employee for such service is less than $300. As used in this subparagraph, the term 'domestic service in a private home of the employer' does not include service described in subsection (g)(5);"

(2) Subparagraph (B) of section 209(a)(6) of the Social Security Act is amended to read as follows:

"(B) Cash remuneration paid by an employer in any calendar year to an employee for domestic service in a private home of the employer, if the cash remuneration paid in such year by the employer to the employee for such service is less than $300. As used in this subparagraph, the term 'domestic service in a private home of the employer' does not include service described in section 210(f)(5)."

(3) The second sentence of section 3102(a) is amended—

(A) by striking "calendar quarter" each place it appears and inserting "calendar year", and

(B) by striking "$50" and inserting "$300".

(b) COORDINATION OF COLLECTION OF DOMESTIC SERVICE EMPLOYMENT WITH COLLECTION OF INCOME TAXES.—

(1) IN GENERAL.—Chapter 25 (relating to general provisions relating to employment taxes) is amended by adding at the end thereof the following new section:

"SEC. 3510. COORDINATION OF COLLECTION OF DOMESTIC SERVICE EMPLOYMENT TAXES WITH COLLECTION OF INCOME TAXES.

"(a) GENERAL RULE.—Except as otherwise provided in this section—

"(1) returns with respect to domestic service employment taxes shall be made on a calendar year basis,

"(2) any such return for any calendar year shall be filed on or before the 15th day of the fourth month following the close of the employer's taxable year which begins in such calendar year, and

"(3) no requirement to make deposits (or to pay installments under section 6157) shall apply with respect to such taxes.

"(b) DOMESTIC SERVICE EMPLOYMENT TAXES SUBJECT TO ESTIMATED TAX PROVISIONS.—

"(1) IN GENERAL.—Solely for purposes of section 6654, domestic service employment taxes imposed with respect to any calendar year shall be treated as a tax imposed by chapter 2 for the taxable year of the employer which begins in such calendar year.

"(2) ANNUALIZATION.—Under regulations prescribed by the Secretary, appropriate adjustments shall be made in the application of section 6654(d)(2) in respect of the amount treated as tax under paragraph (1).

"(3) TRANSITIONAL RULE.—For purposes of applying section 6654 to a taxable year beginning in 1992, the amount referred to in clause (ii) of section 6654(d)(1)(B) shall be increased by 90 percent of the amount treated as tax under paragraph (1) for such taxable year.

"(c) DOMESTIC SERVICE EMPLOYMENT TAXES.—For purposes of this section, the term 'domestic service employment taxes' means—

"(1) any taxes imposed by chapter 21 or 23 on remuneration paid for domestic service in a private home of the employer, and

"(2) any amount withheld from such remuneration pursuant to an agreement under section 3402(p).

For purposes of this subsection, the term 'domestic service in a private home of the employer' does not include service described in section 3121(g)(5).

"(d) EXCEPTION WHERE EMPLOYER LIABLE FOR OTHER EMPLOYMENT TAXES.—To the extent provided in regulations prescribed by the Secretary, this section shall not apply to any employer for any calendar year if such employer is liable for any tax under this subtitle with respect to remuneration for services other than domestic service in a private home of the employer.

"(e) AUTHORITY TO ENTER INTO AGREEMENTS TO COLLECT STATE UNEMPLOYMENT TAXES.—

"(1) IN GENERAL.—The Secretary is hereby authorized to enter into an agreement with any State to collect, as the agent of such State, such State's unemployment taxes imposed on remuneration paid for domestic service in a private home of the employer. Any taxes to be collected by the Secretary pursuant to such an agreement shall be treated as domestic service employment taxes for purposes of this section.

"(2) TRANSFERS TO STATE ACCOUNT.—Any amount collected under an agreement referred to in paragraph (1) shall be transferred by the Secretary to the account of the State in the Unemployment Trust Fund.

"(3) SUBTITLE F MADE APPLICABLE.—For purposes of subtitle F, any amount required to be collected under an agreement under paragraph (1) shall be treated as a tax imposed by chapter 23.

"(4) STATE.—For purposes of this subsection, the term 'State' has the meaning given such term by section 3306(j)(1)."

(2) CLERICAL AMENDMENT.—The table of sections for chapter 25 is amended by adding at the end thereof the following:

"Sec. 3510. Coordination of collection of domestic service employment taxes with collection of income taxes."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to remuneration paid in calendar years after 1992.

SEC. 4903. SPECIAL RULE FOR CORPORATE ESTIMATED TAXES WHERE NO LIABILITY FOR PRECEDING YEAR.

(a) GENERAL RULES.—Paragraph (1) of section 6655(d) (relating to amount of required installments) is amended—

(1) by striking the last sentence of subparagraph (B), and

(2) by adding at the end thereof the following new subparagraph:

"(C) SPECIAL RULES.—

"(i) Clause (ii) of subparagraph (B) shall apply only if the preceding taxable year was a taxable year of 12 months and the corporation filed a return for such preceding taxable year.

"(ii) If—

"(I) the requirements of clause (i) are met with respect to the preceding taxable year,

"(II) the return for such preceding taxable year does not show a liability for tax, and

"(III) the requirements of clause (i) are met with respect to the second preceding taxable year,

clause (ii) of subparagraph (B) shall be applied by substituting 'second preceding' for 'preceding' and, if the return for the second preceding taxable year does not show a liability for tax, no addition to tax shall be imposed under subsection (a) for the taxable year."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 4904. CERTAIN NOTICES DISREGARDED UNDER PROVISION INCREASING INTEREST RATE ON LARGE CORPORATE UNDERPAYMENTS.

(a) GENERAL RULE.—Subparagraph (B) of section 6621(c)(2) (defining applicable date) is amended by adding at the end thereof the following new clause:

"(iii) EXCEPTION FOR LETTERS OR NOTICES INVOLVING SMALL AMOUNTS.—For purposes of this paragraph, any letter or notice shall be disregarded if the amount of the deficiency or proposed deficiency (or the assessment or proposed assessment) set forth in such letter or notice is not greater than $100,000 (determined by not taking into account any interest, penalties, or additions to tax)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply for purposes of determining interest for periods after December 31, 1990.

SEC. 4905. UNIFORM PENALTY PROVISIONS TO APPLY TO CERTAIN PENSION REPORTING REQUIREMENTS.

(a) IN GENERAL.—

(1) Paragraph (1) of section 6724(d) is amended by striking "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", and", and by inserting after subparagraph (B) the following new subparagraph:

"(C) any statement of the amount of payments to another person required to be made to the Secretary under—

"(i) section 408(i) (relating to reports with respect to individual retirement accounts or annuities), or

"(ii) section 6047(d) (relating to reports by employers, plan administrators, etc.)."

(2) Paragraph (2) of section 6724(d) is amended by striking "or" at the end of subparagraph (R), by striking the period at the end of subparagraph (S) and inserting a comma, and by inserting after subparagraph (S) the following new subparagraphs:

"(T) section 408(i) (relating to reports with respect to individual retirement plans) to any person other than the Secretary with respect to the amount of payments made to such person, or

"(U) section 6047(d) (relating to reports by plan administrators) to any person other than the Secretary with respect to the amount of payments made to such person."

(b) MODIFICATION OF REPORTABLE DESIGNATED DISTRIBUTIONS.—

(1) SECTION 408.—Subsection (i) of section 408 (relating to individual retirement account reports) is amended by inserting "aggregating $10 or more in any calendar year" after "distributions".

(2) SECTION 6047.—Paragraph (1) of section 6047(d) (relating to reports by employers, plan administrators, etc.) is amended by adding at the end thereof the following new sentence: "No return or report may be required under the preceding sentence with respect to distributions to any person during any year unless such distributions aggregate $10 or more.".

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 6047(f) is amended to read as follows:

"(1) For provisions relating to penalties for failures to file returns and reports required under this section, see sections 6652(e), 6721, and 6722."

(2) Subsection (e) of section 6652 is amended by adding at the end thereof the following new sentence: "This subsection shall not apply to any return or statement which is an information return described in section 6724(d)(1)(C)(ii) or a payee statement described in section 6724(d)(2)(U)."

(3) Subsection (a) of section 6693 is amended by adding at the end thereof the following new sentence: "This subsection shall not apply to any report which is an information return described in section 6724(d)(1)(C)(i) or a payee statement described in section 6724(d)(2)(T).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to returns, reports, and other statements the due date for which (determined without regard to extensions) is after December 31, 1992.

SEC. 4906. USE OF REPRODUCTIONS OF RETURNS STORED IN DIGITAL IMAGE FORMAT.

(a) IN GENERAL.—Paragraph (2) of section 6103(p) (relating to procedure and recordkeeping) is amended by adding at the end thereof the following new subparagraph:

"(D) REPRODUCTION FROM DIGITAL IMAGES.—For purposes of this paragraph, the term 'reproduction' includes a reproduction from digital images."

(b) STUDY.—The Comptroller General of the United States shall conduct a study of available digital image technology for the purpose of determining the extent to which reproductions of documents stored using that technology accurately reflect the data on the original document and the appropriate period for retaining the original document. Not later than 1 year after the date of the enactment of this Act, a report on the results of such study shall be submitted to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

SEC. 4907. REPEAL OF REQUIREMENT TO REGISTER TAX SHELTERS.

(a) IN GENERAL.—Section 6111 (relating to registration of tax shelters) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 6112 is amended by redesignating subsection (c) as subsection (d).

(2) Subsection (c) of section 6111 (as in effect before the amendment made by subsection (a)) is hereby transferred to section 6112 and inserted after subsection (b).

(3) Paragraph (1) of section 6112(b) is amended to read as follows:

"(1) any tax shelter, and".

(4) Subsection (c) of section 6112 (as added by paragraph (2)) is amended by adding at the end thereof the following new paragraph:

"(5) YEAR.—For purposes of this subsection, the term 'year' means—

"(A) the taxable year of the tax shelter, or

"(B) if the tax shelter has no taxable year, the calendar year."

(5) Section 6112 is amended by adding at the end thereof the following new subsection:

"(e) REGULATIONS.—The Secretary may prescribe regulations which provide—

"(1) rules for the aggregation of similar investments offered by the same person or persons for purposes of applying subsection (c)(4),

"(2) exemptions from the treatment of an investment as a tax shelter, and

"(3) such rules as may be necessary or appropriate to carry out the purposes of this section in the case of foreign tax shelters."

(6) Section 6707 (relating to failure to furnish information regarding tax shelters) is hereby repealed.

(7) The table of sections for subchapter B of chapter 61 is amended by striking the item relating to section 6111.

(8) The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6707.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act but shall not apply with respect to any tax shelter (within the meaning of section 6111 of the Internal Revenue Code of 1986, as in effect on the day before such date) required to be registered under such section 6111 before such date of enactment.

SEC. 4908. REPEAL OF AUTHORITY TO DISCLOSE WHETHER PROSPECTIVE JUROR HAS BEEN AUDITED.

(a) IN GENERAL.—Subsection (h) of section 6103 (relating to disclosure to certain Federal officers and employees for purposes of tax administration, etc.) is amended by striking paragraph (5) and by redesignating paragraph (6) as paragraph (5).

(b) CONFORMING AMENDMENT.—Paragraph (4) of section 6103(p) is amended by striking "(h)(6)" each place it appears and inserting "(h)(5)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to judicial proceedings pending on, or commenced after, the date of the enactment of this Act.

SEC. 4909. REPEAL OF SPECIAL AUDIT PROVISIONS FOR SUBCHAPTER S ITEMS.

(a) GENERAL RULE.—Subchapter D of chapter 63 (relating to tax treatment of subchapter S items) is hereby repealed.

(b) CONSISTENT TREATMENT REQUIRED.—Section 6037 (relating to return of S corporation) is amended by adding at the end thereof the following new subsection:

"(c) SHAREHOLDER'S RETURN MUST BE CONSISTENT WITH CORPORATE RETURN OR SECRETARY NOTIFIED OF INCONSISTENCY.—

"(1) IN GENERAL.—A shareholder of an S corporation shall, on such shareholder's return, treat a subchapter S item in a manner which is consistent with the treatment of such item on the corporate return.

"(2) NOTIFICATION OF INCONSISTENT TREATMENT.—

"(A) IN GENERAL.—In the case of any subchapter S item, if—

"(i)(I) the corporation has filed a return but the shareholder's treatment on his return is (or may be) inconsistent with the treatment of the item on the corporate return, or

"(II) the corporation has not filed a return, and

"(ii) the shareholder files with the Secretary a statement identifying the inconsistency,

paragraph (1) shall not apply to such item.

"(B) SHAREHOLDER RECEIVING INCORRECT INFORMATION.—A shareholder shall be treated as having complied with clause (ii) of subparagraph (A) with respect to a subchapter S item if the shareholder—

"(i) demonstrates to the satisfaction of the Secretary that the treatment of the subchapter S item on the shareholder's return is consistent with the treatment of the item on the schedule furnished to the shareholder by the corporation, and

"(ii) elects to have this paragraph apply with respect to that item.

"(3) EFFECT OF FAILURE TO NOTIFY.—In any case—

"(A) described in subparagraph (A)(i)(I) of paragraph (2), and

"(B) in which the shareholder does not comply with subparagraph (A)(ii) of paragraph (2),

any adjustment required to make the treatment of the items by such shareholder consistent with the treatment of the items on the corporate return shall be treated as arising out of mathematical or clerical errors and assessed according to section 6213(b)(1). Paragraph (2) of section 6213(b) shall not apply to any assessment referred to in the preceding sentence.

"(4) SUBCHAPTER S ITEM.—For purposes of this subsection, the term 'subchapter S item' means any item of an S corporation to the extent that regulations prescribed by the Secretary provide that, for purposes of this subtitle, such item is more appropriately determined at the corporation level than at the shareholder level.

"(5) ADDITION TO TAX FOR FAILURE TO COMPLY WITH SECTION.—

"For addition to tax in the case of a shareholder's negligence in connection with, or disregard of, the requirements of this section, see part II of subchapter A of chapter 68."

(c) CONFORMING AMENDMENTS.—

(1) Section 1366 is amended by striking subsection (g).

(2) Subsection (b) of section 6233 is amended to read as follows:

"(b) SIMILAR RULES IN CERTAIN CASES.—If a partnership return is filed for any taxable year but it is determined that there is no entity for such taxable year, to the extent provided in regulations, rules similar to the rules of subsection (a) shall apply."

(3) The table of subchapters for chapter 63 is amended by striking the item relating to subchapter D.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 4910. CLARIFICATION OF STATUTE OF LIMITATIONS.

(a) IN GENERAL.—Subsection (a) of section 6501 (relating to limitations on assessment and collection) is amended by adding at the end thereof the following new sentence: "For purposes of this chapter, the term 'return' means the return required to be filed by the taxpayer (and does not include a return of any person from whom the taxpayer has received an item of income, gain, loss, deduction, or credit)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

PART II—TAX COURT PROCEDURES

SEC. 4911. OVERPAYMENT DETERMINATIONS OF TAX COURT.

(a) APPEAL OF ORDER.—Paragraph (2) of section 6512(b) (relating to jurisdiction to enforce) is amended by adding at the end the following new sentence: "An order of the Tax Court disposing of a motion under this paragraph shall be reviewable in the same manner as a decision of the Tax Court, but only with respect to the matters determined in such order."

(b) DENIAL OF JURISDICTION REGARDING CERTAIN CREDITS AND REDUCTIONS.—Subsection (b) of section 6512 (relating to overpayment determined by Tax Court) is amended by adding at the end the following new paragraph:

"(4) DENIAL OF JURISDICTION REGARDING CERTAIN CREDITS AND REDUCTIONS.—The Tax Court shall have no jurisdiction under this subsection to restrain or review any credit or reduction made by the Secretary under section 6402."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 4912. AWARDING OF ADMINISTRATIVE COSTS.

(a) RIGHT TO APPEAL TAX COURT DECISION.—Subsection (f) of section 7430 (relating to right of appeal) is amended by adding at the end the following new paragraph:

"(3) APPEAL OF TAX COURT DECISION.—An order of the Tax Court disposing of a petition under paragraph (2) shall be reviewable in the same manner as a decision of the Tax Court, but only with respect to the matters determined in such order."

(b) PERIOD FOR APPLYING TO IRS FOR COSTS.—Subsection (b) of section 7430 (relating to limitations) is amended by adding at the end the following new paragraph:

"(5) PERIOD FOR APPLYING TO IRS FOR ADMINISTRATIVE COSTS.—An award may be made under subsection (a) for reasonable administrative costs only if the prevailing party files an application for such costs before the 91st day after the date on which the party was determined to be the prevailing party under subsection (c)(4)(B)."

(c) PERIOD FOR PETITIONING OF TAX COURT FOR REVIEW OF DENIAL OF COSTS.—Paragraph (2) of section 7430(f) (relating to right of appeal) is amended—

(1) by striking "appeal to" and inserting "the filing of a petition for review with", and

(2) by adding at the end the following new sentence: "If the Secretary sends by certified or registered mail a notice of such decision to the petitioner, no proceeding in the Tax Court may be initiated under this paragraph unless such petition is filed before the 91st day after the date of such mailing."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to civil actions or proceedings commenced after the date of the enactment of this Act.

SEC. 4913. REDETERMINATION OF INTEREST PURSUANT TO MOTION.

(a) IN GENERAL.—Paragraph (3) of section 7481(c) (relating to jurisdiction over interest determinations) is amended by striking "petition" and inserting "motion".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 4914. APPLICATION OF NET WORTH REQUIREMENT FOR AWARDS OF LITIGATION COSTS.

(a) IN GENERAL.—Paragraph (4) of section 7430(c) (defining prevailing party) is amended by adding at the end thereof the following new subparagraph:

"(C) SPECIAL RULES FOR APPLYING NET WORTH REQUIREMENT.—In applying the requirements of section 2412(d)(2)(B) of title 28, United States Code, for purposes of subparagraph (A)(iii) of this paragraph—

"(i) the net worth limitation in clause (i) of such section shall apply to—

"(I) an estate but shall be determined as of the date of the decedent's death, and

"(II) a trust but shall be determined as of the last day of the taxable year involved in the proceeding, and

"(ii) individuals filing a joint return shall be treated as 1 individual for purposes of clause (i) of such section, except in the case of a spouse relieved of liability under section 6013(e)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to proceedings commenced after the date of the enactment of this Act.

PART III—AUTHORITY FOR CERTAIN COOPERATIVE AGREEMENTS

SEC. 4921. COOPERATIVE AGREEMENTS WITH STATE TAX AUTHORITIES.

(a) GENERAL RULE.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

"SEC. 7524. COOPERATIVE AGREEMENTS WITH STATE TAX AUTHORITIES.

"(a) AUTHORIZATION OF AGREEMENTS.—The Secretary is hereby authorized to enter into cooperative agreements with State tax authorities for purposes of enhancing joint tax administration. Such agreements may provide for—

"(1) joint filing of Federal and State income tax returns,

"(2) single processing of such returns,

"(3) joint collection of taxes (other than Federal income taxes), and

"(4) such other provisions as may enhance joint tax administration.

"(b) SERVICES ON REIMBURSABLE BASIS.—Any agreement under subsection (a) may require reimbursement for services provided by either party to the agreement.

"(c) AVAILABILITY OF FUNDS.—Any funds appropriated for purposes of the administration of this title shall be available for purposes of carrying out the Secretary's responsibility under an agreement entered into under subsection (a). Any reimbursement received pursuant to such an agreement shall be credited to the amount so appropriated.

"(d) STATE TAX AUTHORITY.—For purposes of this section, the term 'State tax authority' means agency, body, or commission referred to in section 6103(d)(1)."

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end thereof the following new item:

"Sec. 7524. Cooperative agreements with State tax authorities."

TITLE V—TAXPAYER BILL OF RIGHTS

Subtitle A—Additional Safeguards To Protect Taxpayers' Rights

PART I—TAXPAYERS' ADVOCATE

SEC. 5101. ESTABLISHMENT OF POSITION OF TAXPAYERS' ADVOCATE WITHIN INTERNAL REVENUE SERVICE.

(a) GENERAL RULE.—Section 7802 is amended by adding at the end thereof the following new subsection:

"(d) OFFICE OF TAXPAYERS' ADVOCATE.—

"(1) IN GENERAL.—There is established in the Internal Revenue Service an office to be known as the 'Office of the Taxpayers' Advocate'. Such office shall be under the supervision and direction of an official to be known as the 'Taxpayers' Advocate' who

shall be appointed by the President, by and with the advice and consent of the Senate. The Taxpayers' Advocate shall be entitled to compensation at the same rate as the Chief Counsel of the Internal Revenue Service.

"(2) FUNCTIONS OF OFFICE.—

"(A) IN GENERAL.—It shall be the function of the Office of Taxpayers' Advocate to—

"(i) assist taxpayers in resolving problems with the Internal Revenue Service,

"(ii) identify areas in which taxpayers have problems in dealings with the Internal Revenue Service,

"(iii) to the extent possible, propose changes in the administrative practices of the Internal Revenue Service to mitigate such problems, and

"(iv) identify potential legislative changes which may be appropriate to mitigate such problems.

"(B) ANNUAL REPORTS.—Not later than December 31 of each calendar year after 1991, the Taxpayers' Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on its activities during the fiscal year ending during such calendar year. Any such report shall—

"(i) identify the 20 most serious problems which taxpayers have in dealing with the Internal Revenue Service,

"(ii) contain recommendations for such administrative and legislative action as may be appropriate to resolve such problems, and

"(iii) include such other information as the Taxpayers' Advocate may deem advisable.

Any such report may, before its submission, be furnished to the Secretary for comment, but the final determination of the matters to be included in such report shall be made by the Taxpayers' Advocate.

"(3) RESPONSIBILITIES OF COMMISSIONER OF INTERNAL REVENUE SERVICE.—The Commissioner of Internal Revenue shall establish procedures requiring a formal response to all recommendations submitted to the Commissioner by the Taxpayers' Advocate."

(b) CONFORMING AMENDMENTS.—Section 7811 (relating to taxpayer assistance orders) is amended—

(1) by striking "the Office of Ombudsman" in subsection (a) and inserting "the Office of the Taxpayers' Advocate", and

(2) by striking "Ombudsman" each place it appears (including in the headings of subsections (e) and (f)) and inserting "Taxpayers' Advocate".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(2) TRANSITIONAL RULE.—The first appointment by the President of the Taxpayers' Advocate shall be made without regard to the requirement for the advice and consent of the Senate if the individual so appointed is the head of the Office of the Taxpayer Ombudsman on the date of the enactment of this Act.

SEC. 5102. EXPANSION OF AUTHORITY TO ISSUE TAXPAYER ASSISTANCE ORDERS.

(a) Paragraph (2) of section 7811(b) (relating to terms of taxpayer assistance orders) is amended by striking "cease any action" and inserting "cease any action, take any action".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

PART II—MODIFICATIONS TO INSTALLMENT AGREEMENT PROVISIONS

SEC. 5111. NOTIFICATION OF REASONS FOR TERMINATION OF INSTALLMENT AGREEMENTS.

(a) GENERAL RULE.—Subsection (b) of section 6159 is amended by adding at the end thereof the following new paragraph:

"(5) NOTICE REQUIREMENTS.—The Secretary may not take any action under paragraph (2), (3), or (4) unless—

"(A) a notice of such action is provided to the taxpayer not later than the day 30 days before the date of such action, and

"(B) such notice includes an explanation why the Secretary intends to take such action.

The preceding sentence shall not apply in any case in which the Secretary believes that collection of any tax to which an agreement under this section relates is in jeopardy."

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 6159(b) is amended to read as follows:

"(3) SUBSEQUENT CHANGE IN FINANCIAL CONDITIONS.—If the Secretary makes a determination that the financial condition of a taxpayer with whom the Secretary has entered into an agreement under subsection (a) has significantly changed, the Secretary may alter, modify, or terminate such agreement."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date 6 months after the date of the enactment of this Act.

SEC. 5112. ADMINISTRATIVE REVIEW OF DENIAL OF REQUEST FOR INSTALLMENT AGREEMENT.

(a) GENERAL RULE.—Section 6159 (relating to agreements for payment of tax liability in installments) is amended by adding at the end thereof the following new subsection:

"(c) ADMINISTRATIVE REVIEW.—The Secretary shall establish procedures for administrative review by the Appeals Division of the Internal Revenue Service of denials of requests for installment agreements under this section."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 5113. RUNNING OF FAILURE TO PAY PENALTY SUSPENDED DURING PERIOD INSTALLMENT AGREEMENT IN EFFECT.

(a) GENERAL RULE.—Section 6651 (relating to penalty for failure to file tax return or to pay tax) is amended by adding at the end thereof the following new subsection:

"(g) TREATMENT OF INSTALLMENT AGREEMENTS UNDER SECTION 6159.—If an agreement is entered into under section 6159 for the payment of any tax in installments, the period during which such agreement is in effect shall be disregarded in determining the amount of any addition under paragraph (2) or (3) of subsection (a) with respect to such tax."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to installment agreements entered into after the date of the enactment of this Act.

PART III—INTEREST

SEC. 5121. EXTENSION OF INTEREST-FREE PERIOD FOR PAYMENT OF TAX AFTER NOTICE AND DEMAND.

(a) GENERAL RULE.—Paragraph (3) of section 6601(e) (relating to payments made within 10 days after notice and demand) is amended to read as follows:

"(3) PAYMENTS MADE WITHIN SPECIFIED PERIOD AFTER NOTICE AND DEMAND.—If notice and demand is made for payment of any amount and if such amount is paid within 21 days (10 days if the amount for which such notice and demand is made equals or exceeds $100,000) after the date of such notice and demand, interest under this section on the amount so paid shall not be imposed for the period after the date of such notice and demand."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply in the case of any notice and demand given after the date 6 months after the date of the enactment of this Act.

SEC. 5122. EXPANSION OF AUTHORITY TO ABATE INTEREST.

(a) GENERAL RULE.—Paragraph (1) of section 6404(e) (relating to abatement of interest in certain cases) is amended by striking "ministerial act" each place it appears and inserting "ministerial or managerial act".

(b) CLERICAL AMENDMENT.—The subsection heading for subsection (e) of section 6404 is amended by striking "Assessments" and inserting "Abatement".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to interest accruing with respect to deficiencies or payments for taxable years beginning after the date of the enactment of this Act.

PART IV—JOINT RETURNS

SEC. 5131. DISCLOSURE OF COLLECTION ACTIVITIES.

(a) GENERAL RULE.—Subsection (e) of section 6103 (relating to disclosure to persons having material interest) is amended by adding at the end thereof the following new paragraph:

"(8) DISCLOSURE OF COLLECTION ACTIVITIES WITH RESPECT TO JOINT RETURN.—If any deficiency of tax with respect to a joint return is assessed and the individuals filing such return are no longer married or no longer reside in the same household, upon request in writing of either of such individuals, the Secretary may disclose in writing to the individual making the request whether the Secretary has attempted to collect such deficiency from such other individual, the general nature of such collection activities, and the amount collected."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 5132. JOINT RETURN MAY BE MADE AFTER SEPARATE RETURNS WITHOUT FULL PAYMENT OF TAX.

(a) GENERAL RULE.—Paragraph (2) of section 6013(b) (relating to limitations on filing of joint return after filing separate returns) is amended by striking subparagraph (A) and redesignating the following subparagraphs accordingly.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

PART V—COLLECTION ACTIVITIES

SEC. 5141. MODIFICATIONS TO LIEN AND LEVY PROVISIONS.

(a) WITHDRAWAL OF CERTAIN NOTICES.—Section 6323 (relating to validity and priority against certain persons) is amended by adding at the end thereof the following new subsection:

"(j) WITHDRAWAL OF NOTICE IN CERTAIN CIRCUMSTANCES.—

"(1) IN GENERAL.—If the Secretary determines that the withdrawal of a notice of a lien filed under this section would be in the best interest of the taxpayer and the United States, the Secretary may withdraw such notice and this chapter shall be applied as if

the withdrawn notice had not been filed. Any such withdrawal shall be made by filing notice thereof at the same office as the withdrawn notice.

"(2) NOTICE TO CREDIT AGENCIES, ETC.—Upon written request by the taxpayer with respect to whom a notice of a lien was withdrawn under paragraph (1), the Secretary shall make reasonable efforts to notify credit reporting agencies, and financial institutions specified in such request, of the withdrawal of such notice. Any such request shall be in such form as the Secretary may prescribe."

(b) RETURN OF LEVIED PROPERTY IN CERTAIN CASES.—Section 6343 (relating to authority to release levy and return property) is amended by adding at the end thereof the following new subsection:

"(d) RETURN OF PROPERTY IN CERTAIN CASES.—If—

"(1) any property has been levied upon, and

"(2) the Secretary determines that the return of such property would be in the best interest of the taxpayer and the United States, the provisions of subsection (b) shall apply in the same manner as if such property had been wrongly levied upon; except that no interest shall be allowed under subsection (c)."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5142. OFFERS-IN-COMPROMISE.

(a) GENERAL RULE.—Subsection (a) of section 7122 is amended by adding at the end thereof the following new sentence: "The Secretary may make such a compromise in any case where the Secretary determines that such compromise would be in the best interest of the United States.".

(b) REVIEW REQUIREMENTS.—Subsection (b) of section 7122 (relating to records) is amended by striking "$500" and inserting "$50,000".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

PART VI—ERRONEOUS AND FRAUDULENT INFORMATION RETURNS

SEC. 5151. PHONE NUMBER OF PERSON PROVIDING PAYEE STATEMENTS REQUIRED TO BE SHOWN ON SUCH STATEMENT.

(a) GENERAL RULE.—The following provisions are each amended by striking "name and address" and inserting "name, address, and phone number":

(1) Section 6041(d)(1).
(2) Section 6041A(e)(1).
(3) Section 6042(c)(1).
(4) Section 6044(e)(1).
(5) Section 6045(b)(1).
(6) Section 6049(c)(1)(A).
(7) Section 6050B(b)(1).
(8) Section 6050H(d)(1).
(9) Section 6050I(e)(1).
(10) Section 6050J(e).
(11) Section 6050K(b)(1).
(12) Section 6050N(b)(1).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to statements required to be furnished after December 31, 1992 (determined without regard to any extension).

SEC. 5152. CIVIL DAMAGES FOR FRAUDULENT FILING OF INFORMATION RETURNS.

(a) GENERAL RULE.—Subchapter B of chapter 76 (relating to proceedings by taxpayers and third parties) is amended by redesignating section 7434 as section 7435 and by inserting after section 7433 the following new section:

"SEC. 7434. CIVIL DAMAGES FOR FRAUDULENT FILING OF INFORMATION RETURNS.

"(a) IN GENERAL.—If any person willfully files a false or fraudulent information return with respect to payments purported to be made to any other person, such other person may bring a civil action for damages against the person so filing such return.

"(b) DAMAGES.—In any action brought under subsection (a), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the greater of $5,000 or the sum of—

"(1) any actual damages sustained by the plaintiff as a proximate result of the filing of the false or fraudulent information return (including any costs attributable to resolving deficiencies asserted as a result of such filing), and

"(2) the costs of the action.

"(c) PERIOD FOR BRINGING ACTION.—Notwithstanding any other provision of law, an action to enforce the liability created under this section may be brought without regard to the amount in controversy and may be brought only within 6 years after the filing of the false or fraudulent information return.

"(d) INFORMATION RETURN.—For purposes of this section, the term 'information return' means any statement described in section 6724(d)(1)(A)."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 76 is amended by striking the item relating to section 7434 and inserting the following:

"Sec. 7434. Civil damages for fraudulent filing of information returns.
"Sec. 7435. Cross references."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to false or fraudulent information returns filed after the date of the enactment of this Act.

SEC. 5153. REQUIREMENT TO VERIFY ACCURACY OF INFORMATION RETURNS.

(a) GENERAL RULE.—Section 6201 (relating to assessment authority) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) REQUIRED VERIFICATION OF INFORMATION RETURNS.—When making a determination of a deficiency based on an information return filed with the Secretary under chapter 61 by a third party, the Secretary shall take reasonable steps to corroborate the accuracy of such information return when such return is disputed by the taxpayer. Failure to comply with the preceding sentence shall not invalidate any notice of a deficiency or assessment of a deficiency."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

PART VII—MODIFICATIONS TO PENALTY FOR FAILURE TO COLLECT AND PAY OVER TAX

SEC. 5161. NO PENALTY IF PROMPT NOTIFICATION OF THE SECRETARY.

(a) IN GENERAL.—Section 6672 (relating to failure to collect and pay over tax, or attempt to evade or defeat tax) is amended by adding at the end thereof the following new subsection:

"(c) PENALTY NOT APPLICABLE WHERE PROMPT NOTIFICATION OF FAILURE.—

"(1) IN GENERAL.—A person shall not be liable for any penalty under subsection (a) by reason of any failure referred to in subsection (a) if—

"(A) such person is not a significant owner, or highly compensated employee, of the trade or business with respect to which such failure occurred,

"(B) such person notifies the Secretary (in such manner as he may prescribe) that such failure has occurred within 10 days after the date of such failure, and

"(C) such notification was before any notice by the Secretary to any person with respect to such failure.

"(2) DEFINITIONS.—For purposes of paragraph (1)—

"(A) SIGNIFICANT OWNER.—The term 'significant owner' means—

"(i) any person holding an interest as a proprietor in a trade or business carried on as a proprietorship, and

"(ii) in the case of a trade or business conducted by a corporation or partnership, any person who is a 5-percent owner (as defined in section 416(i)(1)) in such corporation or partnership, as the case may be.

"(B) HIGHLY COMPENSATED EMPLOYEE.—The term 'highly compensated employee' means any employee who receives compensation from the employer at an annual rate in excess of $75,000."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply in the case of failures after the date of the enactment of this Act.

SEC. 5162. DISCLOSURE OF CERTAIN INFORMATION WHERE MORE THAN 1 PERSON SUBJECT TO PENALTY.

(a) IN GENERAL.—Subsection (e) of section 6103 (relating to disclosure to persons having material interest) is amended by adding at the end thereof the following new paragraph:

"(9) DISCLOSURE OF CERTAIN INFORMATION WHERE MORE THAN 1 PERSON SUBJECT TO PENALTY UNDER SECTION 6672.—If the Secretary determines that a person is liable for a penalty under section 6672(a) with respect to any failure, upon request in writing of such person, the Secretary may disclose in writing to such person—

"(A) the name of any other person whom the Secretary has determined to be liable for such penalty with respect to such failure, and

"(B) whether the Secretary has attempted to collect such penalty from such other person, the general nature of such collection activities, and the amount collected."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

PART VIII—AWARDING OF COSTS AND CERTAIN FEES

SEC. 5171. INTERNAL REVENUE SERVICE EMPLOYEES PERSONALLY LIABLE IN CERTAIN CASES.

(a) IN GENERAL.—Section 7430 is amended by adding at the end thereof the following new subsection:

"(g) PERSONAL LIABILITY OF INTERNAL REVENUE SERVICE EMPLOYEES IN CERTAIN CASES.—In any proceeding in which the prevailing party is awarded a judgment for reasonable litigation costs under this section, the court may assess a portion of such costs against any Internal Revenue Service employee (and such employee shall not be reimbursed by the United States for the costs so assessed) if the court determines that such proceeding resulted from any arbitrary, capricious, or malicious act of such employee."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply in the case of proceedings commenced after the date of the enactment of this Act.

SEC. 5172. FAILURE TO AGREE TO EXTENSION NOT TAKEN INTO ACCOUNT.

(a) IN GENERAL.—Paragraph (1) of section 7430(b) (relating to requirement that administrative remedies be exhausted) is amended by adding at the end thereof the following new sentence: "Any failure to agree to an extension of the time for the assessment of any

tax shall not be taken into account for purposes of determining whether the prevailing party meets the requirements of the preceding sentence."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply in the case of proceedings commenced after the date of the enactment of this Act.

PART IX—OTHER PROVISIONS

SEC. 5181. REQUIRED CONTENT OF CERTAIN NOTICES.

(a) GENERAL RULE.—Subsection (a) of section 7522 (relating to content of tax due, deficiency, and other notices) is amended by striking "shall describe the basis for, and identify" and inserting "shall set forth the adjustments which are the basis for, and shall identify".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to notices sent after the date 6 months after the date of the enactment of this Act.

SEC. 5182. TREATMENT OF SUBSTITUTE RETURNS UNDER SECTION 6651.

(a) GENERAL RULE.—Section 6651 (relating to failure to file tax return or to pay tax) is amended by adding at the end thereof the following new subsection:

"(h) TREATMENT OF RETURNS PREPARED BY SECRETARY UNDER SECTION 6020(b).—In the case of any return made by the Secretary under section 6020(b)—

"(1) such return shall be disregarded for purposes of determining the amount of the addition under paragraph (1) of subsection (a), but

"(2) such return shall be treated as the return filed by the taxpayer for purposes of determining the amount of the addition under paragraphs (2) and (3) of subsection (a)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply in the case of any return the due date for which (determined without regard to extensions) is after the date of the enactment of this Act.

Subtitle B—Form Modifications; Studies

SEC. 5200. DEFINITIONS.

For purposes of this subtitle:

(1) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(2) 1986 CODE.—The term "1986 Code" means the Internal Revenue Code of 1986.

(3) TAX-WRITING COMMITTEES.—The term "tax-writing Committees" means the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

PART I—FORM MODIFICATIONS

SEC. 5201. EXPLANATION OF CERTAIN PROVISIONS.

(a) GENERAL RULE.—The Secretary shall take such actions as may be appropriate to ensure that taxpayers are aware of the provisions of the 1986 Code permitting payment of tax in installments, extensions of time for payment of tax, and compromises of tax liability. Such actions shall include revising the instructions for filing income tax returns so that such instructions include an explanation of—

(1) the procedures for requesting the benefits of such provisions, and

(2) the terms and conditions under which the benefits of such provisions are available.

(b) COLLECTION NOTICES.—In any notice of an underpayment of tax or proposed underpayment of tax sent by the Secretary to any taxpayer, the Secretary shall include a notification of the availability of the provisions of sections 6159, 6161, and 7122 of the 1986 Code.

SEC. 5202. IMPROVED PROCEDURES FOR NOTIFYING SERVICE OF CHANGE OF ADDRESS OR NAME.

The Secretary shall provide improved procedures for taxpayers to notify the Secretary of changes in names and addresses. Not later than December 31, 1992, the Secretary shall institute procedures for timely updating all Internal Revenue Service records with change-of-address information provided to the Secretary by taxpayers.

SEC. 5203. RIGHTS AND RESPONSIBILITIES OF DIVORCED INDIVIDUALS.

The Secretary shall include in the Internal Revenue Service publication entitled "Your Rights As A Taxpayer" a section on the rights and responsibilities of divorced individuals.

SEC. 5204. PENALTIES UNDER SECTION 6672.

(a) PUBLIC INFORMATION REQUIREMENTS.—The Secretary shall take such actions as may be appropriate to ensure that employees are aware of their responsibilities under the Federal tax depository system, the circumstances under which employees may be liable for the penalty imposed by section 6672 of the 1986 Code, and the responsibility to promptly report to the Internal Revenue Service any failure referred to in subsection (a) of such section 6672. Such actions shall include—

(1) printing of a warning on deposit coupon booklets and the appropriate tax returns that certain employees may be liable for the penalty imposed by such section 6672, and

(2) the development of a special information packet.

(b) BOARD MEMBERS OF TAX-EXEMPT ORGANIZATIONS.—

(1) VOLUNTARY BOARD MEMBERS.—The penalty under section 6672 of the 1986 Code shall not be imposed on volunteer members of any board of trustees or directors of an organization referred to in section 501 of the 1986 Code to the extent such members are solely serving in an honorary capacity and do not participate in the day-to-day or financial operations of the organization.

(2) DEVELOPMENT OF EXPLANATORY MATERIALS.—The Secretary shall develop materials explaining the circumstances under which board members of tax-exempt organizations (including voluntary and honorary members) may be subject to penalty under section 6672 of the 1986 Code. Such materials shall be made available to tax-exempt organizations.

(3) IRS INSTRUCTIONS.—The Secretary shall clarify the instructions to Internal Revenue Service employees on the application of the penalty under section 6672 of the 1986 Code with regard to honorary or volunteer members of boards of trustees or directors of tax-exempt organizations.

(c) PROMPT NOTIFICATION.—To the maximum extent practicable, the Secretary shall notify all persons who have failed to make timely and complete deposit of any taxes of such failure within 30 days after the date on which the Secretary is first aware of such failure.

SEC. 5205. REQUIRED NOTICE OF CERTAIN PAYMENTS.

If any payment is received by the Secretary from any taxpayer and the Secretary cannot associate such payment with any outstanding tax liability of such taxpayer, the Secretary shall make reasonable efforts to notify the taxpayer of such inability within 60 days after the receipt of such payment.

PART II—STUDIES

SEC. 5211. PILOT PROGRAM FOR APPEAL OF ENFORCEMENT ACTIONS.

(a) GENERAL RULE.—The Secretary shall establish a 1-year pilot program for appeals of enforcement actions (including lien, levy, and seizure actions) to the Appeals Division of the Internal Revenue Service—

(1) where the deficiency was assessed without actual knowledge of the taxpayer,

(2) where the deficiency was assessed without an opportunity for administrative appeal, and

(3) in other appropriate circumstances.

(b) REPORT.—Not later than December 31, 1992, the Secretary shall submit to the tax-writing Committees a report on the pilot program established under subsection (a), together with such recommendations as he may deem advisable.

SEC. 5212. STUDY ON TAXPAYERS WITH SPECIAL NEEDS.

(a) GENERAL RULE.—The Secretary shall conduct a study on ways to assist the elderly, physically impaired, foreign-language speaking, and other taxpayers with special needs to comply with the internal revenue laws.

(b) REPORT.—Not later than December 31, 1992, the Secretary shall submit to the tax-writing Committees a report on the study conducted under subsection (a), together with such recommendations as he may deem advisable.

SEC. 5213. REPORTS ON TAXPAYER-RIGHTS EDUCATION PROGRAM.

Not later than August 1, 1992, the Secretary shall submit a report to the tax-writing Committees on the scope and content of the Internal Revenue Service's taxpayer-rights education program for its officers and employees. Not later than December 31, 1992, the Secretary shall submit a report to the tax-writing Committees on the effectiveness of the program referred to in the preceding sentence.

SEC. 5214. BIENNIAL REPORTS ON MISCONDUCT BY INTERNAL REVENUE SERVICE EMPLOYEES.

During December of 1992 and during December of each second calendar year thereafter, the Secretary shall report to the tax-writing Committees on all cases involving complaints about misconduct of Internal Revenue Service employees and the disposition of such complaints.

SEC. 5215. STUDY OF NOTICES OF DEFICIENCY.

(a) GENERAL RULE.—The Comptroller General shall conduct a study on—

(1) the effectiveness of current Internal Revenue Service efforts to notify taxpayers with regard to tax deficiencies under section 6212 of the 1986 Code,

(2) the number of registered or certified letters and other notices returned to the Internal Revenue Service as undeliverable,

(3) any follow-up action taken by the Internal Revenue Service to locate taxpayers who did not receive actual notice,

(4) the effect that failures to receive notice of such deficiencies have on taxpayers, and

(5) recommendations to improve Internal Revenue Service notification of taxpayers.

(b) REPORT.—Not later than December 31, 1992, the Comptroller General shall submit to the tax-writing Committees a report on the study conducted under subsection (a), together with such recommendations as he may deem advisable.

SEC. 5216. NOTICE AND FORM ACCURACY STUDY.

(a) GENERAL RULE.—The Comptroller General shall conduct annual studies of the accuracy of 25 of the most commonly used Internal Revenue Service forms, notices, and publications. In conducting any such study, the Comptroller General shall examine the suitability and usefulness of Internal Revenue Service telephone numbers on Internal Revenue Service notices and shall solicit and

consider the comments of organizations representing taxpayers, employers, and tax professionals.

(b) REPORTS.—The Comptroller General shall submit to the tax-writing Committees a report on each study conducted under subsection (a), together with such recommendations as he may deem advisable. The first such report shall be submitted not later than December 31, 1992.

SEC. 5217. INTERNAL REVENUE SERVICE EMPLOYEES' SUGGESTIONS STUDY.

(a) GENERAL RULE.—The Comptroller General shall conduct a study of the Internal Revenue Service employee-suggestion programs. Such study shall include a review of the suggestions which were accepted and rewarded by the Internal Revenue Service, an analysis as to how many of the suggestions were implemented, and an analysis of why other suggestions were not implemented.

(b) REPORT.—Not later than December 31, 1992, the Comptroller General shall submit to the tax-writing Committees a report on the study conducted under subsection (a), together with such recommendations as he may deem advisable.

The CHAIRMAN. Pursuant to the rule, the gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 30 minutes, and a Member opposed will be recognized for 30 minutes.

Is there a Member opposed?

Mr. CRANE. Mr. Chairman, I am in opposition.

The CHAIRMAN. The gentleman from Illinois [Mr. CRANE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

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

Mr. ROSTENKOWSKI. Mr. Chairman, the Democratic substitute provides a clear alternative to both the President's original tax proposals and the Republican substitute

The Democratic substitute is more fully described in Ways and Means Committee Print 102-35, the technical explanation of H.R. 4287, available from the U.S. Government Printing Office. This technical explanation is to be considered the legislative history of H.R. 4287.

One word summarizes our substitute: Fairness.

When the substitute passes, our tax system will be more fair and progressive. Middle-class people—the economic bedrock of America—will pay less. The richest 1 percent of all Americans will pay more.

Only within the beltway do people claim that a $400 tax cut is trivial. For my constituents in Chicago and millions like them around the country, $800 over the next 2 years means a lot.

Earlier in the debate, I heard one Republican Member describe our middle-class tax relief as equivalent to a candy bar a day. But when you're sitting around the kitchen table trying to figure out how to pay your family bills, 800 bucks means a lot. It will help make a car payment, or buy a month's groceries, or a new washing machine, or pay on a student loan. These things are not trivial at all to middle-class people who are being squeezed.

These are hard-working people—trying to pay their bills and make ends meet. They are the victims of the recession and the victims of the neglect of the last 12 years. Many of them fear losing their jobs. Millions of them are already out of work. Millions more have taken part-time jobs because they have no alternative. Tell them that $800 doesn't mean anything.

The tax relief in the Democratic substitute provides the broadest possible relief to the middle class. Over 80 percent of the American people—92 million taxpayers and their families—would benefit.

We have just defeated the Republican substitute, as endorsed by President Bush, because it contained tax cuts in five figures for the rich, and gave nothing to the middle-class. That is not what we are about. Democrats have come up with a substitute to help middle-class Americans, not the wealthy.

Let's be clear whose taxes will be raised under the Democratic substitute. The middle-class tax cut is financed by increased taxes only on the wealthy—the richest 1 percent of our population. And that is only fair. The substitute adds a new top rate of 35 percent for individuals with incomes over $100,000, and couples with incomes over $185,000.

We also add an additional 10-percent surtax on millionaires. The substitute also says that a business cannot pay an executive more than $1 million and deduct it. Why should the enormous salaries paid to business executives be subsidized by middle-class Americans who are struggling to pay their bills and many of whom are out of work? I know how the people in the neighborhoods of Chicago feel about that.

My Republican colleagues say taxing millionaires is wrong. We Democrats say: It is only fair.

Let me emphasize once again: The permanent tax increases in the Democratic substitute only tax the top 1 percent of all taxpayers in the country. No one who makes less than $100,000 will pay more.

The revenue generated by the increased taxes on the wealthy will also fund several important incentives to create jobs, and promote economic growth and investment. Economic growth and prosperity is not a partisan issue.

The Democratic substitute also promotes fairness by ending the taxation of illusory gains that are actually nothing more than inflation. In addition, the Democratic substitute targets a 50-percent exclusion for certain venture capital investments to encourage investment in growth-oriented businesses that help create jobs.

The Democratic substitute also helps real estate, farmers, and small businessmen—by liberalizing the real estate passive loss rules, the minimum tax and depreciation allowances, and allowing small businessmen and farmers to writeoff up to $25,000 of new equipment in each of the next 2 years.

In addition, the Democratic substitute contains many important provisions that were left out of the Republican substitute, but which are supported by hundreds of Members on both sides of the aisle:

Some 239 Members have sponsored a permanent R&D credit—it's here in the Democratic substitute.

Some 331 Members have sponsored a permanent credit for low-income housing—it is here in the Democratic substitute.

Some 397 Members have sponsored a permanent mortgage bond program—it is here in the Democratic substitute.

Some 283 Members have sponsored a permanent targeted jobs credit—it is here in the Democratic substitute.

Some 308 Members have sponsored a permanent exclusion for employer-provided education—once again it's here in the Democratic substitute.

Some 326 Members have sponsored passive loss relief—it is here in the Democratic substitute.

Some 217 Members have sponsored a permanent small issue, farmer bond program—it is here in the Democratic substitute.

Hundreds of you support the taxpayer bill of rights—it's here in the Democratic substitute.

The Democratic substitute also establishes urban enterprise zones and rural investment zones to encourage revitalization of our towns and communities.

Finally, the Democratic substitute repeals most of the luxury taxes that have generated considerable controversy and criticism. These luxury taxes were included in the 1990 budget agreement only because the President rejected broad tax increases on the wealthy that would have been simpler and fairer. The Democratic substitute only reaffirms our past position and traditional principles.

Unlike the Republican substitute that we've already rejected, the Democratic substitute will decrease the deficit by $14 billion over the next 6 years under congressional scoring. Under the administration's own scoring, the Democratic substitute would decrease the deficit by $35 billion. It's high time, Mr. Chairman, we stop passing off debts to our children and grandchildren. Deficit reduction is essential for our Nation's long-term economic growth and prosperity.

Mr. Chairman, I urge my colleagues to support the Democratic substitute and make the tax system fairer for middle-class Americans across the country. They are the economic bedrock of our Nation and the hardest hit by the current recession. Most impor-

tant, they have been neglected long enough—12 long years—by successive Republican administrations. This is their turn. Vote for the working men and women of America. Vote for the Democratic substitute.

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

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

Mr. ARCHER. Mr. Chairman, over the past several days, I have tried to think positively about passing a bill the President can sign into law, one which will get this economy moving and put Americans back to work.

I have tried to seek bipartisan cooperation. I truly believed that we had some hope for compromise, given the agreement which clearly exists on the President's March 20 initiative. I am about to get discouraged.

If the Rostenkowski substitute prevails, we cannot possibly have a bill signed into law by the end of March. This measure is not an effort at compromise. It is a train engineered to go nowhere.

The President has to veto anything that looks like this, not because it is not what he proposed, but because it represents the wrong thing to do if we are concerned about jobs and economic growth in this country.

When you strip away all the rhetoric, the Rostenkowski substitute is nothing more than a good old-fashioned tax increase.

It proposes $93 billion in permanent tax increases over the next 6 years to pay for temporary election year tax cuts for some, but not all, taxpayers. In contrast, the President's plan does not raise taxes by $1.

The Democrats temporary 2-year tax credit amounts to so little it will not be noticed in a worker's pay check. The amount of 27 cents a day per person in a family of four won't stimulate the economy.

It will be of no help to those unemployed workers who are paying taxes on their benefits, to millions of senior citizens living on their savings and Social Security benefits, or to State and local government employees who are not covered by Social Security.

But the tax increases to pay for it will hit a lot of American families and small businesses hard. And what will happen after these 2 years? Will Congress raise taxes on middle-income Americans in an election year in 1994 by allowing this temporary reduction to expire? Not likely but when they continue the reduction they'll have to pay for it with even more tax increases.

The Joint Committee on Taxation estimates that the Democrats 30-percent tax bracket would then have to begin at $38,400 for a single person and $64,000 for a married couple. Those thresholds for the 35-percent tax rate are below the levels where the current 31-percent rate takes effect. Do not be fooled. Tax increases on a larger and larger portion of middle-income families are just around the corner.

I object to the Democrats tax bill not just because it has higher tax rates. It contains a number of other provisions which are just as wrong. For example, the Democrats increased the 35-mile test for moving expense deductions, hurting those who must move to take a new job.

They are going to raise $500 million from people who have to move to find new employment. I guess that's the Democrats' idea of a jobs bill. Their substitute also fails to provide badly needed help for real estate.

The President proposed a $5,000 tax credit for first-time homebuyers. They left it out for reasons I still don't understand. It would create 700,000 jobs and help many American families fulfill their dreams of owning their own homes.

Instead, the Democrat alternative would depress real estate values by lengthening the depreciation schedules for commercial property from 31½ to 40 years, and residential real estate from 27½ to 31 years.

They would also extend the limitation on itemized deductions and the phaseout of personal exemptions, resulting in real top marginal rates in excess of 40 percent. This is a direct assault on the deduction of mortgage interest and real estate taxes.

One of the most outrageous aspects of the Democrat's substitute is that it destroys the fiscal disciplines of the budget law.

It loses over $30 billion in the first 2 years by their own scorekeeping. The law that says we must pay as we go is thrown out the window.

They destroyed that precious discipline of the 1990 Budget Act because the Democrat plan could not comply with the law without triggering a massive cut in entitlement programs.

According to the National Center for Policy Analysis, there is a sad consequence to this substitute's policies that increase taxes and throw fiscal discipline to the wind.

Instead of creating jobs and economic growth, it would actually lead to a net loss of more than 100,000 jobs over the next 6 years.

Unfortunately, our best hope for enacting a real jobs bill is to defeat the Rostenkowski substitute. Let us go back to the Ways and Means Committee where this time we can work together to craft a bill the President can sign into law. Moving this substitute forward according to some politically motivated veto strategy is only going to delay getting Americans back to work.

We can do better than that.

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

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. FAZIO].

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Mr. FAZIO. Mr. chairman, when House Democrats began fashioning our economic recovery bill, we based our efforts on three principles:

First, we wanted to provide tax relief to the middle class.

Second, we wanted to provide additional incentives for savings and investment.

And third, we wanted to do it all without adding to the crushing Federal deficit.

We have accomplished each one of these goals. The program that the Democrats bring to the floor today is a strong first step toward regaining our economic strength. It is a solid down payment on correcting our past mistakes, the riverboat gamble of supply side economics, and it lays the groundwork for our long-term recovery.

But we compromised where possible. We even compromised on capital gains. A lot of Democrats do not like it, but we are moving this country forward. We need to compromise. It is required that we reach agreement.

So we indexed capital gains to inflation.

We have also repealed some of those luxury taxes that Republicans cannot stand. But we stuck to our bedrock principles, it is true, on the question of tax fairness, on asking millionaires to pay a little extra so people who sit up nights worrying about how to make ends meet, do not have to worry any longer. We have stuck to our guns because they deserve to be heard here and represented.

Mr. ARCHER. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Chairman, I thank the gentleman for yielding this time to me. Mr. Chairman, I rise in strong opposition to a bill that permanently increases taxes to fund temporary tax cuts, that will force small businesses to lay off employees in order to pay increased taxes required by this bill, and that will increase the deficit, slow the economy, and cost us jobs.

In order to provide a temporary $300 tax cut to some Americans, this proposal would permanently raise taxes on a large segment of the population. It would raise the deficit by at least $30 billion in each of the next 2 years and thereby boost unemployment as the economy slows and more and more jobs are destroyed.

Small business, the backbone of our economy and the key to our recovery, would be severely hurt by this substitute. The significant tax increase on small businessmen and women called for in this measure inevitably would lead to additional layoffs and business closures. To the majority of small business owners who pay taxes at the individual rate, this bill constitutes a body

blow that could be fatal in this soft economy.

And, who among us believes for 1 minute that the new tax revenues will be set aside to reduce the deficit in the third year of the plan? Never has Congress shown such discipline. If Congress had, the deficit would not be $400 billion. No, these new tax revenues will then be available to fund new programs, new spending, and a higher deficit.

Mr. Chairman, there are provisions in this bill that I long have supported. Take, for example, the low-income housing tax credit and the favorable tax treatment of mortgage revenue bonds. These are two excellent and relatively low-cost programs that produce important results, namely badly needed affordable housing. The research and development tax credit and favorable treatment for employer-provided educational assistance are two other provisions that I strongly believe will help this country complete more effectively in the 21st century.

Unfortunately, these good programs are lumped in with an enormously expensive raft of flotsam and jetsam that the American people have not asked for. I strongly urge rejection of the substitute and thank my colleague for the time.

Mr. ARCHER. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. CRANE], a respected number of the Ways and Means Committee.

Mr. CRANE. Mr. Chairman, I want first of all to express appreciation to our minority leader for his valiant efforts here in promoting fiscal and tax sanity on the floor; but perhaps more importantly to make a reference to something that has been unique, I think, to all of our experience for Members serving in this body. Starting last year, for the first time, we have had an honest-to-goodness forthright upfront Socialist serving with us.

Now, we know that we have some fundamental disagreements with socialism as an economic system. It means confiscatory taxes, government-run economies, redistribution of income, the cardinal principles of the Socialist Party platform.

What was interesting was when the left-wing organization, Americans for Democratic Action, recently rated the Congress of the United States on the first session of the 102d Congress, I was proud to see I got a zero on their rating, but the thing that was fascinating was I checked our Socialist collegue's rating. He got a 95.

Now, 39 of our Members on your side of the aisle tied him and 16 of them got 100's. Of course, the ADA applauded that.

Now, I submit to you that there is apparently some confusion on your side of the aisle as to what free markets are about and what direct investment as a means of creating private-sector jobs are about. The proposal before us today does not accomplish that. Quite the contrary, it would have a devastating impact. If you look at the National Center for Policy Analysis breakdown, this proposal we have under debate at the moment would cost us over 100,000 jobs in the next 5 years, whereas the Republican initiative would have increased jobs by almost 600,000 a year.

Admittedly, I come from a partisan perspective. As you know, our great leader was Abraham Lincoln. Let me just quote in conclusion from Abraham Lincoln, because it has counsel in the statement that all of us as Americans should heed. He said:

> You cannot strengthen the weak by weakening the strong. You cannot help small men by tearing down big men. You cannot help the poor by destroying the rich. You cannot lift the wage earner by pulling down the wage payer. You cannot keep out of trouble by spending more than your income. You cannot further the brotherhood of man by inciting class hatreds. You cannot establish security on borrowed money.

To which I say, amen.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Chairman, I rise in proud support of the chairman's bill. It is not perfect. As I said earlier today, it is silver, not gold, but it could come back as a gold bill. I hope it retains the enterprise zone feature. I hope we add to it universal deductability for IRA's. I would like to see the first-time homebuyer tax credit added to it in conference.

Again, it is a good bill. The gentleman from Illinois should be congratulated for sending over to the conference with the Senate a bill that can be brought back as an even better bill.

Mr. JACOBS. Mr. Chairman will the gentleman yield?

Mr. MAZZOLI. I am happy to yield to my friend, the gentleman from Indiana.

Mr. JACOBS. Mr. Chairman, I thank the gentleman for yielding to me.

It is an interesting thing, I have served on the House Ways and Means Committee now, I think, for 18 years. I have never found it possible to vote for a substitute or a bill reported by my committee. That is either a good or a bad record, but this time I find a substitute I can and should support, and it is the one the gentleman is speaking in favor of, namely, that of the gentleman from Illinois [Mr. ROSTENKOWSKI].

Hallelujah. There will be more rejoicing in heaven if one sinner repents.

Mr. MAZZOLI. Well, Mr. Chairman, I am sure the gentleman can rejoice in that.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. SCHULZE].

Mr. SCHULZE. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise to strongly oppose the Democrat alternative.

To my Democrat colleagues from Texas, let me tell you a story about one section of your bill. Section 5153, a vital section dealing with taxpayer rights has been changed and you may never live it down.

A hard-working Texas house painter, Ramon Portillo, took on the IRS when they were blatantly wrong. Based on an unverified third party report, the IRS said Portillo earned far more money than he claimed. IRS did nothing to verify the third party's report.

The case went to Tax Court, where the IRS initially won because their determinations are presumed correct, unless the taxpayer can prove his innocence. How can someone prove a negative fact that they never received additional income?

Finally, Ramon Portillo won the day in the U.S. court of appeals where the court found that the IRS should verify its information before taking harsh action against taxpayers.

The Commissioner of the IRS testified before the Ways and Means Oversight Subcommittee in favor of codifying the appeals court decision to require the IRS to verify third party reports. Despite the fact that our subcommittee, on a bipartisan basis, codified the Portillo case, you Democrats added one sentence.

The change was made behind closed doors in secret session. You chose to ignore the appeals court, to ignore the plight of Ramon Portillo, and to perpetrate a fraud on every American taxpayer. You added a sentence, not to codify the Portillo case, but to overturn it. The fine print says that failure by the IRS to comply shall not invalidate any notice or assessment of a deficiency.

In other words, if Ramon Portillo went back to court, the failure of the IRS to corroborate third party reports would not invalidate their claims against him. He would have lost his case.

Behind closed doors, you Democrats have crafted a sham, a fraud, a deception, a lie. While piously claiming to represent the little man you have instead thrown him to the wolves. Shame, shame, shame.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 30 seconds to the gentleman from Maine [Mr. ANDREWS].

Mr. ANDREWS of Maine. Mr. Chairman, well, far from a lie, this is a straightforward piece of legislation that does not take an end run around taxation like the boat tax did in years past, but it is straightforward. The boat tax that was in effect during this past year has cost the State of Maine half of our boatbuilding jobs and manufacturing jobs. This bill repeals that unfair boat tax. It decides to tax people straightforward, stand up and be counted, be fair and honest.

The Joint Economic Committee told us that the boat tax resulted in the loss

of 7,600 boat manufacturing and retail jobs in 1991. Let us support this bill for being straightforward.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 30 seconds to the gentleman from Illinois [Mr. HAYES].

Mr. HAYES of Illinois. Mr. Chairman, while I recognize this is not the answer completely to the problem that exists among our unemployed today, what they need is jobs, but I would not want to leave this House of Representatives and not act in support of this substitute bill that is being proposed to us. To leave here without at least coming up with some hard answers to the problem, doing something at least for that depleted middle class, would be a great mistake, so I am all for it, but I want to see it move forward and provide some mechanism for jobs for people who have not reached the middle class yet and have left that stage of our society.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN of Michigan. Well, Mr. Chairman, we have all heard the $400 a year tax cut minimized or mimicked, really, on this floor, I guess mostly by the people who do not really need it.

□ 1320

If the President were now proposing such a tax cut as he did once, I think we would see on all the minority Members up here buttons saying "Vote 'yes' on a middle-income tax cut."

Instead, today, we are voting "no."

You know, it is not a question of either/or, growth or equity; middle-income taxpayers need tax equity and everyone in this country needs economic growth. The Democratic package, Mr. Chairman, is the only one that does both plus some deficit reduction. The Republican package is silent on tax equity and on deficit reduction.

So, I urge today support of the Democratic substitute.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. IRELAND].

Mr. IRELAND. Mr. Chairman, I thank the gentleman for yielding time to me.

This is a devastating bill for small business. It raises taxes on 90 percent of small businesses in America.

Mr. Chairman, my colleagues simply cannot have it both ways. They cannot say they are for small business, and then turn around and vote for the Rostenkowski proposal.

That proposal claims to help small business by reducing taxes for corporations, but it will not even touch 90 percent of our Nation's small businesses.

Why? Because they are not incorporated; they pay taxes as individuals.

By raising individual tax rates, the Democrats have, in fact, targeted the most successful and productive small businesses for tax increases.

The result? Fewer jobs from the only job-producing segment of our economy, and slower economic recovery for the country.

What is more, extending for 6 months the right of the self-employed to deduct 25 percent of their health insurance costs is not good enough. The deduction must be raised to 100 percent, the same treatment corporations have enjoyed for years and it must be made permanent.

Mr. Chairman, the Democrat proposal will be devastating to small business: You know it, I know it, small business knows it and the people of this country know it.

Remember, it's easy to go home and pay lip service to small business, but it's voting "no" to the Democrat proposal today that really counts.

Mr. ARCHER. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. MCGRATH], a member of the committee.

Mr. MCGRATH. Mr. Chairman, this week, I received a letter from an old friend, thanking me for attending an auction at my old Catholic grammar school. The note suggested that the youngsters present looked up to a Member of Congress who had graduated from their school.

I have not received many of those messages lately. More typical is the statement made by an unemployed young father at a recent Ways and Means hearing in the district I represent. He told the district I represent. He told the Committee of the pain his family faced. His wife and he skipped meals, and they could not afford a pair of sneakers for their growing son.

That young man was not seeking a handout or a 50 cents a day tax credit. If he does not find a job this year, he will not even be eligible for the Democrats' tax credit. Maybe next year, the majority will propose a tax credit based on unemployment benefits received.

We cannot afford to redistribute wealth that does not exist. We should be acting to help secure employment and business opportunities for Americans.

At our committee hearings last December, I pointed out several legitimate economic proposals which enjoyed broad bipartisan support. Some of those items are in all three of the competing plans before us and others are pending in the Ways and Means Committee.

A dozen serious capital gains tax reduction proposals have been introduced by Republicans and Democrats over the last year. Some are targeted toward new businesses, venture capital, and long-term investment. Others are broader; all have bipartisan support.

Three hundred twenty-one House Members and 39 Senators have cosponsored legislation to offer relief to real estate investors from the passive loss rules we enacted in 1986; 261 House Members and 78 Senators have supported expanding availability of tax deferred individual retirement accounts.

Penalty-free IRA withdrawals have been proposed for first-time home buyers, higher education, and displaced timber workers. Capital gains exclusions and rollovers are proposed farmers who sell their property. Most Ways and Means members have cosponsored two enterprise zone bills. Half of the House has supported repeal of certain luxury taxes.

Last November, the House unanimously supported renewal of research and development tax credit, the low-income housing tax credit, and a variety of other economic stimulus measures.

My question to this body is why we must bicker when we have so much in common?

Today, we ardently debate economic stimulus packages of $25 to $50 billion over 5 years. At the same time, the Federal Government will take over $400 billion from the economy in 1992 alone, simply to cover the Federal deficit. One year's interest on our national debt is four times higher than the tax relief some are proposing over 5 years. The deficit and accumulated national debt have rendered the Federal Government impotent in providing any true economic stimulus.

This debate will increase public contempt for the House. That problem concerns me far more than losing a 2-day partisan dispute. Our constituents are seeking honest leadership, and we are failing them, with politics as usual.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina [Mr. PRICE].

Mr. PRICE. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of the Tax Fairness and Economic Growth Act of 1992, the Democratic substitute for the President's tax proposals.

The tax bill we pass today must pass three essential tests: It must make the tax system fairer; it must promote economic growth and investment; and it must be fiscally responsible. The President's proposals fail on all three counts while the Democratic package passes these key tests.

The Democratic substitute offers relief to middle-income families who have borne the brunt of the tax policies of the Reagan-Bush years—a refundable tax credit of up to $400 for joint filers, to offset the Social Security and Medicare payroll taxes they have paid. It also waives the penalty for early withdrawals from an IRA for first-time home buyers or for educational or medical expenses.

The bill also helps working families by permanently extending the Mortgage Revenue Bond Program. With homeownership rates declining for the first time in 40 years, especially among young families, this permanent extension is critical for keeping homeownership more accessible and affordable for young families.

The Democratic substitute further provides a tax credit for interest paid on student loans. Ever since we first

came to the House in 1987, MARTIN LANCASTER and I have urged passage of the Student Loan Affordability Act, to restore the favorable tax treatment of scholarships and of interest on student loans. I am gratified that the Ways and Means Committee has responded to the 164 cosponsors of this proposal and has included tax credits for student loan interest in the Democratic package.

The bill's economic growth incentives include permanent extension of tax credits for research and development, low-income housing construction, liberalized depreciation and investment tax allowances, altered passive loss rules for active real estate participants, capital gains indexation, and a 50-percent exclusion for gains on venture capital investments in small businesses held at least 5 years.

The small business provisions are particularly critical. These entrepreneurial incentives for small business will ensure that they will have access to capital and can continue to grow. By targeting small business, we will help the job-creating sector of our economy to have a prosperous future.

Some have criticized these capital gains provisions, seeming to forget that this package aims to promote both equity and economic development. I too have criticized the President for portraying a capital gains break as an economic panacea and I too have voted against his ill-considered, one-shot capital gains proposals. But I have consistently said that it was economically desirable to restore a tax differential for capital gains if the provision was targeted toward long-term productive investment and if it was part of a broader package that promoted tax equity and did not increase the deficit. Fortunately, the Democratic package meets these tests.

Finally, a word about fiscal responsibility. The most disappointing aspect of the President's proposed grab bag of tax breaks was the fact that he had no conceivable way of paying for them. All the supply-side, blue-sky projections and the smoke-and-mirrors accounting, including the proposed reliance on accrual accounting, could not disguise this basic and fatal flaw. The Joint Committee on Taxation and Congressional Budget Office estimate that from 1992–97 the President's State of the Union proposals would lose $49 billion, while the official Republican substitute would lose $25.4 billion.

The Democratic substitute, by contrast, pays for all revenue losses from within the Tax Code, thus maintaining the pay-as-you-go principle and the discipline imposed by the 1990 budget agreement. In fact, CBO estimates that the substitute would gain $13.9 billion in revenue over the 1992–97 period, to be applied to deficit reduction.

Our observance of these fiscal constraints have limited the size of our bill. We have refused to get in a bidding war with the White House. We have kept to the high road of fiscal responsibility, recognizing that any economic recovery package that does otherwise will ultimately do more harm than good. But the Democratic package nonetheless manages to make some significant changes in the Tax Code that will offer relief to working Americans, create jobs, and promote the rebuilding of our economy. The Democratic package can make a real difference to our people and our economy, and I urge its passage.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Chairman, I rise in support of the Democratic substitute. When I first decided to run for this office I traveled my district and heard one overriding message: People wanted real relief from the pressures of a declining economy, expanding tax burden, and stagnant wages. They asked me over and over again, if they sent me to Congress, would I do something for them?

I made a pledge. I told them I would help—that their pain and their suffering were something that I would convey daily to my colleagues. Since then, I have devoted my efforts to delivering their message. When I took office, my first legislative proposal was a bill for middle-class tax relief. At the time I introduced it, almost a year ago, few people believed Congress would ever confront this issue. But the voice of the working middle class was impossible to ignore. The majority leader sat with me in a Connecticut living room and listened to the stories of those who had done everything right, had played by the rules, but found their dreams broken. It is their voice, and the voice of thousands more, that has brought this bill before us today.

Now we have the opportunity to restore people's faith and rebuild their dreams. The Democratic proposal is the first step toward a brighter economic future. It brings the middle class real tax relief. It restores fairness to the tax system, and it pays for itself.

Vote for those who need our help. Vote for those who have suffered for a decade. Vote for those who look to us for help. Vote for the Democratic substitute.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Chairman, today I rise in support of the Democratic alternative to H.R. 4210, the Middle-Income Tax Relief and Economic Growth Incentives. I would like to thank the Chairman of the Ways and Means Committee, Mr. ROSTENKOWSKI for his responsiveness to the American people by working tirelessly to bring this alternative to the floor.

First of all, as the gentleman from North Carolina [Mr. PRICE] stated, it meets the three tests. First of all, we all know that there has been a redistribution of income in America. That redistribution over the last 12 years has been from middle America, average working Americans, to the wealthiest 1 percent in our Nation. Now, that is not the Democrats saying that; that is Kevin Phillips, one of the most conservative commentators in America, saying that. And he makes it pretty starkly clear that we have seen a radical shift of resources from middle America.

For the past decade, middle-income American families have seen their economic stability rocked in the face of Reagan-Bush tax policies that have given preferential treatment to the wealthy top percent. The Democratic substitute being offered here today, seeks to give real relief to hard working middle income families and pay for it by having the wealthiest taxpayers pay their fair share.

Some people say 50-cents-a-day or this bit per day; let me tell you that for the average American family making approximately $25,000 to $30,000 a year, they are paying $4,000 in taxes, approximately, ball park figures. This means if they get a $400 reduction, that is 10 percent of their taxes.

I, like many of my colleagues and constituents, was very disappointed when the President addressed this country with his economic growth proposal. It was clear to me, that the immediate task at hand, restoring the peoples confidence in our Government by reinvigorating the economy, was not forthcoming. The President's proposal offers no growth and investment incentives, does little to encourage the purchasing of existing real estate properties, and does not offer small businesses the real mechanisms to stimulate job production.

Further, the President's plan and the Republican substitute does the worst possible harm to the long-term health of this country by adding over $50 billion and $13.9 billion respectively, to the national debt by fiscal year 1997. In stark contrast, the Democratic alternative raises $13.9 billion over the same period of time. The alternative pays for itself.

Have we grown so callous, are we so into being rich that $400, 10 percent of a person's taxes, is something to sneeze at? I think not.

Mr. Chairman, this bill does not have everything I would like in it. I would prefer that a tax credit for first time homebuyers had been included in this bill. I believe that young people today could greatly benefit from a tax cut for purchase of a home. So many young couples struggle with the economic disadvantages to purchasing a home that the long-term benefits of home ownership seems an impossibility.

I think it is important, and very frankly I am going to try to work for it

so that in the final bill that is passed and sent to the President, that is going to be in there because I think it is important for stimulus. Nevertheless, this alternative has the best interest of the middle-income family in mind.

The alternative provides a refundable tax credit of up to $400 for joint filers for 20 percent of Social Security and Medicare taxes paid in 1992 and 1993. It offers a home ownership incentive by waiving the penalty for early withdrawals from an IRA account for themselves or for a child. Furthermore, IRA withdrawal penalties will be waived to pay for medical and educational expenses. Students or their parents meeting certain income requirements would be eligible for a nonrefundable tax credit on the interest paid on student loans.

Tax credits due to expire which benefit middle and even lower income individuals would be made permanent by the Democratic substitute. The credits include mortgage revenue bonds, which State and local governments use to provide reduced rate mortgages for low- and middle-income first-time home buyers. The low-income housing tax credit which gives homebuilders and property owners the incentive to provide housing for low-income tenants. Employers who hire certain workers such as economically disadvantaged youths or people with disabilities will be eligible for the permanently extended targeted job tax credit.

The substitute further indexes the $125,000 exclusion for capital gains on the sale of a principal residence for those over 55, and eliminates the age requirement for people with disabilities. Encourages the use of public transportation while granting economic monetary by increasing the amount of employer provided transportation costs employees are able to exclude from income. The Democratic substitute yields all these middle-income benefits and more, by simply requiring that the wealthiest few pay their fair share in taxes.

In the spirit of fairness, the substitute restores tax equity to middle-income families by adding a fourth individual tax bracket of 35 percent for individuals with incomes of approximately $100,000 and $200,000 for married couples. For those fortunate enough to be at the highest rung of the economic ladder, a 10-percent surtax on income over $1 million will be imposed to finance the alternative.

It has become obvious by the mail we have all received that few industries have been able to survive this recession unscathed. When taxes on luxury boats went into effect, the impact on shipbuilders in this country was significant. Boat sales declined drastically and the livelihood of the entire industry chain was jeopardized. The same economic principals can be applied to other luxury retailers whose industries have been hard hit by the downturn in the economy. This legislation recognizes that the people employed in these industries are losing their jobs in droves and, therefore, repeals these taxes.

The Democratic substitute provides many needed incentives to get business back on track and stimulate growth. Over 300 members signed on to passive loss legislation that the President's proposal or the Republican substitute fail to adequately address. The substitute contains the major elements of the passive loss corrections bill which will contribute to the stabilization of rental real estate values.

The capital gains provisions in H.R. 4287 benefit small business by indexing newly purchased assets. Income gauged would be much more reliable so that, real not inflationary gains will be taxed, and taxed at the same 28 percent maximum rate on gains.

Mr. Chairman, we want to dispel the notion that "only the little people pay taxes." We are here today in an effort to ease the pain of the middle-income family, by offering the impetus to revitalize the sagging economy. America deserves no less.

This is a balanced bill, and it is fiscally responsible. It does not add to the deficit. I do agree that the biggest single problem confronting America is the deficit; sucking out $350 billion to $400 billion a year undermines our economic viability.

This bill is the only alternative that really reverses that trend.

Mr. Chairman, I urge my colleagues to support this as the only alternative that we can send to the President that makes sense.

Mr. ARCHER. Mr. Chairman, I yield myself 15 seconds.

Mr. Chairman, I would simply say to the previous speaker and to the American public, if this Rostenkowski Democrat substitute is fiscally responsible, why did it require a waiver of the Budget Act within its own language? It clearly violates the Budget Act, increases the deficit, or that waiver would not have been necessary.

□ 1330

Mr. Chairman, I yield a minute and a half to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Chairman, I thank the gentleman from Texas [Mr. ARCHER] for yielding this time to me.

Mr. Chairman, as my colleagues know, 2 years ago I heard the very same kinds of speeches that I am hearing today, the very same kinds of speeches, and what did they do when the budget summit agreement was passed? They raised America's taxes $181 billion, that was supposed to control the deficit, and we ended up last year with the largest deficit in U.S. history, $400 billion. And so what do they want to do now? They want to raise taxes again, only this time by $93 billion, and what are they going to give in exchange for it? They are going to give a temporary tax cut to middle-income Americans that will amount to a candy bar a day, a $93 billion tax increase for a temporary candy bar a day, and they say, "It won't raise the deficit."

Put money on this: It will raise the deficit. We are going to go deeper into the hole, and it is going to kill the future generations' ability to survive.

This bill, in my opinion, is wrong. It was wrong 2 years ago; it is wrong now. It will only cause more recession, more deficits, more unemployment, more economic problems, and more heartache. We cannot stand this. We must defeat this bill. No more tax increases, no more deficits.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from Arkansas [Mr. ANTHONY].

Mr. ANTHONY. Mr. Chairman, I rise in support of H.R. 4287 to say that there are two hidden jewels in here, and I ask my colleagues to take a look at them.

It does help repair the Federal-State-local partnership that has been tattered over the last 10 years. After hundreds of hours of hearings to which we have listened, Mr. Chairman, we have responded, and there are some good, commonsense provisions in here. State and local governments are big winners, school districts are big winners; two special areas. Small-issuer exception to arbitrage rebate was raised from $5 to $10 million. What does that mean? It means that 250 million additional dollars will be going to State and local governments to put back into schools, roads, bridges, and other infrastructure investments to create jobs and opportunity. It also repeals the 5 percent unrelated and disproportionate use test. Treasury testified that these two provisions will simplify the Tax Code and do no harm to tax policy.

Mr. Chairman, there are two big winners here. I ask support for the bill.

Mr. Chairman, I rise in support of H.R. 4287, the Democratic package to promote tax fairness, economic growth, and much needed simplification of the Internal Revenue Code.

I am particularly pleased the caucus included my proposals to simplify the maze of complex tax rules that State and local governments must comply with when issuing municipal bonds to finance public projects. Since the bill was introduced, I have received a continuous stream of letters from school districts around the country expressing their appreciation.

Specifically, the bill would raise the small-issuer exception to arbitrage rebate from $5 to $10 million. I would be surprised if many of you are very familiar with the archaic operation of the arbitrage rebate rules. Simply, a State or local government earns arbitrage when proceeds of a bond issue are invested

in taxable securities while the issuer is awaiting to disburse funds subject to a construction contract. Arbitrage is the difference, or spread, between the tax-exempt rate of interest paid to bondholders and the taxable yield paid on the invested proceeds. The 1986 Tax Reform Act generally requires State and local governments to rebate all the arbitrage they earned to the Federal Government. One exception to the general rule is for small issuers of the tax-exempt bonds, issuers that expected to issue less than $5 million of tax-exempt bonds a year.

In 1989, the Treasury Department issued 250 pages of complex rules to implement the rebate requirement. In many cases, State and local governments are forced to expend tens of thousands of dollars to compute their rebate liability. Small municipalities simply do not have the resources or the expertise to comply with this overly complex set of rules. Consequently, it has become apparent that the $5 million threshold is inadequate. Increasing the small-issuer threshold to $10 million will generate $250 million for State and local governments. Under current law this money would be rebated to the Federal Government. Now, this money can be used by qualified local governments to fund the construction of public projects like schools, bridges and roads. In addition, the provision will save these local governments significant administrative costs.

The second provision repeals the 5-percent unrelated and disproportionate use test, a provision that places a limit on the use of governmental bond proceeds for purposes unrelated to the governmental activities being financed with the bonds. In testifying in support of the proposal, the Treasury Department stated:

> This requirement is often misunderstood by issuers and not easily administrable by the Internal Revenue Service. Repeal would accomplish significant simplification without sacrificing policy objectives.

This provision frees up an additional $200 million for State and local governments which would otherwise be expended for administration costs rather than for use on much needed public projects.

These provisions are two hidden jewels contained in H.R. 4287. While they fall far short of resolving the numerous administrative complexities of issuing public finance, they are an important step in the right direction. I look forward to continuing the process of tax simplification with my Ways and Means colleagues. This process will help to repair the Federal-State-local partnership, a partnership that was sorely neglected during the 1980's. Only then will we be able to meet the many social and economic challenges facing this Nation during the 1990's.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon [Mr. AUCOIN].

Mr. AUCOIN. Mr. Chairman, this bill is not the bill that I wanted, but I am going to support it today because it is a first step toward atoning for the tax sins of the 1980's; $400 a year may not mean much to a millionaire. But I have got news for my friends and my colleagues in this House. It is a mortgage payment for working families, and there are a lot of them in Brookings, OR, and Bend, OR, and throughout this country, and I think we ought to pay attention to them.

Some Republican earlier today said that this substitute is class warfare. Well, let us get this straight. We have had class warfare throughout the 1980's, and the prisoners of war are what remains of the middle class, because they are the victims of the largest shift of revenue from the middle class to the superrich.

This bill's greatest strength is its move toward tax fairness. It is fair because it eases the tax burden on working people and working families. It states that millionaires will pay their fair share with a 10-percent surtax after the superrich have almost doubled their wealth over the last decade. This bill is fair because it limits tax breaks for corporate executives who have been taking multimillion dollar compensation packages while they close plants and throw their workers into unemployment lines. This bill is fair because it allows IRA's to be used for buying first homes or to pay for medical or educational expenses. It helps students pay off their loans. It helps stimulate the real estate market by restoring passive loss provisions.

Make no mistake. Much more needs to be done, and I want to see a $5,000 tax credit for first-time home buyers, and I think we will get that out of conference, but today we have a chance to take a solid first step.

The President challenged this Congress to respond. We are today. Let us start by passing this bill in the interest of fairness.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey [Mr. GALLO].

Mr. GALLO. Mr. Chairman, I rise today to urge rank and file members of the majority to ask your colleagues from New Jersey what the voters think about raising taxes in the teeth of a recession.

Before you let your leadership take you down the same road that Gov. Jim Florio took the Democrats down in New Jersey, you should know the answer to this question.

If $2.8 billion in New Jersey State tax increases was unpopular in 1991, then a $90 billion Federal income tax hike is not going to be well received in 1992.

For those who do not fully understand what happened in New Jersey, I would caution you to be very careful.

Those elected officials who confuse tax increases with tax incentives do so at their own risk.

The Democrats on Ways and Means Committee have taken a page from Governor Florio's book. Their proposal is guaranteed to eliminate jobs, turn the lights out on growth, and raise taxes, just like Governor Florio did in New Jersey 2 years ago.

The process by which this bill was developed reflects Washington politics, not sound economic policy for the country.

The voters of New Jersey rejected this approach in 1991 and the voters of New Hampshire rejected this approach last week by supporting the only Democrat who said he would veto this bill, if it were presented to him—Paul Tsongas.

This is not an economic growth package. This is a tax bill that will result in the loss of 100,000 jobs and will create a permanent tax increase for all individuals with incomes over $85,000.

And what does the average American receive? Less than a dollar a day and continued uncertainty about the future of their jobs in a stagnant economy.

One of my majority colleagues from California was quoted recently in a national newspaper as saying that he is very uncomfortable with a package that puts money in the pocket of business. Who does he think creates the jobs and keeps our economy moving?

We should defeat this tax bill, which pretends to be an economic growth initiative, but is really a tax bill.

The process that produced this package is the same tired politics that the people are rejecting State by State at the ballot box. How many more States must vote against the status quo before the Democratic leadership in Congress hears the message?

In his State of the Union Message, the President called on Congress to send him an economic growth package by March 20 that would create 500,000 new jobs.

What he will get, if the Democratic leadership works its will here today, is a tax increase bill that will discourage job creation at a time when the single most important issue for the American people is jobs, jobs, jobs.

Mr. Chairman. We should defeat this tax bill, which pretends to be an economic growth initiative, but is not.

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

Mr. GUARINI. Mr. Chairman, I rise in support of H.R. 4287, the Democratic economic growth package. We are presently in the longest running recession since World War II. People are hurting. We have serious needs here in the United States. It's essential that we act now. We need to turn our economy around and invest in the long-term growth that will produce jobs for our working families.

We must commit to a national renewal. Right now, we spend more to defend Germany and Japan than they spend to defend themselves. That is wrong! This money should be spent here at home to rebuild our bridges and roads, to renew our education system, to provide affordable health care, and to invest for long-term growth.

The Democratic economic growth package is a step in the right direction. It contains important provisions for

job creation, for stimulating economic growth and for making the Tax Code fairer.

Its provisions are building blocks for our economy. It makes permanent many of the expiring provisions—tried and true measures that put people back to work—help people afford health insurance—help first-time home buyers afford a mortgage—help workers continue their education—promote construction of badly needed low-income housing—and promote the research and development which is so essential to economic growth.

This bill also promotes the use of mass transit for a cleaner environment and less traffic congestion on our highways.

A vote for this bill is also a vote to reduce the cost of the S&L bailout—to stop S&L operators from ripping off the taxpayers. It eliminates double dipping—an egregious abuse whereby S&L operators have been taking billions of dollars of tax deductions when they have not lost any money. You and I can't take such deductions and neither should they. The S&L bailout is one of the biggest financial disasters in our Nation's history. It's essential that we act now to put an end to this ripoff.

In short, this bill has many proven measures for combatting the recession, bringing fairness to the Tax Code and getting our country moving again. I urge my distinguished colleagues to vote yes.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Chairman, I would like to express my support of H.R. 4287 and focus for a moment on the bill's provisions on passive losses for real estate. And we've heard during the debate today and from our constituents, we must do something to boost the value of real estate in order to help pull us out of this recession. Under the passive loss provisions in the bill, real estate professionals whose main business is real estate—defined as those who work more than 500 hours per year and over half their time in the real estate business—will be able to deduct losses from real estate against other income. This provision gives real estate professionals the same tax treatment as professionals in other businesses.

It is also important to realize what the bill does not do on passive losses. It does not extend the passive loss provisions to clearly passive investors who may simply be seeking a tax shelter through a real estate investment. The bill's passive loss provisions apply only to existing development and avoids the situation in which we create incentives to overbuild for tax reasons, and not as a result of real market demand. So we provide additional fairness in the tax code for real estate professionals, while at the same time not encouraging tax shelters and the type of overbuilding which could lead to another boom and bust cycle in the real estate market.

Mr. Chairman, my part of the country was, unfortunately, on the leading edge of the drop in real estate values which now afflicts so many other parts of the Nation. We have learned that a fall in real estate values hurts much more than just the real estate sector. As property values fall, the value of collateral held by banks falls, and then bank profitability falls. Before you know it, you have a full-scale credit crunch, and the small businessman, who may have nothing to do with the real estate industry, is having his line of credit revoked or is having a tough time getting a loan from his bank. If, as this bill provides, we do something to increase the value of real estate, we can help ease the credit crunch and spur economic growth.

I have long been an advocate of revision of the harsh passive loss rules that were enacted in 1986. We cut back too much in 1986 and it is clear that the Nation paid a stiff price for it. I am very pleased that the Democratic alternative which we are debating today provides much-needed relief in the passive loss area. The Democratic alternative has many provisions in it which argue for strong bipartisan support. The passive loss provision is certainly one such provision, and I urge my colleagues to support the bill.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio [Mr. PEASE].

Mr. PEASE. Mr. Chairman, I rise today in support of the Democratic alternative to the President's tax package. I do so with some hesitance because I spent the better part of last year arguing that we should not pursue any tax bill this year. That is also the same message that most economists tried to get through to Congress in hearings held by the Ways and Means and Budget Committees.

Nonetheless, the President has challenged Congress to pass a tax bill by March 20 and I feel we have an obligation to try to meet this deadline. However, we have no obligation to pass without change the President's tax package—a package that reverses many of the gains made by the Tax Reform Act of 1986 and which distributes most of its benefits to the wealthiest families in this country.

The Democratic alternative certainly contains provisions with which I do not agree. That is bound to be the case with any comprehensive tax proposal. Most especially, I question the wisdom of the capital gains indexing provision which centers 69 percent of its benefits on taxpayers earning over $100,000 per year. Yet, there are several reasons why we can feel comfortable with voting for the Democratic alternative.

First, the Democratic proposal provides a tax break for working middle-income families. The Republicans ignore middle-income families now, but promise that the check will be in the mail sometime in the future. The Democrats provide middle-income families a $400 tax break now.

Second, the Democratic plan contains several proposals designed to stimulate economic growth over the long haul. In addition to capital gains indexing which I question, the Democratic proposal does provide a narrowly targeted capital gains tax cut which encourages investment in newly formed businesses.

The Democratic plan also provides a temporary investment tax allowance to encourage investment in machinery and equipment, permanently extends the research and experimental tax credit to encourage the research necessary to put U.S. businesses back in the forefront of product development, and permanently extends the targeted-jobs tax credit to encourage employers to hire those who have the hardest time finding work. All of these proposals were included in the President's package and we Democrats have incorporated them into our package.

Third, the Democratic package is finally responsible. The Democratic package does not rely on accounting gimmicks to give the appearance that it is revenue neutral. The Democrats don't ignore the cost of a reduction in the capital gains tax cut like the President does. Our package recognizes all of the costs of the proposals and pays for them. We pay for them by raising taxes on the wealthiest families in this country.

Last, the Democratic package contains many proposals that continue the effort begun in 1986 to simplify the tax code. Lost in all of the discussion of middle-income tax cuts and economic growth proposals are the various simplification proposals that will make life a little easier for many businesses and families. A taxpayer's bill of rights will ensure that taxpayers get fairer treatment from the IRS.

These proposals are not as sexy as refundable tax credits or alternative minimum tax relief, but they will ease some of the compliance nightmares that taxpayers currently face with the Tax Code. These proposals have been developed with the assistance of the taxpayers affected and, for the most part, have received bipartisan support.

The President challenged Congress to pass his proposals by March 20. We are doing our part today. We have reviewed his proposals, taken those that make sense, and added proposals that we feel must be part of a responsible tax package. Six of the seven proposals the President wants enacted by March 20 are in this bill. Seventeen of the proposals which the President wants to do sometime in the future are in this bill. The Democratic proposal is responsive to the President but it also takes into consideration the concerns and priorities of middle-income Americans.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Chairman, it is tragic that these tax bills have now come to be political statements that the parties are going to depose over, but I do hope that for the voters and for the taxpayers they might take a look at these two bills, find out which one tries in some way to make the tax system more equitable by providing refunds to them, try to find out which ones make the targeted jobs credit a permanent one so that it will encourage our entrepreneurs to hire our young, find out which one makes the low-income housing credit a permanent one since this has provided over 90 percent of the low-income housing, and which one has what is called an enterprise zone with a weed and see program to go into the poorer communities and those that are hit the hardest with unemployment, drug addiction and crime,

and to weed out those criminals to make certain that our streets are safe, but at the same time to provide educational, health, and recreational benefits for the people that are in these districts using the enterprise zone, which is something that the Secretary of HUD had asked for.

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Mr. ARCHER. Mr. Chairman, I yield 1½ minutes to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Chairman, I thank the gentleman for yielding time to me. I appreciate the opportunity to rise in opposition to the Democrat alternative.

We can debate economic policy here in the Congress until the cows come home, but, unfortunately for the American people, it is not going to change what the Democrats here in Congress believe. They are going to continue to support legislation that raises taxes and increases spending. What we really need is the kind of incentives to create jobs.

I only have a short minute, so I am going to move to something that has bothered me for some time. Every time we raise this issue of creating incentives to investment we are stuck with this notion, a knee-jerk notion that it is a tax break for the rich.

I want to share with the Members the comments of a lady from my home State, from Dubois, WY, and a rancher that went with them. Here is what they have done: They have owned and operated the Circle Up Camper Court for the last 27 years. Never have they taken out more than $30,000 a year but instead have put their money back into this property. Twila Blakeman writes this:

> We started this business and built it from nothing. For nearly three-quarters of our adult life we have put almost everything we had into this business. This was our savings, our retirement, and our pension plan. Now the government wants one-third of it right off the top.

These are not wealthy people. They are the backbone of the country.

Yesterday I pointed out in the Washington Post that a member of the Democrat leadership said, "I am uncomfortable with a package that puts money in the pockets of business."

Mr. Chairman, that is what creates jobs. I am hopeful that we will provide some relief for these people and people like them who are trying to make and create jobs.

Mr. ARCHER. Mr. Chairman, I yield a minute and a half to the gentleman from California [Mr. COX].

Mr. COX of California. Mr. Chairman, now that the Democrats have defeated President Bush's economic growth package that he sought in the State of the Union Message, they are bringing to the floor this tax-hiking, job-killing, deficit-creating affront to economic common sense. They call it a middle-class tax cut and a tax increase on the rich.

That is absolutely false. Joe Isuzu could not have done a better job of hogwashing the American people. When the Democrats call this a tax increase on the wealthy, C-SPAN ought to put a little sign under them that says, "He's lying." If false advertising laws applied to the Congress, we could lock them up.

There is no cut in income tax rates for any American in this bill. There is a tax increase on people that the Democrats call the wealthy. A previous Democrat speaker said that this bill will not tax working Americans. They do not consider the wealthy to be working Americans, and they consider the wealthy to be anyone who makes $85,000 a year.

Now, in their speeches sometimes they say they are talking about millionaires, but what they are talking about in this bill is anyone who makes $85,000 a year. Do you own a drycleaners'? Do you own a trucking company? Are you a college teacher? Are you a salesman? You are not a working American, according to the Democrats. Anyone, any small business in America—and I should hasten to add that 90 percent of those small businesses are taxed as proprietorships—anyone who makes $85,000 is the rich.

Who else is taxed by this bill? Are you unemployed and looking for a job? The small business that might hire you is going to be taxed out of business by this bill. When the Democrats say they want to raise taxes on the rich, they mean they want to raise taxes on you.

The CHAIRMAN. The time of the gentleman from California [Mr. COX] has expired.

The gentleman from Illinois [Mr. ROSTENKOWSKI] has 9½ minutes remaining, and the gentleman from Texas [Mr. ARCHER] has 10 minutes and 15 seconds remaining.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. CLINGER].

Mr. CLINGER. Mr. Chairman, I rise in opposition to the substitute.

Mr. Chairman, I rise in opposition to the bill.

Since Thanksgiving, committee after committee has taken testimony about the state of the economy. Time and time again witnesses warned against a bidding war.

When each side tries to outdo the other with promises of tax relief or tax fairness, the deficit will grow quickly and dramatically.

If we ignore that threat to deficit reduction today, the economy will slow down even further and yet more people will lose their jobs. It is an act of cruelty to suggest to the American people that we're about to enact legislation that will put them back to work.

The hearings also revealed a consensus as to what Congress should do, and that is to avoid inflicting further damage on the economy. If this bill passes today, we will have to rely upon the Senate to curb our excesses, fix our mistakes. That strategy is riskier than junk bonds.

If this house is going to ignore the recommendations of expert witnesses, why call them in the first place? Why pretend to seek advice from knowledgeable sources when its quite clear that political posturing will be given greater weight than sound economic principles?

The taxpayers' money was spent to hold those hearings and it is quite clear that the money was wasted.

Mr. ARCHER. Mr. Chairman, I yield 1 minute and 50 seconds to the gentleman from California [Mr. RIGGS].

Mr. RIGGS. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, real fairness means putting economic growth and job creation and enhancing our national productivity and competitiveness before tax equity, which is nothing more than a code word for the politics of envy and class warfare. And make no mistake about it, redistribution of wealth is the Democrats' chief purpose here. They have admitted as much, speaker after speaker.

Their package lacks the incentives for small business, the engine of U.S. economic growth and jobs creation. It would permanently raise taxes on almost 2 million American families to pay for a gimmicky, one-time, election year tax cut of less than $1 a day. If we want tax fairness and an immediate trickle down for the middle-class Americans, we can first restore and expand the tax preferability of IRA investments to encourage savings over consumption, such as Senator BENTSEN and the President have both proposed. We can enact the investment tax credit for first-time home buyers to jump start the economy and allow thousands of Americans to realize the American dream of home ownership, and, last, we can significantly reduce capital gains taxes to help entrepreneurs attract the private venture capital necessary to grow a business or to help an existing small business expand.

Mr. Chairman, we must reject the Democrat proposal that unfairly penalizes success and wealth creation. What possible moral or economic justification can there be to impose higher income taxes on those taxpayers who already pay their fair share of taxes? And when will the liberal professional politicians who run this place, the same ones who resolutely refuse to get serious about wasteful Government spending, deficit reduction, excessive governmental regulation, or congressional accountability and reform, realize that their rich-bashing tax policies will eventually destroy the passion and spirit for achievement that has made America the greatest civilization in human history?

Mr. ARCHER. Mr. Chairman, may I inquire as to how much time I have remaining?

The CHAIRMAN. The gentleman from Texas [Mr. ARCHER] has 8½ min-

utes remaining, and the gentleman from Illinois [Mr. ROSTENKOWSKI] has 9½ minutes remaining.

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

Mr. Chairman, I want to remind my colleagues why they should support the Democratic substitute.

Its principal virtue is that it achieves greater fairness for the middle class.

When this substitute passes, our tax system will be more fair and progressive. Middle-class people—the economic bedrock of America—will pay less. The richest 1 percent of all Americans will pay more. We will have returned to the time-honored tradition of taxing people based on their ability to pay.

Middle-class people have been ignored for far too long. They are the people who carry the load and on whose shoulders the greatness of this country lies. For the last 12 years, they have been told to be patient—just wait for the trickle-down miracle to occur. But all they have seen is their income decline and with it, their confidence in the future. That is not what this country is about—but it is very much what this debate is all about.

Democrats and Republicans have fundamentally different views over who should benefit and who should pay. But, we both want a vibrant economy for our country, and a brighter future for our people. We both want a higher standard of living and economic prosperity for our children.

The real issue here is: Who do you trust? Republicans feel that we should cut taxes on the wealthy and trust them to invest in activities that will enlarge the economic pie and create jobs. "Trust the wealthy" they say.

Democrats also want to enlarge the pie and create jobs—but from the bottom up—the way the country was built. "Trust the middle class," we say.

We have crafted a substitute which reflects our values and places our trust in the hard-working, middle-income Americans across this great country.

The wealthy, we say, have had a great ride for the last 12 years—the middle class have had 12 years of neglect. Now, it is their turn.

Stand tall for the middle class. Vote for the working men and women of America. Vote for the Democratic substitute.

Mr. DINGELL. Mr. Chairman, I rise today in reluctant support of the Democratic substitute to H.R. 4210, middle-income tax relief and economic growth incentives. I will vote for this legislation because the American people want us to move this process forward. Our people and their families are suffering. They have had enough talk, and they want action.

In his State of the Union Address, the President set a March 20 deadline for the Congress to pass his economic growth package. The trouble is we do not know what the President's plan is. The House leadership put the plan which the President outlined to the American public on the House floor for a vote. The Republicans were outraged. They refused to vote for it. It went down in flames. Even the President's own Secretary of Housing and Urban Development, Jack Kemp, commented that the proposal was full of accounting gimmicks. The bottomline, though, is that this package was nothing but smoke and mirrors which could not fool the American people.

Then, in an exercise of remarkable fiscal irresponsibility, the Republicans offered their own plan but refused to provide the resources necessary to pay for it. They proposed to increase our Federal budget deficit by more than $25 billion over 6 years by giving more tax breaks to the rich. Full of sound and fury, they insulted the intelligence of the American people by repackaging the same, tired, old trickle-down theories in the guise of growth. My people know better.

I believe that the Democratic substitute is, by far, the best of the three plans offered. In contrast to the two other proposals we have considered, it not only pays for itself, it would save the American taxpayers $14 billion. While it will not do all that I want done to promote the kind of economic growth we need in this country, it will help relieve the tax burden on our middle-income families and create jobs. I would have preferred a package which included greater job creation incentives rather than capital gains reductions.

I had asked that this legislation remove provisions in the Tax Code which discriminate against the sale of automobiles. Current depreciation provisions adversely and unfairly discourage the purchase of automobiles. Removing these provisions would have promoted the purchase of cars for business purposes and restore jobs.

Despite its faults, this legislation is to be credited with restoring a measure of fairness to our tax system. For more than a decade, our middle-class families have watched their purchasing power decrease and their tax burdens increase. Despite continued promises, the tax benefits received by the wealthiest Americans never trickled down to the middle class. This legislation begins to reverse this disturbing trend by raising the top income tax rate to 35 percent, and imposing a 10-percent surtax on millionaires.

My colleagues should support this bill. We must work together to address our Nation's pressing needs.

Mr. LEHMAN of California. Mr. Chairman, every time Congress decides to reinvent the Tax Code, either to simplify it or to provide for so-called economic relief, a great fraud is perpetrated on the American public. I voted against the 1986 tax reform package, not because there were not some very good provisions in it, but because with all of the political gimmicks it included to gain partisan advantage, the middle-income taxpayer ended up the loser. Today, I am voting against all of the economic tax packages for very much the same reason.

Looking at the choices we have been given, it is clear that none of the plans represent a new economic strategy. The Bush plan offers a smorgasbord of tax breaks but offers no way to pay for them, resulting in a deficit increase of $52 billion over 5 years. The Republican alternative includes only those tax breaks recommended in the President's State of the Union Address that benefit the wealthy, costing $25 billion over 5 years in increased deficit spending. The Democratic plan shortchanges the economy to provide 96 cents a day to each taxpayer. While it is deficit neutral, it provides a permanent tax increase as an offset that can only further exacerbate our current economic recession.

Regrettably, there are many provisions in these packages which I am inclined to support. Certainly, a capital gains cut for long-term investment would provide a shot in the arm to many businesses. The permanent extension of tax credits for mortgage revenue bonds, research and development, and low-income housing is something I have always encouraged. Liberalization of investment retirement accounts [IRA's] for first-time homebuyers, education and medical expenses is also a good idea. Incentives for real estate development should be considered. Increased exemptions for families would help those caught in the middle-income budget squeeze. These and other ideas, if packaged together not to appeal to certain partisan interest groups but to bring overall recovery to the economy, could do a lot of good for this country.

Instead, we are offering this country the choice between an increased deficit or higher taxes. These options would do far more to hurt the economy than any tax incentives would do to help it. The great fraud in these tax packages is the long-term price we are paying for a short-term gain. If we really want to help the economy, we need an economic strategy for the 21st century that creates jobs, helps businesses plan for the future, reduces the tax burden of the middle income and keeps Federal spending under control.

The greatest disservice we can do to the American public is to sell them down the river for short-term political gains. At a time when the American public wants less partisanship and more statesmanship, these plans offer the opposite. It is time to put our differences aside and come up with a strategy that helps the economy, not hurts it. I encourage my colleagues to oppose these packages and to ask the Member's of our leadership to go back to the drawing board.

Mr. FORD of Michigan. Mr. Chairman, I rise in support of H.R. 4287, the Tax Fairness and Economic Growth Act of 1992, and I urge my colleagues to vote in favor of this Democratic substitute.

I am deeply disappointed that the White House has chosen to play politics with our country's hard times and the suffering of millions of American families. If President Bush would concentrate more on unemployed and hard-pressed Americans than on the 30-second television commercial he plans to run in November, maybe we could work together to break this recession. Unfortunately, the President's plan, which this body just rejected, offered Americans little more than the same supply-side gimmicks that brought on this recession in the first place. The President can talk all he wants about cutting the capital gains tax rate and creating jobs. He can put up as much smoke and as many mirrors as he wants. The people in my district know who ve-

toed two unemployment benefits bills and who has presided over the worst job creation record in this country's modern history.

Mr. Chairman, 4,000 General Motors autoworkers in my district found out this week that their loyal service to their employer was being rewarded by having their jobs shipped to Mexico. President Bush's use of the economy as a political football is a slap in the face to these hard-working men and women. Unemployed and struggling Americans need a way to pay their bills and feed their families. George Bush has offered them a thousand points of light and more deficit spending.

As chairman of the House Committee on Education and Labor, I am pleased to see that H.R. 4287 includes several important provisions that will benefit students and institutions of higher education.

This bill includes a permanent extension of the exclusion from income of employer-provided educational assistance, a tax credit for student loan interest, and penalty-free withdrawals from individual retirement accounts [IRA's] used to pay for educational expenses.

These provisions will be a major help to students in alleviating the difficult task of financing postsecondary education. The employer-provided educational assistance provision enables employees not to count as income assistance received each year up to $5,250 to cover tuition, books, and fees. This enables many nontraditional students to improve their skills and train for new jobs while working full time. It is also available to laid-off workers affected by plant closings who need to retrain themselves for future employment.

The restoration of the student loan interest deduction in the form of a tax credit for all students in repayment recognizes the fact that a student loan is an investment by the student in his or her future—not a consumption for personal pleasure. This is an important change in tax policy which I believe will help reduce some of the mounting interest former students face today.

The ability to use penalty-free withdrawals from IRA's for education will help many middle-income families help to pay for the cost of education. Many families are struggling to finance postsecondary education for their children. These provisions will help some meet those challenges.

In addition, the bill contains a provision that would end the taxation of appreciated property gifts in the alternative minimum tax [AMT]. The decision to tax these gifts in the AMT has meant the loss of many important donations that would have provided financial aid to students, financed building and laboratory renovation, and endowed academic chairs at institutions of higher education.

Finally, the bill provides for a permanent extension of the research and experimental [R&E] tax credit, including the university basic research credit. Making this provision permanent will provide stability and will be a significant incentive for the private sector to invest in technological innovation.

Mr. Chairman, I support the Democratic substitute, but it is by no means a perfect bill. More needs to be done for the people in my district who are suffering from this recession. While I am pleased that we are finally concentrating on the middle class, what this bill does for the working and middle class is far from what can, and needs, to be done. While I am glad that this bill offers some fairness by placing permanent taxes on the wealthy, I am disappointed that its tax relief for the middle class is so little, and only temporary.

A tax break is good for some, but it does not help the hundreds of thousands of workers in Michigan who cannot find even temporary work. My people need jobs and relief, not tax write-offs. We need to concentrate on the type of job-creating economic programs Franklin Roosevelt used to put this country back to work. We need more public works, but all the President has offered us is more public debt.

I am also disappointed that this bill includes language that repeals the luxury tax on jewelry, boats, and furs, but not on automobiles over $30,000. I do not know many people in my district who are out buying mink coats. I do not know a lot of hard-working people who buy, sell and make cars.

This proposal is not perfect, but it is the only train leaving the station, and I cannot in good conscience vote against it. There are too many worth-while proposals here.

Mr. LEVINE of California. Mr. Chairman, I rise in support of the Democratic substitute tax reform bill.

The American people are justifiably frustrated by the failure of the Bush administration and Congress to pass legislation to respond to our current recession. The President must bear the lion's share of the responsibility for this inaction.

That he denied until this year that we were even in a recession illustrates just how out of touch he is with American economic reality and with the plight of regular hard-working Americans.

I am not so naive as to believe that the bill we have before us today will solve all of our economic problems. The fact is that this recession was 8 years in the making. It is the result of years of misdirected priorities on the part of the Federal Government and a rapidly changing business climate.

For nearly 5 years, I have warned that our failure to encourage adequate investment in plants and equipment, in worker training and in maintaining and modernizing our infrastructure would damage our economic competitiveness. I derive little pleasure from being able to say I told you so.

But, the fact is while business and government accumulated unprecedented levels of indebtedness during the 1980's, that spending was for mergers, acquisitions, and other nonproductive reasons. Little effort was devoted to strengthening our international competitiveness.

Today we take the first steps in righting the wrongs of the 1980's and getting our country back on track. We will help ease the tax burden on the middle class. We will reform the capital gains laws and make other tax changes designed to encourage greater investment. We make permanent the targeted jobs tax credit, one of the most effective Federal jobs programs ever created.

This legislation is not perfect. I do not like the idea of raising anyone's taxes during a recession. We need to keep money in consumer's and investors pockets, not tax it away.

I would have preferred that more be done to ease the tax burden on the middle class. While the $400 credit is a step in the right direction, it is simply not enough to make a significant difference in most families daily lives.

I would prefer a different approach to cutting capital gains taxes. My alternative would institute a sliding scale reduction which encourages long-term investment and discourages speculation and short-term profit taking.

And, the passive loss section of the bill should be extended to all long-term investors in rental real estate.

I overcome these objections because on balance the Democratic alternative recognizes that in order to end the recession and become more competitive in the international marketplace, we need to begin today preparing our economy for the economic battles of the 21st century.

That means increasing our investment in research and development, reinvigorating our housing and construction industries, helping economically depressed communities, and freeing up the long-term capital needed to facilitate the development and commercialization of the high-technology products that will capture tomorrow's trillion dollar global technology markets.

To achieve these goals, Congress must regard this legislation as a beginning, not an end. Congress needs to build on the foundation we lay today, not pass this bill and pretend our problems will all go away.

Our economy is undergoing a number of fundamental changes. While in past recessions, jobs lost would be restored in the future, the majority of the layoffs we have witnessed during this recession represent jobs lost forever.

In my own district thousands of aerospace and defense workers have lost their jobs. It is unlikely that the majority of those who have been laid off will find work in the defense sector.

Earlier this week, General Motors announced that it was laying off 16,000 workers. These are permanent, not temporary layoffs, and are the result of restructuring in our economy.

We, in Congress, need to understand the changes underway in our economy and find innovative ways of dealing with them. In the past I have offered a variety of legislative proposals to deal with these changes and ease the transition of our workers as they move from one job to another.

Among the proposals I have offered are:

Increasing Federal spending on job training. American workers must become lifelong learners. We must adapt to rapidly changing technology and economic conditions. That means we have to do a much better job of teaching working people skills necessary to succeed in the marketplace.

Close loopholes in our tax laws that allow foreign corporations to pay lower taxes than American companies.

Create a Technology Corporation of America [TCA] that will bring together business leaders, Government officials, and entrepreneurs to design an economic game plan for America's future. A TCA would provide both a national strategy as well as badly needed capital to innovative American companies. All of our successful international competitors have economic strategies. We are kidding ourselves

if we believe we can be successful without one, too.

Protect vital American companies from being sold to foreign interests. We should give the President greater authority to stop foreign sales which are not in our national security interests and he must be willing to use that authority. We should also require an economic impact statement on important sales to foreign interests.

Reorder our Federal spending priorities. Today we spend 70 percent of Federal R&D on defense projects. We should move quickly to shift that balance to 50–50 percent.

Restructure the Federal Government to deal with the tough international competition of the 21st century. I have proposed that we change the Commerce Department into a Department of Industry and Trade, with a renewed mission to encourage American exports and industrial innovation. Creating a civilian version of the Defense Advance Research Projects Agency would be an important step in the right direction.

Help our defense firms shift to making products which can compete in the private sector. We should provide tax credits to defense companies to invest in new equipment and technologies, and tax credits to businesses which hire displaced defense workers.

Cut the Federal deficit. We must undertake this difficult task as both an economic necessity and a moral obligation to our children.

These are a few of the legislative initiatives I would hope to see from Congress during the current session to strengthen our economy. Their implementation would help get our economy back on track and lay the foundation for the future.

Today our economic preeminence is threatened as never before. The time has come for courageous political leadership.

Mr. HUGHES. Mr. Chairman, there is a crisis in America. Hard-working men and women fear for their jobs, fear for their children's future, and fear that no one in Washington can or will do anything about the economic problems that plague us today.

And I can understand those fears. Back in 1981, the President and many here in Congress offered America a miraculous promise—we'll cut your taxes and spur miraculous economic growth that will pay your bills for you.

Rather than leading us to the promised land of economic growth, this plan has left our economy to drown as the sea of red ink refused to remain parted and crashed down upon us. At the end of fiscal year 1991, the Federal debt stood at $3.67 trillion, interest payments on the debt came to $286 billion—43 percent of general fund revenues—and the annual deficit was $269 billion.

I voted against that 1981 tax cut because common sense told me that it would lead to the debt problem we face today. The one thing that Democrats and Republicans, economists and ordinary citizens, and even Presidents and Congressmen agree would help our economy is reducing the deficit.

The bottom line on all of the proposals before us this week—the President's budget, the Republican alternative, and the Democratic alternative—is that they add too much to our national debt and too few jobs to our economy. As a result, they are all bad for the country.

I believe that what the country needs and what the American people want is strong leadership from Congress and an economic plan that focuses our scarce resources on creating jobs in critical industries. Beyond that, we need a plan for restoring fiscal balance to the Federal budget and our economy—not a 50-cent-a-day tax break for the whole country.

Cutting the deficit makes sense, and it is the best capital investment program this Congress can pass. Every dollar of deficit spending is a dollar that was invested in a Treasury bill instead of in private business. Regrettably, all of the plans before us make the deficit larger, not smaller, and therefore I urge my colleagues to reject all of these proposals and ask the Ways and Means Committee to go back and develop a proposal that reduces the deficit.

Of the three proposals, the Democratic plan has the fewest faults, and there are many good provisions in the Democratic bill that I strongly support. Some of these use relatively inexpensive tax breaks to draw investment to critical areas in our economy, such as the tax exemptions for mortgage revenue bonds and industrial development bonds, the targeted 50 percent reduction in the capital gains tax on venture capital invested in startup companies, the research and experimentation tax credit, the 15-percent increase in first-year depreciation allowances on new equipment, and the increased cap on depreciation writeoffs for small businesses.

Another good provision that I worked hard to get passed is the repeal of the luxury tax on boats. The luxury tax has hurt the boat builders in my district, and repealing it will save jobs and reduce unemployment. Any lost revenue will be replaced by a tax on the diesel fuel that most of the bigger boats use.

The Democratic bill also cracks down on some corporate abuses. It limits the deduction for corporate salaries to $1 million. Companies can pay more to their executives if they want, but they should not be able to write those salaries off as a business expense. The second provision in this area came from a bill authored by my colleague from New Jersey, Representative FRANK GUARINI, to stop double-dipping—a loophole that allows the new owners of failed S&L's to take tax deductions for losses that have already been reimbursed by the Federal Deposit Insurance Program.

More reforms are needed, however. We need to limit the tax deductions that made so many leveraged buyouts possible in the 1980's, and we need to examine our laws that may actually encourage companies to shift jobs from the U.S. mainland to U.S. possessions or low-tax foreign countries. I am cosponsoring a bill, H.R. 4061, that proposes reforms in all of these areas.

Unfortunately, the sound provisions in the Democratic bill account for only a fraction of the cost of the overall plan. The vast majority of the cost of the Democratic bill goes to two items—cutting everyone's taxes by $200 for 2 years and providing across-the-board capital gains indexing. The $200 tax cut alone will add $46 billion to the national debt in 2 years and capital gains indexing may not cost much now, but it will grow increasingly expensive each year.

Despite my objections to the Democratic substitute, I must commend the Ways and Means Committee, for having the courage to raise other taxes to pay for the tax cuts in his bill. The President's budget and the Republican substitute both rely heavily on a bald-faced accounting gimmick for the Pension Benefit Guarantee Corporation to pay for $22 billion of their tax cuts.

While accrual accounting may be more accurate than cash accounting, it does not bring one single dollar of new funds into the Federal Treasury. We are in too much debt already, no matter how you count it. Even with this accounting gimmick, President Bush's own budget proposal for fiscal 1993 would lead to a deficit of $399 billion. Clearly, we cannot afford expensive tax breaks that are not offset by solid revenue raising provisions.

There are also good provisions in the President's bill and the GOP substitute, such as increased equipment depreciation allowances and a narrowly drawn passive loss provision. But I cannot understand why the Republican substitute does not contain measures to stop double dipping by S&L owners and to repeal the luxury tax, which is paid for by taxing marine diesel fuel.

In addition, I wonder why the Republican plan failed to extend the mortgage revenue bond, industrial development bond, research and experimentation credit, and several other important but relatively inexpensive economic growth incentive programs.

Finally, the President's proposal to loosen the current restrictions on investments in real estate by pension funds defy logic and recent history. As chairman of the House Aging Committee's Subcommittee on Retirement Income, I am very concerned that this proposal could lead to speculative or fraudulent investments in real estate that will cripple pension funds the same way those types of investments crippled many of our banks and savings and loans.

With our current deficit situation, we do not have the money to hand out across-the-board tax breaks. We must focus our scarce resources on creating jobs in the industries that will lead our economy into the next century. For example, I strongly support the targeted capital gains exclusion in the Democratic proposal for people who make long-term venture capital investments in small companies. Risk taking of this type creates jobs and provides vital funding to American entrepreneurs. In addition, I am also cosponsoring legislation to increase the depreciation writeoffs for American semiconductor manufacturers because of the intense international competition in this industry and the importance of semiconductors in products ranging from radios to cars to Patriot missiles.

However, all of the plans before us make an expensive mistake by including untargeted, across-the-board capital gains tax reductions that will significantly increase the deficit in the future. As long as we have a deficit, we cannot do much to change the amount of investment capital available, since any investment tax breaks are paid for by the Treasury borrowing the money from other investors.

Not only will these cuts increase the deficit in the future, they could exacerbate serious problems in our banking sector right now. According to the Wall Street Journal, $150 billion was withdrawn from bank and thrift accounts

in 1990 while mutual fund deposits increased by $280 billion. At a time when banks are failing and everyone is concerned about the credit crunch from tighter bank lending policies, a generic capital gains incentive will encourage even more people to pull their money out of savings accounts because interest earnings from these accounts are fully taxed.

I hope the House will reject all of these proposals and ask the Ways and Means Committee to draft a new bill that contains the targeted growth incentives in the current bill but rejects the tax giveaways that will make a horrendous deficit even worse. We need a bill that reduces the deficit, repeals the luxury tax on boats, extends the proven growth incentives that are about to expire, relaxes the passive loss rules on real estate without reopening loopholes for tax shelters, and provides targeted tax incentives to create new jobs and make our industries more competitive in the years ahead.

Mr. McMILLEN of Maryland. Mr. Chairman, I rise in opposition to all three of the tax proposals currently under consideration. While I have supported some of the concepts being proposed today, none of the proposals we will vote on offers American families the type of help they are demanding. What we have here is too much political posturing and too few serious proposals for economic reform. The American public is looking to this body for short-term relief for our economic doldrums and a long-term plan for building a competitive economy. Instead, we have a compilation of quick fixes and budgetary gimmickry which solve nothing, and might actually make matters worse. America is hurting, and they're looking to us for answers.

The economic well-being of the country demands that whatever course we take, we should—above all else—not add anything to the Federal budget deficit. Last year, alone, we ran a $350 billion deficit, pushing the national debt up to $3.825 trillion, and we maintain a structural deficit of $200 billion is not going to come down anytime soon.

But this is not the only deficit facing America. We are also plagued by a domestic deficit of the unmet needs of the country—in education, infrastructure, health care, and social needs. Our Nation cannot afford another reckless tax plan that does not encourage the right kind of incentives in these areas.

The President's proposal, while portrayed as being revenue neutral, uses accounting gimmicks to create a facade of fiscal responsibility. I find this to be the epitome of political cynicism, assuming that the American people will not notice that they are increasing the deficit and paying for it with assumed future revenues. It is this kind of budgetary gamesmanship that tripled the national debt over the last 12 years.

Moreover, the administration's proposal for a reduction in the capital gains rate will not have the desired effect, and may actually result in more taxes to be paid on investments. The proposal taxes recaptured depreciation on real estate in such a way that investors are likely to pay 3 percent more under the administration's proposal than they would under current law. The President's passive loss provision is also very weak. It only applies to a narrow group of developers, not the average real estate professional who is simply trying to make ends meet in a stagnant market.

The real estate industry is the foundation for the tax base of every local community and State government in America. Since the 1986 Tax Reform Act, the industry has been decimated by an unsound tax policy and severe credit crunch. If local economies around the United States are going to rebound we need to make fundamental changes in our tax laws with regard to real estate. Our financial institutions' balance sheets are directly tied to the health and vitality of American real estate. The administration proposal fails to provide the necessary relief to this sector of the economy.

And, while I find certain aspects the Democratic package very appealing, I fear its enactment will do more harm than good. My main concern is that the package does not focus on creating jobs and stimulating growth in this economy. America needs a long-term economic policy that encourages home buying, provides incentives and assistance to send children to college, and creates an investment policy that makes us competitive with the world.

I recognize that we need to build more fairness into our tax code, but I believe we need to do it at a time when the economy is on firmer ground. Raising taxes in the current economic environment is just bad economic policy. It simply does not make sense to take more money out of the private sector to put into the Government coffers. Furthermore, the cost of the proposed temporary tax cut for some taxpayers—which, in all likelihood, will be permanent—is $45 billion over 2 years. Considering the small amount it will put in the pocket of the average American taxpayer—at best, 56 cents a day—it is not worth the increase in the deficit.

If we were to enact this proposal, we would essentially be borrowing $45 billion from our children, so that parents could have $200 to $400 more to spend this year. How many Americans would agree to take a couple hundred bucks from their kids' savings account, and let them pay it back 30 years later with compounded interest?

The Democratic proposal also does not repeal the completely useless user fee on boaters. This hidden tax is not a user fee at all, since boaters receive no service for their fee.

Nonetheless, there are many aspects of the Democratic plan which I support. It repeals the sales tax on boats, which has not hit high-income Americans, but has crippled workers in the boat building and related industries. The plan allows for tax deductions on the interest paid on student loans. It takes a good first step to reducing the capital gains tax rate. The sections related to restoring the passive loss provisions are vital to the real estate industry and are desperately needed. This provision should be passed in some form, this year, regardless of whether we pass a comprehensive tax package.

I still think there are good tax proposals which should be enacted into law, and am very willing to work with my colleagues, on both sides of the aisle, to see that occur. We need a tax credit for first time home buyers, so that young families can begin to attain the American dream and buy that first house. We should offer families a tax deduction for college tuition and student loans, to encourage young Americans to develop the skills they'll need to compete in a global economy. America desperately needs a capital gains rate reduction to spur investment and create new jobs in all sectors of our economy. And, I would support creative ideas to infuse more fairness in the current Tax Code and reverse the terrible inequities that were created in the 1980's.

But these proposals should not be coupled with gimmicks and election year politics. American families are looking to us, today, for responsible leadership. Let's not give them the same politics as usual. Let's surprise the pundits, let's surprise the newspaper editors, let's surprise the American public—let's do the right thing. Mr. Chairman, I urge rejection of these proposals.

Mr. CHAPMAN. Mr. Chairman, the Ways and Means Committee has presented the House with three options for an economic recovery package. One is the complete set of reforms proposed by the President in his State of the Union Message. The second is a slimmed-down version of the President's plan submitted by the House minority leader. The third is a proposal prepared by the Democratic members of the House Ways and Means Committee.

None of the three options is perfect. All have the same intention of stimulating growth, creating jobs and getting the American economy back on the move.

In the State of the Union plan, I like the permanent research and development tax credit. I like the increase in the personal exemption for taxpayers with children. The penalty-free IRA withdrawals for certain purposes is a good idea. But I cannot support the State of the Union package's increase in the deficit of $52 billion over 6 years.

In the House Republican plan, I like the tax credit for first-time home purchases. The plan includes good depreciation reforms. I frankly don't have a problem with any of its incentives for growth, but I don't like the fact that it ignores all of the President's proposals to help ordinary people, like the increased personal exemption. I think its sponsors ought to be ashamed of using budgetary gimmicks, also in the State of the Union plan, to reduce its deficit impact by changing deposit income and the Pension Benefit Guaranty Corporation from a cash basis to an accrual basis. Even with that gimmick, the House Republican plan increases the deficit by $25 billion over 6 years.

In the Democratic plan, I like the real passive loss provision included to put the real estate industry back on its feet. I strongly support the plan's middle income tax relief. I like the indexing of capital gains, and I hope that in the Senate it can be expanded to benefit existing holdings. I am not enamored with any proposal that increases tax rates. But if rate increases are the only method that can be supported by a majority to finance this package, increasing rates on the wealthiest Americans, those most able to pay, is probably the most fair way to go about it. I would personally prefer an import fee on oil and petroleum products, but I understand that proposal does not have the support of a majority at this time.

Most important, of the three options available to this House today, only the Democratic

package provides for a deficit reduction of $13.9 billion. Only the Democratic plan attacks the most ominous cloud over the American economy, the Federal deficit.

None of these three proposals is perfect. But only the Democratic package is responsible. Both the State of the Union and the House Republican package increase the deficit. That is irresponsible.

While not perfect, I will support the Democratic alternative. We must move an economic recovery package forward, and I am confident that as this package winds its way through the legislative process, it will continue to improve.

I am also confident that the White House will not negotiate with the Congress until it is apparent that the process is about to reach a conclusion. Look back to last fall. The very Members who today say this bill is doomed said then that the dire emergency supplemental appropriations bill was doomed as well. As it turned out, the administration refused to negotiate until the bill reached conference. And at conference, ureka, a compromise was found and the President signed the bill.

Like last fall, the administration will not negotiate in good faith until this bill reaches conference. I am confident that through the legislative process, a compromise will be reached that will be supportable by all but the most right and left wing in this body. Let's move this process forward and bring an economic recovery package one step closer to real negotiations, one step closer to bipartisan support and one step closer to becoming law.

The American people need help. Let's show them good faith in continuing to make progress toward economic recovery.

Mr. OWENS of Utah. Mr. Chairman, politics and procedure have backed us into a corner. The real point of today's debate is not to pull us out of recession. The contribution of any tax bill we pass now will have only minuscule influence on our current economic distress. The point of today's efforts should be to establish a long-term, progrowth tax policy that will permit the rebuilding of America's manufacturing base, the retooling of our industrial capability and regaining our competitive standing in the world.

I strongly supported many of the President's proposals as outlined in his State of the Union Address. But some of those proposals, such as the tax on annuities, tax on credit unions, and recapture of depreciation, had some fundamental flaws. This was made clear by the resounding rejection of the President's original proposal by his own party. The Republican substitute, in spite of its shortcomings, was the most favorable alternative, in my view, and I take the time now to explain why and urge its passage.

My support for the Democratic substitute is contingent on the expectation that some aspects of the bill can be removed or altered in conference. I am pleased to see that the tax policy under discussion embraces many of the growth-oriented incentives I have advocated for some time. In particular, I strongly support the capital gains reduction, luxury tax repeal, and passive loss revisions of H.R. 4287. In addition, the permanent extension of the targeted jobs and R&D tax credits, as well as other progrowth provisions of the Internal Revenue Code, is long overdue.

But I supported the Republican alternative for a number of reasons. I want to see a $5,000 tax credit for first-time home buyers. I want to see software exempted from the 14-year amortization standard put forth in the Democratic substitute. This software provision is punitive to my State's software industry. We shouldn't cripple one of America's strongest industries in the name of tax simplification. The capital gains provisions of the Republican proposal are more comprehensive and more targeted to a greater portion of our manufacturing base. Ideally, I want to see accelerated depreciation of the costs of investment in all new plant and equipment, and I have today introduced legislation doing just that. In that sense, the Republican alternative doesn't go far enough to encourage investment.

In addition, I am already tired of the class-baiting language that has characterized this year's election-year debate. I want to reduce taxes for middle-income Americans as much as anyone. I do not want to raise anyone's taxes. But if we're going to raise taxes, it makes much better sense to put those revenues toward deficit reduction.

Let's not kid ourselves; this tax cut will not help the economy, and doesn't mean much to middle-income Americans either. Although it would be a symbolic gesture to redress the imbalances and inequities in the Tax Code, it won't really ease the burden. Absent considerable spending cuts, it will significantly increase the deficit without stimulating economic growth. A middle-income tax cut is unquestionably tempting for politicians. But our deficit condition is simply too serious. There will be too much pressure on us to make this tax cut permanent when it expires 2 years down the road.

Will we be willing to raise taxes again in 2 years, once our constituents and the media have entirely forgotten about the piddling middle-income tax cut of the Tax Reform Act of 1992? A tiny election-year gesture is no substitute for real deficit reduction and economic growth. The reduction of taxes on middle-income Americans today makes inevitable a significant tax increase for those same Americans the next few years.

That is not to say, however, that I have no reservations about the Republican package. The accrual accounting financing mechanism is a gimmick, no question about it. The Democratic alternative, in spite of its flaws, more nearly pays for itself in the long term.

But the Republican alternative costs less in its first 2 years, fiscal year 1992 and fiscal year 1993, than does the Democratic alternative. But all we have to do is look at the 1990 budget agreement to see that long term projections always prove overly optimistic. Economic conditions change rapidly. We operate in an ever changing political context. But I don't think that the Congress, media, or our constituents will have the patience to wait for 2 years, much less 5 years, for the revenue projections of the Democratic alternative to run their course. The short-term impact on the deficit will be to push it upward.

Mr. Chairman, our accumulating debt is crippling our economy. It undermines the quality of life for future generations. It is taking needed investment in infrastructure, education and research and development. Mr. Speaker, the deficits of the past generation are not only unfair to our children, they are bad economic policy.

We must eventually start capital budgeting by dividing the Federal budget into capital accounts and operating accounts, the former of which incorporates only growth-oriented Federal spending, the latter of which must absolutely be maintained in balance. We will address this related issue of spending priorities next week, and my vote for the Republican alternative today was consistent with my commitment to fiscal responsibility.

In addition, I supported the Republican substitute for the same reason I will vote for the Democratic alternative—to ensure that the process continues beyond the House of Representatives. Even if we find elements of the Democratic alternative distasteful, as I do, we should not be thinking of this session's special interest group ratings. Let us hold our noses, if we have to, and send it to the Senate and on to a conference committee, where it can be revised and, hopefully, improved.

Mr. Chairman, we must do what best promotes reinvestment in our Nation's economic growth and reduces deficit spending. I have reluctantly concluded that the Republican substitute better meet that standard. But getting some sort of tax incentive bill through the Congress is an important enough priority that it was inappropriate to derail this effort at its inception. I thus will support this bill on final passage, and am confident that further consideration will assure a better, more appropriate piece of legislation.

Mrs. BOXER. Mr. Chairman, for the last 15 years, middle-income working families have incurred an increasingly greater tax burden, while tax cuts enacted during that period benefitted only the very wealthy and the very poor. The fact is that most American families have paid more in taxes than they would have had the Tax Code remained unchanged since 1977.

For this reason, today I am voting in favor of H.R. 4287. It is a vote to restore some measure of fairness to middle-income families. However, it is not the vote that I had hoped to cast today.

I had hoped I would get to cast my vote to provide permanent and more significant middle class tax relief that truly restores equity to the Tax Code. Whether or not today's tax relief bill is signed into law by the President, Congress must soon return to complete its work to restore tax fairness to the middle class.

Mr. ENGEL. Mr. Chairman, the economy of this country is still in the doldrums and Congress needs to enact legislation to restore confidence in our future. As a front page Washington Post story indicated today, consumers are more concerned about the economy than they have been since 1974. The main reason for this is lack of leadership on the part of the administration. Middle class America does not believe the President has their best interests in mind. Looking at the package offered by the President at the State of the Union speech, and his subsequent withdrawal of the sections targeted for the middle class, I don't blame anyone for being skeptical of the President's policy goals.

Mr. Chairman, Congress must step up to fill the leadership void in America. I believe the

Democratic alternative responsibly addresses the economic malaise of our country and does it in a way that takes into account the pressing needs of the middle class. It:

First, provides a tax credit for amounts paid for Social Security by working Americans;

Second, provides a tax credit for interest on college loans that more and more middle class students are forced to take to finance their educations;

Third, waives penalties for early withdrawals from IRA's for first-time home buyers, and for medical and educational expenses;

Fourth, indexes the $125,000 exclusion for capital gains upon sale of a principal residence;

Most importantly, this legislation will reduce the Federal budget deficit by $13.9 billion over the 6-year period ending in 1997. The President's original plan loses $52 billion through 1997 and the second Republican plan loses $25.3 billion through 1997. The Federal budget deficit simply cannot be allowed to grow any larger. It is already eroding our standard of living and choking private investment in this country. The country simply cannot afford the fiscal irresponsibility of the President's plan.

Mr. HOAGLAND. Mr. Chairman, the House today is considering H.R. 4287, the Tax Fairness and Economic Growth Act of 1992, a bill designed to help to put the Nation's skittish economy on the road to recovery. In my home district of eastern Nebraska, we have been fortunate to have a relatively low unemployment rate and a high rate of job creation and growth. But people are worried nonetheless. More and more the economy requires that both parents work just to make ends meet. As cutbacks at Offutt Air Force Base take hold and as Nebraskans see the news of major plant closings elsewhere in the Nation, they fear for their jobs and our prosperity.

The American people have good reason to be worried. The Federal deficit this fiscal year has now ballooned to nearly $400 billion. That means that every taxpayer in America this year is paying $2,000 in interest on the national debt. In the last 3 years, our GNP has grown at the worst real growth rate for any administration since World War II. In the last 10 years, average working Americans have seen their real dollar income gradually reduced. At the same time, our national debt has increased to the unacceptable level of over $3 trillion. To quote from a House Budget Committee analysis, the $3.4 trillion level of debt proposed in the President's fiscal year 1993 budget is "55 percent of gross domestic product, more than double the level of 1980. This will be the highest ratio since 1955."

The huge debt and annual deficits are corroding our economy. The borrow-and-spend policies of the 1980's are bringing our economy to its knees. Corporations and government no longer save and invest. Instead they borrow and spend. We are caught in an economic downturn because of our collective lack of saving and investing. Economist Barry Bosworth of the Brookings Institution stated recently in testimony before a House subcommittee that two-thirds of all private savings in America are borrowed by the U.S. Government to meet present obligations. This money would otherwise be invested in the business sector, to increase productivity and create more jobs. These trends simply must be reversed.

Former Council of Economic Advisors Chairman Charles Schulze said, in 1988:

> We need to dispel the illusion that we have done enough so that the economy can grow its way out of the budget deficit. That deficit is still the Nation's number one economic problem.

That was 1988. There is no doubt that the deficit is still our No. 1 economic problem. It is like a silent cancer, eating away at our economic prosperity, our job opportunity, and our standard of living.

DEFICIT REDUCTION AND ECONOMIC GROWTH

An important reason I am supporting the tax bill before us is that it would make at least a small dent in the deficit by reducing it by almost $14 billion over 5 years. I would prefer that it be much more. But in contrast, estimates are that the President's bill would increase the deficit by $25.4 billion over 5 years.

In addition, the economic growth and job creation incentives in the bill, especially help for small businesses—like indexing capital gains to avoid paying tax on gains attributable to inflation—can help stimulate the economy and put people back to work. Working Americans are Americans supporting themselves and contributing to growth and prosperity in America.

HELP FOR SMALL BUSINESSES

Another excellent feature is section 2101 of H.R. 4287 which would create inducements for long-term, growth-oriented investments in small- and medium-sized businesses. We all know that small businesses are the engine of job creation. Section 2101 is modeled on bills I introduced in the last Congress and cosponsored in the current Congress—Senator BUMPERS introduced the companion Senate bill. It would exclude from taxation 50 percent of the gain on the sale of stock of small- and medium-sized companies when the stock is held for 5 years. This approach would give people more encouragement to invest directly in small and medium businesses. This approach would encourage people to hold the stock for 5 years, thus providing long-term, patient capital for new enterprises. It would revolutionize the flow of capital available to small- and middle-sized businesses, making them more likely to succeed. This provision targets businesses less likely to be able to raise capital from banks or in the capital markets.

TAX FAIRNESS FOR EDUCATION

Two provisions of this bill make it more likely that middle-class Americans will get a full education. We all know that the cost of a college education is going through the roof for most families. Tuition at a public college in 1991 was $5,000; at a private college, it was $12,000. Tuition, room and board at the University of Nebraska for a Nebraska resident was $4,800 in 1990. These are amounts that most families have to scrape to find. The economic growth package before us would give families a credit for interest paid on student loans and would make nontaxable tuition paid by employers for employees' education. These are two important provisions that address the real needs of American families.

ENDING THE DEDUCTIBILITY OF CORPORATE SALARIES OF OVER $1 MILLION

The bill also ends the ability of corporations to charge as a business expense salaries paid to executives in excess of $1 million. I applaud this measure at a time we have seen corporations pay their top executives salaries of millions of dollars while earnings decline. I am appalled at news reports of corporate executives taking home millions of dollars while letting employees go. For example, the Washington Post reported that Steven J. Ross, CEO of Time-Warner, last year earned $80 million while laying off 600 employees of the Time-Warner magazine division. The median household income is $34,000. In today's America, the average pay for a CEO is over 100 times the average pay of the average worker; 100 times. Financier J.P. Morgan said that no executive should make more than 20 times the pay of the average worker. If we look abroad, a Japanese CEO earns about 17 times more than the average worker; a German CEO earns about 23 times more. In America, the average CEO earns more than 100 times the pay of the average worker.

From 1979 to 1989, middle-class, working Americans saw their income reduced 8.7 percent. Parents are working more. Measured in hours on the job, 66.3 percent of working-couple families with children worked the combined equivalent of 1.5 or more full-time workers, up from 56.5 percent in 1979. With these hard economic facts at work, the Tax Code need not give corporations a tax deduction for salaries paid over $1 million. It is estimated that this provision will raise $1.9 billion over 5 years.

ENTERPRISE ZONES FOR DEPRESSED AREAS

The bill before us also includes tax incentives for 35 enterprise zones across the country. Under this proposal, 10 urban areas would be selected and given special tax incentives if, for example, they employ local people or invest in plants within the enterprise zone. This approach is important to cities like Omaha that have depressed areas in which businesses hesitate to invest. When this idea was proposed several years ago, I testified before the Ways and Means Committee in support of it. The city of Omaha has previously applied to the Federal Government for designation. Under the leadership of State Senator Paul Hartnett, the Nebraska Unicameral is now considering complementary legislation, with complementary State tax incentives, that would make Omaha more likely to receive a designation. So enactment of an enterprise zone bill will be welcomed in my district, particularly south and north Omaha, areas that need incentives like this to provide investment and job creation.

I hope my colleagues will join me in passing this bill. I have dealt with just a few features of this important and complex legislation. The provisions I describe are constructive and should help to deal with our economic ills. I do not agree with all aspects of the bill. But I intend to support it today so that we might keep the congressional process moving and make ultimate passage of an economic recovery bill more likely.

Mr. LAGOMARSINO. Mr. Chairman, I rise in strong opposition to the Democratic tax package. My constituents want to see growth in the economy, not growth in their tax bills.

The American people will not be fooled by smoke and mirrors. This bill is a tax-and-borrow alternative to the President's economic

growth package. Regardless of the bill's title, at its core is a tax increase on millions of American families and businesses.

In 1990, this Congress passed, and I voted against, a so-called deficit reduction package consisting of almost $150 billion in new taxes and $700 billion in new spending. That's not what I call deficit reduction, that's a tax-and-spend bill.

This year the majority is offering so-called temporary economic relief of about 55 cents a day in return for an immediate and permanent $77.5 billion tax increase and a $30 billion increase in the Federal budget deficit. That's not what I call economic relief, that's a tax-and-borrow bill.

Who does the majority think is really going to pay for those extra cents? Taxpayers might as well just put it on their credit cards because everybody pays for the Federal budget deficit and the resulting Federal debt sooner or later.

Americans need economic growth and jobs, so what does the Democratic alternative do? It raises taxes on almost 30 million small businesses across the United States. These small businesses normally account for over two-thirds of the new jobs created in this country. Higher taxes will choke these businesses and eliminate new jobs—a loss of 21,000 jobs compared to an increase of 500,000 jobs created by the Republican bill.

Rather than work together on a bipartisan package for the good of the country, it seems that American families, workers, and senior citizens will once again take a back seat to the political games of the majority.

The President will not sign a bill that increases taxes, and the American people do not want a bill that increases taxes. They want a bill that offers meaningful relief, economic growth and job creation.

I urge my colleagues to join me in opposing this Democratic tax bill. Then, I strongly urge my colleagues from both sides of the aisle to put partisan politics in the back seat and let the needs of our country drive Congress to enact a more responsible economic package without tax increases.

Mr. POSHARD. Mr. Chairman, I rise in support of the Democratic alternative to the middle income tax relief and economic growth incentives, H.R. 4210.

There is no secret to creating jobs in this country. Increased productivity depends upon the savings which fuel investment. Allowing small businesses to deduct up to $25,000 of the cost of new equipment, speeded up depreciation allowances, indexing capital gains, and research tax credits. These are all important incentives for spurring productivity. The creation of enterprise and investment zones will further enhance our productivity and investment opportunities and create jobs for many Americans.

The middle-income tax relief is long overdue for Americans who have carried the major share of taxes in this country. It is my hope, while this bill is not perfect, and falls short in many categories, that it will spur our economy in the future into additional growth and end this recession.

Mr. PORTER. Mr. Chairman, this Democratic substitute has many beguiling provisions that, standing alone, I support. These include tax credits for interest payments on student loans, a waiver on the penalty for early IRA withdrawals for first-time home buyers and for medical and educational expenses, capital gains indexation, and capital gains tax cuts. In addition, I see in a very favorable light the provisions which accelerate depreciation on certain corporate assets, revise passive loss rules, and repeal part of the counterproductive and job-killing luxury taxes. Making permanent the research and experimentation tax credit is also wise policy.

Unfortunately, all of these solid provisions to stimulate long-term economic growth through encouraging savings and investment, are sandwiched between a nonsensical dollar-a-day tax cut for so-called middle income taxpayers that will do absolutely nothing to help the economy and hardly be noticed by individuals, and a tax increase that only serves to remind Americans that the Democratic party believes in class warfare as a primary political tool. These two pieces of stale bread around the fresh core of sound economic policies, however, make the entire sandwich unedible.

It is perhaps the essence of sound analysis that the economy may well be better off if Congress does not fiddle with it—that whatever is done will probably only add to the deficit and further slow economic recovery and may also be too late to make any difference.

Mr. Chairman, our country dug itself into this economic hole by consuming greatly throughout the 1980's, running up inordinate amounts of Government, corporate, and personal debts, and refusing to listen as the red ink spilled on our childrens' futures, the leveraged buyout was substituted for antitrust enforcement, and plastic money became a way of life. We will not, unfortunately, find it easy to dig our way back out. No Government quick fix is going to give serious help to this economy. With a $380 billion deficit, we have stupidly lost the option of fiscal stimulus that is the classic prescription for recession. Our hope is that the American people gain an understanding of how our economy has arrived at this place and never allow these errors to be made again.

We must have the strength of purpose and the courage to rebuild our economic foundations by increasing domestic savings and investment, curbing Government spending and bringing our budget into balance, and putting in place not some silly, political quick fix, but sound policies that will create jobs and ensure long-term economic growth.

We must also reestablish our economic independence. Americans say how terrible it is to be dependent upon foreign oil. And it is. But how much worse it is, how much more compromising, to be dependent upon foreign capital. Instead of saving and investing during the last decade, our society consumed—often foreign-made goods—and allowed Japan and Germany and Great Britain and others to provide the capital needed for business expansion and job creation. Now we may well be in the position of needing them more than they need us. But whether or not this is literally true, the message must be loud and clear and the lesson learned: Save and invest more, consume less, never, never rely upon others to finance your business expansion.

An idea that I have offered, which would increase domestic investment—personal domestic investment—by $100 to $200 billion for the next 30 years, is highly relevant. The Congress is now stealing the Social Security reserve, money that should be accumulating, that was by law designed to be accumulating, to provide for retirements of the baby-boomers beginning in 2025 at the same good benefit levels as seniors in America now enjoy. That accumulated reserve should total $3 trillion—in 1990 dollars—over the next 30 years. Every year that the Congress runs large deficits, the future taxes needed to provide such good benefits increases and the chance of future retirees ever receiving them dwindles.

Now, Mr. Chairman, now is the time for Congress to turn control over this $3 trillion to those paying it—the American working man and woman—and allow them to save and invest it in their own individual Social Security retirement accounts. This would have no effect whatsoever on present and near-term future retirees whose good benefits are absolutely assured, but it would do wonders for the future of Social Security and it would do wonders for capital formation in our economy. It is so sound an idea that Congress and the White House will run from it, lacking the courage to ask people to look to the long term and the leadership to commit to bold solutions.

But people are hurting in America, Mr. Chairman, not just people at the economic margins, but Americans at every level—high and middle managers, professionals, the self-employed. The recession's scythe is cutting all of us down. Now is the time for strong leadership and bold initiatives, not for the political posturing and quick fixes exemplified by these shortsighted, economically ignorant proposals.

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in support of the tax relief plan offered by my good colleagues Mr. ROSTENKOWSKI and Mr. GEPHARDT.

While neither of the alternatives presented here today offers in my opinion a perfect solution to our current economic crisis, we have been presented with three very clearcut and different philosophies to guide our Nation out of the recession, and clearly the Democratic substitute stands head and shoulders above the President's proposal in terms of fairness for the broad majority of Americans.

President Bush, last month in his State of the Union Address before this body, challenged the Congress to give his economic plan full and fair consideration by March 20. Well, with all the double-speak and backtracking coming from the White House and from my colleagues on the other side of the aisle lately, I'm not quite sure what exactly the President's proposals are. But I am pleased to see, however, that Mr. GEPHARDT, acting in good faith, introduced President Bush's plan as he originally outlined during the State of the Union so it could be fully considered.

Unfortunately, rather than propose real change for middle-income Americans, President Bush and my Republican colleagues have chosen to stick another pin in their economic voodoo doll. For over a decade we've heard that tax breaks for wealthy Americans will somehow, someway, someday shower down upon middle- and low-income Americans. Tell that to the over 3,000 people who lined up in my district in Chicago on a frigid day last month to apply for only a few hundred low-wage jobs at a new hotel.

Now I'm not saying that the $400 in tax relief offered by the Democratic alternative to middle-income families is going to suddenly end all of the detrimental effects of the last decade's supply-side economic policies. But to people in my district, unlike some of the President's country club chums, $400 is a substantial sum of money which could mean the difference between paying rent one month, or eating the next. Further, it takes a major step in the right direction to restoring the public's confidence in the equity of our tax system. Under the Democratic plan, wealthy Americans, who benefited so greatly during the 1980's, will be called upon to help carry their fair share of the tax burden. This will be done by creating a new 35-percent tax bracket for individuals who earn over $85,000, as well as imposing a surtax on millionaires.

Along with the tax relief provisions, the Democratic alternative contains numerous growth incentives, such as making permanent the R&D tax credit and low-income housing tax credit, creating enterprise zones, and modifying the passive loss rule with regard to real estate investments. Many of these proposals the President actively supports. These will effect all sectors of the economy including manufacturing, real estate, and small businesses.

Mr. Chairman, I urge my colleagues to support this Democratic alternative to the President's tired collection of failed policies resurrected from the 1980's. We clearly need a new approach to our future. An approach that recognizes the difficulties faced by America's working men and women, not one which continues to funnel benefits in the overstuffed pockets of America's wealthy.

Mr. TALLON. Mr. Chairman, I will reluctantly, in an effort to keep the process alive, support the Democratic plan. Naturally, in any large bill, there are things in it that I like less than others. But there are positive things which will spur the economy in the short term, and some long-term items will encourage savings and investment. And the bottom line is that it pays its own way.

There are some very positive parts of the bill that encourage savings and investment. For example, the Democratic bill contains my proposal, contained in H.R. 2340, for allowing IRA funds to be withdrawn without penalty for first-time home purchases, and for medical and educational expenses. In addition, the Democratic bill provides for the indexing of capital gains, and for an increased depreciation allowance. These ideas are designed to lower the cost of investment, and were in the bill, H.R. 960, which I introduced with TOM DELAY some time ago.

I do not like the tax increases contained in the bill. I don't think you help the economy by punishing success. But there are two reasons I am going to kind of hold my nose and vote yes, whatever the political result might be. First of all, the message is clear that the Congress and the President have to act to get the economy moving again, and politics should be set aside. People are hurting, and the slow economy dramatically increases the Federal deficit.

At the same time, to increase the deficit in order to spur the economy is absolutely unacceptable, and just tells the world that we want to throw any sense of fiscal responsibility to the winds. That kind of irresponsibility will hand us inflation and higher interest rates, and stop any economic activity we create in its tracks. We need a real way to finance the bill.

The second reason is that the capital gains reductions in the bill will act to spur investment in a much more direct way than retaining relatively low rates for the wealthy. If the Democratic plan did nothing for investment in the way of indexing and capital gains, I could never support the new tax schedules.

The Republican plan will increase the deficit; the Democratic plan does not. I think, above all, that we need to be honest with the American people, and that we don't insult their intelligence by telling them there isn't a price for the changes we want to make.

Overall, the Democratic plan has solid plans for encouraging savings and investment, it will result in economic growth, and it is not antibusiness. It does work to give middle-class families a break, and after the 1980's increases in the payroll tax, I believe they deserve that, just to get back to where they were a decade ago.

The way the process runs up here is that everyone is for the easy things, the things that spread money out in all the congressional districts. When you get to the hard part, which is paying for the plan, then suddenly you find all these good ideas stand out there lonely, and the politicians have left them there in the cold.

In this bill, I plain just don't like the method of paying for it, and I won't tell you that hiking the tax for the wealthiest Americans is a terribly courageous stance, when we all know that cutting spending would be the more responsible approach. I will support it, however, because the Congress can't simply stand by and wring our hands while the economy flounders. But whatever we do, it has to be paid for, and only the Democratic plan does that.

Mr. SYNAR. Mr. Chairman, the House is voting on three different tax alternatives. I support H.R. 4287, the Tax Fairness and Economic Growth Act of 1992, as the best alternative since it did include a number of provisions that clearly will benefit many of my Oklahoma constituents. The package is not perfect; it does contain provisions with which I am not in total accord; and, there are particular provisions not part of the package that I want to see addressed in the near future.

Obviously, the Congress was working under a time constraint. The President requested consideration by March 20. In accelerating the legislative procedure, the deliberation process often suffers. That is why the package may lack perfection and not be inclusive of all provisions desired. On balance, however, the bill accomplishes more than either the President's proposal or the Republican alternative.

This alternative is a small step forward in addressing the inequities imposed upon the average working American through the tax policies of the 1980's. Tax fairness is essential to any tax system. In 1986 I voted against the Tax Reform Act precisely because I believed it did not treat middle income taxpayers fairly. That conclusion has been borne out over the past few years.

The middle income tax relief in this package does benefit my Oklahoma constituents. The average adjusted gross income in Oklahoma per tax return—that means of all individual, joint, and family tax returns—is only slightly over $26,000. Tax relief in the bill is a credit against Social Security taxes paid. This credit means that for most Oklahoma taxpayers the credit will mean an extra week's wages to take home.

The tax increases required to finance the tax credit for average Americans will be imposed on the wealthiest in America. Only the richest will be subject to increased taxes. Individuals earning over $85,000 adjusted gross income and joint filers earning over $145,000 adjusted gross income will face a tax increase. These increases will ensure that the burden of taxes is shifted to those most able to pay.

Included in the tax package are several provisions that directly assist working Americans in paying for health care, education, and the purchase of the "American Dream", the first home. The bill permits a penalty-free early withdrawal of IRA funds, of up to $10,000 to pay for a first-time home purchase, higher education, and medical expenses. There is also an extension of the 25-percent tax deduction for self employed persons for the payment of health insurance premiums. A credit is allowed for a portion of interest on student loans.

Deficit reduction is of major importance to all Americans. It is also critical to economic security. A lower deficit can increase the amount of capital for investment and ultimately assists in the creation of jobs. The Democratic tax alternative was the only proposal that complied with the pay-as-you-go requirements of the budget agreement over the 5-year period.

Both the President's proposal and the Republican alternative failed to comply with pay as you go and would have increased the deficit by $49 billion and $25 billion respectively over a 5-year period. By contrast, H.R. 4287, the Democratic alternative, would provide deficit reduction savings of nearly $14 billion over the same time period.

As noted above, these provisions, among others, will benefit the average working American. There are certain provisions not included in any of the tax packages submitted for a vote. One particular area of concern for me is the attention to the domestic energy industry. There are no significant provisions that would improve the outlook for the domestic industry. It is critical that the Congress address these matters in the near future. This is essential both to the economic and national security of our country.

I am pleased that the Democratic leadership has moved toward a more equitable tax policy with this bill. The tax package will benefit those hardest hit by the recession and will provide the impetus to address domestic problems in the budget debate.

Mr. COYNE. Mr. Chairman, I rise in support of H.R. 4287, the Tax Fairness and Economic Growth Act of 1992.

There are several provisions in this legislation which are essential if we are to stimulate economic growth.

The provisions that I refer to are: the permanent extension of the research and experimentation tax credit; the extension of the tax credit for low income housing; the extension of the targeted jobs tax credit; and the extension of small issue industrial development bonds.

The bill also extends employer provided educational assistance. This is important if we are to improve the skills of our work force and this is essential if we as a nation are to remain competitive in an ever expanding global economy.

As to the extension of the small issue industrial development bonds: from 1987 to 1990, small issue IDB's created an estimated 59,000 manufacturing jobs and these bonds were responsible for the retention of 73,000 jobs through the financing of approximately 1,100 projects. In Pennsylvania, for example, between 1987 and 1990, small issue IDB financing provided for the funding of 199 manufacturing projects, which created 7,827 new manufacturing jobs and was responsible for the retention of over 15,000 manufacturing jobs.

I could provide similar figures to indicate how effective, from an economic standpoint, each of these extenders is. Suffice it to say that the extension of these expiring provisions will create jobs and serve as a stimulus to local economies.

Mr. Chairman, I urge adoption of H.R. 4287, because of the economic stimulus it would provide.

Mr. GRADISON. Mr. Chairman, I am discouraged that today we are considering tax proposals to stimulate the economy instead of ensuring long-term economic growth. It would be regrettable indeed if the Democrats' bill, H.R. 4287, were to pass. In this time of economic trouble, the American people deserve better, much better.

The Democrats' package would increase Federal borrowing by over $30 billion in the next 2 years. This is likely to increase interest rates and certain to drive up the deficit. In my opinion, this is nothing less than irresponsible when we have just witnessed a disconcerting rise in long- and short-term interest rates. We are sending precisely the wrong message to the credit markets just when monetary policy, through lower interest rates, is showing signs of stimulating a recovery.

What we should be doing is controlling the Federal deficit and enacting changes that enhance long-term growth and higher living standards for all Americans. The Republican alternative comes closest to that goal.

The Democrats, on the other hand, are soaking the not-so-rich to pay for a small, temporary tax cut for parts of the middle class. This can not help the economy recover, and may actually hurt it. Twenty-five cents a day for a family of four will not create any jobs.

Partisan demagoguery is not what my constituents want. They want jobs, and long-term economic growth and prosperity. It is a shame that the Democratic leadership in the House has decided to squander this opportunity to make critical, fundamental reforms to enhance the long-run economic performance of this country.

Instead, the Democrats have decided to play partisan games with the economy. My constituents expect more, and deserve much better.

I urge my colleagues to vote no on H.R. 4287.

Mr. COLEMAN of Texas. Mr. Chairman, I rise today in support of the Democratic alternative to President Bush's proposed tax package. Given the current state of the economy and the difficulty so many American families are facing, I believe the time has come to take whatever measures are available to us to get the economy back on track. Although I initially favored the plan proposed by Senator BENTSEN, there is no doubt in my mind that the Tax Fairness and Economic Incentive Act of 1992 is far better than either the Republican package or that originally proposed by President Bush. This package has both short- and long-term benefits to stimulate our faltering economy.

The time has come for us to take the lead in economic policy. President Bush's proposals represent yet another tired version of supply-side, voodoo economics, which we all know from painful experience are a failure. Working Americans are not only still carrying the tax burden in this country, they are shouldering proportionally more of that burden, while the wealthiest members of our society are paying less and less. We must provide relief to the working Americans who have shouldered the tax burden for too long, and that relief must come sooner rather than later. These are the people who are feeling the squeeze of this seemingly endless recession which the President helped to create. Tax relief for working families is essential to boost consumer confidence and get the economy moving again. The Tax Fairness and Economic Incentive Act will not only provide tax relief for approximately 90 million working families, it will also encourage people to save. This initiative contains six tax relief provisions for working Americans. These provisions include: The refundable payroll tax credit, which will put up to $400 back into the pockets of married couples; waiving the penalty for withdrawals from IRA's for first-time home buyers, and for meeting medical and educational expenses; and a tax credit for interest on student loans. The Republican package makes only one provision, and the President's proposed package would make working Americans wait for a second package that may or may not be forthcoming.

Once we have alleviated the immediate distress of working Americans, over the longer term we must concentrate on ensuring that American industries are and can remain at the forefront of the world market. Competitive businesses mean more jobs and a strong economy. The Tax Fairness and Economic Incentive Act will stimulate growth in several ways. First, and most importantly, it provides incentives for new investments, thereby creating jobs. The President's proposed package would only benefit those who have already invested. Moreover, it grants a 2-year increase in expensing allowances for small businesses, thus increasing their chances of expansion and prosperity. The Republican proposal contains no provision to encourage a new generation of entrepreneurs. It also makes permanent the tax credit for research and development and employer-provided educational assistance. Emphasis on research and training will help to ensure the competitiveness of American businesses, keeping us on the leading edge of technology and working Americans in gainful employment. The Republican proposal makes no such provision. Additionally, it indexes capital gains to ensure no one will be forced to pay tax due to the effects of inflation. The Republicans have not offered any inflation-proofing provision, and instead seek only to improve the lot of those who have already invested. In addition, it provides a 50-percent exclusion for venture capital investments held for more than 5 years. This measure will improve the stability of the economy by encouraging people to invest over the longer term. Finally, this bill eases the compliance burden currently faced by many businesses by simplifying the tax law. Again, the Republican proposal makes no such provision. However, this bill is not intended to benefit businesses as such at the expense of other taxpayers; it caps the deduction for executive compensation at $1 million. Yet again, the Republican package makes no such provision. In terms of addressing the national debt, the Democratic plan not only pays for itself, it will actually reduce the deficit by $13.9 billion over the next 5 years. The President's proposal would not only not pay for itself, it would increase the deficit by $25.4 billion over the same period. Clearly, the Democratic alternative offers superior growth incentives.

While the President claims to understand the economic difficulties the American public currently faces, he has promised to veto the Democratic initiative that will provide the impetus needed to restore the economy. We can not wait; the American taxpayer can not wait; we must take the initiative and we must do so now. I give my unreserved support to this measure and urge my colleagues to do so as well.

Mrs. LLOYD. Mr. Chairman, the most important task before this Congress is to get the economy moving again. The American people are looking to us for leadership to strengthen the Nation's competitiveness and move us toward growth and expansion. We are at a time when far too many families with children are struggling under the weight of recession. Hard-working men and women fear for their future employment prospects. They are squeezed by the costs of housing and health care. They are struggling to pay their bills. Clearly, we must take prompt and sensible steps to create jobs, improve our competitive position in world trade, make long-term investments in the future, and stimulate national recovery.

This week the House is presented with different versions of economic growth packages. These measures follow on the heels of lengthy public hearings held by the Ways and Means and Budget Committees on the state of the U.S. economy. The committees heard from economic and tax policy experts from the public and private sectors, and witnesses representing business, labor, and State and local governments.

Some economists testified that opening up the budget agreement would be counterproductive to economic recovery and do more harm than good. I agree. I feel that in order to bring about true and meaningful economic reform we must confront our deficit problem head on. We have a true obligation to the taxpayers and the children of the Nation to make real efforts toward reducing the deficit. When looking at the alternative tax plans, this was my primary objective. I feel that substantive deficit reduction is the best course of action, and the only true option before us, at the present time.

Deficit reduction will make us more productive and competitive because the debt burden cripples the ability of the Congress and the American people to make necessary investments in education, health care, infrastructure, and other vital programs. Deficit reduction is the only sure and proven tool the Federal Government has to increase national savings and thereby strengthen investment and productivity and improve our standard of living.

With this said, it's important to look at the differences in the packages. H.R. 4210 contains all the President's tax proposals included in his State of the Union Address and his budget submission. Overall, the tax package increases the deficit by $5.2 billion in fiscal year 1992 and $52 billion through 1997.

While I support the intent of the President to increase the personal exemption for families with children, allow penalty-free IRA withdrawals for educational and medical expenses, deduct interest on student loans, provide a tax credit for first-time home buyers, and deduct the losses on the sale of a home, I feel that the cumulative debt burden from the package, which includes no offsetting spending cuts, would ultimately hurt economic recovery and fail to create jobs.

Moreover, I oppose the President's plan to tax credit unions with assets of over $50 million and to change the tax treatment of annuities and business-owned life insurance. Many residents of the Third Congressional District have let me know in no uncertain terms their strong opposition to these measures.

I also take strong issue to the President's move to mandate Medicare coverage for all State and local government employees. This would be extremely burdensome to State and local governments whose budgets are already stretched to the breaking point. We can ill afford to impose additional requirements on States without adequate funding to implement them. I have heard this complaint time and time again from my State representatives and it is one we must heed. Unfunded Federal mandates have got to stop.

The Republican substitute to the President's plan, would likewise increase the deficit by $5.8 billion in fiscal year 1992, and $25.3 billion through fiscal year 1997.

While I support its provisions to provide passive loss relief for real estate developers, a temporary investment tax allowance, accelerated depreciation for the alternative minimum tax for corporations, tax credits for first-time home buyers, and a waiving of penalties for IRA withdrawals for first-time home buyers, the added debt burden of the total package would be staggering.

Of the three packages, I feel that the Democratic alternative should be looked at as a starting point for further action. Like any omnibus tax package, it has good and bad components. Among its favorable aspects: It provides middle-class tax relief, liberalizes the passive-loss rules for individuals who are actively engaged in the real estate business, provides for permanent extensions of the R&D credit, the low-income housing credit, the targeted jobs credit, mortgage revenue bonds, the exclusion for employer-provided educational assistance, and small-issue manufacturing bonds. But, like the other plans, it would also add significantly to the national debt in fiscal year 1992.

While the Democratic plan is imperfect, we can use it as a starting point to go to conference with the other body and produce an even more effective tax fairness and economic growth package.

Mr. SKAGGS Mr. Chairman, as I examined the different tax packages this week, like many others, I wasn't very comfortable with the choices we have. Both the President's original package, and the Republican alternative to it, would continue the economic mistakes of the past dozen years, mistakes that have contributed so much to the economic troubles we now face. At the same time, I regret that the Democratic alternative, by trying both to stimulate the economy and to help middle-income taxpayers, does neither especially well. It is clearly superior to the President's proposal and the Republican alternative, and it is better than doing nothing at all, but it certainly is not as good a package as I would like to see.

It was reassuring that so many Members of the House, from both sides of the aisle, saw the President's program for what it was—awful; a loser in all respects. Over 6 years, it would have increased the deficit by at least $50 billion, and probably much more—that on top of the record deficits proposed by the President's budget. That's crazy, given the mountain of debt we already face and the obstacle it presents to long-term economic well-being.

Much of the increase in the deficit would result from the President's proposed cut in the capital gains tax. His capital gains cut was not targeted toward new investment in productive assets, and so would produce few positive results, while costing more than we can afford. The President offered himself a fig leaf in claiming that most Americans would benefit from his proposal—but the truly nickle-and-dime savings for middle-income folks didn't come close to his enormous giveaways to the wealthiest people in this country. America's middle class has already paid for too many tax cuts for those who least need them.

In short, the President's proposal embodies more of the fiscal irresponsibility we're already suffering from in this country. It's not the kind of leadership the country wants, needs, and deserves.

The Republican leadership's alternative wouldn't be much better. It has an even more open-ended capital gains tax cut, no middle-income tax relief, more accounting gimmickry, and another $25.3 billion added to the deficit by 1997.

The package offered by Chairman DAN ROSTENKOWSKI and Majority Leader DICK GEPHARDT is clearly far better.

To begin with, the Rostenkowski-Gephardt package makes some modest improvements in tax fairness. It includes a 2-year refundable tax credit for payroll taxes that will return $200 a year to single filers and $400 to married couples. And because this is a tax credit, not a deduction, the benefit goes to all working Americans, without being skewed as a deduction would in favor of the upper income brackets. The package provides a tax credit for interest on student loans, helping people get the education they need in today's job market. The Democratic alternative also allows for penalty-free withdrawals from individual retirement accounts for first-time home buyers, or to pay medical or educational expenses. These are not major changes, but for the many Americans struggling to make ends meet, they can make a real and important difference.

The Rostenkowski-Gephardt proposal advances the objective of tax fairness by recapturing some of the huge tax breaks given the wealthiest taxpayers in the 1980's. A new top tax rate of 35 percent would be created for individuals with incomes generally over $100,000 a year, and for couples over $200,000 a year. A 10 percent surtax would be imposed on taxable incomes over $1 million a year.

The package will also help strengthen our economy. It lets taxpayers exclude from income half of their gains from newly acquired stock in small businesses held for over 5 years. This will encourage patient capital investment in smaller enterprises where the vast majority of jobs are created.

The Democratic alternative makes permanent some economically important tax provisions that are otherwise expiring, including the tax credit for research and development, the targeted jobs tax credit, and the exclusion for employer-provided educational assistance. Most of these the President proposed to extend only temporarily, which is shortsighted. We know these provisions benefit the economy, and there's too much uncertainty involved in having to extend them every few years. The Democratic alternative also creates enterprise and investment zones to encourage development in both urban and rural areas that need help.

The Rostenkowski-Gephardt package does all this while increasing revenues by $13.9 billion over the next 5 years. That means a reduction in the deficit, not the increase in the deficit that the President and the Republicans are advocating.

But I don't want to oversell the Democratic package. It is far from perfect.

First, it suffers from trying to do too much, from trying to both increase tax fairness and stimulate the economy, and ultimately from not doing either as well as could be done with a bill focused on just one of these important goals.

Second, while it would not make the wildly irresponsible additions to the national debt that the President's proposal and the Republican leadership's alternative each would, the Democratic package itself might end up increasing future deficits. We have firm estimates of the effects over only the next 5 years. But the package would permanently index capital gains; by some rough estimates, if inflation goes way up and growth slows way down, this could cost as much as $20 billion or more a year by the end of this decade. That's a very troubling prospect.

So, I don't see this as a polished or perfect package. It is a starting point, and we must get started. As the legislative process moves along, I hope there will be improvements to address the problems I've mentioned.

Mr. McCANDLESS. Mr. Chairman, I rise today seeking a better way to do things.

The last few days have seen some heated partisan rhetoric. Both sides of the aisle have launched verbal missiles at one another,

stressing the relative values and faults of each side's economic growth plans.

Mr. Chairman, assaulting each other with verbal baseball bats is not the way to get things done. Nothing is sold by assault—not houses, or cars, or economic growth plans.

Many of the problems caused today are rooted in the process by which this bill was brought to the floor. A closed rule with one up-or-down vote on hundreds of proposals put most of us in an impossible position. None of these bills are perfect, but under the rule, we cannot make the necessary corrections. The end result of these votes is a political standoff, while the American people suffer.

Mr. Chairman, these ends do not justify the means. Overnight political polling is no substitute for long-term economic restructuring. We need a true package of economic growth, with ideas and proposals from both sides of the aisle if we are to take the country out of a recession.

Following the sustaining of the President's veto, I urge you to bring this measure back to the floor with an open rule; we are willing to work the late hours. We can pass a package of economic growth and have it enacted almost immediately, if you would just give us the chance.

Mr. BACCHUS. Mr. Chairman, I rise today to express my support for a tax credit for first-time home buyers. I would have preferred that the Democratic tax package include this important economic stimulus and it is my hope that the bill that comes out of the conference committee will include this vital measure.

It is important that we focus on tax proposals that promote economic growth as well as result in a more equitable balance in the tax burdens. A tax credit for first-time home buyers would provide a genuine stimulus to home building and buying.

We need such a stimulus. While many had hoped that our economy was improving, recent figures indicate that consumer confidence has plummeted to an alltime low. The availability of a tax credit for first-time home buyers would convince many people who have been sitting on the fence that now is the time to buy.

In past recessions, the homebuilding industry has been the catalyst for economic recovery. It can be again. But first we need the tax credit for first-time home buyers. No other measure has the potential to put so many people back to work so quickly. And as we all know, job creation leads to economic recovery.

Ms. SNOWE. Mr. Chairman, I rise in support of the Rostenkowski-Gephardt substitute amendment to H.R. 4210, with reservations.

In deciding how I should vote on the different packages brought to the House floor today, my overriding concern was to support legislation that provides for the immediate repeal of the 10-percent Federal excise tax on boats costing more than $100,000. The Rostenkowski-Gephardt amendment does this, while the Michel-Archer plan does not.

This is a critical issue facing my district, because this tax has resulted in hundreds, if not thousands, of Maine people losing their jobs, or facing the very real possibility of doing so as long as this terrible tax stays on the books.

Instead of ensuring that wealthy taxpayers paid their fair share of taxes, the boat tax has resulted in large numbers of highly skilled, middle-income workers being laid off from their jobs, at a time when finding new employment in Maine is extremely difficult.

Thus, at a time when the boat building industry in Maine is going through very difficult times, the Rostenkowski-Gephardt amendment sends this valuable industry a strong signal of its commitment to repeal this tax.

Although I was pleased to see that the President's long-term economic growth package repeals the tax, the boat building industry simply cannot wait until later this year for any such help from the Federal Government. They need the certainty of the tax's repeal now, and it is uncertain as to whether or not Congress will consider any additional tax measures in 1992.

Of additional importance to the people in my district was the middle-class tax relief program in the Rostenkowski-Gephardt amendment. It will provide struggling lower- and middle-income taxpayers with a 2-year, temporary tax credit, worth up to $200 for single individuals and $400 for married individuals, based upon their payroll taxes. Regrettably, the Michel-Archer plan does not contain any middle-class tax relief program.

When some of my colleagues claim that the middle class does not want a tax cut that only gives them $1 a day, they should know that the median taxable income in Maine for 1989 was $17,873. In fact, 60 percent of all Maine State income tax returns claimed taxable income of $22,961 or less that year.

For all of these Maine citizens, a $200 or $400 tax credit this year means a lot more to them than simply a dollar a day. An extra $200 or $400 could buy a month's worth of groceries, or pay for a car payment, or maybe even meet a month's rent or mortgage payment for many of the Maine people I represent.

Also, the Rostenkowski-Gephardt amendment allows small businesses to expense up to $25,000 of the cost of new equipment placed in service during 1992 and 1993.

This is a very important provision for small businesses, which are a critical component of Maine's economy. Indeed, more than 90 percent of all Maine businesses have fewer than 20 employees. This provision will be a significant help to our State's many small businesses.

While I have long argued that it is imperative for the Congress to approve an economic growth package, we must so so in a fiscally responsible fashion. We cannot allow an economic growth package to be an excuse for busting the budget.

The Rostenkowski-Gephardt amendment, over the next 6 years, is projected to reduce the budget deficit by $13.9 billion. While I am concerned about its impact on the deficit in the short term, the fact remains that it will reduce the deficit by almost $14 billion when fully implemented.

Having said that, I would oppose efforts by the Congress to use that extra $13 billion for higher Federal spending. These funds must be used to reduce the deficit. Using them for any other purpose should not, and cannot, be allowed.

In developing an economic growth package, I have long felt that the Congress needs to strike an appropriate balance between helping individual taxpayers and the private sector. A growth plan cannot help only individuals, or only businesses. It should have provisions designed to help both.

I know that some have recommended that the Congress not do anything in an effort to help stimulate the economy. They claim that the Congress will only make things worse, or that by the time Congress does take action, it will be too late and the economy will begin slowly, and slightly, recovering on its own.

Maine's economy needs help now. The people of Maine cannot wait, only to hope that the economy will get better by itself sometime later this year. Taking the risk that doing nothing, and counting on a prompt and robust recovery, it is a risk that I am not prepared to take on behalf of the thousands of Mainers who have lost their jobs during this recession.

While I have decided to reluctantly support the Rostenkowski-Gephardt package because it contains more of the basic elements that I believe we need, it does contain some provisions that concern me greatly.

For example, Democrats seem to enjoy noting that the economy has been in a recession for 18 months and consumer confidence is dropping. Yet, their alternative plan relies only on tax increases to offset the cost of their economic recovery package. Instead, I would have much rather seen some significant spending cuts in our $1.4 trillion Federal budget as an offset.

There was nothing that prevented the House majority leadership and the Ways and Means Committee from also including spending reductions in its economic growth plan. The committee has jurisdiction over a number of Federal spending programs, and it could have easily worked to develop a comprehensive list of spending cuts in order to offset the cost of its economic growth plans. Unfortunately, the committee's Democratic majority chose not to do this.

Indeed, although I will support the Rostenkowski-Gephardt amendment today, I expect the House Democratic leadership to bring legislation to the floor of the House this year that provides for serious spending reductions. If the Democratic House leadership does not meet this test, they will have failed the American people in a most tragic fashion and done a terrible injustice to our country and its economy.

Finally, I object to the fashion in which the House majority leadership has handled the process that got us to this point in time. At a time when the American people are increasingly frustrated by partisan gridlock in Washington, DC, the House leadership has acted in a strident, partisan fashion over the past several weeks.

The Ways and Means Committee Democrats did not even attempt to work with committee's minority. In a 3-hour open-and-shut meeting, the committee Democrats sent to the House floor a plan they purport to be the President's plan, and rejected the economic growth package that the President is asking the 102d Congress to adopt. This was done in two, straight, party-line votes.

Instead of trying to score short-term political points, congressional Democrats should be working, in good faith, to develop a short-term

economic growth that President Bush can sign into law shortly.

Once that was finished, committee Democrats went behind closed doors to develop their alternative plan, without any effort to work in a bipartisan fashion with committee's minority members. Simply put, this kind of behavior, given the seriousness of the economic problems facing our Nation, is unacceptable.

In the final analysis, it is essential that the President and Congress engage in bipartisan negotiations in order to do what is best for this country to end the recession. This entails both the President and Democratic majorities in Congress setting aside any partisan differences, and forcing a compromise on this most critical issue.

The American people are waiting and watching. It is clear that something needs to be done sooner, rather than later. The Congress must rise to the occasion and meet this challenge.

Mr. MOODY. Mr. Chairman, our work here today is crucial for determining the future direction of the Nation's economic policy. There are two possible roads to travel:

First, the trickle-down road, which the President would have travel on still further. His guide post is the indiscriminate, across-the-board capital gains tax cut, the biggest boondoggle for America's wealthiest people.

Second, or, we can redirect that Nation's tax and economic policy to give the middle-class tax relief paid for by making the Nation's wealthiest people pay their fair share, investing economic growth, and renewing America's international competitiveness.

The President's approach can be summed up as follows: Give the richest Americans the largest tax breaks and all our economic problems will be solved.

The Democratic package offers us a different path. The Tax Fairness and Economic Growth Act of 1992 says loud and clear that we stand behind, and for, the middle class. Our approach is to create opportunities for the middle class and working families of this Nation.

The President's current proposal is classic trickle-down economics. After a decade of this policy, we know it doesn't work. To quote Business Week, "* * * the swelling tide of income for a few was supposed to lift all boats, but it didn't.

In my home State of Wisconsin, we see the results of 10 years of trickle-down economics:

The Briggs & Stratton plant has downsized; AMC-Chrysler has closed; Uniroyal is closing down; a Brunswick Motor plant and Lullabye furniture factory are both closing. Many of these firms are moving production to Mexico.

This means that workers who once earned $12 or $15 per hour are forced into jobs paying $6 or $7, if they can get any job at all.

Our plan gives the hard-pressed middle class, which has been squeezed by higher prices, lower wages, and increasing tax burdens, a tax cut of $400 per working couple. This is not a trivial amount. Only Washington insiders or top income earners would consider $400 to be nothing.

And this relief the middle-income earners is paid for in the Democratic alternative.

The Democratic package does more. It allows farmers to apply their one-time home-selling exclusion to their home quarter of farm land. This means that rural Americans will finally have the opportunity to take advantage of a tax break long available to urban and suburban homeowners.

The Democratic bill also has investment incentives for small and startup businesses that will result in new jobs—not minimum wage-paying jobs flipping hamburgers, but high-paying jobs in growth industries of the future, especially in high technology and cutting-edge firms. I am proud that I and Congressman BOB MATSUI authored this part of the Democratic package.

The Democratic alternative bill before us is a clarion call for the middle class. No more trickle down. No more wait until later. It says to the middle class, working families of America:

We hear you loud and clear. You need direct tax relief, you need good jobs, you need opportunities to educate your children.

This bill is the first installment on the promise. I urge my colleagues to support this bill.

Mr. WOLPE. Mr. Chairman, I rise in support of the H.R. 4287, the Tax Fairness and Economic Incentive Act of 1992.

Mr. Chairman, make no mistake about it, this tax bill offers no panacea for our Nation's economic foes. It has taken many years to dig the hole that we are now in, and there will be no quick or easy fix to our economic predicament.

In all candor, this is not the tax bill that I would have written. I would have preferred to see the dollars directed toward the middle-income tax cut dedicated, instead, to grants to State and local governments for immediate job creation, or for other public sector investments that are critical to our long-term economic growth: education, worker training, research and development, and our physical infrastructure. I am hopeful that when we turn to the fiscal year 1993 budget resolution, we will seize the opportunity presented by the collapse of the Soviet Union and the Warsaw Pact to redirect resources that have gone overseas for the defense of our allies to the rebuilding of America.

However, my reservations notwithstanding, the bill before us contains a number of very constructive elements that merit our strong support. First, $800 of lower taxes over 2 years will mean a great deal to the over 90 million families that have been hurt the most by the economic policies of the past decade. And, contrary to the Republican alternative, which would do no more than further enrich a few wealthy Americans, this legislation will ensure that those who reaped the benefits of the 1980's will finally begin to pay their fair share. The tax cuts in this legislation are paid for by a modest increase in taxes on the wealthiest Americans, rather than by the anticipated savings from the post-cold war defense budget. This means that defense savings will be available both for deficit reduction and critical investment here at home.

It is important to remember just how seriously the middle class suffered during the 1980's. Today the top 1 percent of the population—or slightly over 2½ million individuals—takes in more income than the bottom 40 percent—or 100 million Americans—combined. In 1980, fewer than 17,000 Americans reported incomes greater than half-a-million dollars; by 1989, however, there were 183,000 Americans with incomes in this range. This is the largest such increase in this century. At the same time, the income of middle-income families stagnated. These are the statistics that underlie the human misery that many Americans are experiencing. The bottom line is that we have witnessed an unprecedented concentration of wealth at the top, the poor are increasingly trapped in a cycle of poverty and despair, and the middle class is getting squeezed on all fronts. By taking action on the issue of tax fairness, we not only provide a small measure of relief, but we also signal our determination that middle-class working families will no longer be victimized by Federal tax policy.

Mr. Chairman, there are also many other important provisions in this legislation that will provide meaningful assistance to many families. A tax credit for student loan interest, a waiver of the penalty for early withdrawals from an IRA for first-time home buyers or for educational or medical expenses, and indexation of the $125,000 exclusion for capital gains on the sale of a principal residence for individuals over 55 years of age. These provisions will help American families send their children to college, and realize the dream of home ownership.

There are also significant economic growth measures in the Democratic alternative, incentives that will lead to greater investment in our economy, and to a more secure and prosperous future. The legislation provides for a targeted capital gains reduction in venture capital investments. It provides, as well, for the indexing of capital gains, so that only real profits, not inflationary gains, are taxes. It would also allow small businesses to expense up to $25,000 in depreciable business assets in 1992 and 1993, and provide a temporary investment tax allowance for new equipment purchased this year.

Finally, the Democratic substitute would reduce the deficit by $14 billion over the next 5 years, unlike the Bush budget, which would have added $49 billion to the deficit, and the Republican proposal, which would have added $14 billion to the deficit.

Mr. Chairman, as I said earlier, I don't regard this as perfect legislation. But by any standard, whether we focus on tax fairness, or economic growth, or fiscal responsibility, the House Democratic alternative is a much better piece of legislation than that which has been proposed by the President. It represents an important step in our efforts to provide both greater tax fairness and a foundation for long-term economic growth in which all Americans will be able to share.

Mr. ATKINS. Mr. Chairman, while I rise today in support of the Democratic tax plan, I wish to explicitly express my concern over a glaring oversight in our efforts to restore tax fairness which would affect a substantial portion of the middle class in the State of Massachusetts—those in the public service.

As it is now structured, tax relief is based on a 20-percent tax credit against Social Security payroll taxes. However, public and many Federal employees in Massachusetts do not pay Social Security taxes, but rather contribute to their own public pension system. If this bill is

not amended, 400,000 public employees in Massachusetts and as many as 6.8 million across the country would be left out in the cold. Mr. Speaker, these are not millionaires. Many of these men and women are earning between $15,000 and $50,000—precisely the families that need tax relief the most. Left unamended, this would mean that a bank teller in Concord, NH who with his spouse has a combined income of $28,600 would receive $400 while a firefighter in Lawrence, MA, with a wife, two children and a combined income of $26,000 would receive not 1 cent in tax relief. To let this plan go forward unamended would deal an unfair blow to school teachers, maintenance workers, police, firefighters, and others who serve our communities.

I share the disappointment of Representative BRIAN DONNELLY and the rest of our delegation that we will not have the opportunity to correct this problem today. Fortunately, it is my understanding that there is a commitment to address this issue again in conference.

Mr. ROSTENKOWSKI, Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 29]

"PRESENT"—409

Abercrombie
Ackerman
Alexander
Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
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Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Mrazek
Murtha
Myers
Natcher
Neal (MA)
Neal (NC)
Nichols
Nussle
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Staggers
Stallings
Stearns
Stenholm
Stokes
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Weber
Weiss
Weldon
Wheat
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

□ 1410

The CHAIRMAN. Four hundred and nine Members have answered to their name, a quorum is present, and the Committee will resume its business.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. LIPINSKI].

Mr. LIPINSKI. Mr. Chairman, I live just a block south of Archer Avenue, and a little north of 95th Street in Chicago in the new Illinois Third Congressional District. Here, in the heart of middle America, people are hurting and need help now. The Democratic substitute for the President's tax proposals is not the greatest to come down the pike to benefit the middle class, but it's a start.

Over the course of the last few months, I have listened to my friends and Third District neighbors from Berwyn in the north, to Brighton Park in the east, to Tenley Park in the south, to Western Springs in the west. I hear we need to jump start the economy, create jobs, spur economic development, and build new homes—now. Middle America needs money to pay its bills and to help make ends meet—now. The Democratic $400 tax cut will help a little, and middle-class America can use all the help it can get—now. Under the Democratic proposal, individual retirement accounts have been opened up to permit people to withdraw their savings for medical bills, first homes, and other emergencies.

The Democratic bill helps people struggling to send their children to college. And remember, America needs well-educated individuals to lead us into the 21st century. This bill also promotes mass transit, brings fairness to the Tax Code, and promotes enterprise zones. As I said before, this bill is a very small step in the right direction, but a great man once said, a journey of a thousand miles starts with one small step. Let us start rebuilding our economy and creating jobs, jobs, jobs—now.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from Utah [Mr. ORTON].

Mr. ORTON. Mr. Chairman, yesterday, the Conference Board released the disheartening report that the consumer confidence index has plummeted in February to 46.3 percent. This is the lowest level since December 1974. January's unemployment data, the most recent available, showed that fewer Americans had jobs during he month and that those who did were working shorter hours and for less money.

If statistics don't tell the whole story, one need only look at specifics to confirm our economic concerns. Last Monday, General Motors announced that it will close 12 plants over the next 3 years, heightening national fears of the loss of American jobs in the face of international competition.

Inevitably, attention turns to Washington, both for leadership and for economic policies to lead us out of recession on a path to long-term growth. The debate over the last 3 months has centered on a major tax bill. Yesterday and today, in the House, we have the opportunity to respond.

Essentially, we have two choices. One approach would be to degenerate into rancorous, partisan debate, drawing battle lines and slicing the truth about the various competing proposals. The likely result of this is a Presidential veto, legislative stalemate, and no action. Consumer confidence, already at a decade long low, will plummet even further. Eco-

nomically, the business decision makers would be paralyzed—unclear about the tax and economic ramifications of investment decisions. Consumers would be likely to remain constrained and wait out the Presidential election to see which direction we're headed. This approach is clearly a prescription for economic disaster.

The second approach is for the Congress and the President to work together to produce a tax bill which is fair, doesn't bust the budget, and produces long-term growth incentives. If we enact a sensible plan, I have no doubt that individuals and businesses will respond with increased investment, job creation, and consumer confidence.

We have a challenge. We need to act now to promote economic growth and lead us out of the recession. But the final result must be fiscally sound and economically productive. Otherwise, our actions could be counterproductive and it would have been better to do nothing.

As with all of my colleagues here in the House, I have studied the economic proposals before us at length over the last few weeks. As I have looked at these three proposals, I find that I can support many of the provisions in each. There are many fine ideas in the President's proposal, as there are in the Democratic substitute and in the Republican substitute. For these reasons, yesterday, I supported the President's plan. Today, I will support the Democratic plan and the Republican substitute.

The reason is simple. Constitutionally, a tax plan must originate in the House. Whichever bill we approve here today will be sent over for Senate action. Once the Senate works its will on the legislation, it will return to us through joint conference for our final approval. Since there is much that is sound in each of these proposals, I feel it is necessary that we begin the process of debate and action in earnest, to get the process going. Now is not the time to campaign for reelection; now is the time to place the interests of all Americans first.

Even so, I want to make it clear that these three votes I have cast do not amount to a blanket endorsement of any of the plans before us. There are significant problems with each. I cannot support on final passage the President's bill, as it would increase the deficit by some $50 billion. I find it difficult to support a Democratic bill that uses revenues from increased taxes on the wealthy for redistribution through a $1 per day taxpayer rebate, instead of redirecting those revenues to real progrowth initiatives. Finally, I am troubled by the smoke and mirrors approach of the Republican substitute, which relies on an accounting gimmick of changing from cash to accrual to pay for tax cuts. As a result, I am firm in my resolution to vote against final passage of any bill that comes back from conference with any of these fatal flaws.

In making my final decision, I will focus on provisions that are targeted, progrowth initiatives that are likely to have a direct effect on people's investment and consumption decisions. I feel it is important to outline which provisions in each bill now before us meet these criteria.

There are a number of features in both the Democratic and Republican bills that are positive. These include an investment tax allowance on new productive equipment, a waiver of the 10-percent penalty for premature withdrawal from an IRA for a first time home purchase, tax changes to encourage pension investment in real estate, and the permanent extension of a number of effective, targeted tax provisions, such as the R&D tax credit, deduction for employer-provided higher education, and the 25-percent deduction for health insurance costs of the self-employed and small businesses.

There are a number of features in the President's tax proposal that merit retention in a final bill. These include a tax credit for first time homeownership, the deductibility of losses from the sale of personal residences, and a deduction for the adoption of special needs children.

Similarly, there are many provisions found only in the Democratic proposal which should be in a final bill. These include the increase in expending of new purchase of equipment by small businesses, a broader passive loss provision which should help the beleaguered real estate industry, permanent extension of mortgage revenue bonds and low-income housing tax credits, the indexing of the one-time $125,000 exclusion on the sale of a home for those over 55, and a consistent treatment of amortization of intangibles.

Finally, there are provisions that are in none of these proposals that are critical for an effective progrowth package. One is an investment tax credit to spur new investment in productive equipment that will help us compete internationally. The other is a targeted capital gains cut. Both the Republican and Democratic plans have flaws. The Republican plan, for example rewards prior investments in paper transactions of stock instead of rewarding new investment in businesses. The Democratic plan's capital gains indexing excludes a broad range of small businesses. What we need is a capital gains proposal which targets new productive investment.

Enactment of the progrowth initiatives I have just outlined would send a strong psychological signal that we are looking to the future. It would have a direct impact on specific investment decisions that would lead to investment, hiring, and growth. And it can be done in a fiscally responsible way.

I do not expect that the final bill that comes out of conference will have all the features I have just outlined. I respect that other Members and the administration will have good faith differences of opinion on the efficacy of various components. But, I believe that if we work together—Democrats and Republicans alike—in a nonpartisan effort, we can produce a sound package. All Americans deserve no less.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. LEWIS].

Mr. LEWIS of Florida. Mr. Chairman, I rise in opposition to the Democratic alternative.

Mr. Chairman, I rise in opposition to the Democratic alternative package allegedly for economic growth. This follows on the heels of the House defeat of the Republican package which I supported.

The reason for my votes were quite simple, I want to get our country out of the recession, and I believe the Michel-Archer proposal would have accomplished this.

It was quite plain to anyone watching that the sole purpose of the Democratic plan is politics. First, the plan is designed to be vetoed by the President. It has not been uncommon around here to hear members of the majority saying things like: "This is an opportunity to define what we stand for." That's funny, Mr. Chairman. I thought it was an opportunity to help Americans.

Second, no responsible economist has claimed that this plan would create jobs. In fact, many have said it would have the opposite effect. This is not a growth package. It is a redistribution package. As such, its main focus is to give money to some people who currently have jobs. In my view, this is a callous political attempt to curry favor with wage earners—while maintaining the anger of those who are out of work so that they will express their dissatisfaction during the election.

Also, 90 percent of businesses are not incorporated, and pay taxes as individuals. This will increase those business's taxes. I defy anyone to produce an economist who says raising taxes on businesses is progrowth. By the way, these tax increases are all permanent.

Finally, while this plan is said to pay for itself over 5 years, we have all played this game with the Democrats before. Taxes are raised in the beginning for future cuts down the road—cuts that never come. In fact, the act that these proposals amend is the perfect example.

In 1990, the budget agreement raised taxes $164 billion, in exchange for later cuts. Well, here we are just 16 months later, and beyond even my expectations, they are trying to raise taxes again.

In contrast, I supported the Republican plan that was progrowth, limited, and fiscally responsible. It contains a $5,000 tax credit for a first-time home buy and the use of individual retirement accounts for home buys.

It also contained provisions such as the investment tax allowances that help businesses create jobs. This is what Americans want, and what they need. They don't need charity or handouts, they need the opportunity to pull themselves up by their own bootstraps.

Most importantly, this is a bill that can be signed into law immediately, not a futile political exercise designed for confrontation.

Mr. Chairman, we are actually quite close to compromise, despite what the debate here would indicate. Many of the proposals are similar, and some are almost identical. I am hopeful the President will veto this bill, and we can begin serious work on economic recovery. The American people deserve nothing less.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Chairman, I rise in opposition to the amendment as it does nothing but increase both taxes and the deficit.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Chairman, I rise in opposition to the Democrats' tax increase.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I rise in support of the Rostenkowski-Gephardt Democratic alternative to the President's tax plan.

This comprehensive plan has been crafted to provide some needed economic stimulus to boost the economy. The measure will provide middle-class tax relief, stimulate job creation, growth and investment incentives; while ensuring that the wealthy pay their fair share of the taxes, simplifying tax laws, and instituting a new taxpayers' bill of rights to further address taxpayers' concerns in working with the Internal Revenue Service.

Despite the rhetoric of the Bush administration, with this initiative Congress is responding and we will respond with a bill that can pass and is the measure that the President should sign. The Democratic substitute is a bill that promotes the ideal of tax fairness and equity and the goal of promoting progressivity in our Tax Code.

This plan, which, unlike the Michel-Archer substitute, also includes the middle-class tax breaks, is fair because it provides a new tax bracket of 35 percent only on the most affluent of the affluent. This is especially relevant as we propose to modify some of the provisions of the Tax Reform Act of 1986. These changes in capital gains and passive loss deductions which are designed to resuscitate and stimulate the economy, must be balanced with changes in the rates of taxation to maintain fairness. In fact the new 35-percent tax bracket will cause these new incentives provisos to function more effectively.

This is the responsible and fair package. Unlike the Michel-Archer substitute, which follows the policy path of serving a three-course meal to the few and the most well to do. Meanwhile the middle-income Americans are directed to sit at empty tables, maybe some crumbs will come their way from the wealthy over fed tax eaters. Worse yet this GOP measure attempts to pay for the revenue lost with accounting gimmicks. Although the Rostenkowski substitute would increase the deficit in fiscal year 1992 as its provisions start working, it would reduce the deficit by $13.9 billion over the 6-year period through fiscal year 1997. Naturally it's tougher to vote for a pay-as-you-go tax cut but necessary. Therefore unlike the Michel-Archer substitute which would increase the deficit by $25.3 billion through fiscal year 1997 and will not provide middle-income tax relief, the Democratic substitute is the package for all Americans that will not further add to the burdens of our children and grandchildren.

Importantly, unlike the President's package and the Michel substitute, the Democratic alternative makes permanent the great portion of those provisions known as the extenders. These tax provisions: The low-income housing tax credit, the mortgage revenue bonds, the targeted jobs tax credit, the research tax credit and others, have earned a permanent place in the Internal Revenue Code, but have had to survive a political game of cat and mouse as if they were experimental and unknown clearly the Bush administration and GOP want that to continue. Unfortunately that policy only leads to the demise of such worthy tax policies.

I am pleased that this comprehensive proposal works to stimulate the housing markets through making permanent the mortgage revenue bond program, the housing tax credit and the new proposal to allow penalty-free IRA withdrawals of up to $10,000 for downpayments on first-time home purchases by either the homeowner or a relative. Although the Democratic alternative does not contain the tax credit for first-time home buyers, it will greatly stimulate the housing industry, which is an engine for the economy and has tremendous multiplyer effects. While the tax credit may be a positive idea, all the credits in the world do not a downpayment make. If the Bush administration would direct Secretary Kemp to address the shortcoming of the FHA finance reforms the historically most successful home ownership program in the Nation would greatly aid all perspective middle-income home purchasers.

Mr. Chairman, I have one overarching concern as we look at all these tax measures and that is that the national government can't expect the Internal Revenue Service and tax policy to be the sole vehicle for guiding or supporting people. We surely can't deal with every economic and social ill through the Tax Code and the tax expenditure phenomena. It is wasteful and doesn't work. Instead of creating a tax credit or exemption for policy purposes, the administration should be looking at working with programs that already exist in other Departments, such as Federal Housing Administration [FHA] mortgage insurance for the promotion of home ownership, to facilitate their goals.

Mr. Chairman, I support the Rostenkowski-Gephardt substitute, a real, balanced proposal for tax fairness and economic growth, and urge its adoption by the House of Representatives.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Chairman, I rise in support of the bill.

I have serious misgivings about each of the tax bills before the House; but if we are to stimulate growth, we must keep the process moving forward. I believe support for the House Democratic tax bill (H.R. 4287) is the best way to keep that process moving forward.

We need to reverse the results of a decade of Reaganomics in which the standard of living of the middle-class Americans has steadily declined. We need to do four things:

First, jump-start the economy with a jobs program;

Second, provide new or expanding businesses with low-interest loans and investment tax incentives;

Third, make long-term investments in education, health care, infrastructure, research, and debt reduction; and

Fourth, reverse the unfairness of Reaganomics, under which the rich got richer and the middle class got soaked.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Chairman, I rise in opposition to the pending Democratic alternative.

Mr. ARCHER. Mr. Chairman, I ask that the Chair take 30 seconds of my time to permit me to explain at this moment what I will offer as a motion to recommit under the rules, because it is a little bit different than the standard motion to recommit. It is not with instructions. However, in a last-ditch effort in hoping to work out some bipartisan agreement that the President can sign, my motion to recommit would send the bill back to the Committee on Ways and Means with a recommendation, not an instruction but a recommendation, that it amend the bill in an open and bipartisan manner with a view to producing legislation the President can sign that will provide economic stimulus and job creation incentives without increasing taxes or the deficit.

Mr. Chairman, I yield 5 minutes to the gentleman from Georgia [Mr. GINGRICH], the minority whip.

Mr. GINGRICH. Mr. Chairman, if I were only a Republican political strategist I would rejoice at this afternoon's vote on a massive Democratic tax increase. Every Democrat who votes yes is tying themselves to the McGovern-Mondale-Dukakis welfare state philosophy. Every Democrat who votes yes is voting against the philosophy of their party's current frontrunner.

Let me cite the current Tsongas ad which is on television. The narrator: "Some candidates want to give you a tax cut of 97 cents a day, but will that create jobs?" And then Paul Tsongas' voice: "Ninety-seven cents a day will not do a thing to our productive capacity. They are $400 billion in debt and they want to give us a tax credit that they are going to borrow from my children. I am not running to be Santa Claus, I am running to be President. That is a difference."

Now, who is "they"? Here is the analysis of the Democratic bill and the President's bill. The President's bill, according to the Council of Economic Advisers, creates 500,000 new jobs. According to the Council of Economic Advisers the President's bill, which was just defeated, would have created 500,000 jobs and helped end the recession.

What does the Democratic tax increase bill do the first year? According to the National Center for Policy Analysis, it kills 21,000 jobs.

Do the Members want to know why the American people by 77 percent favor term limitation? Because the President of the United States comes to this Chamber in the State of the Union and asks for a tax-cutting job-creating bill, and the Democratic leadership gives him a tax-increasing job-killing bill.

The New Hampshire primary had five candidates attacking Congress, three

Democrats and two Republicans. Together they received 264,000 votes and the two incumbent U.S. Senators got 35,000 votes.

In Maine, Jerry Brown's vehement anti-Congress message almost beat Tsongas' anti-welfare-state message. The two Senators received a trivial share of the vote, 8.3 percent.

In this anti-tax-increase, anti-welfare-state, anti-incumbent environment, the Democratic leadership has fashioned a massive tax increase job-killing bill that permanently raises taxes.

Let me just say I cannot just view this as a Republican strategist, although it will be a very effective vote for the rest of the year. As an American citizen I think this Congress is in a tragic mess. We had the President come to speak as President, not as Republican candidate. He asked us to help get out of a recession. We are going through a charade today. Every Democrat knows that this bill will be vetoed. Every Democrat knows this further deepens the recession. Every Democrat knows that while it may help their nominee in the fall, it is going to do so at the expense of American families and American workers and American jobs. The people are going to lose their homes while they are waiting around for the Congress to act.

Everyone knows that this charade today and next week in the other body leading to a veto is going to further lower public respect for this institution. We are going to do all this with the banking scandal about to blow up again, the Post Office about to be openly investigated, and we are going to go home and say "The Congress really is a useful institution." Every Member of their leadership knows there is not a prayer, none, of their bill being signed into law.

I would just say this. I have a longer speech about philosophy and about where we are going on the welfare state and what we are doing about economics. I was going to cite Paul Tsongas' New Hampshire speech, "No goose, no eggs," that the Democratic Party has to sooner or later learn when you kill business, you kill jobs.

□1420

You cannot love jobs and hate job creators, but forget that for a minute.

Let me offer a serious offer. Your leadership ought to consider pulling this bill. We ought to go back, close the door, and try to talk to each other. We ought to try to write a bill together. We ought to actually try to behave as if the country mattered. We ought to try to behave as though the American people mattered. We ought to try to behave as though all the speeches you gave on unemployment were sincere, that you really do care about trying to get those people back to work. We ought to try to pass a $5,000 tax credit so people can go out next week and buy a home. We ought to pass some kind of changes so businesses can invest in American jobs.

I think of the Michigan delegation. My God, how many more factories does General Motors have to close before you begin to figure this out? I think of western Pennsylvania. How many more steel mill workers have to be put off for life before you figure this out?

Now, I am prepared this afternoon to cancel my plans for 4 or 5 days and walk into a room, and I tried it last time, and it did not taste very good, but to go through this charade and have you by pure muscle in your whip system pass a bill most of your Members do not believe in so you can score a political point is a tragedy, and I think it weakens the Congress as an institution.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 4 minutes to the gentleman from Missouri [Mr. GEPHARDT], the majority leader.

Mr. GEPHARDT. Mr. Chairman, members of the Committee, I listened carefully to my friend, the gentleman from Georgia, the distinguished minority whip. he cited Mr. Tsongas and his views on taxes.

I guess it is appropriate to cite the views of Pat Buchanan, who said in a TV ad that it was bait-and-switch, that the President said he was for middle-income tax relief, and now he is not, because it fell out of the bill. But let us not talk about that. Let us go to the serious comment that he made that this is political, that we ought to be bipartisan, that we ought to sit down and work out our differences.

Let me say to my friend this: That is what this place is about. We disagree with respect about what ought to happen on taxes now, and we have for some time. He and I and others here sat through the meetings of the budget summit in 1990. The issues have not changed. I do not impugn the motives of George Bush or the gentleman from Georgia [Mr. GINGRICH] or the gentleman from Illinois [Mr. MICHEL] or anyone on this side who says the way to trigger the economy is to give money to people at the top, to give tax breaks to people who have a lot of money. I respect your feelings. I respect your views. I disagree with them. That does not mean you are not for America doing well or that you are not for your State doing well or your people doing well. I respect that. I disagree.

I have fundamental disagreements, and many of us do, with what you want to do, but let us not confuse that with impugning motives.

The way we settle disagreements, the way we settled the disagreement on the unemployment bill is we come here and we pass legislation and we send it to the Senate, and then it goes to the President, and then a decision is made.

When we passed the first unemployment bill, the President said it was garbage. He scoffed at it. He said we did not need it. We passed it twice. He vetoed it twice. We tried to override his veto. We failed. That is the way the system works.

He finally signed the bill after some minor changes. I respect him for that. I am glad he signed it. It was the right thing for the country.

We can pass this bill today, and I pray and I hope that we will, and we will send it hopefully to his desk, and he may veto it, and then we will come back, and we will do it again. That is the way the Constitution set up this system, and it works.

Finally, let me say this to my friends: The question in this bill today is: Where does this money go? Who do you stand for and do you fight for?

I heard today about a woman by the name of Justina who works for a major law firm in New York City, 28 years old, the single mother of a 2½-year-old boy, who lives in the Bronx in a small apartment in a commercial area. Her son is in a play group in a private home, and she has to pick him up every day at 6 p.m. If she does not get there at 6, it costs her more. She is trying to make her life and her son's life work in New York City. She earns $30,000 a year. Between rent and carfare and medical insurance and utilities and food and daycare, she is barely scraping by.

Do not tell me that $400 a year does not make any difference to people, and do not say that $800 over 2 years does not help somebody.

I have not heard these words of concern about the amount of money when we are talking about $12,000 going to the wealthiest people in this country.

Stand up today and fight for the people we represent, the little people, the people who go to work every day and have made this country great.

You bet they need a tax cut. They have not had a tax cut, and if we pass this Democratic bill, we will stand for the people of this country.

Vote "yes" for the people of this country.

Mr. ARCHER. Mr. Chairman, I yield the balance of my time to the gentleman from Illinois [Mr. MICHEL], the respected minority leader.

Mr. MICHEL. First, Mr. Chairman and my colleagues, I want to thank the 14 Members on that side of the aisle who voted for our Republican substitute. Unfortunately, being 101 votes behind, we need a lot more than that to win anything around here. And if the Speaker is to close, we know the pressure is on the Democratic side to pass this substitute, and it is there in spades.

Much has already been said about the bill. I am not going to repeat the same arguments against it. It is enough to say that this proposal will raise taxes,

lose jobs, and slow the economy, what might be called a triple play of economic irresponsibility.

But I think that two points have to be emphasized. First, the bill will bust the budget agreement. Now, no doubt the budget agreement had its share of detractors on both sides of the aisle, but the budget agreement is the only defense the country has against the majority's voracious appetite for spending.

If this bill becomes law, that defense will be gone.

And, second, and perhaps more importantly, the bill does raise taxes. No matter what the majority says, no matter how much rhetoric is bandied about, no matter how you look at it, this bill raises taxes, the substitute on the Democratic side, which prompts me to opine that the Democratic majority has got what it takes to take what you have got.

Clearly our Republican whip has said the majority's vision of the future continues to be welfare-state redistribution in a shrinking economy, a philosophy that reached its peak during the Jimmy Carter years.

The progress of Democratic economic policy has been simply from malaise in 1980 to malarkey in 1992.

Our proposal, on the other hand, was an honest effort to improve the economy and to create jobs. You rejected our proposal with a casual, thoughtless arrogance that marks those who have had too much power for far too long.

□ 1430

This exercise serves no purpose. It is not going to help the economy. It will not create jobs. It will not provide real tax relief to families.

Mr. Chairman, as I said, your party has created economic policy by reading the popularity polls. We were sent here not to follow the polls, but to poll our conscience and vote for what is good for the country. Clearly, this bill is not good for the country. I urge my colleagues to reject this substitute now, give our Ways and Means Committee members on both sides of the aisle another opportunity to work together in a bipartisan way to craft the kind of proposition that will gain support.

Yes, it will have some detractors on both sides of the aisle, but eventually it will be the kind of thing the President would feel comfortable in signing. That is what we ought to do.

I urge my colleagues to reject this substitute and pursue that alternate course of action.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield my remaining time to the gentleman from Washington [Mr. FOLEY], the Speaker of the House of Representatives.

The CHAIRMAN. The Speaker is recognized for 3½ minutes.

Mr. FOLEY. Mr. Chairman, I certainly would like to say to BOB MICHEL that we understand that all Members of the House do not have a single opinion on any of the propositions that we are voting on today. He cited the fact that 14 members of the Democratic side voted for his alternative. I could cite in return that 13 of his members voted against it.

There is obviously a serious effort on the part of members to try to decide how we can best take action to bring about greater fairness in our tax system, to provide incentives for economic growth, to correct inequities that presently exist, and to move the country forward out of this recession into broader employment and economic opportunity for all our citizens.

I am troubled, as is the majority leader, when there seems to be not only a division here at the center aisle on the best approach to a problem, but about attitudes toward those who vote differently from ourselves.

We are not condemning the President of the United States for having views about how he wants to see a tax program received. We received him with great courtesy and attention, as we always do on both sides of the aisle, when he appeared here to give the State of the Union Address. He did not have any obligation to consult with us ahead of time about what he was going to say, and he did not. There was no bipartisan consultation. There was no prior discussion at the White House, as there has been on numerous occasions, for example, in reaching the country's highest decisions on foreign policy.

On these occasions, this President, as much as any I have served with, has chosen to bring people forward together, leaders of both parties, to discuss the issues and consult before he acts. I have given him public credit for that and will continue to do so. But on this he did not do that. He chose to keep his recommendations secret not only from his own party and his own Members but from the country as a whole. He had a right to do that. However, it seems all-the-more strange at this point to hear calls for bipartisanship, openness, consultation, and negotiations, when we have had none from the President on his proposals, or reflected in either of the previously voted alternatives.

The purpose of this body is not to withhold its support from all but the perfect, for no bill is perfect. It is to decide what is better, even the best, if it leads to nothing, can become the enemy of the good.

To govern is to choose. That is our responsibility and the choice, I think, is clear: The Democratic alternative offers greater justice, greater equity, better opportunity, and a better future for all Americans than the recommendations of the President or the Republican alternative which has just been rejected. But the worst choice, the worst choice would be to do nothing, and I appeal to Members here to recognize that fact.

Rather we enact the Michel substitute than do nothing.

My concern is that there may be some in this body who seek to do nothing, not because they think it is best, but because they think it is the most opportune position to take. I hope that is not true. I call on all Members of the Congress now, let us vote for the Democratic alternative. Let us enact this and send it to the Senate. We will have another opportunity when it comes back to us for final judgment before going to the President. Perhaps if the President is willing, negotiation and discussion can take place before that final vote comes. While I am willing to listen to whatever recommendations he may have to offer, we need to act for the country's sake. We need to act for the sake of the economy, for jobs and opportunity for our people and, yes, for the reputation of the Congress. We need to act. Let us make the choice now.

The CHAIRMAN. All time has expired.

The question is on the amendment in the nature of a substitute offered by the gentleman from Illinois [Mr. ROSTENKOWSKI].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. ARCHER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 221, noes 210, not voting 4, as follows:

[Roll No. 30]

AYES—221

Abercrombie	Collins (MI)	Gejdenson
Ackerman	Conyers	Gephardt
Alexander	Costello	Gibbons
Anderson	Cox (IL)	Glickman
Andrews (ME)	Coyne	Gonzalez
Andrews (TX)	Cramer	Gordon
Annunzio	Darden	Guarini
Anthony	DeFazio	Hall (OH)
Applegate	DeLauro	Harris
Aspin	Derrick	Hatcher
Atkins	Dicks	Hayes (IL)
AuCoin	Dingell	Hefner
Bacchus	Dixon	Hertel
Bennett	Donnelly	Hoagland
Berman	Dooley	Hochbrueckner
Bevill	Dorgan (ND)	Horn
Bilbray	Downey	Hoyer
Blackwell	Durbin	Hubbard
Bonior	Dymally	Huckaby
Borski	Eckart	Jacobs
Boucher	Edwards (CA)	Jefferson
Boxer	Edwards (TX)	Jenkins
Brewster	Engel	Johnson (SD)
Brooks	Erdreich	Johnston
Browder	Espy	Jones (GA)
Brown	Evans	Jones (NC)
Bruce	Fascell	Jontz
Bryant	Fazio	Kanjorski
Bustamante	Feighan	Kaptur
Byron	Flake	Kennedy
Campbell (CO)	Foglietta	Kennelly
Cardin	Foley	Kildee
Chapman	Ford (MI)	Kleczka
Clay	Ford (TN)	Kolter
Clement	Frank (MA)	Kopetski
Coleman (TX)	Frost	Kostmayer
Collins (IL)	Gaydos	LaFalce

Lantos
LaRocco
Laughlin
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lowey (NY)
Luken
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McDermott
McHugh
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moody
Moran
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Panetta
Pastor
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Pickle
Poshard
Price
Rahall
Rangel
Reed
Richardson
Rose
Rostenkowski
Roybal
Sanders
Sangmeister
Savage
Sawyer
Scheuer
Schumer
Serrano
Sharp
Sikorski
Sisisky
Skaggs
Slattery
Slaughter
Smith (FL)
Smith (IA)
Snowe
Solarz
Spratt
Staggers
Stark
Stenholm
Stokes
Studds
Swift
Synar
Tallon
Tanner
Thornton
Torres
Towns
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Weiss
Wheat
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NOES—210

Allard
Allen
Andrews (NJ)
Archer
Armey
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Bellenson
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Broomfield
Bunning
Burton
Callahan
Camp
Campbell (CA)
Carper
Carr
Chandler
Clinger
Coble
Coleman (MO)
Combest
Condit
Cooper
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer
Davis
DeLay
Dellums
Doolittle
Dornan (CA)
Dreier
Duncan
Dwyer
Early
Edwards (OK)
Emerson
English
Ewing
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gallo
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Goodling
Goss
Gradison
Grandy
Green
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Hastert
Hayes (LA)
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Horton
Houghton
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Johnson (CT)
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Lancaster
Leach
Lehman (CA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lloyd
Long
Lowery (CA)
Machtley
Marlenee
Martin
McCandless
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McMillan (NC)
McMillen (MD)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Montgomery
Moorhead
Morella
Morrison
Mrazek
Myers
Nichols
Nussle
Obey
Oxley
Packard
Pallone
Parker
Patterson
Paxon
Peterson (MN)
Petri
Pickett
Porter
Pursell
Quillen
Ramstad
Ravenel
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Rowland
Russo
Sabo
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Schroeder
Schulze
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Skelton
Smith (NJ)
Smith (OR)
Smith (TX)
Solomon
Spence
Stallings
Stearns
Stump
Sundquist
Swett
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torricelli
Traficant
Upton
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Weldon
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—4

de la Garza
Dickinson
Ray
Whitten

□ 1454

The Clerk announced the following pair:

On this vote:

Mr. de la Garza for, with Mr. Ray against.

Mr. ENGLISH and Mr. HALL of Texas changed their vote from "aye" to "no."

Mrs. LOWEY of New York changed her vote from "no" to "aye."

So the amendment in the nature of a substitute was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker, having resumed the chair, Mr. DERRICK, Chairman of the Committee on the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4210) to amend the Internal Revenue Code of 1986 to provide incentives for increased economic growth and to provide tax relief for families, pursuant to House Resolution 374, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. ARCHER

Mr. ARCHER. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. ARCHER. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. ARCHER moves to recommit the bill H.R. 4210 to the Committee on Ways and Means with the recommendation that it amend the bill in an open and bipartisan manner with a view to producing legislation the President can sign that will provide economic stimulus and job creation incentives without increasing taxes or the deficit.

POINT OF ORDER

Mr. ROSTENKOWSKI. Mr. Speaker, I have a point of order.

The SPEAKER. The gentleman will state his point of order.

Mr. ROSTENKOWSKI. Mr. Speaker, I make a point of order against the motion to recommit because it is a motion that is allowed neither under the rule, nor under the rules of the House.

Mr. ARCHER. Mr. Speaker, may I be heard on my motion before the Chair rules on the point of order made by the gentleman from Illinois [Mr. ROSTENKOWSKI]?

The SPEAKER. The gentleman from Texas [Mr. ARCHER] is recognized.

Mr. ARCHER. Mr. Speaker, under House Resolution 374, the rule providing for the consideration of H.R. 4210, one motion to recommit is allowed which may not contain instructions.

The motion to recommit which I have offered is in compliance with that proviso: I have offered a motion to recommit which does not contain instructions. It simply contains a recommendation that the Ways and Means Committee do certain things. The committee is under no mandate to do so as it would be if it were subject to instructions from the House.

And let me make very clear that there is a distinct difference between an instruction and a recommendation. According to Webster's New World Dictionary, an instruction is, and I quote, "a command or order," and in the plural, "details of procedure; directions."

A recommendation, on the other hand, is "the act * * * of calling attention to a person or thing as suited for some purpose; advice or counsel." In summary, Mr. Speaker, an instruction is a mandatory command, while a recommendation is a discretionary giving of advice.

Mr. Speaker, the Chair ruled yesterday that there is nothing in House rule 16, clause 4, that guarantees the right of the minority to offer instructions in a motion to recommit. Using that same logic, there is nothing in that clause which prohibits the minority from offering a recommendation in the motion to recommit.

It is true that House rule 17 does provide that pending the motion for the previous question or after it is ordered on the passage of a measure, it is in order for the Speaker, and I quote, "to entertain and submit a motion to commit, with or without instructions, to a standing or select committee." That rule clearly allows for only one of two types of motions to recommit: a straight motion and one with instructions.

However, we are not operating under rule 17 today since the rule does not allow for a previous question motion on the passage of this bill. Under the rule for this bill, House Resolution 374, the previous question is considered to have been automatically ordered. We are, therefore, clearly operating instead under House rule 16 which provides that, and I quote, "After the pre-

vious question shall have been ordered on a bill or joint resolution one motion to recommit shall be in order, and the Speaker shall give preference in recognition for such purpose to a Member who is opposed to the bill or joint resolution."

Nowhere in that rule is the Member confined to offering either a straight motion to recommit or one with instructions. It does provide that if a motion to recommit with instructions is offered, there shall be 10 minutes of debate on the motion. All that means is that such debate may not take place on a straight motion or on the motion to recommit with recommendation which I have offered.

Finally, I would emphasize, Mr. Speaker, that the motion to recommit under rule 16 was intentionally adopted in 1909, to provide the minority an opportunity to express its final position on a bill. While we are precluded by the rule from either amendatory or general instructions, this motion to recommit with recommendation is consistent with the original intent of the rule to give us a last chance to offer our position. I urge the Chair to allow this motion as the right of the minority.

□ 1500

The SPEAKER. Does the gentleman from Illinois [Mr. ROSTENKOWSKI] insist on his point of order?

Mr. ROSTENKOWSKI. Yes, I do, Mr. Speaker.

While the rule permits the Member to offer a motion to recommit, the rule specifically provides that the motion may not contain instructions. The pending motion to recommit contains recommendations, which are not permitted, and I ask the Chair to sustain the point of order.

The SPEAKER. Is there anything further the gentleman from Texas [Mr. ARCHER] wishes to add?

Mr. ARCHER. Mr Speaker, I simply wish to close by saying that I made the distinction between instructions and recommendations. The chairman of the committee is correct, that had it included instructions, it would have been out of order. It does not include instructions, and I again urge the Chair to overrule the point of order.

The SPEAKER. The gentleman from Illinois [Mr. ROSTENKOWSKI] makes a point of order against the motion to recommit H.R. 4210 offered by the gentleman from Texas [Mr. ARCHER] on the ground that it includes language recommending that the Committee on Ways and Means "amend the bill in an open and bipartisan manner with a view toward producing legislation the President can sign."

The motion to recommit a bill to a standing committee is addressed in specific and general terms in clause 4 of rule XVI and clause 1 of rule XVII. Both rules contemplate that the motion may in some circumstances include instructions. Clause 4 of rule XVI states that "with respect to any motion to recommit with instructions * * * it shall always be in order to debate such motion for 10 minutes * * *." Clause 1 of rule XVII states that pending the motion for the previous question the Speaker may entertain a motion to commit, "with or without instructions * * *."

Neither rule XVI nor rule XVII—nor any other rule of the House—recognizes a form of motion to recommit "with recommendation." Rule XVI and the precedents of the House do not admit motions other than those mentioned in and made in order by the rules of the House.

Moreover, the precedents hold that argument is not in order in a motion to recommit. On this point the Chair is guided by the ruling of Speaker Gillet on November 29, 1922, sustaining a point of order against a motion to recommit with instructions that included descriptive matter that might be construed as argumentative. That ruling is recorded in volume 8 of Cannon's precedents, at section 2749. Similarly, on June 3, 1882, Speaker Keifer held that a motion to recommit should not contain matter in the nature of debate, by preamble or otherwise. That rule is recorded in volume 5 of Hinds' precedents, at section 5589.

The cited precedents are consistent with the principle in clause 4 of rule XVI that the motion to recommit a bill or joint resolution after the previous question is ordered on final passage is rendered debatable only by the inclusion of instructions.

Finally the Chair would refer to the ruling of yesterday, February 26, 1992. The gentleman from New York [Mr. SOLOMON] made a point of order against House Resolution 374 on the ground that it violates clause 4(b) of rule XI, which provides that the Committee on Rules shall not report any rule or order of business that would prevent the motion to recommit from being made as provided in clause 4 of rule XVI. The Chair held that the Committee on Rules does not violate clause 4(b) of rule XI so long as it does not deprive the minority of the right to offer a simple motion to recommit. In making that ruling the Chair expressly stated that House Resolution 374 properly guaranteed a simple motion to recommit.

The motion to recommit offered by the gentleman from Texas [Mr. ARCHER] includes matter that might properly be construed as argument. As such, is not a proper motion and is held out of order.

The question is on the passage of the bill.

The question was taken; and the speaker announced that he was in doubt.

The SPEAKER. Those Members in favor of passage of the bill will rise.

The Chair will advise the Members that this is an affirmative vote on final passage of the bill.

Mr. ROSTENKOWSKI. Mr. Speaker, is it in order to ask for a rollcall vote at this point?

The SPEAKER. The gentleman is correct.

Mr. ROSTENKOWSKI. Mr. Speaker, I demand a rollcall vote.

The SPEAKER. The gentleman demands the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 221, nays 209, not voting 5, as follows:

[Roll No. 31]

YEAS—221

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Bennett
Berman
Bevill
Bilbray
Blackwell
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Chapman
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Conyers
Costello
Cox (IL)
Coyne
Cramer
Darden
DeFazio
DeLauro
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dymally
Eckart
Edwards (CA)
Edwards (TX)
Engel
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Gordon
Guarini
Hall (OH)
Harris
Hatcher
Hayes (IL)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Hoyer
Hubbard
Huckaby
Jacobs
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lantos
LaRocco
Laughlin
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lowey (NY)
Luken
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McDermott
McHugh
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moody
Moran
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Panetta
Pastor
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Pickle
Poshard
Price
Rahall
Rangel
Reed
Richardson
Rose
Rostenkowski
Roybal
Sanders
Sangmeister
Savage
Sawyer
Scheuer
Schumer
Serrano
Sharp
Sikorski
Sisisky
Skaggs
Slattery
Slaughter
Smith (FL)
Smith (IA)
Snowe
Solarz
Spratt
Staggers
Stark
Stenholm
Stokes
Studds
Swift
Synar
Tallon
Tanner
Thornton
Torres
Towns
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Weiss
Wheat
Williams

Wilson	Wolpe	Yates
Wise	Wyden	Yatron

NAYS—209

Allard	Hammerschmidt	Peterson (MN)
Allen	Hancock	Petri
Andrews (NJ)	Hansen	Pickett
Archer	Hastert	Porter
Armey	Hayes (LA)	Pursell
Baker	Hefley	Quillen
Ballenger	Henry	Ramstad
Barnard	Herger	Ravenel
Barrett	Hobson	Regula
Barton	Holloway	Rhodes
Bateman	Hopkins	Ridge
Bellenson	Horton	Riggs
Bereuter	Houghton	Rinaldo
Billrakis	Hughes	Ritter
Bliley	Hunter	Roberts
Boehlert	Hutto	Roe
Boehner	Hyde	Roemer
Broomfield	Inhofe	Rogers
Bunning	Ireland	Rohrabacher
Burton	James	Ros-Lehtinen
Callahan	Johnson (CT)	Roth
Camp	Johnson (TX)	Roukema
Campbell (CA)	Kasich	Rowland
Carper	Klug	Russo
Carr	Kolbe	Sabo
Chandler	Kyl	Santorum
Clinger	Lagomarsino	Sarpalius
Coble	Lancaster	Saxton
Coleman (MO)	Leach	Schaefer
Combest	Lehman (CA)	Schiff
Condit	Lent	Schroeder
Cooper	Lewis (CA)	Schulze
Coughlin	Lewis (FL)	Sensenbrenner
Cox (CA)	Lightfoot	Shaw
Crane	Livingston	Shays
Cunningham	Lloyd	Shuster
Dannemeyer	Long	Skeen
Davis	Lowery (CA)	Skelton
DeLay	Machtley	Smith (NJ)
Dellums	Marlenee	Smith (OR)
Doolittle	Martin	Smith (TX)
Dornan (CA)	McCandless	Solomon
Dreier	McCollum	Spence
Duncan	McCrery	Stallings
Dwyer	McCurdy	Stearns
Early	McDade	Stump
Edwards (OK)	McEwen	Sundquist
Emerson	McGrath	Swett
English	McMillan (NC)	Tauzin
Ewing	McMillen (MD)	Taylor (MS)
Fawell	Meyers	Taylor (NC)
Fields	Michel	Thomas (CA)
Fish	Miller (OH)	Thomas (GA)
Franks (CT)	Miller (WA)	Thomas (WY)
Gallegly	Molinari	Torricelli
Gallo	Montgomery	Traficant
Gekas	Moorhead	Upton
Geren	Morella	Vander Jagt
Gilchrest	Morrison	Vucanovich
Gillmor	Mrazek	Walker
Gilman	Myers	Walsh
Gingrich	Nichols	Weber
Goodling	Nussle	Weldon
Goss	Obey	Wolf
Gradison	Oxley	Wylie
Grandy	Packard	Young (AK)
Green	Pallone	Young (FL)
Gunderson	Parker	Zeliff
Hall (TX)	Patterson	Zimmer
Hamilton	Paxon	

NOT VOTING—5

Bentley	Dickinson	Whitten
de la Garza	Ray	

□ 1533

The Clerk announced the following pair:

On this vote:

Mr. de la Garza for, with Mr. Dickinson against.

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

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE RESOLUTION 194

Mr. SKEEN. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of House Resolution 194.

The SPEAKER. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

WITHDRAWAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1662

Mr. ORTON. Mr. Speaker, I ask unanimous consent that my name be withdrawn as a cosponsor of H.R. 1662, the National Advertising Coordination Act of 1991.

The SPEAKER. Is there objection to the request of the gentleman from Utah?

There was no objection.

Mr. ORTON. Mr. Speaker, last summer, I cosponsored H.R. 1662, the National Advertising Coordination Act of 1991 because I believed consumers would be less confused by a consistent set of regulations to be applied to food labeling and advertising. Traditionally, the Federal Trade Commission has been more lenient in its regulation of food advertising than has the Food and Drug Administration in its regulation of food labeling. With greater and greater dependence on advertising for information, consumers must not be deceived or defrauded.

I still hold true to this belief. However, after the release of the proposed regulations to the Nutrition Labeling Enforcement Act of 1990 [NLEA], I am withdrawing my support for H.R. 1662. As I have indicated in the following official comment to the Food and Drug Administration, I believe the proposed regulations for NLEA need to be changed in order to reflect a more reasonable standard for the review of minerals, herbs, and vitamins. Until a more reasonable standard is proposed by the FDA, I will withhold my support for H.R. 1662.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, February 25, 1992.

To Whom It May Concern:

On September 12, 1991, I cosponsored H.R. 1662, the Nutrition Advertising Coordination Act of 1991. I chose to cosponsor this legislation in order to protect consumers against deceptive advertising claims that cost citizens millions of dollars each year.

On November 27, 1991, the Food and Drug Administration (FDA) issued its proposed regulations to implement the Nutrition Labeling and Education Act of 1990 (NLEA). After reviewing these regulations, I am still dedicated to the goal of protecting consumers against fraud and deception but I am also wary of governmental overprotection and the subsequent loss of freedom for the consumer.

The heart of my concern is exemplified by pages 60537–60548 of the Federal Register which details the scientific standards to be applied to dietary supplements. While I welcome consistent and reasonable standards for the review of products, I am afraid that this represents a consistently unreasonable standard.

Using what is essentially a scientific consensus standard is too strict for vitamins, minerals, and herbs. The base of scientific knowledge on the health benefits of vitamins and herbs is changing rapidly due to tremendous strides in biomedical research. The accessibility and cost of these products are likely to be adversely affected by unreasonably restrictive review standards. I, for one, would much rather see the FDA budget used to facilitate the advance of useful products rather than to bring progress to a halt with unnecessary red tape.

I urge you to reconsider the proposed scientific standard applied to dietary supplements. I am willing to provide you with any needed assistance and look forward to hearing from you in the future.

Sincerely,

WILLIAM H. ORTON,
Member of Congress.

HAITIAN REFUGEE PROTECTION ACT OF 1992

The SPEAKER. Pursuant to House Resolution 375 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3844.

□ 1535

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3844) to assure the protection of Haitians in the United States or in United States custody pending the resumption of democratic rule in Haiti, with Mr. MFUME in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, February 26, 1992, 34 minutes remained in general debate.

The gentleman from Texas [Mr. BROOKS] has 16 minutes remaining in general debate and the gentleman from Florida [Mr. McCollum] has 18 minutes remaining in general debate.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the distinguished gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Chairman, I thank the gentleman for yielding me this time. When our country took action unilaterally to weaken our sanctions against the military government, the illegitimate government now in control in Haiti, and when we began to send back the people who fled that country, I think we sent a message that really does not reflect what most Americans believe our foreign policy should be about.

I do not think any of us have constituencies that welcome additional immigrants, legal or illegal, frankly, at this point in our history, during a recession. Certainly Americans, however, have to think back to the 1930's when Jews were fleeing Europe, and we were in a depression. It was so easy then for us to say "We simply have no

room. We cannot help." But we have to learn from history.

We now look back on the Holocaust and understand the prices the entire world paid, but certainly those Jews and their families paid, because of the callousness or the disinterest of people who did not know better; who were not led to understand by people like us.

We are elected to lead. We are elected to provide moral leadership, and I believe this bill is a step in the direction of providing that. I am hopeful that all Members will join in supporting the effort, this humane effort, at preventing a minor holocaust at least and perhaps worst from occurring in Haiti.

Mr. Chairman, I rise in support of H.R. 3844, the Haitian Refugee Protection Act, a bill that will enable us to provide a temporary safe haven for the Haitian refugees already being held in our custody.

When last September's coup shook the island of Haiti, its democratically elected government was overthrown, its President was forced into exile, and the military took over. Over 1,500 Haitians were killed. As a result, over 13,000 Haitians have fled their country, fearing for their lives. Most of them escaped in small boats and headed for neighboring countries. Those who have attempted to find refuge here in America have been intercepted by the Coast Guard and taken to our naval base at Guantanamo Bay, Cuba. Over 3,500 of these people have been forced to return to Haiti.

Those forced to return to Haiti, where the military now rules with an iron hand, are singled out, fingerprinted and photographed upon arrival. Supporters of democracy and exiled President Aristede face torture, and even death. Our State Department claims to have no knowledge of these dangers, but how do they know? Our Ambassador to Haiti has left the dangers of Haiti behind him; he is safe, here in Washington, DC. Minimal staff remains in Haiti, and the American population still residing in Haiti, on which the State Department depends for its information, numbers only 50.

This reminds me of a similar incident during the late 1930's, before we entered World War II. The *St. Louis*, a ship of Jewish refugees fleeing the Nazi reign of terror in Germany, was not allowed to dock in Cuba. Its passengers were ultimately shipped back to the countries of Western Europe. Then, as now, the immigrants' plight received an outpouring of sentiment from the American people. And then, as now, there was no stance on their behalf; we did nothing but pressure countries on the brink of war to accept these unfortunate travelers.

I agree that we cannot afford to open our doors to all the poor people of every nation who want to enter the United States in order to better their lives. But H.R. 3844 is not an open-door policy for thousands of Haitian immigrants waiting to set sail for America. This bill affects a very small group of people and is only temporary. All it does is prevent us—for 6 months only—from returning those Haitian immigrants who were already in our custody on February 5. It will also require the administration to report on the fate of all the Haitians we send back, and it will deny admission to the United States to any Haitian who supported the overthrow of their democracy.

When we started sending Haitian refugees back to Haiti, we sent a message acknowledging and supporting the authority of the military thugs in power. Now it is time to send another message, and H.R. 3844 does this. This bill affirms that we Americans are true to our principles and tradition—that we advocate and support fairness, justice, and basic human rights.

I urge my colleagues on both sides of the aisle to support final passage of H.R. 3844, a statement of our humanitarian commitment as Americans to the plight of our Haitian neighbors.

Mr. MCCOLLUM. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. FISH], the ranking member of our full committee.

Mr. FISH. Mr. Chairman, I rise in support of H.R. 3844, the Haitian Protection Act of 1992.

We are all painfully aware of the series of events which has led this body to consider the bill before us today. First, in December 1990 we watched anxiously as the first free and democratic election in the history of Haiti resulted in the election of Jean-Bertrand Aristide. Less than a year after the elections—September 30 of last year—anti-Aristide forces violently removed Aristide from office. Since the coup, more than 15,000 Haitians have fled in hopes of reaching the United States.

The State Department maintains that no evidence has been found to confirm the allegations that repatriated Haitians are singled out for persecution. On the other hand, the Haitian Refugee Center, Amnesty International, Americas Watch and other groups assert that significant numbers of returnees are being harassed, injured or killed by anti-Aristide forces. Whether you support the position of the State Department, the position of the refugee and human rights groups or some position in between, it is clear that the political and economic climate of Haiti remains volatile and unstable.

I have asked myself if I, in good conscience, can be responsible for sending over 10,000 people back to such an environment. My answer is no.

The U.S. Embassy in Port-au-Prince is attempting to investigate all allegations of repression of returnees but the relatively small number of staff available makes quick, yet thorough determinations difficult. It is likely that people are sent back before there is assurance that it is safe to do so.

The recent agreement between Aristide and key Haitian legislators is encouraging but does not, itself, provide calm and stability in Haiti. The 6-month suspension in repatriations provided for in H.R. 3844 will allow time for the possible stabilization of the political climate and for a thorough investigation of claims of persecution. What can we possibly lose by waiting 6 months?

We have provided more extensive protection to numerous other nationals with unstable political situations: Poles, Salvadorans, Libyans, Liberians, Kuwaitis. The minimal protection provided in H.R. 3844 is not too much to ask for the Haitians.

I urge my colleagues to join me in supporting H.R. 3844.

□ 1540

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the distinguished gentleman from New York [Mr. SOLARZ].

Mr. SOLARZ. Mr. Chairman, this is a bill not only to provide protection to Haitian refugees, but to eliminate one of the most glaring hypocrisies in American foreign and immigration policy.

For much of the last decade, we have been beating up on the British in order to prevent them from forcibly repatriating to Vietnam Vietnamese boat people who have washed up on the shores of Hong Kong, while, at the same time, we are forcibly returning Haitian boat people coming to our country back to Haiti.

Is Haiti any less repressive than Vietnam?

I am glad the administration opposes involuntary repatriation for Hong Kong to Vietnam, but Haiti is, if anything, more repressive than Vietnam. Fifteen hundred Haitians have been killed since the coup. In Vietnam they throw you into a reeducation camp, but at least they do not kill you.

In terms of our immigration policy, any Cuban who comes to the United States fleeing Castro's tyranny is virtually guaranteed citizenship in America, whereas the Haitians attempting to escape the tyranny in their country are not even permitted to stay temporarily, until democracy can be restored. So to eliminate hypocrisy in American foreign and immigration policy and to restore decency to our policy, I urge adoption of this legislation.

Mr. MCCOLLUM. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. ALLEN].

Mr. ALLEN. Mr. Chairman, ladies and gentlemen of the House, we all share the concern about the people in Haiti and elsewhere in the world to have freedom and to exercise a free economic system.

There are unquestionably Haitians who meet the statutory definition of a refugee, and no one is suggesting those people ought to be returned to Haiti. However, there are many, many Haitians who are being picked up at sea who are leaving simply for economic reasons. They have, the vast majority of them, the intent to come here for economic reasons.

The fact of the matter is the evidence is fairly clear for anyone who wants to look at the reality of the situation. They are not political refugees but economic refugees. The Haitians have the

ability to go over an open border with the Dominican Republic, and if they so desired and were so worried about political persecutions, they could go there.

One hundred Haitians went to Venezuela feeling that might be a bypass into the United States. When they found out it was not a bypass, 73 of them went back to Haiti. There were other countries in the Caribbean where Haitians went to thinking they could get into the United States. When they found that that door was closed, they went back to Haiti.

One hundred fifty-people who have been repatriated have been interviewed by the U.S. Embassy. They found no substantiating evidence that there is any persecution; rather, there were contradictions in some of these reports.

The fact of the matter is we need to be fair to the millions of people from other nations who seek to immigrate to the United States for economic reasons or other reasons, and we should not have a special precedent being set here for Haitians who should be allowed to come into the United States under the framework of our immigration laws and policies. As much as we all feel for the Haitians and hope they have a good government, a sound, free government being reinstated in Haiti, we cannot be a nanny for the rest of the world.

Mr. BROOKS. Mr. Chairman, I yield 1½ minutes to the gentleman from California [Mr. BERMAN], a distinguished member of the Committee on the Judiciary.

Mr. BERMAN. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I thank the chairman of the subcommittee and the chairman of the full committee for reporting this bill out. I would like to respond to the previous speaker. They speak, the opponents of this bill speak, of economic refugees, of circumventing immigration laws, and letting people in line. This bill does not let people into this country. That is a bad argument. That is misinforming the House about what this measure does.

When you talk about economic refugees and people coming for other kinds of reasons, you have to square what you are saying about the wretched Haitian refugees leaving this country seized by a coup with a history of violence and oppression like hardly any other country in the world.

When a Pole came to this country during the height of the Communist control of Poland, no one asked that Pole whether he was an economic refugee or what would happen to him when he got back there. We never would have thought of sending a Polish emigre or a tourist who had overstayed his visa back to Poland, or from the Soviet Union, the same thing, from Vietnam, the same thing. No Nicaraguans were ever deported back to Nicaragua.

We are not talking about people in the United States. We are talking a 6-month stay of deportation from Guantanamo back to their country in an environment where there is absolutely no effective monitoring about what happens to these people.

Our foreign mission in Iraq could not find out whether they were building a nuclear arsenal. Does anyone think that we are going to be able to monitor, from our little Embassy in Haiti, what is happening to these people when they are sent back, with the Ton-Ton Macoutes and the other enforcers of oppression running around? This is a moral issue.

Compare it with what we have done with these other countries, and vote for this limited, excellent piece of legislation.

Mr. MCCOLLUM. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I wanted to respond to comments that have just been made by several speakers that imply a double standard that I do not think is well understood. We talk about countries like Cuba, for example, and in a situation like that, where the Soviet Union with some of the other peculiar circumstances around the world, this Nation has determined, because the evidence is there, to assume that everybody who gets away from those countries in those situations is a person who is eligible for asylum here and meets the political persecution, the fear-of-political-persecution standard. That is because, in the case of Cuba, for example, everybody who is returned back there gets persecuted, gets put in jail, something happens to them. We know that. So we do not have to distinguish.

In the case of Haiti, that is not true. We have a long history of people leaving Haiti and being repatriated, and we do not have a long history of the governments of Haiti locking them up, including this one, or oppressing them.

Our State Department has investigated since the return began, since Aristide left, and 159 separate cases, and they continue to investigate them, cases in many instances where various organizations have claimed there has been persecution, and in every one of the 159, they have got documented, and I have the documentation over here, where they have gone and checked out. There was no persecution involved in that situation.

So where we have had situations like in Haiti, we have been very, very distinct, and common, and ordinary in our practice and treated everybody the same. We have made the laws work of the Refugee Act, and that is what is so important, make the laws and the Refugee Act that are on our books today equal and fair and work where possible, which is 90 percent of the time, and send back those people to the countries they came from who are economic refugees and only keep those who are reasonably in fear of persecution. That is only going to work.

Otherwise, everybody will come over here who has an economic claim from every country where there is some war or disturbance. Take Yugoslavia, for example, we are not taking everybody from Yugoslavia.

Mr. BROOKS. Mr. Chairman, I yield 30 seconds to the distinguished gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Chairman, 30 seconds, this is impossible to talk about a human-rights issue.

The bill should not be on the floor, because events are moving so quickly. Father Aristide—and what is a priest doing running for office—still he is working out things. We should have waited a couple of weeks.

However, having said that and understanding that there are men of conscience on both sides, I must go with not setting a precedent that dovetails with forcibly repatriating Hmong tribespeople across the Laotian border, and the hapless, forgotten Vietnamese boatpeople in Hong Kong.

I have a letter that I circulated on October 3. I was only able to get three great Democrats on it, the gentleman from Texas [Mr. STENHOLM], the gentleman from New York [Mr. ENGEL], a great human-rights guy, and the gentleman from Georgia [Mr. JONES]. The next time I circulate a letter to stop the forcible repatriation of people from Hong Kong for a bloody $1,000-a-head back to Communist Vietnam, which I think is worse than Haiti, I want to see all of you great human-rights people on my letter, and for that reason I will vote with you, and then we will solve the Hong Kong problem.

God bless you.

□ 1550

Mr. MCCOLLUM. Mr. Chairman, for purposes of debate only I yield 2 minutes to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Chairman, I rise in very reluctant opposition to H.R. 3844, the Haitian Refugee Protection Act.

I have been to Haiti, Mr. Chairman. I have seen with my own eyes the effects of decades of gross economic mismanagement and political repression. I have seen with my own eyes the hunger, the disease, and the desperate poverty that is the daily lot of most of Haiti's people. And I watched with profound dismay when Haiti's fragile democracy was crushed by a military machine bent on violence and retribution.

I am gravely concerned about the welfare of Haiti's poor and of those Haitians who have left behind their homes and families to seek refuge in the United States. It is for this reason that I must oppose H.R. 3844.

Many of those who embark upon the uncertain voyage across the ocean have sold their land, their possessions, indeed their life savings, for a passage to the United States. Selling the promise of asylum in America has probably become big business in Haiti, leaving the desperate many at the mercy of the unscrupulous few. Yet we know that most of these refugees will never reach American soil and will instead find themselves back in Haiti, stripped of the resources they need to survive. Any incentive to attempt this fruitless journey is, in my mind, only a come-on to Haiti's poor to give away their meager assets for nothing. Haitians hearing news of this bill may fail to recognize that the moratorium applies only to refugees under United States supervision by February 5. The idea that gets across is more likely to be that repatriations will be suspended, period. H.R. 3844, then, would provide cruel encouragement for more Haitians to leave their villages believing in the empty promise of safe haven in the United States.

I further oppose this bill as it fails to authorize any funds to provide for Haitian refugees over the 6 months of the proposed moratorium.

At best, H.R. 3844 sends a clouded and confusing message to the people of Haiti. At worst, it may compound the humanitarian crisis threatening the future of Haiti's people. I urge you to join me in voting against this bill.

Mr. BROOKS. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from New York [Mr. SCHUMER], the chairman of a great subcommittee.

Mr. SCHUMER. Mr. Chairman, I appreciate the gentleman yielding me this time. I urge support for this legislation.

Let me say first, Mr. Chairman, that 55 years ago there was a boat named the St. Louis off the shores of Cuba, ironically. There were hundreds of people on that boat. They asked for the same thing that these people are asking for today, not a handout, not a green card, not citizenship, just a place to stay while the trouble in their homeland subsided. They were sent home, many to their deaths, and America should not repeat that sad story.

The bill that has been crafted by the distinguished subcommittee chairman is a very narrow bill. It does not apply to anyone who flees from Haiti to Cuba after a date that is in the past already. It does not allow those who have been there any rights in the United States. All it does is say simply let them stay there until the clouds in Haiti abate.

Is that too much to ask for a Nation that has the Statue of Liberty at its entering harbor? Is that too much to ask when America is known as the beacon of freedom and people around the world look up to us? I argue not, and I argue for support of this bill.

Mr. McCOLLUM. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. BROOMFIELD].

Mr. BROOMFIELD. Mr. Chairman, I must oppose H.R. 3844, the Haitian Refugee Protection Act. This legislation is misnamed, mistimed, and misguided.

First, Haitian refugees are already protected by current immigration law and by the actions of the U.S. Government. Congress has established guidelines for determining refugees—guidelines that are in accord with the accepted international standard: A genuine refugee must have a "well founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion."

This standard—written into U.S. law by Congress—is individual. After prescreening, more than 5,000 Haitians have been allowed to pursue their individual claims of asylum. Haitians with credible claims of refugee status are already receiving the full protection due them under U.S. law.

Second, we are considering this legislation just as major progress toward a political solution to the Haitian crisis has been achieved. Under the leadership of the Organization of American States, with strong support from the United States, the democratically-elected President and parliamentary leaders reached agreement this weekend on a path to resolve Haiti's political future.

While it is not clear whether this agreement will in fact reverse the illegal coup, it is clear that diplomatic efforts are working. This body should not undermine those efforts by passing legislation which is likely to encourage many more Haitians to leave. In the words of President Aristide: "Haitians must try to stay in Haiti in order to continue nonviolent resistance."

Third, this legislation is misguided because it is not based on facts. No one doubts that there is politically motivated repression in Haiti. That is why thousands of Haitians have been allowed into the United States to pursue asylum claims.

But no one has produced any credible evidence that Haitians who did not have a credible claim for refugee status and were repatriated to Haiti have been persecuted for leaving. Not only does the State Department have no evidence of reprisals against repatriates, no one else does either. Not one human rights or refugee group has produced evidence of persecution of Haitian returnees. The alleged problem this legislation addresses simply does not exist.

For all these reasons, I oppose H.R. 3844 and urge my colleagues to vote against it.

Mr. BROOKS. Mr. Chairman, I yield 30 seconds to the distinguished gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Chairman, I thank the chairman for yielding me this time.

I rise reluctantly to oppose my articulate friend, the gentleman from Florida [Mr. McCOLLUM], a member of the Republican leadership, but let me say to my colleagues, if we adopt the reasoning behind the McCollum position, then we are adopting Britain's policy with respect to the boat people and we are going to see that policy thrown in our face when they attempt to get President Bush to acquiesce on forcible repatriation of boat people. If we do not go with the bill, and it is a good bill, we are going to be absolutely sucking the moral force out of President Bush's strong opposition to forced repatriation.

Mr. BROOKS. Mr. Chairman, I yield 30 seconds to the distinguished gentleman from New Jersey [Mr. PAYNE].

Mr. PAYNE of New Jersey. Mr. Chairman, I rise in strong support of H.R. 3844, the measure to suspend the forced return of Haitian refugees for a 6-month period.

After visiting Haiti with a delegation of my colleagues last week, I am convinced that there is an atmosphere of intimidation which jeopardizes the safety of returning Haitians.

While our delegation was in Haiti, we had candid discussions with human rights groups that confirmed our worst fears—that reprisals are taking place against Haitians who oppose the Government installed by force in the September 30th military coup which removed Haiti's democratically elected leader, President Jean-Bertrand Aristide.

The State Department and the administration have shirked their responsibility to determine the truth about what is taking place in Haiti.

They prefer to look the other way as violations of human rights are reported by groups including Amnesty International and Americas Watch.

The United States has come to the aid of nations struggling for democracy around the globe. We have welcomed hundreds of thousands of refugees from Eastern Europe, from the Soviet Union, from Asia, and from Cuba.

Why is the administration now slamming the door in the faces of Haitian refugees, who are passionately struggling to restore democracy to their country?

The United States and Haiti have had a long-term relationship. During World War II, Haiti offered to assist the United States in the war effort. They responded positively to President Roosevelt's request that they convert their agricultural economy to the production of trees and plants that produce latex.

Clearing mahogany trees and other plants indigenous to their nation, the Haitians sacrificed their own rich soil to try to accommodate the needs of the United States.

Earlier this week, I held an open forum in my congressional district, and

members of the Haitian community came forward to express their concern about the fate of their loved ones caught up in the political upheaval in their homeland.

How can I explain to Haitians living in my community that our Government simply applies a different standard to the Haitian people than to all other refugees?

Mr. Chairman, today Congress has an opportunity to send the administration a message: We do not accept this "double standard" which imposes suffering on the people of Haiti and hurts the cause of democracy. I urge my colleagues to support this legislation and reassert our Nation's moral leadership by standing up for democracy in Haiti.

Mr. BROOKS. Mr. Chairman, I yield 30 seconds to the gentleman from Florida [Mr. FASCELL], the distinguished chairman of the Committee on Foreign Affairs.

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Mr. FASCELL. Mr. Chairman, I rise in strong support of H.R. 3844, the Haitian Refugee Protection Act. I would like to commend our colleagues Mr. MAZZOLI, chairman of the Subcommittee on International Law, Immigration and Refugees, and Mr. BROOKS, chairman of the Judiciary Committee, for their expeditious action in reporting this legislation which attempts to address the tragic human consequences of last September's coup in Haiti which deprived the hapless Haitian people of their first-ever democratically elected government.

Just days after the coup and the forced exile of Haiti's democratically elected government, I came before the House to introduce a sense of the House resolution expressing support for democracy in Haiti. The resolution, which was passed unanimously by this House on October 2, 1991, called on the President to make United States support for democracy in Haiti clear and to suspend our economic and military assistance until democratic government is restored. It also called on the Organization of American States to take all appropriate action to restore democratic government and urged the Haitian military to respect the human rights of the Haitian people.

Mr. Chairman, as a result of the continuing efforts of the Organization of American States to reach a peaceful resolution to the Haiti crisis, a conference was held in Washington last weekend between President Aristide, Prime Minister-designate Theodore and leaders of Haiti's Parliament. This meeting produced a Protocol which outlines a method for resolving the current crisis. If this Protocol can be fully implemented, it will help resolve the situation which gave rise to the bill before us. But, as promising as the new agreement is, it will be some time before we can be certain it will be implemented. We still need this legislation to relieve the current situation and to establish a humane framework for United States policy toward Haitian refugees either in the event the Protocol fails to end the crisis or during the indefinite period it will take for the Protocol to be fully implemented.

In the 5 months since the coup, the Haitian people have suffered tremendously and continue to suffer. Thousands have sought refuge from increasing economic hardship and the continuing repression and violation of human rights by the Haitian military by taking to the sea in small, often unseaworthy boats in an attempt to reach the United States.

As of Tuesday, February 25, 1992, 15,826 Haitians have been picked up in such boats by the Coast Guard; 5,213 have been found by the Immigration and Naturalization Service to have a sufficient fear of persecution should they be returned that they have been given permission to enter the United States to pursue their claims for political asylum. Most others have been, or are scheduled to be, sent back to Haiti.

From the beginning, Mr. Chairman, I have urged the administration to treat these people fairly and humanely. While we must insist that those seeking entry to the United States do so legally, we must also insist that our laws be applied fairly and humanely to Haitians as well as to any other nationality seeking entry to the United States. There can be no discrimination, or appearance of discrimination, in the way we apply our laws. We must also make every effort consistent with our obligations under international law and in accordance with our country's long tradition of respect for human rights to determine whether an individual is fleeing from a well-founded fear of persecution for his religious, or political or other beliefs. As I noted, however, the INS has determined that is the case for some Haitians. But, I also note that many Haitians, like those thousands who have been leaving Haiti for years, are leaving for economic reasons. While we can certainly understand their desire and hope to better their lives and those of their children, the United States, despite our enormous generosity, simply cannot take all these people.

Moreover, Mr. Chairman, it has been established that of those Haitians who have been permitted to enter the United States to pursue their claims to political asylum, over 80 percent have chosen to reside in south Florida. The people of south Florida have traditionally welcomed waves of new arrivals; south Florida, as a result, is one of the most culturally diverse and dynamic parts of our country. Our generosity of spirit remains large; just last week I met with scores of representatives of church groups, voluntary agencies, and community groups whose hearts went out to the Haitians and whose energies and considerable abilities are again pledged to helping their follow men and women. But each asked me how are we to pay for all the services these people need and deserve. Mr. Chairman, I had no answer, because the Federal Government has not lived up to its responsibilities in providing funds, which have been authorized and appropriated, to local communities like Dade County which have been financially burdened by the results of our Federal immigration policies. Just to cite the example of Dade County schools—as of January 30, 1992, 26 percent of the elementary and secondary school population were born outside the United States. Haitians already form the third largest group of foreign born students. For each foreign born refugee student, Dade County incurs $588 in additional unreimbursed annual costs. The immediate cost of taking care of foreign born students is thus estimated to be $136 million; the long range cost is estimated to be $665 million. These are costs the county cannot afford and Dade taxpayers should not have to bear.

From the beginning, Mr. Chairman, I have argued that the solutions to Haiti's problems are to be found in Haiti, not in the United States. We must restore democracy there. That is why I supported the embargo, although I knew it would do serious harm to the Haitian economy and exacerbate the flow of people seeking to flee. That is why I urged President Bush to call on the United Nations or the Organization of American States to send a peacekeeping force to Haiti to help bring about the stability necessary for democracy to be restored. That is why I have urged the administration and the military regime in Port-Au-Prince to support the Protocol reached this past weekend in Washington which calls on the Haitian Parliament to concur in the dispatch to Haiti of a civilian observer group from the OAS.

Unfortunately, the process of restoring democracy to Haiti may yet require considerable time. The embargo has not proven an effective tool to convince the Haitian elites which have supported the coup and the continuing military repression. This bill attempts to send a message to these supporters of military rule and repression by denying them admission to the United States. We need also to look closely at their assets in the United States and whether it would be feasible to freeze them. The bill also addresses the human dimensions of the tragedy by suspending for 6 months the repatriation of Haitians who fled their country in the hopes the situation will be stabilized but also in order to allow us to know more about the human rights situation in Haiti and to be sure that those being returned are not subject to reprisals of any kind.

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Much has been made of the lack of credible information about reprisals. But no one can assert with absolute certainty that there are no reprisals. The bill requires the State Department to report to Congress on the status of those who have been returned and, in so doing, to consult with those international human rights organizations which have been telling us that abuses have taken place. In addition, the bill provides for the admission of 2,000 refugees from Haiti each year. While this is a departure from past practice to leave specific allocation of numbers to a more informal consultative process between the Congress and the administration, I believe we are justified in mandating this to an administration which has been reluctant to grant refugee status, and the concomitant Federal financial benefits, the Haitians.

Mr. Chairman, I recognize that the bill before us does not solve the longer term problems of Haiti. That will require, in the first instance, a restoration of Haitian democracy, and over the longer term a firm commitment by the United States and other countries both in the hemisphere and beyond, to the economic development of Haiti. With democracy restored and the prospects of a brighter economic future, I believe the hard working and industrious people of Haiti will prefer to live and work in their own country rather than risk the perilous and illegal journey to the United States which so many have felt forced to undertake in recent months. I urge the adoption of this bill.

Mr. BROOKS. Mr. Chairman, I yield 30 seconds to the distinguished gentleman from Chicago, IL, Mr. GUS SAVAGE.

Mr. SAVAGE. Mr. Chairman, I rise in support of this legislation and to commend Chairman BROOKS for proposing to keep the Haitian refugees from being forcibly returned to Haiti. I only wish that we would go further and not only keep them at Guantanamo Bay but treat them the same as the Cubans and as we have treated others and let them come to the United States.

There are international organizations, including Americas Watch, which have verified they are subject to persecution upon their return to Haiti. We accept others.

The only distinction I can see here is one of race. Our immigration policy in this country has been filled with racism in the past. At least this is one step forward. For that reason I support the legislation and commend the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of this resolution. The principle we should operate on is that no helpless human being should be sent back to a tyranny, to a dictatorship. That is an issue of freedom versus tyranny. It goes to the soul of our country.

We are not saying we have to bring every refugee into the United States, but when it is possible, as we have, an alternative to keep them someplace else rather than sending them back to repression and to death and torture, we should go the extra mile to see if we can help these refugees. That speaks a lot to the soul of America.

That is why I am supporting this resolution.

Mr. BROOKS. Mr. Chairman, I yield 30 seconds to a distinguished member of the Committee on the Judiciary, the gentleman from Texas [Mr. WASHINGTON].

Mr. WASHINGTON. I thank the gentleman from Texas for yielding this time to me.

Mr. Chairman, I just want to ask one question: If there were 10,000 sheep that had gotten out of a pen and they belonged to a shepherd and a wolf had them, and the question was whether if the wolf let them go and they went back to the shepherd, would the shepherd kill them or run them off? Well, the smart shepherd would wait until he had all 10,000 of them back or kill the first boatload that came back?

The question these gentlemen are asking about the repatriation—whether or not violence is going to be exacted upon them—I think is premature. Sure, the smart people in Haiti want to do something about it. They are going to wait until they get all them all back, and then they are going to kill them. Then you are going to be the ones to have the blood on your hands.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to a distinguished Member from New York a long-time former member of the Committee on the Judiciary, now a member on the Committee on Ways and Means, and really the author, the instigator, the motivator, and the prime mover and shaker in this Haitian bill. I yield 2 minutes to the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. I thank my distinguished chairman for yielding this time to me, as well as my friend from Kentucky, for the leadership they provided on this bill.

I do hope that my friend from Florida [Mr. MCCOLLUM] might find some time so that we can have an exchange. This should not be a Republican or a Democratic issue. Certainly, when you talk about the different treatment that we have for Cubans, you would have to agree with me that this was a political decision that if they came from a Communist country we have to show our concern there. But if you take a look, and I have had a chance to go over the communication that the State Department has given you—take my word for it, I have been to Haiti, I have talked with the people from the State Department, I have talked with the people from our Embassy—when these poor wretched souls are finally dumped on the beaches of Haiti, they are greeted not just by the Red Cross people but they are greeted by soldiers. They are greeted by having their fingerprints taken, they are greeted by having their pictures taken.

We were able to hear, right in our Embassy, stories of the atrocities that have been committed on these people. It just seems to me that, as Americans, we could feel proud of ourselves if we were not trying to discuss some constitutional question, because I agree with the gentleman from Florida and I agree with the President that it should be we as Americans who determine who comes into our country and who does not come into our country.

But, for God's sake, there must be something on a higher level when people go out to sea in shark-infested waters, fleeing the terrors of an army that we ourselves have condemned.

The reason they are fleeing is because they believe in the principle that it was the United States of America that went there and taught them.

So, if we are talking about the new world order, if we are talking about providing democratic leadership in this hemisphere, why not send a message around the world that we are not going to send these people back to the terror from which they are trying to escape?

It would seem to me that this is something that should be nonpartisan. We are not asking you to take them into your home. We are not asking you to take them into your State. All we are saying is that you allow them to remain on a military base, which is tantamount to a concentration camp surrounded by barbed wire. If that is going to get you into political trouble, you should not be in this House.

Mr. BROOKS. Mr. Chairman, I yield 30 seconds to the distinguished gentleman from Iowa [Mr. NAGLE].

Mr. NAGLE. Mr. Chairman, in the 30 seconds that I have all I can do is ask to revise and extend my remarks, but I would tell you that the failure of the administration to act on this occasion, even to someone sitting in the Middle West, not near an island and certainly not where they are going to land, is one of the most outrageous incidents of U.S. foreign policy being driven by domestic politics that I have ever seen.

As an American, I would be tempted to accuse the administration almost of racism for their policies here, but I will simply say that it is misguided, that the resolution should be adopted. If that Statue of Liberty is to mean anything, it should point to the south in our own hemisphere as well as to point toward Europe.

Mr. BROOKS. Mr. Chairman, I yield 30 seconds to the distinguished gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Chairman and colleagues, for one brief, shining moment, the flame of democracy burned brightly in Haiti in December 1990. Seven months later, it was extinguished by repression. For the first time in the history of Haiti, the country had a freely elected president, whose tenure, last September, was crushed by the forces of Duvalierism and Macoute-ism.

The Haitian people seeking asylum in the United States do not flee a Communist country; they do flee repression in their own land.

I will speak about that later.

Maybe they are guilty of economic refugeeism, but it is a flight from destitution and desperation. They do not ask to stay, but they do want to go home in dignity. This bill will let them do so.

Mr. BROOKS. Mr. Chairman, I yield 30 seconds to the distinguished gentlewoman from California [Ms. PELOSI].

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Ms. PELOSI. Mr. Chairman, I thank the gentleman from Texas [Mr. BROOKS] very much for yielding this time to me. I commend the chairman for his actions in bringing this legislation to the floor.

Mr. Chairman, it is an honor to participate with the gentleman from New York [Mr. RANGEL] and the gentleman from Kentucky [Mr. MAZZOLI] on this legislation that is as fundamental to us as the principles on which our country was founded.

As my colleagues know, the provisions of this bill are very modest. Frankly, it is a very modest response to what is happening. It is clear the Haitians are fleeing the political chaos in their country, and are being discriminated against and being treated worse then others in similar situations.

My time is limited, so, Mr. Chairman, I urge my colleagues to vote "aye" on this important legislation.

Mr. Chairman, I rise today in strong support of H.R. 3844, the Haitian Refugee Protection Act. This bill would delay for 6 months the forced repatriation of Haitian refugees in United States custody as of February 5. The bill also directs the State Department to report on the fate of repatriated Haitians and calls on the President and international organizations to convene a conference on the Haitian refugee crisis.

The administration's callous act in repatriating these Haitian refugees is a travesty of justice and the very principles for which this Nation stands. Our European forefathers first came here over 300 years ago to escape persecution and tyranny. Over the past 200 years, since the United States was established, we have opened our doors and served as a haven for people whose homelands have been experiencing political and civil turmoil. In this century alone, we have granted special consideration to refugees from a number of countries, including Cuba, Poland, Uganda, Afghanistan, Chile, Argentina and most recently, El Salvador, Liberia, Kuwait, and Lebanon.

It is clear that the Haitians fleeing the political chaos in their country are being discriminated against and treated far, far worse than others in similar situations. Unlike the Haitians, Cubans picked up by the United States Coast Guard in the same kind of boats in the very same waters are brought to the United States and, at the discretion of the Attorney General, are eligible for permanent resident status after 1 year. The Haitians are repatriated. There are reports of Coast Guard cutters picking up both Cubans and Haitians in the same trip and taking the Cubans to Miami, while taking the Haitians to Port-au-Prince. This is wrong and this is immoral.

The administration claims that the Haitians are fleeing Haiti for economic reasons, not out of fear of persecution. The administration cites interviews with Haitians they intend to repatriate, as well as stories about the calm manner in which the Haitians are being greeted upon repatriation. They also claim that they are not seeing evidence of retaliation.

For decades, the Haitian people lived under one of the most repressive regimes in the world. Their society was pervaded by the Tontons Macoutes, who rules first through violence, and then through silent intimidation based on the fear of their capacity for violence. For a short period of time under President Aristide, the Haitians got a respite from dictatorship. Now, after the military coup, there is evidence that the Tontons Macoutes are on the rise again. They are stalking the cities, they are stalking the countryside, and they are present and watching at the repatriation locations. Even the Haitian Red Cross, a supposed independent nongovernmental organization has been denied affiliation with the International Committee for the Red Cross, because it is currently subordinate to the illegal regime ruling Haiti.

We are so fortunate with our freedom in this country that it is difficult to understand a world where silence or acquiescence in the face of a threatening presence, either governmental or endorsed by the Government, may be the only route for survival. The Haitian people took a real risk by electing President Aristide. Now, many of them will pay for that risk. And, the United States is responding to their democratic yearnings by returning them to a world of uncertainty and potential persecution and retaliation.

We, who have been fighting for democracy around the world, who entered a war in the Persian Gulf to help liberate a country not even struggling for democracy, must do better than this. Until the efforts to restore the legitimately elected Haitian Government are successfully completed, we should not repatriate Haitian refugees who are fleeing persecution and retaliation.

Until we act positively, lives continue to be at stake. The repatriation is on-going. I commend our colleague, Chairman MAZZOLI, for bringing this bill promptly to the floor and urge my colleagues to support H.R. 3844.

I also urge them to support the Conyers amendment, which would grant temporary protective status [TPS] to Haitians. The Mazzoli bill is good, but because of the need to compromise in committee, it does not go far enough. We have granted TPS to others faced with armed conflict and persecution in their homelands. The Haitian people are no less valuable and no less endangered. The Conyers amendment would protect them by allowing them to stay in the United States until the President certifies to Congress that a democratically elected government has been restored to Haiti.

I urge my colleagues to vote yes today for these initiatives which are firmly in the American tradition of providing a refuge for those whose dreams are for the democratic freedoms we too often take for granted.

Mr. MCCOLLUM. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Mr. Chairman, the Haitian Refugee Protection Act does not address two main problems.

The first is: What will happen to the Haitian refugees if democracy is not restored in 6 months, 1 year, 2 years, 3 years?

I recently had 26 town meetings, and overwhelmingly the people I talked to are very concerned.

The fear that many Floridians have expressed to me is that this change in immigration policy will create additional waves of Haitians coming into Florida. I think we all understand this concern. If the Federal Government's policy encourages more Haitians to flee their homeland, who should be financially responsible for their support?

The base at Guantanamo Bay can only hold so many people, and the facilities there are nearing capacity. It's simply not humane to crowd the refugees on a black-tar airstrip in the heat of the summer.

The citizens of Florida, indeed in all of the States, are humanitarian by nature. No one wants to see human suffering because of religious or political persecution.

But, there are other steps that can be taken. The United States should encourage the United Nations and the Organization of American States to take a more active role in ensuring that the Haitians being repatriated are safe while both organizations work toward the restoration of democracy in Haiti. Again, as has been mentioned before, we have already taken in 35 percent of those that have left Haiti already since the revolution.

Two alternatives will be offered as amendments by my Florida colleagues, Congressman CLAY SHAW, and Congressman PORTER GOSS.

These amendments ensure that if Congress requires States like Florida to take in more refugees then Congress should also find a way to help State and local governments pay the associated costs of these refugees.

The State of Florida still has $150 million in unreimbursed costs associated with resettling Mariel Cubans. That was more than 10 years ago.

We should not let that happen again.

Mr. BROOKS. Mr. Chairman, I yield 30 seconds to the distinguished chair-

man of the Subcommittee on International Law, Immigration, and Refugees, the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Chairman, I thank the gentleman from Texas [Mr. BROOKS] for yielding this time to me. Very briefly I would like to thank the gentleman from Texas for allowing us to bring this bill up.

I would like to very much thank my subcommittee. I could not have worked with greater people in getting us where we are today.

I would just remind the committee in the House what the bill does not do. It does not admit any people into the country who are not eligible to enter as refugees having passed the asylum screening process. It does not provide any immigration benefits or any kind of refugee benefits to any group of people. It is time limited. It is not open ended. This only is, very simply, a nonreturn policy. It simply says there are people who ought not to be returned today to Haiti. That is all this bill does.

Mr. MCCOLLUM. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina [Mr. COBLE].

Mr. COBLE. Mr. Chairman, I thank the gentleman from Florida [Mr. MCCOLLUM] for yielding this time to me.

Mr. Chairman, when one opposes a bill such as this, he is oftentimes accused of being uncaring and insensitive. I stand to oppose it, and I am neither uncaring, nor insensitive. It was debated in the Committee on the Judiciary, and there were many instances where shortcomings and flawed features of this bill were pointed out, and in the same breath it was said, "We're going to pass it, but we're not going to establish precedent."

I said then, and I say now, "I don't see how we can afford to avoid establishing precedent."

Perhaps we do not do so intentionally or willingly, but I think, with the passage of this proposal, we are unwittingly establishing precedent, Mr. Chairman, that we well may not be able to accommodate or afford.

Mr. MCCOLLUM. Mr. Chairman, I yield the remaining 2½ minutes to close debate on this side.

Mr. Chairman, there have been a lot of debate points made out here today, but I think that the most significant thing is an overview of this situation and for us to remember that.

First of all, we have been having the Haitian situation regarding the boat people for a long time. It is not new to the Aristide era. We have had Haitians leaving that island, and coming to the United States and trying to get here throughout the 1980's, and sometimes in large numbers. It has been our consistent policy of our Government to return and repatriate those that are truly economic refugees, and that has been, by far and away, the larger number from that island, as it has been from most of the Caribbean when they try to get here.

We have not changed the policies of this government one iota with respect to the situation of Haiti. We have not changed the policies of our Government with respect to any other part of the world because the Refugee Act and the asylum laws of this Nation are what guide us, and it is very important for us to maintain those. Those laws say that the only people we will take in here, other than through the normal, legal immigration process, whereby we do take in a lot of Haitians every year, the only way we will make an exception to that under our laws is if somebody is in reasonable fear of persecution for political, or religious, or race, or other reasons if they are returned to their homeland.

In the case of the Haitians since Aristide's departure, the unfortunate ouster of that democratic government, we have been screening on the island of Guantanamo the several thousand, the some 16,000, that have been picked up from Haiti by the Coast Guard cutters. Our Government has screened in 35 percent of those and given them the opportunity to have full legal claim to asylum to prove their case that they do fear persecution. There was the belief going overboard on the part of our Government that those 35 percent have a plausible possible claim. The others are being repatriated because, if they were not, we would be creating a magnet in this instance, and I think that is very, very wrong.

There is a big difference between the Cuban and Haitian situation. The Cubans consistently persecute those who are sent back. We have known that for years. That is why we never sent anyone back there. In the case of Haiti the record is clear. Persecutions have not historically existed, and they do not now. The Government has investigated over 159 cases since the Aristide overthrow occurred. Of those we repatriated, in every single case there has been no persecution shown despite reports that are out there. Every case investigated shows no persecution of those returned.

Let us keep and abide by the laws of this Nation. There are not similar cases to go with, except the history of Haiti. We need to have the U.S. immigration laws apply here, the refugee laws apply, and let us vote down this bill instead of encouraging more to come at a loss of life to them, a breach of the policies of this Government, and encouragement of thousands, yea millions, of those that are economic unfortunates who try to come here, and we just cannot absorb them all.

Mr. BROOKS. Mr. Chairman, I yield our remaining time to the distinguished majority leader, the gentleman from Missouri [Mr. GEPHARDT].

The CHAIRMAN. The gentleman from Missouri is recognized for 3½ minutes.

Mr. GEPHARDT. Mr. Chairman, I rise in strong support of this proposal to protect Haitian refugees from a forced return to their homeland where they face violence and persecution. This is not simply a matter of economic deprivation; it is a case of political persecution and a cause for action.

Supporters of this legislation do not dispute the fact that Haiti is economically depressed. Its economy is a catastrophe.

But President Aristide was not forced from office in a leveraged buyout or a bankruptcy.

His democratically elected government was ousted in a violent coup perpetrated by individuals who crave the days of dictatorship, and who repress Haitians committed to democracy with killings, beatings, arrests, surveillance, and intimidation.

His supporters are subject to arrest and murder for activities as commonplace as possessing campaign literature, teaching people to read, or even voting for the toppled President.

It is this pattern of outrageous behavior that is driving the Haitian people to refuge on the high seas and into the arms of U.S. personnel who have been ordered by our Government to send them home.

Haitian refugees being forcibly repatriated face harassment and subjugation upon their return. Refugees are greeted, as one critic has noted, with flashbulbs and fingerprints, not the kind of welcome one would expect for individuals fleeing economic deprivation.

And so, we are asking for a temporary halt in repatriation. We are asking that the Haitians be treated in the same way we treated the Kuwaitis and the Salvadorans when political persecution threatened those refugees in equally desperate hours. We are asking for a color-blind concept of political sanctuary that honors Haitians for their humanity, rather than singling them out because they are black.

It is a small effort. But it isn't too much to do, and it isn't too much to ask for people who yearn to breathe freely in their own country but cannot do so at this time of deep uncertainty for them and for Haiti.

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Mr. Chairman, all of us pray that this country will be restored to democracy. It is not too much to ask America to give this short time for Haiti to be restored, for these people to be saved, and for the time to come when they can return to their country as a democracy. Let us vote for this legislation.

Mr. STOKES. I rise today in strong support of H.R. 3844, the Haitian Refugee Protection Act. This bill addresses the tragic plight of the Haitian refugees who are fleeing their home-

land in fear of their lives. I commend the gentleman from Kentucky [Mr. MAZZOLI] for introducing this important legislation. I also commend my colleagues in the Congressional Black Caucus, Mr. RANGEL and Mr. CONYERS, who have played an important role in bringing this issue to the attention of Congress.

Mr. Chairman, in December 1990, we witnessed a milestone in history as the Haitian people, for the first time in 200 years, went to the polls in massive numbers to elect a president, a legislature, and municipal and local officials. Unfortunately, shortly thereafter a military coup ousted this democratically elected government. Immediately following the coup, hundreds of people were killed in the streets and countless human rights abuses were inflicted upon the Haitian people by the ruthless military forces.

The United States Embassy in Haiti acknowledged this dangerous situation citing "credible reports of indiscriminate killings, police harassment, illegal searches and looting of private homes and of radio stations, arrests without warrants, and detention of persons without charges and mistreatment of persons in the custody of Haiti's de facto authorities."

Mr. Chairman, since the military's brutal takeover, several thousand Haitians have fled their homeland for asylum in the United States. They have been intercepted by the Coast Guard and are now being detained in camps at Guantanamo Bay. The treatment of the Haitian refugees by the administration has been less than compassionate and stands in stark contrast to our recent reception of 2,000 Cubans who have been given at least temporary safe haven.

The events that have taken place in Haiti since last September constitute an extraordinary threat to the lives of any refugees forced to go back. Certainly those Haitians who fled the country as a result of the military coup will be targeted by the de facto government upon their return to Haiti. It is unconscionable that the administration would adopt a policy that would send these individuals back to a situation where their lives are in danger. No Haitian should be forcibly returned to Haiti until the democratically elected government has been restored and the safety of the refugees assured.

It is for these reasons that I support H.R. 3844. This bill would suspend for 6 months the forced repatriation of Haitian refugees in United States custody as of February 5. It also directs the President to set aside 2,000 refugee admission slots for Haitians in fiscal year 1992. Moreover, the bill requires the administration to report to Congress on the fate of refugees who were intercepted by United States personnel and returned to Haiti. Mr. Chairman, I support this moratorium because it is the right thing to do—it is the moral thing to do.

These asylum-seekers are entitled to be treated with dignity, compassion, and respect. The United States has a long and distinguished history of protecting those fleeing political persecution. Certainly we can provide at least temporary safe haven to our Haitian neighbors. Such action would be consistent with the humanitarian traditions of our great country. Justice requires that the administration's hasty repatriation program be halted. I urge my colleagues to support this measure.

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in strong support of H.R. 3844, the Haitian Refugee Protection Act.

I am deeply saddened that we have found it necessary to stop the administration's forced repatriation of Haitian refugees through legislation. I had hoped that our President's alleged kinder and gentler personality would make one of its all too infrequent appearances during this tragic episode, but it was not to be. Apparently the administration does not believe the political situation in Haiti is serious enough to warrant declaring these men and women, and even innocent children, political refugees.

Never mind that the democratically elected President of Haiti Jean-Bertrand Aristide was overthrown by a military coup. Never mind that every Haitian citizen risks intimidation and takes his or her life in his hands when they go to the ballot box to exercise their right to vote. And never mind that incidents of atrocities have been documented by reliable international sources such as Amnesty International. The administration policy leaves one thinking why anyone would want to leave this Caribbean paradise.

The hypocrisy in this decision is glaringly evident. In the early 1980's, we opened our borders to hundreds of thousands of Cuban refugees fleeing the dictatorship of Fidel Castro. And it was not long ago that the administration was criticizing the British Government in Hong Kong for returning Vietnamese refugees to their homeland against their will. Yet when a few thousand Haitian refugees desire to enter the United States, the administration closes the door and turns out the light. H.R. 3844 will bar the repatriation of those refugees held by the United States on or before February 5 of this year.

Mr. Chairman, it is morally wrong to send these men and women back to Haiti to face a fate which we cannot effectively monitor. The administration has already recognized Haiti's political crisis by going along with OAS economic sanctions. Now we must go one step further by giving these political refugees asylum here in the United States. Shouldn't men and women of all nations fleeing political tyranny be given the same treatment by our country. Apparently, under current policy some refugees are more desirable than others. Apparently, some suffering is more desirable for our country to absorb than other suffering.

Mr. Chairman, I urge my colleagues to support H.R. 3844 and help end this most unfortunate tragedy.

Mr. WEISS. Mr. Chairman, I am in strong support of H.R. 3844, the Haitian Refugee Protection Act.

I would like to begin by recognizing my colleagues, Messrs. RANGEL and MAZZOLI, for the unyielding commitment and dedication that has given us the opportunity to act on a bill that offers thousands of Haitian refugees protection from the brutal repression that plagues the island of Haiti. But it is a sad day when Congress has to come to the floor to prevent an American President from returning innocent victims back to a country ruled through violence and repression. Unfortunately, the Bush administration has left Congress with no choice but to act on this legislation.

The tragic lesson of the St. Louis that carried European Jews back into the waiting arms of Hitler's Germany has obviously been lost on the President. And now, like those innocent Jews, millions of Haitians have been forced to pay the ultimate human price for another United States mistake.

Contrary to his opinion, the President's weak attempt at political asylum for a few, does not relinquish our greater responsibility for the many. It does not cleanse our conscience nor remove our involvement in the failure of this new democratic experiment. It buys nothing, and instead creates a dire humanitarian crisis in a political environment that, unlike Guantanamo Bay, the United States has little influence.

But H.R. 3844 can save the lives of thousands who face imminent danger if returned to Haiti. It would be a great step toward salvaging an already poor attempt at humanitarian assistance. And it can give us firm moral ground by which to tackle the larger problems of restoring democracy to Haiti.

The bill would require a prohibition on forced repatriation. It would allow 2,000 refugees to seek political asylum, and it would ban those responsible for the coup from seeking haven here in the United States. The bill would also require that Congress receive a full report on the welfare of repatriated Haitians and call upon the President to organize an international conference on the Haitian refugee issue.

Mr. Chairman, what we do here today cannot make up for the lives of those who have been returned into the hands of the Junta. It does not result in a jump in political polls, and it may not bode well with some voters. But it does allow the Congress to reverse a policy that is disingenuous and morally bankrupt. It does give us the chance to protect those who need protection whether they're economic or political refugees.

W.E.B. DuBois, the notable African-American scholar, once said that the first step in responsibility is responsibility. If we are to answer the call of the "New World Order," underwrite democracy around the world, and ensure that oppression will not stand in this hemisphere or any other, then we should begin by taking the responsibility to protect the very people Haitian oppressors mean to target.

Approve H.R. 3844 and approve a policy that is urgently needed. I would urge my colleagues to support this bill.

Mr. MINETA. Mr. Chairman, I rise today in strong support of H.R. 3844, the Haitian Refugee Protection Act.

I would also like to take this opportunity to thank the gentleman from Kentucky [Mr. MAZZOLI] as well as the gentleman from New York [Mr. RANGEL], for their leadership as this crisis has continued.

Mr. Chairman, ever since last September's military coup which ousted President Jean-Bertrand Aristide, thousands of refugees have left the island and have been intercepted by the U.S. Coast Guard. Currently, more than 7,400 are being held at the U.S. Naval Base at Guantanamo, Cuba.

Over 6,000 Haitians have already been repatriated to Haiti, and Amnesty International and Americas Watch have documented the persecution they potentially face.

Amnesty International has reported that, on November 15 of last year, a group of young

men were arrested and severely beaten by authorities who suspected they were preparing to flee the country. They were forced to reveal the names of others who were preparing to leave.

In all, 40 young men were detained and no word of their whereabouts has been received.

Mr. Chairman, there can be no doubt that the threat of political persecution and human rights abuses in Haiti is real.

There is a clear principle of international law—which we are bound legally and morally to obey—that states that no refugee should be forced to return to his home country if he faces death or a loss of freedom.

I believe that standard has been met in this case, and for that reason I will vote for H.R. 3844. We can give no less consideration to refugees from Haiti than we give to refugees from any other nation.

I urge my colleagues to support the bill.

Mr. LEWIS of Georgia. Mr. Chairman, I rise to urge my colleagues to support H.R. 3844. We, in the Congress, must halt the force return of the Haitian refugees. We have a moral obligation to do so. The administration and the courts have made a mockery of the Nation's commitment to freedom. It is up to this Congress to extend freedom to those who cannot have it in their own country. We cannot allow ourselves to continue to mock the principles for which we stand.

After visiting Haiti last week, it was clear to me that the rule of law does not exist there. The police and the army do not protect people; they intimidate the people. Many elected officials and supporters of President Aristide told the delegation I traveled with that they live in constant fear.

We cannot and will not be satisfied until the legitimate government is restored to Haiti. We must continue to work with the OAS to reach that goal. Until then, we must stop the forced return of Haitian refugees. It is my feeling from the people we spoke with in Haiti—including elected officials, representatives of relief agencies, and church officials—that the refugees are not simple economic refugees. They have become refugees because of political oppression. There is a climate of fear, of political repression in Haiti. These refugees have sold everything they have, risked their lives to travel across shark-infested waters in flimsy boats, and have sought asylum upon our shores. We must not turn them away.

We must do what we can to help these innocent people. This bill is the humane thing to do. This bill is the right thing to do.

Mr. Chairman, I again urge my colleagues to support H.R. 3844.

Mr. SMITH of New Jersey. Mr. Chairman, I rise in support of H.R. 3844, the Haitian Refugee Protection Act of 1992, and I urge the Members of this House to enact it into law in the compromise form reported by the Judiciary Committee.

Since the brutal military coup that overthrew the legitimate, elected government of Haitian President Aristide, the situation in Haiti has taken on alarming proportions.

The steady improvement in the human rights situation that we witnessed during the short period of democratic government ceased. Hundreds of lives were lost in the coup and its immediate aftermath, and even now, 5 months after the military assumed control, there are alarming reports of continued executions, arrests, imprisonment, and retribution.

The military coup also aborted any prospects for the kind of economic development that could lift Haiti from its desperate poverty.

We are called to pass the legislation because of a particular impact of the coup for the United States—an alarming increase in the number of Haitians who have fled their country, hoping to come to the United States. We have all watched the drama on our television screens—the scenes of overcrowded boats loaded with men, women, and children—their rescue from hazardous seas by the resolute seafarers of the U.S. Coast Guard—their incarceration in overcrowded conditions at Guantanamo Bay—and yes, Mr. Speaker, the involuntary repatriation of many of them to the control of the same brutal regime they had fled.

This drama has presented the administration and now, this House, with some substantial dilemmas.

Our laws have long recognized a valid distinction between refugees and economic migrants. What should our Nation do when political persecution and disorder combine with the worst poverty in the Western Hemisphere to prompt such an exodus?

Can we be confident that returnees suffer no retribution when an understaffed U.S. Embassy and a barely organized human rights network cannot undertake an active program of followups?

How can we provide for the safety of those who have fled conditions in Haiti without providing an incentive for even more to flee?

There may be no perfect answer to these dilemmas. But I commend the work of the subcommittee in placing before this House a compromise bill which deserves our support.

H.R. 3844 would halt the repatriation of the Haitians who were in United States custody as of February 5. This measure would end the return of the Haitians at Guantanamo into the hands of the military government. It would not end repression in that country, but it would stay the return of those Haitians who have already given evidence of their opposition to the coup by fleeing.

The bill would provide 2,000 refugee slots for Haitians, allowing the United States Embassy to allow that many Haitians to leave in an orderly and safe manner. This will allow many Haitians to reach the safe haven of our country within the framework of our existing immigration and refugee policy.

Admitting these individuals who qualify under refugee criteria would complement the process of legal immigration by those who have qualified under the normal family unification provisions of our immigration law—a process that has allowed more than 140,000 Haitians to immigrate to the United States in the last 10 years. This reflects the basic humanity and generosity of our immigration policy.

These measures Mr. Speaker, are a reasonable response to the crisis of the refugees while the administration, working with the OAS, continues its efforts to restore the democratic president of Haiti. An agreement involving President Aristide, a National Assembly vote free of military coercion, a new Prime Minister, an amnesty, and an OAS civil peace force is a step forward toward resolution of the crisis. Hopefully, when President Aristide is restored in office, the provisions of this bill will be rendered moot.

I know, however, that this bill does not satisfy all the appeals that we in Congress have received.

On one hand, the provisions to grant temporary protected status to all the Haitians who have left or will leave their country were deleted during consideration in subcommittee.

I understand that many dismiss the fears of a "magnet effect" as thinly disguised prejudice. It would be impossible, they say, for many Haitians to attempt a voyage to the United States. To these objections, I say—look at a map.

The distance from Haiti to Florida is just a little shorter than the distance between Vietnam and Hong Kong. Vietnam and Haiti are both poor. Yet in 15 years, between 850,000 and 900,000 Vietnamese left that nation by boat, and the United States granted admission to almost 600,000 Vietnamese refugees. The widespread lack of support for TPS in this House is not based on prejudice, but a justifiable caution.

On the other side of the spectrum, there are some who oppose this bill from a fear that Haitian refugees will require a disproportionate amount of welfare support in a society that cannot now afford generosity.

To them I answer that only those who indeed have a well-founded fear of persecution will be entering the United States. The bill does not provide for the admission of the many Haitians at Guantanamo Bay who have not been screened by the asylum examiners of the Immigration and Naturalization Service. Those who do not qualify for asylum or refugee status will remain temporarily outside the United States.

Mr. Chairman, in this world of harsh dilemmas and uncertainties, where malign realities assault the best of ideals, there is no perfect response to this situation. But I believe H.R. 3844 in its current form is both humanitarian and prudent. I urge it be passed.

Mr. COX of Illinois. Mr. Chairman, today I rise in support of H.R. 3844, the Haitian Refugee Protection Act. The bill will temporarily halt the repatriation of Haitian refugees fleeing from political violence.

We watched in horror last fall as the first democratically elected government in Haiti was toppled by a military-led coup. The free nations of the world cried out for an immediate restoration of the duly elected leader of this country, Jean-Bertrand Aristide. Congress spoke out with the passage of House Resolution 235, which denounced the coup and called for a return of the democratic government of Aristide. Unfortunately, that democracy, which survived for less than a year, has yet to be restored.

What upsets me the most is the fact that our President seems to be sending the wrong signals to the people of Haiti and to the world. I was disappointed and confused by the administration's proposals to weaken economic sanctions against the illegitimate government of Haiti. The administration, which has rightly spoken out so strongly against this government, seems by their actions to be legitimizing

this government. First, by proposing the weakening of sanctions, in spite of the Organization of American States and second, by opposing this bill, the Haitian Refugee Protection Act, when political crimes have been cited by such groups as Amnesty International and American Watch.

Over the last months we have watched the battle between the President and the courts over returning thousands of Haitian refugees who are fleeing the terror of a government that gains its legitimacy through brute force. Hundreds, perhaps thousands, have been killed and tortured because of their outspoken support of the democratically elected Aristide. Unfortunately, the Supreme Court of this land saw fit to overrule a lower court ruling, blocking the administration's forced return of Haitian refugees until a Federal appeals court decides the pending legal question.

In the meantime, we continue to return those fleeing from the terror to a brutal military regime providing them with names and addresses,—names and addresses which make political dissenters easier to locate and punish. There are stories of U.S. Coast Guard ships conducting the screening process on board their boats, sending Cuban refugees to Miami without question and sending the Haitian refugees back to Port-au-Prince. This is not what the United States of America has stood for over 200 years, nor should it be what we will stand for today.

H.R. 3844 will temporarily halt the repatriation of Haitian refugees in United States custody since February 5. The bill requires the administration to report on the situation of those refugees returned to Haiti within 6 months of the enactment of the legislation, which is the length of the temporary halt on repatriations. In short, this bill will reestablish our Nation's decency in accepting political refugees fleeing for their lives. This bill is right, it is humane, and it is urgently needed.

We have spoken out against nations throughout the world for their failure to accept political refugees and yet, today, in our own backyard, we fail to practice our own high standards. Let us begin to live up to the high ideals we have lived up to for over 200 years by passing this legislation and sending a message to the illegitimate government of Haiti and to the world.

Mr. LAGOMARSINO. Mr. Chairman. I rise to oppose H.R. 3844, the Haitian Refugee Protection Act. I am convinced that existing laws and policies provide adequate protection to genuine Haitian refugees.

I agree that many Haitians face political persecution in the wake of the illegal September 30, 1991, coup. As the ranking Republican member of the Foreign Affairs Committee's Subcommittee on Western Hemisphere Affairs, I have heard eloquent testimony on the terrible repression since President Aristide was overthrown in a military coup. The State Department's own human rights report discusses these violations in detail. But that is not the issue before us today.

The question today is whether Haitians who do not have a credible claim to refugee status and have been repatriated to Haiti face reprisals. And the answer to that question, according to all evidence, is "No."

Some have criticized the State Department's repatriate monitoring system. I do not believe that is a fair criticism. The consular section of the Embassy in Haiti was increased to its full staff earlier this month. Embassy staff travel throughout Haiti, talking to relief workers, Haitians, and Americans.

The Embassy has personally examined many cases, including those involving the so-called "double-backers," Haitians who were repatriated in November and fled again claiming persecution. Their stories have not checked out.

I urge my colleagues to consider one fundamental fact: Just as the State Department has no evidence of reprisals against repatriates, neither do any of the human rights or refugee advocacy groups. Yet we do not criticize the positions taken by many of these groups despite their lack of evidence.

The facts show that many of the Haitians are more concerned with getting to the United States than they are with staying out of Haiti. Many of the Haitians who were relocated in other Latin American countries—including Venezuela and Honduras—chose to return to Haiti, at least in part because they were in third countries rather than in the United States. Furthermore, very few Haitians have crossed the porous land border with the Dominican Republic—an obvious and available path of escape for those genuinely afraid for their lives.

Mr. Chairman, we all feel sympathy for Haitians fleeing the terrible economic conditions in the poorest country in the hemisphere. But we cannot and should not make refugee policy based on allegations that do not have a basis in fact. I urge my colleagues to oppose H.R. 3844.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute printed in the bill is considered as an original bill for the purpose of amendment and is considered as read.

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

H.R. 3844

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 "Haitian Refugee Protection Act of 1992".

SEC. 2. PROTECTION OF HAITIANS IN UNITED STATES CUSTODY.

The President shall provide that no Haitian in the custody or control of the United States as of February 5, 1992, whether on board United States Government vessels, at Guantanamo Bay, Cuba, or elsewhere, outside the United States will be involuntarily returned to Haiti until—

(1) 180 days after the date of the enactment of this Act, or

(2) 5 days after the date of submission of the final report under section 3(c).

whichever occurs later.

SEC. 3. DEPARTMENT OF STATE STUDY AND REPORT.

(a) STUDY OF HAITIANS RETURNED TO HAITI.—The Assistant Secretary of State for Human Rights and Humanitarian Affairs, in conjunction with the United States Coordinator for Refugee Affairs, shall conduct a study concerning Haitians who were interdicted or rescued by United States Government vessels after September 29, 1991, and were returned to Haiti and concerning Haitians who were deported from the United States after such date. Such study shall assess their condition and circumstances in Haiti after their return, with particular attention to any violations of fundamental human rights.

(b) PARTICIPATION OF HUMAN RIGHTS ORGANIZATIONS.—In conducting such study the Assistant Secretary of State for Human Rights and Humanitarian Affairs shall use the resources, information, and expertise of internationally-recognized human rights organizations and such other sources as may be appropriate.

(c) CONGRESSIONAL REPORTS.—The Assistant Secretary of State for Human Rights and Humanitarian Affairs shall prepare and submit to the Speaker of the House of Representatives and the President of the Senate a detailed preliminary report of the findings of the study under subsection (a) not later than 90 days after the date of the enactment of this Act, and a final report not later than 180 days after the date of the enactment of this Act.

(d) CONGRESSIONAL INQUIRIES.—The Assistant Secretary of State for Human Rights and Humanitarian Affairs shall respond not later than 7 working days after receipt of a written request of a Member of Congress for information concerning the study or reports under this section.

SEC. 4. REALLOCATION OF 2,000 FEDERALLY FUNDED REFUGEE ADMISSIONS DURING FISCAL YEAR 1992 TO HAITI.

(a) IN GENERAL.—The President shall change the allocation of refugee admissions for fiscal year 1992 provided in Presidential Determination 92-2 (pursuant to section 207(a)(3) of the Immigration and Nationality Act) so as to provide for an allocation of at least 2,000 Federally funded refugee admissions to Haitian refugees of special humanitarian concern.

(b) USE OF CURRENT FEDERALLY FUNDED REFUGEE ADMISSIONS.—In changing the allocation of refugee admissions during fiscal year 1992 pursuant to subsection (a)—

((1) the total number of such refugee admissions shall remain the same;

(2) the 1,000 refugee admissions allocated to the category "Unallocated (funded)" shall be reallocated to refugees described in subsection (a); and

(3) the remainder of the refugee admissions reallocated under subsection (a) shall come from such other category (or categories) as the President specifies.

SEC. 5. CONGRESSIONAL STATEMENT.

The Congress urges the President and the Secretary of State to participate actively with the United Nations High Commissioner for Refugees and the governments of the member countries of the Organization of American States (OAS) in the convening of an international conference on Haitian refugees and displaced persons which seeks to adopt a comprehensive program of action to solve the Haitian refugee crisis in all its aspects, taking into account the concerns of all interested parties and the rights and welfare of Haitian refugees and displaced persons.

SEC. 6. CERTAIN HAITIANS INELIGIBLE TO RECEIVE VISAS AND EXCLUDED FROM ADMISSION.

(a) EXCLUSION.—During the period specified in subsection (c), an alien designated under subsection (b) shall be ineligible to receive any visa and shall be excluded from admission into the United States.

(b) DESIGNATED ALIEN.—An alien designated under this subsection is any alien who—

(1) is a national of Haiti, and

(2)(A) provided financial or other material support for, or directly assisted, the military coup of September 30, 1991, which over-threw the democratically-elected Haitian Government of President Jean-Bertrand Aristide; or

(B) provided financial or other material support for, or directly participated in, terrorist acts against the Haitian people after that coup.

(c) PERIOD OF EXCLUSION.—The period of exclusion specified in this subsection begins on the date of the enactment of this Act and ends on the date on which the President certifies to the Congress that democratically elected government has been restored in Haiti consistent with the Haitian Constitution.

The CHAIRMAN. No amendment to the committee amendment in the nature of a substitute is in order except those amendments printed in House Report 102-436. Said amendments shall be considered in the order and manner specified in the report, shall be considered as read, shall be debatable for 20 minutes, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for a division of the question.

It is now in order to consider amendment No. 1 printed in House Report 102-436.

AMENDMENT OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Chairman, I offer an amendment made in order under the rule.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. CONYERS:

Strike section 2.

At the end insert the following:

SEC. . TEMPORARY PROTECTED STATUS FOR HAITIANS.

(a) DESIGNATION.—During the period specified in subsection (c) of this section, Haiti is hereby designated under section 244(b)(1) of the Immigration and Nationality Act (relating to temporary protected status).

(b) ELIGIBLE HAITIANS.—Any alien—

(1) who is a national of Haiti who is present in the United States, or who is in the custody or control of the United States (including on United States Government vessels, at Guantanamo Bay, Cuba, or elsewhere outside the United States) at any time during the period described in subsection (c) of this section.

(2) who meets the requirements of section 244A(c)(1)(A)(iii) of the Immigration and Nationality Act, and

(3) who, during the period described in subsection (c) of this section, registers for temporary protected status to the extent and in a manner which the Attorney General establishes,

shall be granted temporary protected status for the duration of that period and section 244(a)(1) of the Immigration and Nationality Act shall apply with respect to such alien.

(c) PERIOD OF DESIGNATION.—The designation pursuant to subsection (a) shall be in effect during the period beginning on the date of enactment of this Act and ending on the date on which the President certifies to the Congress that democratically elected government has been restored in Haiti consistent with the Haitian Constitution. Subsections (b)(2) and (b)(3) of section 244A of the Immigration and Nationality Act do not apply with respect to the designation pursuant to subsection (a) of this section.

The CHAIRMAN. Under the rule, the gentleman from Michigan [Mr. CONYERS] will be recognized for 10 minutes in support of his amendment, and a Member opposed will be recognized for 10 minutes.

Mr. MAZZOLI. Mr. Chairman, with the greatest of respect, I rise in opposition to the gentleman's amendment.

The CHAIRMAN. The gentleman from Kentucky [Mr. MAZZOLI] will be recognized for 10 minutes in opposition.

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

Mr. CONYERS. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, the amendment that I am offering is a simple, straightforward provision that follows from the remarks of the majority leader. I have the only provision that will be heard today on this bill that grants temporary protected status to Haitians fleeing violence and persecution in Haiti until such time as a democratic government is restored.

Why is the amendment needed? It is needed because there is an emergency. Haitians are dying on the seas, and they are being murdered and tortured in their country simply for supporting democracy. Haitians are willing to risk the sharks at sea rather than face their military at home. That should tell us what we need to know about the bravery and the desperation of Haitian refugees.

I ask for the support of the Members for this amendment because the bill before us without this provision is so limited, and I say this with all due respect to my colleagues on the Judiciary Committee, that it is a hollow mockery of its stated goal to protect Haitians. The reason is that, because this bill applies only to Haitians who left Haiti before Feburary 5, 1992, it will apply ultimately to practically no one. Last night Chairman BROOKS said there were about 3,000 refugees covered, but as we speak, Haitians are being forcibly returned to Haiti. We should treat them no differently than the way we treat other refugees.

Many of the Members of this body voted as I did to grant the same identical temporary status to Salvadorans in 1980. We should do no less for the Haitians and remember that never before in history have we turned refugees back to an illegitimate government.

Mr. Chairman, I urge support for this amendment.

Mr. MAZZOLI. Mr. Speaker, I yield myself 3 minutes.

Mr. Chairman, let me first of all pay tribute to my friend, the gentleman from Michigan [Mr. CONYERS]. We sit side-by-side in the committee, and we have fought many a fight and many a good cause together, as we have this one, and I want to salute him on all the good work he has done. It has certainly helped us in reaching this point.

Having said that, I do have to oppose the gentleman's amendment. I think the adoption of the amendment would really put us in jeopardy of getting anything through the other body, through the conference, and to the President for whatever its fate is at that point. I say that even though the original Mazzoli amendment or the original Mazzoli bill, H.R. 3844, did have temporary protected status in it. But after my very distinguished subcommittee met and after we had our hearing and after we meditated on this thing, it came to us that we had to change this bill to make it a more limited bill, a bill that could actually become law and actually work.

So I say, again with respect to the gentleman from Michigan, that his amendment, with the temporary protected status designation for all of the Haitians who are at Guantanamo or would be at Guantanamo, would have a magnet effect. I think it would constitute a reason for people to leave Haiti and to be rescued by the Coast Guard and taken to Guantanamo, because the gentleman's amendment applies not only to those on the island by February 5, which is the date in the bill before this committee, but also any time thereafter. So any Haitians who would leave Haiti today, for instance, and be in Guantanamo tomorrow or the day after would be covered by this bill. They are not covered by the committee bill.

Furthermore, unlike any other temporary protected status the gentleman from Kentucky has ever seen, the amendment offered by the gentleman from Michigan would not have any date certain connected with it. Every other TPS bill says it is good for a year, it is good for 18 months, or it is good for 60 days, or it gives an actual date. The gentleman's amendment is open-ended. It would apply to any Haitians covered today, covered tomorrow, or covered the day after.

I say again that we had this in our original bill. We thought about it, and felt it would be the ideal. But, I think in this case if we went for the ideal, we would be missing the mark because, as I said yesterday, in the course of general debate, we have to keep our eye on the sparrow, and the sparrow here is the Haitians who are at Guantanamo as of February 5. It is for them that we are trying to work our judgment, trying to protect them against being forcibly repatriated to Haiti.

So, Mr. Chairman, I urge the committee to support both the Subcommittee on Immigration, which I am honored to chair, and the full Committee on the Judiciary, in which the gentle-

man's amendment was offered and defeated. I hope that the committee will defeat the amendment and move forward with the bill as it is constituted today.

□ 1630

Mr. CONYERS. Mr. Chairman, I yield 1 minute to the distinguished gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Chairman, I think we are all grateful to the gentleman from Kentucky [Mr. MAZZOLI] and the minority members of the subcommittee. They have done a very good job. However, in a very modest way and a conservative way, I think the amendment of the gentleman from Michigan [Mr. CONYERS] improves the bill.

This 6-month limitation is kind of frightening for the Haitians who are at Guantanamo. If the period is going to run, every morning they are going to wake up and think another day has passed, another week has passed, another month has passed. Yet all the amendment of the gentleman from Michigan [Mr. CONYERS] does is say that they can stay until democratic government has been restored to Haiti.

Mr. Chairman, this seems to me a perfectly reasonable and more humanitarian response than the very excellent bill provided by the subcommittee. I urge approval of the Conyers amendment.

Mr. Chairman, I rise today in support of H.R. 3844 and to express my appreciation to the chairman of the Immigration and International Law Subcommittee, ROMANO MAZZOLI, for his leadership on this issue. Chairman MAZZOLI has worked hard to craft a responsible approach to a problem that offers no easy answers.

While I respect and support the chairman's work on this bill, I believe the amendment offered by my friend and colleague, JOHN CONYERS, presents a more humanitarian and comprehensive approach to dealing with the needs of those Haitians who come to our shores.

By granting temporary protected status to Haitians until a democratically elected government has been restored in their country, the Conyers amendment recognizes that this restoration may take more than the 6 months allowed for in the committee bill.

The amendment also takes into account the fact that there may be more Haitians fleeing their country after the February 5 deadline set out in the committee bill. We need to have a policy for all Haitians, not just the ones with the good fortune to have come into United States custody before February 5.

We have provided temporary protected status to Salvadorans whose homeland was torn apart by civil war. The United States Government also routinely permits those escaping the Castro regime in Cuba to enter our country. Thus, we have established a tradition of providing refuge for immigrants from other troubled nations in our hemisphere. We should continue that tradition today by adopting the Conyers amendment.

Mr. MAZZOLI. Mr. Chairman, I yield 3 minutes to the gentleman from Florida [Mr. MCCOLLUM], the distinguished ranking member.

Mr. MCCOLLUM. Mr. Chairman, I thank the gentleman for yielding. I want to thank the gentleman from Kentucky [Mr. MAZZOLI] right up front as the chairman of my subcommittee for being very gracious through this process and very deliberate. I think that the chairman's comments just made in opposition to this amendment are right on the mark with regard to the distinctions, with regard to the temporary protective status that is offered in this bill versus what we have done historically.

I would like to add to that with a couple of points. First of all, the gentleman offering this amendment, Mr. CONYERS, says something that I absolutely agree with. We should treat the Haitian refugees no different than we treat other refugees.

That, frankly, is what we are doing in this bill. Actually we are treating them fairer than we treat most other refugees, in a different way. As a matter of fact, we are treating them better in the process the Government is going right now at Guantanamo than we treat most refugees.

They are being treated as asylees under the administration's procedures, and that is what they would be treated as if this bill were passed. That is, they are being given the opportunity, if they have a plausible claim for reasonable fear of persecution if they are sent back home, which is our Refugee Act status and our asylum status, they are being given the right to come into this country and being paroled into this country and go before an immigration judge to have their case heard and to argue their point.

That is different. In a sense, that is better for them, in that sense of difference. It is a thing most refugees do not get. Most refugees we look at around the world, before we decide to bring them in here, are screened completely by the State Department, never see an immigration judge, never set foot in this country until that decision is fully made and adjudicated.

So in that sense they are being treated better. But they are not being treated any differently in any discriminatory fashion.

Second, if you adopted this amendment we would be doing far more than we are doing in this bill than simply a distinction with temporary protective status we have given other people.

What we are doing in the bill, if it were to pass, and what the administration is doing, is leaving the people at the island of Cuba at Guantanamo. They are not being brought into the United States at all, except the ones that have been prescreened that I mentioned. But everybody would come in who is there right now. Everybody would come to the United States if this amendment were to pass, economic refugee, plausible claim, or otherwise, they would all be brought here and they would all have work authorization. They would get into our work force.

What happens? We have a history of that. We do not have the manpower at Immigration Service to go and keep track of all those people. We do not authorize enough money. We do not have enough personnel. We cannot begin to know who does and who does not stay here.

That is the very magnet that people are talking about that is so fearsome if we bring everybody over here. The fact that you can stay here and the chances are you are going to get to stay here is the lure. That is why, quite frankly, I am opposed to this bill. But I am even more opposed to the amendment of the gentleman from Michigan [Mr. CONYERS], because he provides the magnet.

We cannot take in all the economic refugees from Haiti nor anywhere else. It would be nice if we could. I know conditions are bad down there. I am sympathetic to them. But this country cannot take them all here. We have to find other means of dealing with the problem. The means that are going on now are the fairest means. I do not agree with the bill, but it is certainly far preferable to what Mr. CONYERS is proposing, to bring them all here.

Mr. Chairman, I thank the gentleman for yielding.

Mr. CONYERS. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I do it only to respond to my friend, the gentleman from Florida [Mr. MCCOLLUM], because at least he has been upfront and has put it on the table why he is opposed to temporary protective status. The gentleman gave all the reasons rather eloquently. He cannot come back now and say that this provision that we are currently debating, which allows only those in the country before February 5, 1992, is doing as much or more as we have done for other refugees. I would refresh his memory.

January 3, 1992, temporary protective status period was extended for another year for 6,761 Lebanese. On January 3, 1992, temporary protective status period was extended for another year for 4,393 Liberians. And 2,227 Palestinians under TPS can stay in the United States until 1996, and 40,000 Chinese.

So that is completely different from what the gentleman has pointed out. What I am trying to do is get them the same rights that we have granted Lebanese, Liberians, Palestinians, and Chinese.

Mr. MAZZOLI. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I think it is worth noting for the RECORD that were the amendment of the gentleman from Michigan [Mr. CONYERS] to be adopted, it would cover all Haitians, those at Guantanamo or those in this country,

whether they are here because they passed the asylum prescreening or because they are here illegally. They would in any event receive this temporary protected status.

Furthermore, there is, as I mentioned earlier, no limit on when this status will be granted. There is no starting time and there is no ending time, unlike all other applications of temporary protective status.

The temporary protective status itself contemplates people being in this country. The very nature of the statute, the wording of it, the benefits conferred, the work authorities conferred and other kinds of support are contemplated only for people who are already in this country. You have here the bulk of the Haitians in Guantanamo. And, some are in some other South American countries.

So the very nature of the TPS statute is awkward when you deal with any except people already in this country. I think it is fair to say that the other body has before it a bill identical with the committee bill that was introduced by the senior Senator from Massachusetts. If we can match up with that bill, we can move our bill along more swiftly.

The CHAIRMAN. The Chair would advise Members that the gentleman from Michigan [Mr. CONYERS] has 6 minutes remaining, and the gentleman from Kentucky [Mr. MAZZOLI] has 3 minutes remaining.

Mr. CONYERS. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. OWENS], who has worked so very hard on this subject matter.

Mr. OWENS of New York. Mr. Chairman, I rise in support of the amendment. Although the resolution is an honorable compromise, the amendment is closer to the tradition of compassion and generosity of the American people than the resolution.

I would like to remind Members that when the Soviets invaded Hungary, we brought more than 50,000 Hungarians into the country. We flew them over miles and miles of ocean and brought them here under temporary protective status. Within a year we blanketed them all in as permanent resident status.

More than 400,000 Cubans have been treated in a similar manner. There are many, many other examples that can be given.

This resolution is out of step with that practice, out of step with that spirit. We can resolve the problem of the Haitian refugees by using the tremendous power and influence of this Nation to regenerate and restore democracy in Haiti. That is what we can do to solve the problem.

Before Aristide was kicked out, the number of Haitians trying to get into this country had gone down to almost zero. That is the way to solve the problem, restore democracy and use our influence. Until we do that, it is an illegal government, it is a terroristic government, it is a bunch of military thugs. To send people back where they are fingerprinted and photographed, and there is only one reason they can be fingerprinted and photographed, is in order to intimidate them and later on to persecute them, so let us move in step with the amendment, which is more in step with our traditions in this country.

Mr. CONYERS. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Chairman, in 1989 Haitian Jean-Bertrand Aristide wrote the following:

> Haiti is a prison. In that prison, there are rules you must abide by, or suffer the pain of death. One rule is: Never try to escape, for escape means a certain return to this prison, and worse cruelty, worse torture. If you dare to escape in your little boat, the corrections officers from the cold country to the north will capture you and send you back to eke out your days within your eternal prison, which is Haiti. If we live by its rules, we will certainly perish beneath its whip.

Since the overthrow of Haiti's first freely elected President, Jean Bertrand Aristide, by the Haitian military in September, 20,000 Haitians have sought refuge in the United States. Thousands of these people have been returned to Haiti. Although both Americas Watch and Amnesty International have documented that the military has unleased a widespread terror campaign on the population, the State Department claims there is no threat to refugees on their return. Of course, it has been hard for the United States mission in Haiti to document abuses; their personnel have been evacuated due to the "unstable political environment."

Haitians need refuge at this moment. We have answered the pleas of Salvadorans, Liberians, Lebanese, Kuwaitis, Afghans, Ethiopians, Chinese, Iranians, Cubans, and 11 other countries, including the Dominican Republic with either temporary protected status or similar relief. Why not Haiti? Since the passage of the 1980 Refugee Act, we have welcomed over 1 million refugees to our shores; 52 of those have been Haitians.

Human rights abuses are rampant. People's lives are at risk. President Bush is playing warden at the gates of Prison Haiti. Does Congress care plan on joining him?

Vote "yes" on the Conyers amendment. Give Haitians temporary protected status.

Countries that have received blanket protection from deportation: Lebanon, Kuwait, El Salvador, Somalia, Afghanistan, Ethiopia, China, Nicaragua, Iran, Uganda, Cambodia, Cuba, Chile, Czechoslovakia, Laos, Hungary, Romania, Dominican Republic, and Vietnam.

DISOBEY THE RULES

(By Jean-Bertrand Aristide)

> Haiti is a prison. In that prison, there are rules you must abide by, or suffer the pain of death. One rule is: Never ask for more than what the prison warden considers your share. Never ask for more than a cupful of rice and a drink of dirty water each day, or each week. Another rule is: Remain in your cell. Though it is crowded and stinking and full of human refuse, remain there, and do not complain, That is your lot.
>
> Another rule is: Do not organize. Do not speak to your fellow prisoners about your plight. Every time you get two cups of rice, another prisoner will go hungry. Every time another prisoner gets two drinks of dirty water, you go thirsty. Hate your fellow man.
>
> Another rule is: Accept your punishment silently. Do not cry out. You are guilty. The warden has decreed it. Live in silence until you die. Never try to escape, for escape means a certain return to this prison, and worse cruelty, worse torture. If you dare to escape in your little boat, the corrections officers from the cold country to the north will capture you and send you back to eke out your days within your eternal prison, which is Haiti.
>
> Fort Dimanche is Haiti. Fort Dimanche is Latin America today. Latin America and Haiti today are Fort Dimanche. Fort Dimanche spits out bullets and tear gas and death. It spews rules, regulations, law, order, decree, and death. It vomits on us a system of cruelty, repression, exploitation, misery, and death. If we live by its rules we will certainly perish beneath its whip.
>
> I say: Disobey the rules. Ask for more. Leave your wretchedness behind. Organize with your brothers and sisters. Never accept the hand of fate. Keep hope alive. Refuse the squalor of the parishes of the poor. Escape the charnel house and move toward life. Fill the parishes of the poor with hope and meaning and life. March out of the prison, down the hard and pitiless road toward life, and you will find the parishes of the poor gleaming and sparkling with joy in the sunrise at the road's end. Children with strong bodies will run with platefuls of rice and beans to greet their starving saviors. That is your reward. Along that hard and pitiless road toward life, death comes as an honor. But life in the charnel house is a disgrace, an affront to human kind.

□ 1640

Mr. MAZZOLI. Would the Chair advise the gentleman from Kentucky the amount of time remaining on both sides?

The CHAIRMAN. The gentleman from Michigan [Mr. CONYERS] has 4 minutes remaining, and the gentleman from Kentucky [Mr. MAZZOLI] has 3 minutes remaining.

Mr. MAZZOLI. Mr. Chairman, is the gentleman from Kentucky correct that he has the opportunity to close debate?

The CHAIRMAN. The gentleman is correct.

Mr. MAZZOLI. Mr. Chairman, I have no other requests for time, and I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield 1 minute to the gentlewoman from California [Ms. WATERS]

Ms. WATERS. Mr. Chairman, I rise in support of the Conyers amendment to H.R. 3844. I would like to commend my

good friend for his leadership on this issue.

This country's handling of the Haitian refugee crisis is cynical, hypocritical and mean-spirited. How can we remove our own Ambassador to Haiti in protest of human rights violation—and then repatriate refugees arguing that their human rights will not be infringed?

Between 1981 and President Aristide's inauguration, 24,000 Haitians left Haiti for the United States. Of these, only 11 were able to pursue asylum claims. The rest were returned to Haiti. During the same time period, this country admitted 75,000 out of 75,000 Cubans seeking asylum. Tragically, refugees have become a pawn in this country's foreign policy gamesmanship.

In the 5 months since Aristide's overthrow, 16,000 more Haitians have fled and been picked up by the United States Coast Guard. Clearly, these new refugees are fleeing political instability and oppression.

Nonetheless, the State Department continues to maintain that they are economic refugees, and thus, must return to Haiti.

What the Conyers amendment would do is grant temporary political status, or political asylum, that the fleeing Haitians deserve. We owe the brave men and women who have risked their lives in search of freedom the same humanitarian treatment that this country granted Liberians during the fall of Samuel Doe, Salvadorans during their civil war, and Kuwaitis during the gulf war.

The time for word games and political hypocrisy must stop. Support the Conyers amendment.

Mr. CONYERS. Mr. Chairman, I yield 30 seconds to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Mr. Chairman, once again I rise in strong support of this legislation. This situation is painfully reminiscent of the tragic and misguided policy of our Government when Jewish refugees were turned away from our shores as Hitler was gaining strength in their homeland.

Mr. Chairman, we cannot allow such a tragic mistake to be made again. Passage of this legislation is absolutely essential to ensuring that our Nation lives up to its promise of being the world's beacon of hope and freedom.

Mr. Chairman, I heard firsthand from a mother talking to a daughter on the telephone with gunshot sounds in the background. Let us not make this mistake again.

Mr. CONYERS. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan [Mr. BONIOR], the distinguished whip of the House.

Mr. BONIOR. Mr. Chairman, I rise in support of this amendment and this bill and commend the chairman and the gentleman from Michigan [Mr. CONYERS] and all those who have worked so hard and passionately on this piece of legislation.

Mr. Chairman, the Bush administration says we should force Haitian refugees back to their homeland because there's no proof they will be mistreated.

No evidence, the State Department says.

But the administration does not tell us why they have not been able to gather any evidence.

It's because the level of violence and repression in Haiti is so great that most of the United States Embassy staff left the country.

We only have a handful of people in Port-au-Prince—the U.S. Ambassador did not return there until yesterday.

How can so few people monitor the thousands of refugees we have forced to return?

The administration doesn't know for sure—because they can't investigate.

But there are a few things we do know—without any doubt.

First of all, we know that the military coup in Haiti last September unleashed a wave of violence and terror—and that human rights abuses now rival the darkest days of the Duvalier dictatorship.

Hundreds of Haitians were murdered within days of the coup.

An estimated 1,500 have been killed by the military since then.

Arrests and beatings are commonplace.

Religious organizations, trade unions, student associations—all have been targeted by the military.

The repression has forced tens of thousands to flee the country in rickety boats.

Over the last few days, we've seen some encouraging signs. Perhaps democracy can be restored in Haiti over the next few months. We all hope it will.

But in the meantime, the violence and the brutality continues.

Mr. Chairman, that is what we know for certain.

What more proof do we need that the refugees at Guantanamo Bay are in danger if we force them to return home?

What more evidence do we have to gather?

Mr. Chairman, so many of us in this House can remember our own ancestors who came as refugees to America.

They came through Ellis Island. They walked off the ships in Galveston. They came through San Francisco and Boston and Savannah.

This country welcomed them. It sheltered them from the political winds—whether religious persecution in the 17th century—or Cossacks pillaging Russian towns in the 19th century.

Sometimes we made mistakes—like the time the United States turned back the *St. Louis,* that ship filled with Jewish refugees from Germany in 1939.

That was also a time when we were unable to monitor what was going on.

We found out later, when our troops walked through the gates of Auschwitz and Bergen-Belsen.

Let us not send the Haitian refugees back to the country they risked their lives to escape.

If we can't welcome them permanently, at least grant them a few months of safe haven in the tents of Guantanamo.

Mr. CONYERS. Mr. Chairman, I yield one-half minute to the gentleman from New York [Mr. FLAKE].

Mr. FLAKE. Mr. Chairman, I rise today in support of the Conyers amendment and support of the bill. I believe that temporary protective status is appropriate in that it has been used in the past in nations where there has been armed conflict. Clearly one must define what is happening in Haiti as armed conflict, even though the arms are on one side and on the wrong side.

This Nation cannot afford to continue to send these persons back to these dangerous situations. Rather they must open the doors as they have done to others who have fled to America looking for this land of liberty to receive them.

I rise in support of the amendment, urge others to support it because it is the right thing to do.

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

Mr. Chairman, the seriousness of this matter of life and death collides with our immigration policy, and we are acting in the absence of the executive branch declaring an emergency that would allow a safe haven, as they have done over the last 32 years in 20 different instances.

The forced repatriation of Haitians is no different from those other 20 cases. We have now the weight of what this country stands for. Is this a nation of fairness or not? Is this a matter of the poorest country in our hemisphere being denied the basic rights under the existing law as no one else has been denied?

Never before in the history of the United States have we repatriated people in a circumstance in which their government was declared illegitimate by our government.

There is a war going on. Criminal thugs of the military rule the country. The violence has been attested to by six human rights organizations.

We do not need any more facts. The burden is upon us.

Please, do not buy into a February 5 date. It is a wonderful attempt. I commend the gentleman from Kentucky [Mr. MAZZOLI] for bringing the vehicle to have this debate to the floor, but the solution in our heart of hearts is to grant temporary protective status to these desperate, heroic people who will be remembered long after anything we do here in this Chamber today.

I urge my colleagues to support the Conyers amendment.

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

Mr. Chairman, once again let me pay tribute to my friend from Michigan for the wonderful fight that he has fought in getting this bill to where it is today. I think it would not be here without having had his input and his urgency.

Let me also particularly name the people on our subcommittee who

worked so hard late at night to get this bill reported: The gentleman from New York [Mr. SCHUMER], the gentleman from California [Mr. BERMAN], the gentleman from Texas [Mr. BRYANT], and the gentleman from Oregon [Mr. KOPETSKI]. And then on the minority side: The gentleman from Florida [Mr. MCCOLLUM], my long-time friend, the gentleman from Virginia [Mr. ALLEN], our new Member, and the gentleman from Texas [Mr. SMITH].

I am really proud to have worked with this subcommittee of very talented and dedicated people.

□ 1650

Again I have to express my opposition to the gentleman's amendment. It would constitute, if passed, a magnet effect. It would, I think, encourage people to leave Haiti, and we are not in a situation on which there may be a return of the Aristide government, which could stabilize the situation in Haiti. I do not think we should do anything that would reverse that trend.

There is no date certain for either the start of this temporary protected status nor for the end of it, which would make it different than any other protected status arrangement that has ever been invoked. They have always had a starting date and an ending date.

Temporary protected status is a status granted to those already in the United States. The very nature of the statute, the wording of it, the benefits it confers, the opportunity for work authorizations, all those are implicitly designed for people in the United States already.

Of course, in this case the bulk of the Haitians who would be qualified under our bill, not to be sent back to their country at this time of woe, are not in the United States at this point.

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

Mr. MAZZOLI. I am happy to yield to the gentleman from Illinois.

Mr. SAVAGE. Mr. Chairman, let me ask the gentleman, in the 1990 immigration bill, with which he is certainly familiar, he allotted 132,000 spaces for refugees coming to this country, correct, and 63,000 went to refugees from the Soviet Union, and obviously the Soviet Union is more democratized now than is Haiti, since we are sending them money to show that we approve of their democratization.

Mr. MAZZOLI. Mr. Chairman, if the gentleman would yield back for a moment, actually the gentleman will be happy to know that if this bill before him could ever be signed into law there is a refugee program created with Haiti for the first time in history. The gentleman from Kentucky has always felt that was very much of a blind spot in our refugee law, that we had 3,000 numbers for Cuba and none for Haiti. So now in our bill we have 2,000 numbers for visas, as a result I think of the gentleman's bill which was introduced last autumn. There will be refugee processing beginning in Port au Prince in short order.

Mr. SAVAGE. Mr. Chairman, if the gentleman will yield, what I was getting at is that he does not want it to be a magnet, but he is not worrying about it being a magnet for Europeans. He says it would be a magnet if we let some stay. It might cause others to come.

Mr. MAZZOLI. Under the circumstances in which we are dealing today it would be a magnet.

Mr. SAVAGE. Mr. Chairman, what would be wrong with it being a magnet for people from Haiti fleeing from persecution?

Mr. MAZZOLI. Mr. Chairman, I urge defeat of the gentleman's amendment.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Michigan [Mr. CONYERS].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. MAZZOLI. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 96, noes 304, not voting 34, as follows:

[Roll No. 32]

AYES—96

Abercrombie
Ackerman
Anderson
Andrews (ME)
Atkins
Bennett
Berman
Blackwell
Bonior
Boxer
Bustamante
Clay
Collins (IL)
Collins (MI)
Conyers
Coyne
Dellums
Dixon
Downey
Early
Edwards (CA)
Engel
Espy
Evans
Fazio
Flake
Foglietta
Ford (TN)
Frank (MA)
Gejdenson
Gilman
Gonzalez
Hayes (IL)
Jacobs
Jefferson
Jones (GA)
Jones (NC)
Jontz
Kennedy
Kennelly
Kildee
Kopetski
Lantos
Lehman (FL)
Levin (MI)
Lewis (GA)
Lowey (NY)
Markey
Martinez
Matsui
McDermott
McNulty
Mfume
Mineta
Mink
Moakley
Moody
Moran
Nagle
Neal (MA)
Oakar
Oberstar
Olver
Owens (NY)
Owens (UT)
Pallone
Pastor
Payne (NJ)
Pelosi
Penny
Peterson (MN)
Rangel
Roe
Roybal
Sabo
Sanders
Savage
Scheuer
Schroeder
Serrano
Sikorski
Smith (IA)
Solarz
Stark
Stokes
Studds
Towns
Traxler
Vento
Washington
Waters
Weiss
Wheat
Wolpe
Yates
Yatron

NOES—304

Allard
Allen
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Bacchus
Baker
Barrett
Barton
Bateman
Bellenson
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Borski
Boucher
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clement
Clinger
Coble
Coleman (MO)
Combest
Condit
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Cramer
Crane
Cunningham
Darden
Davis
DeFazio
DeLauro
DeLay
Derrick
Dingell
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Durbin
Dwyer
Eckart
Edwards (OK)
Edwards (TX)
Emerson
English
Erdreich
Ewing
Fascell
Fawell
Feighan
Fields
Fish
Franks (CT)
Frost
Gallegly
Gaydos
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gingrich
Glickman
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hayes (LA)
Hefley
Hefner
Henry
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Kanjorski
Kaptur
Kasich
Kleczka
Klug
Kolbe
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
LaRocco
Laughlin
Leach
Lehman (CA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Luken
Machtley
Manton
Martin
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Molinari
Mollohan
Montgomery
Moorhead
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Natcher
Neal (NC)
Nichols
Nowak
Nussle
Obey
Olin
Oxley
Packard
Panetta
Parker
Patterson
Paxon
Payne (VA)
Pease
Perkins
Peterson (FL)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Rahall
Ramstad
Ravenel
Reed
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Rowland
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schiff
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Staggers
Stearns
Stenholm
Stump
Sundquist
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thomas (WY)
Torricelli
Traficant
Unsoeld
Upton
Valentine
Vander Jagt
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waxman
Weber
Weldon
Williams
Wilson
Wise
Wolf
Wyden
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—34

Alexander
AuCoin
Ballenger
Barnard
Boehner
Chandler
Coleman (TX)
Dannemeyer
de la Garza

Dickinson	Levine (CA)	Stallings
Dicks	Marlenee	Tallon
Dymally	Ortiz	Taylor (NC)
Ford (MI)	Orton	Thomas (CA)
Gallo	Quillen	Thornton
Geren	Ray	Torres
Hatcher	Richardson	Whitten
Herger	Rostenkowski	
Kolter	Russo	

□ 1714

The Clerk announced the following pair:

On this vote:

Mr. Ford of Missouri for, with Mr. AUCOIN against.

Mr. ENGLISH changed his vote from "aye" to "no".

Messrs. COYNE, DOWNEY, and McDERMOTT changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Committee will rise informally in order that the House may receive a message.

The SPEAKER pro tempore (Mr. SKAGGS) assumed the chair.

The SPEAKER pro tempore. The Chair will receive a message.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. McCathran, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

HAITIAN REFUGEE PROTECTION ACT OF 1992

The Committee resumed its sitting.

The CHAIRMAN. It is now in order to consider amendment No. 2, printed in House Report 102-436.

AMENDMENT OFFERED BY MR. SHAW

Mr. SHAW. Mr. Chairman, pursuant to the rule, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SHAW: At the end insert the following new section:

SEC. 7. REIMBURSEMENT FOR STATE AND LOCAL GOVERNMENT COSTS.

There are authorized to be appropriated such sums as may be necessary to reimburse State and local governments for incremental costs associated with Haitians permitted to enter the United States under this Act.

The CHAIRMAN. Under the rule, the gentleman from Florida [Mr. SHAW] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

The Chair recognizes the gentleman from Florida [Mr. SHAW].

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

Mr. Chairman, very simply, an explanation of this amendment can be best understood as just being read.

There are authorized to be appropriated such sums as may be necessary to reimburse State and local governments for incremental costs associated with Haitians permitted to enter the United States under this Act.

Mr. Chairman, we have found from past experience that some 87 percent of the Haitians coming into the United States end up in the State of Florida. Under the estimates of Governor Chiles' office of the State of Florida, for 2 years each one of these refugees cost State and local governments in the State of Florida, and I will assume this is also across the country, some $5,000.

It is easy to understand when you start talking about the numbers that might come in, might very well come in and end up coming in under this particular statute, that that could be talking about many millions of dollars at a time when our State, as well as so many of the States across the country, are strapped for finances.

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

Mr. SHAW. I yield to the distinguished gentleman from Florida.

Mr. FASCELL. Mr. Chairman, I rise to join my colleague in support of this amendment. It is a very important amendment. Statistically, the gentleman has pointed out the costs that are involved. We are several hundred million dollars behind actual costs now for people already admitted, and the people of Florida have been extremely generous in trying to support the people who are in trouble, whether they are Haitians or others; but from a humanitarian standpoint, if we are going to extend the services, which we should, and I am talking primarily about health and education, then from the same humanitarian point of view, if not from fairness, we ought not to put that burden on the local taxpayers of Florida or Dade County or any other place. That is a Federal responsibility, and I would hope our colleagues would unanimously support this amendment.

Mr. SHAW. Mr. Chairman, I thank the gentleman for his comments.

Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. JOHNSTON]

Mr. JOHNSTON of Florida. Mr. Chairman, I rise in strong support of the Goss amendment and the Shaw amendment.

Floridians are feeling torn these days. While thousands of Haitians flee the poverty and violence of their own country, thousands of Floridians are out of work and suffer from an 8.7 percent unemployment rate. Hundreds of Floridians are victims of street crimes each day and there are 90.6 percent more Floridians on food stamps than there were in July 1989. And that is only second to New Hampshire.

For many immigrant groups, Florida has historically been the gateway to the United States. In the past 40 years, of the 2 million refugees entering the United States, nearly 1 million entered through Florida and almost 800,000 remained. We have recognized their struggles, welcomed them into our communities, and done the best we can to provide for them. We have done so with little assistance from the Federal Government.

The amount that States are reimbursed per refugee has decreased from $5,000 in 1985 to $1,300 in 1991. President Bush's 1993 budget proposal would decrease cash and medical refugee assistance from $8 million to $1.6 million. While many Floridians truly feel for the plight of the Haitians, the pain of the recession is immediate. It is difficult to continue extending a hand to others when the costs are incurred at their expense.

Immigration control is a Federal responsibility and until that responsibility is met, Floridians will be unable to share the American dream with Haitians and others like them who may have a valid claim to asylum.

Support the Goss amendment and restore Federal involvement in what is, rightfully, a Federal responsibility.

□ 1720

Mr. SHAW. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. I thank the gentleman for yielding.

Mr. Chairman, it is my understanding from the original bill, and I have given assurances to my colleagues, especially on the gentleman's side of the aisle, that tens of thousands of Haitians are not going to end up on our shores. Now the gentleman from Florida [Mr. SHAW] is saying that he would want to be reimbursed for those who do come here. I just want to make it abundantly clear, and I believe the gentleman would agree with me, that the legislation which the gentleman from Kentucky [Mr. MAZZOLI] drafted is carefully drafted and narrow and to the point, that these Haitians are going to be on a Government base, but that is in Cuba, not Miami. Does the gentleman from Florida have that understanding?

Mr. SHAW. Reclaiming my time, the gentleman is absolutely correct in his assessment of the legislation. I would, however, speculate that coming around July and August there is going to be tremendous pressure in this House if these Haitian refugees are still down in Guantanamo on the tarmac, that we are going to come back and decide whether that is actually humane and they may very well end up here. But the gentleman is absolutely correct. I do not want to mislead anyone in this House.

Mr. Chairman, I yield 3 minutes to the gentleman from Florida [Mr. LEWIS].

Mr. LEWIS of Florida. Mr. Chairman, I thank the gentleman for yielding this time to me, and I rise in support of his amendment.

Mr. Chairman, it is all too clear that Federal immigration policy does not address the impact of mass immigration on State and local entities. A mass influx of refugees means increased educational, social and eco-

nomic burdens, burdens that are increasingly difficult for State and local governments to absorb.

My testimony at the Subcommittee on Immigration, having pointed this out, apparently fell on deaf ears.

Florida has experienced periods of mass immigration over the years, beginning with the Mariel boatlift in 1981. However, Federal compensation to Florida has decreased dramatically from 1983 to 1990. As a matter of fact, Florida is still owed $150 million for expenses incurred during the Mariel boatlift.

Now, I heard the discourse back and forth between the gentleman from Florida [Mr. SHAW] and the gentleman from New York [Mr. RANGEL]. But we still know that the next place for debarkation will be to Florida. The United States has already provided 4,800 refugees with the opportunity to seek political asylum. Many of these refugees will settle in Florida. It is simply not fair for the people of Florida to shoulder the entire cost of the Haitian refugee influx. The Federal Government must provide its share of resources to care for these refugees.

The Mazzoli bill sets a bad precedent. No matter how well intended it is. However, if Congress approves it, then Congress should shoulder it and be held accountable, not the State of Florida and its entities.

During the past 5 years the United States has provided haven for 95,000 Haitians, with tens of thousands of them settling in Florida. We have economic problems in Florida that we must resolve. Therefore, we cannot finance any further economic immigration from Haiti or anywhere else, for that matter. Political asylum we certainly will consider.

The CHAIRMAN. Is there a Member in opposition to the amendment?

Mr. BROOKS. Mr. Chairman, I am opposed.

The CHAIRMAN. The gentleman from Texas will be recognized for 10 minutes.

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

Mr. Chairman, I must oppose the gentleman's amendment. The amendment seems to imply that H.R. 3844 somehow permits Haitians to enter the United States. It does not. The legislation simply suspends for 180 days the return of less than 3,000 Haitians—who had to be in United States custody by February 5.

The bill has no effect on the administration's Refugee Asylum Program where refugees with plausible claims of political persecution are allowed to pursue their claims in this country. For this reason, the amendment is basically without effect on this legislation and should be voted down.

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

Mr. SHAW. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. I thank the gentleman for yielding.

Mr. Chairman, I think it is important for us to understand; I do not believe the gentleman from Florida [Mr. SHAW], in proposing this amendment, assumes there is going to be a wholesale entry of Haitians into the United States. We all want to give Haiti back to the Haitians and we hope that happens soon.

The problem is that under existing law some have already been cleared to come into the United States. Under the Refugee Authorization Act, theoretically that is supposed to be paid for by the United States. The problem is, as you have heard other speakers say, that is only in theory. We have had a great number of Haitians and other refugee groups come into the United States, come into Florida, for which Florida has paid the price. We pay for those items which the Federal Government should have been paying.

What the gentleman's amendment does is anticipate that any under existing law will be allowed to enter into Florida because that is where they come, Mr. Chairman, into Florida, will be paid for by the Federal Government. He is seeking, basically, to reaffirm what the Federal position should be and has not been in practice. And I commend the gentleman for that and hope all will support his amendment.

Mr. BROOKS. Mr. Chairman, I yield 3 minutes to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Chairman, I want to correct the record, it is not 30 minutes, it is more like 3 and I will take even less than that.

Mr. Chairman, I would respectfully rise in opposition to the amendment of the gentleman from Florida, not because it is not a good amendment, but because it is extraneous. It is really unnecessary, because our bill, as the gentleman from New York pointed out, contemplates bringing no persons into this country. Therefore, there is no need to reimburse for costs that will never be expended in the first place.

Let me just reflect for the record, and I will sit down. That is, under existing law the Refugee Act of 1980 provides 100-percent Federal reimbursement for up to 36 months for refugees who are in the country and are here under admission through the Refugee Act. We have some 140,000 who are possibly to be admitted this year.

Under the Fascell-Stone Act of 1980, Haitian and Cuban refugees are to be treated exactly as those who come in under the 1980 act, which means that 100-percent reimbursement for 36 months. So, whether these individuals who get to Florida are admitted because they pass prescreening process or because some other way they come into the country later on, not under the auspices of our bill, but however they come in there is a coverage under existing law, either the 1980 Refugee Act or the Fascell-Stone Act to provide reimbursement.

So, I would just ask my friends and colleagues in the committee, we are trying to get a bill passed; the senior Senator from Massachusetts has introduced a bill in the other body, identical, verbatim, word for word with our bill.

We want to get something done for the people who need to be protected from being forcibly repatriated to a country in stress, a country in turmoil.

Mr. Chairman, I hope that we can keep our bill before you as it is today so that we can move that forward as quickly as possible and, hopefully, to the President's desk.

Mr. SHAW. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, very briefly, I know the hour is late and Members want to catch planes and get home to their districts. But very, very briefly, it is about time that the Federal Government looked to the States of Texas, California, Florida, Arizona, New Mexico, all of these border States that are taking in so many of the people from foreign countries, legally and illegally. It is time that we look at these States and say that we have got to pick up the tab for the expenses that we are causing these States. This is a small step. Admittedly, if none of these refugees come in under this particular bill, there will be zero expense. If there is expense, it is subject to appropriation. But this gives the Congress an opportunity to say if we cause the expense to the State—and we are not just talking about 8 months, as Mr. MAZZOLI quite properly spoke of, in existing law—we are talking about going on beyond that.

□ 1730

Mr. Speaker, it is about time that we accepted responsibility as those that are responsible for the immigration laws of this country, that we also take some of the responsibility for the cost that we are shoving off onto all of the States. Congress will have an opportunity in just a few minutes to vote on this, and I urge passage of this amendment. It is vital, believe, to many of the States, not just the State of Florida.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. SHAW].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SHAW. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 241, noes 144, not voting 49, as follows:

[Roll No. 33]

AYES—241

Abercrombie
Allard
Allen
Andrews (ME)
Andrews (NJ)
Applegate
Archer
Armey
Atkins
Bacchus
Baker
Barrett
Barton
Bateman
Bennett
Bentley
Bilirakis
Bliley
Boehlert
Boucher
Boxer
Broomfield
Bunning
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Clinger
Coble
Coleman (MO)
Combest
Condit
Coughlin
Cox (CA)
Coyne
Crane
Cunningham
Darden
DeLauro
DeLay
Dellums
Dixon
Donnelly
Dooley
Doolittle
Dornan (CA)
Downey
Dreier
Duncan
Dwyer
Edwards (OK)
Emerson
English
Fascell
Fawell
Fazio
Fields
Fish
Ford (TN)
Franks (CT)
Gallegly
Gejdenson
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goodling
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Henry
Hobson
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Jefferson
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Klug
Kolbe
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Leach
Lehman (CA)
Lehman (FL)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Long
Lowery (CA)
Lowey (NY)
Machtley
Martin
Martinez
Mavroules
McCandless
McCollum
McCrery
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Mfume
Michel
Miller (OH)
Miller (WA)
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morrison
Mrazek
Murtha
Myers
Nagle
Neal (MA)
Nowak
Nussle
Oberstar
Olin
Olver
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Paxon
Payne (VA)
Pease
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Porter
Rahall
Ramstad
Ravenel
Regula
Ridge
Riggs
Rinaldo
Ritter
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roukema
Sangmeister
Santorum
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schulze
Shaw
Shays
Sikorski
Sisisky
Skaggs
Skeen
Smith (FL)
Smith (NJ)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Studds
Stump
Sundquist
Swett
Swift
Tanner
Thomas (WY)
Torricelli
Traxler
Unsoeld
Upton
Vander Jagt
Vento
Volkmer
Vucanovich
Walker
Walsh
Waters
Weber
Weldon
Wise
Wolf
Wolpe
Wyden
Wylie
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—144

Ackerman
Anderson
Andrews (TX)
Annunzio
Bellenson
Bereuter
Berman
Bevill
Bilbray
Blackwell
Bonior
Borski
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Carper
Carr
Chapman
Clay
Clement
Collins (IL)
Collins (MI)
Conyers
Cooper
Costello
Cox (IL)
Cramer
DeFazio
Derrick
Dingell
Dorgan (ND)
Durbin
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
Erdreich
Espy
Evans
Ewing
Feighan
Flake
Foglietta
Frank (MA)
Frost
Gaydos
Gephardt
Glickman
Gonzalez
Gordon
Hall (OH)
Hamilton
Harris
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Horn
Hubbard
Huckaby
Hughes
Jacobs
Jenkins
Kennelly
Kildee
Kopetski
Kostmayer
LaRocco
Levin (MI)
Lewis (GA)
Luken
Manton
Markey
Matsui
Mazzoli
McCloskey
McCurdy
McNulty
Meyers
Miller (CA)
Mineta
Morella
Murphy
Natcher
Nichols
Oakar
Obey
Owens (NY)
Owens (UT)
Patterson
Payne (NJ)
Perkins
Petri
Pickett
Pickle
Poshard
Price
Pursell
Rangel
Reed
Roberts
Roemer
Roth
Rowland
Roybal
Sabo
Sanders
Sarpalius
Savage
Schroeder
Schumer
Sensenbrenner
Serrano
Sharp
Shuster
Skelton
Slattery
Slaughter
Smith (IA)
Solarz
Spratt
Staggers
Stokes
Synar
Tauzin
Taylor (MS)
Thomas (GA)
Towns
Traficant
Valentine
Visclosky
Washington
Waxman
Weiss
Wheat
Wilson
Yates

NOT VOTING—49

Alexander
Anthony
Aspin
AuCoin
Ballenger
Barnard
Boehner
Burton
Chandler
Coleman (TX)
Dannemeyer
Davis
de la Garza
Dickinson
Dicks
Dymally
Ford (MI)
Gallo
Geren
Gingrich
Hatcher
Herger
Hoyer
Kleczka
Kolter
Laughlin
Levine (CA)
Lloyd
Marlenee
McDade
Neal (NC)
Ortiz
Orton
Quillen
Ray
Rhodes
Richardson
Rostenkowski
Russo
Smith (OR)
Stallings
Stark
Tallon
Taylor (NC)
Thomas (CA)
Thornton
Torres
Whitten
Williams

□ 1750

The Clerk announced the following pairs:

On this vote:

Mr. Williams for, with Mr. Ford of Michigan against.

Mr. AuCoin for, with Mr. Anthony against.

Mr. Thomas of California for, with Mr. Quillen against.

Mr. HAYES of Louisiana, Mr. TAUZIN, Mrs. SCHROEDER, and Messrs. WILSON, HUCKABY, OWENS of Utah, PETRI, and HUGHES changed their vote from "aye" to "no."

Messrs. RITTER, McDERMOTT, and MFUME, and Mrs. UNSOELD changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY CHAIRMAN OF THE COMMITTEE ON RULES

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

Mr. MOAKLEY. Mr. Chairman, earlier today, I made an announcement regarding the Rules Committee's intentions regarding the budget resolution. In that announcement, amendments to the budget resolution were to be submitted to the committee by 5 p.m. on Monday, March 2. After discussions with the Budget Committee and after consultation with the minority, the Rules Committee will extend that time until Tuesday, March 3, at 10 a.m.

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

Mr. MOAKLEY. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Chairman, I do not believe Members heard what the gentleman from Massachusetts [Mr. MOAKLEY] just said. What the chairman of the Committee on Rules has just said is that Members of the House will have the opportunity to file amendments to the budget bill that will be coming before us on Wednesday. The gentleman will extend that time from Monday at 5 o'clock until Tuesday at 10 o'clock. As I understand it, the Committee on the Budget will not have the report ready until probably close to 5 o'clock on Monday. This at least will give us that opportunity to read the bill overnight.

Mr. Chairman, I want to thank the gentleman from Massachusetts [Mr. MOAKLEY].

Mr. MOAKLEY. Mr. Chairman, the gentleman is exactly right.

The CHAIRMAN. It is now in order to consider amendment No. 3 printed in House Report 102–436.

AMENDMENT OFFERED BY MR. SMITH OF FLORIDA

Mr. SMITH of Florida. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SMITH of Florida: At the end insert the following new section:

SEC. 7. SENSE OF CONGRESS.

It is the sense of the Congress that the President, in conjunction with the legitimate democratically-elected government of Haiti, should urge the United Nations Security Council and, as appropriate, the Organization of American States—

(1) to dispatch a peacekeeping force to Haiti—

(A) to provide security for human rights monitors,

(B) to provide protection for Haitians repatriated from abroad, and

(C) to assist in establishing a climate of security in Haiti in which the rights of all persons will be respected; and

(2) to send human right monitors to Haiti, under the aegis of an appropriate international human rights organization such as the United Nations Human Rights Commission or the Inter-American Human Rights Commission, to assess and report to the international community concerning internationally-recognized human rights in Haiti.

The CHAIRMAN. Under the rule, the gentleman from Florida [Mr. SMITH] will be recognized for 10 minutes, and a

Member opposed to the amendment will be recognized for 10 minutes.

The Chair now recognizes the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Mr. Chairman, I yield such time as he may consume to the well-dressed gentleman from California [Mr. DELLUMS].

Mr. DELLUMS. Mr. Chairman, I rise in support of H.R. 3844, the Haitian Refugee Protection Act. I recognize that this piece of legislation is not perfect, and in my opinion does not go far enough. However, it does go directly to the problem of the Haitian refugees, and due to the emergency nature of this situation, it is imperative that this body move forward with H.R. 3844. Since the September coup overthrew the democratically elected Government of President Jean-Bertrand Aristide, conditions have deteriorated rapidly in Haiti and are continuing to deteriorate. Human rights organizations and religious groups have continuously described the acute state of repression that exists in Haiti. The Organization of American States [OAS] has estimated that more than 1,500 innocent civilians have been killed since the coup, but since the military has blocked access to the morgue and rumors persist of mass graves, it is feared that the numbers are much higher.

With a crisis of this dimension, we often forget that behind those numbers are real people with real fears for their safety. Amnesty International documented an incident of a young boy being arrested for reportedly stopping to look at a picture of President Aristide. The soldiers scolded him for looking at the picture, then accused him of sticking it up himself. This was not only false, but impossible because the boy was too small to reach it, which became apparent when the soldiers tried to force him to take the picture down. Nonetheless, the soldiers severely beat him and he was imprisoned several hours before he was eventually released. This is just one of many incidents of harassment and intimidation.

The administration is well aware of the crisis in Haiti; yet the administration persists in claiming that these refugees are not fleeing political repression and persecution, but are economic refugees. Claims have been made that Haitians are only fleeing for the United States, and that this proves that they are economic refugees rather than political ones. In fact, reports show Haitians landing in Cuba, and tens of thousands fleeing into the Dominican Republic, which has in the past treated Haitians very poorly. I find it hypocritical that the administration has denounced the de facto government and its policies but considers Haitians fleeing this Government economic migrants and returns them to the control of the government that the United States does not recognize. Further, the Coast Guard picks up Haitians and immediately starts back to Port-au-Prince, but picks up Cubans and takes them to the United States. This policy is blatantly discriminatory and racist. Because Haitians are not fleeing a Communist country, they are not recognized as political refugees, and because they are black, they are told we cannot accept them. We cannot allow this policy to continue.

The State Department claims that there is no proof that anyone repatriated has been harmed, and that a system is in place to monitor those repatriated. That system consists of an embassy staff reduced to 30 or 40 that rarely leaves Port-au-Prince, and priests and other Americans placed around the countryside. There is in actuality no real system to monitor repatriated Haitians. Monitoring has been virtually impossible. Many of the refugees live in areas where communication and information gathering has been very difficult. Many of those repatriated go into hiding. Others fear to talk to foreigners. Haitians seen talking to reporters or foreigners are quickly picked up for questioning and harassed by local authorities. Even the monitors that the State Department relies upon have been imprisoned and harassed, clearly given the message of the consequences of reporting human rights abuses. If repatriated Haitians are not going to be targeted, why are they being fingerprinted and photographed by the defacto governmental authorities? People that are suspected of preparing to leave are beaten and imprisoned; why then would those having left, be safe? Without any effective mechanisms to monitor or protect repatriated Haitians, we cannot in good conscience continue this policy. I strongly urge support for the Conyers amendment that would grant temporary protected status to all Haitians. Until we can assure the safety of those persons returned, we must offer them the protection that international law requires.

The administration claims that granting this temporary protection would result in a magnet effect, giving the incentive to many more Haitians to take to the high seas in rickety, overcrowded and ill-provisioned boats. In fact, there are many Haitians right now that would risk leaving the country if they could. Those in the countryside fear being apprehended during the difficult voyage to the port cities where they could depart. Others do not have the money to pay the high price for a spot on those overcrowded boats. The military has cracked down upon the port cities attempting to prevent people from leaving. This crackdown can explain the decreasing numbers of refugees being picked up, not the repatriation policy. Haitians do not need a magnet effect to provide incentive to leave Haiti. The incentive is already there in the form of political repression and persecution.

Congress must rectify the failure of the executive branch to respond to the pleas of thousands fleeing repression and persecution. We must cease condemning to death Haitians willing to risk their lives for liberty by returning them to their persecutors. Let us send a message to the coup leaders, that the United States will not tolerate circumvention of the democratic process. More importantly, let us send a message of hope and support to the Haitian people.

Mr. SMITH of Florida. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN of Michigan. Mr. Chairman, I rise in support of the bill.

There can be reasonable differences on various amendments to the bill but there should be none on the core message intended to be sent by this bill.

The United States stands for freedom—a beacon for the entire world. It should shine in all directions, for those close as well as far.

In this vital regard, our policy towards Haiti has badly faltered. It is clear that the large majority of Haitian people desire freedom. I could see that when I visited Haiti 10 years ago. My son Andrew witnessed that firsthand when over 3 years ago he was on a private observer team viewing the Haitian election. The physical security of thousands of Haitians and the observer team was placed in jeopardy by a roving armed band simply because the Haitian people were trying to exercise a democratic right to vote.

U.S. Government policy since then has been at best confused. Indeed, for the people of Haiti, it has been tragic. Our recent retreat on the embargo is a vivid example.

We can do better. There may be no easy answer, but clearly use of the Presidential veto is an unsatisfactory policy. May this bill serve to tell the administration that inertia in the defense of freedom is not a defensible policy for the United States of America, inside as well as outside the hemisphere.

Mr. SMITH of Florida. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. COSTELLO].

Mr. COSTELLO. Mr. Chairman, I rise today to voice my opposition to the administration's policy toward Haitian refugees. I also rise in strong support of the Haitian Refugee Protection Act, the bill which suspends the forced repatriation of Haitians seeking refuge from political repression and violence in their homeland.

Since the military coup ousted Jean-Bertrand Aristide, Haiti's first democratically elected President on September 30, about 15,000 Haitians have fled their homeland to escape acute, continuing repression and human rights violations in Haiti. Upon fleeing, thousands of Haitians have been intercepted by the Coast Guard and taken to the United States naval base at Guantanamo Bay, Cuba.

International law dictates that refugees seeking political asylum may not be returned to their homeland if there is a threat of persecution. The United States, however, has forced the repatriation of Haitian refugees despite the undeniable threat of political persecution upon return. Contrary to the administration's statements, the majority of detained refugees are not economic migrants, but political targets for the military regime.

Mr. Speaker, I question why United States policy toward Haiti has changed dramatically since the overthrow of a democratic government. According to the United Nations, the current military dictatorship is not the legal government of Haiti. The easing of the United States embargo gives the impression that the United States recognizes the current Haitian military dictatorship as a legitimate governing body.

In my own district of southwestern Illinois, the world-renown dancer and choreographer, Katherine Dunham, continues her hunger strike. Ms. Dunham, who is 82, spend much of her life and dancing career in Haiti. Now is St.

Mary's Hospital in East St. Louis, Ms. Dunham has been fasting since February 1, in opposition to the President's policy of repatriation of Haitian refugees.

I realize that opposing the President's policy may not be popular, especially in southwestern Illinois; however, it is the right thing to do. The administration has an arbitrary policy of denying political asylum to Haitian refugees. It is important that Congress act responsibly in upholding our national tradition of humanitarian protection of those in danger until the administration changes its policy.

I urge my colleagues to join me in support of the Haitian Refugee Protection Act, H.R. 3844. This bill suspends for 6 months the repatriation of Haitian refugees in United States custody by February 5, and instructs the administration to report on the fate of refugees returned to Haiti.

The current deportation process is inequitable and should be stopped immediately. Congress must take action now to support the struggle for democracy in Haiti.

Mr. SMITH of Florida. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I know the hour is late. These last two amendments to this bill are important and we certainly urge the attention of Members.

Mr. Chairman, this amendment which I am offering today is about returning Haiti to the Haitians. Only when President Aristide returns and democracy is restored can we start to think about any stability or economic development in this troubled country.

Mr. Chairman, one might ask our colleague, the gentleman from Ohio [Mr. HALL], the chairman of the Select Committee on Hunger, to tell you about this abject misery and disease on the island of Haiti which, if it goes unchecked, will give us some of the worst poverty and worst disease that this hemisphere has ever seen.

This immigration crisis we are now discussing before us today will be the tip of the iceberg if we ignore this country and this region.

Mr. Chairman, you heard the eloquent statements of the majority leader a few moments ago in this well in reference to this bill, talking about what the problems of human rights are on the island, the problems that are being faced by the Haitians who are there, and the repatriated Haitians who have already come.

Mr. Chairman, this amendment provides vital support to the agreement last weekend between President Aristide and Haitian parliamentary leaders to restore democracy in Haiti with Aristide as president. Acceptance by both sides of Mr. Theodore as Aristide's new prime minister finally cleared the way for the signing of the accords.

But just weeks ago when Theodore was first designated as the candidate, military thugs riddled his house with bullets, nearly killing him and his bodyguards. I wonder if my colleagues here would suggest that this amendment would get in the way of last week's agreement and if they are naive enough to believe that the Haitian military intends to carry it out.

This amendment basically does the following. It says that the President of the United States, with our sense of Congress, and that is all this is, a sense of Congress, should urge the U.N. Security Council and as appropriate the OAS to dispatch a peacekeeping force to Haiti to provide security for human rights monitors, to provide protection for Haitians repatriated from abroad, and to assist in establishing a climate of security in Haiti in which the rights of all persons will be respected, and to send human rights monitors to Haiti under the umbrella of some human rights organization designated as such, like the UNHRC or the Inter-American Human Rights Commission.

It is that simple. This is how we start on the road to getting Haiti back for the Haitians. The only way we will ultimately solve this refugee problem is if we restore the elected government and get Haiti back in the hands of the Haitians, who deserve their own country back.

Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Chairman, I rise in support of the amendment. It is obvious that despite our best intentions, the solution of the Haitian problem and the inhumanity that goes on is not going to be solved here in the United States. It can only be solved in Haiti.

This amendment lays down a process and a policy which might make that possible.

Mr. SMITH of Florida. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Chairman, I support the amendment of the gentleman from Florida [Mr. SMITH]. I think it is well thought out. There is no question that the only way that Aristide can go back to Haiti is that the democratic institutions be allowed to develop their roots. This includes the Parliament that is there, the House of Deputies, as well as the Senate.

Mr. Chairman, this ruthless army has coerced the Parliament as well as they have the President, and I think you need this international peacekeeping force there in order for Haiti to regain its democracy.

□ 1800

Mr. SMITH of Florida. Mr. Chairman, I yield 1½ minutes to the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Chairman, I thank the gentleman for yielding time to me.

I lived in Haiti for 3½ years. I taught English to Haitians; French and Creole to Americans.

I lived there during the early years of the Duvalier government, when Poppa Doc created the civil militia, the Ton Tons Macoutes, which literally means "uncle bogeyman." And they performed that function to intimate the army and the people, 300,000 of them, armed thugs, throughout the country.

The election of 1990 was all about getting rid of Macoutes and Duvalierism. And for one brief shining moment Haiti enjoyed democracy for the first time in its 200-year history.

Then the forces of Macoutes and Duvalierism crushed the Aristide government. During that 7 months there was no stream of refugees coming to the United States. They stayed in Haiti, hoping for democracy.

There is a beautiful Haitian song that says, "Haiti chevie pi bon pei pase ou nan point," beloved Haiti, there is no more beautiful country in the world than you.

The Haitians want to go back to their land. They do not want to stay here. This legislation makes it possible for them to return in dignity and, meanwhile, let us not hold them to our standard of due process of law. They are not a government of laws.

During the Duvalier government, law school was shut down. The jurists were chased out of the country. People hunted down.

We need to give them an opportunity to restore that brief moment of democracy.

There is a Haitian Creole proverb that says, "crayon de die pa gan gomme," the pencil of God has no eraser.

We cannot erase what the military did in September, but we can restore dignity to the Haitian people.

Mr. SMITH of Florida. Mr. Chairman, I yield myself such time as I may consume.

In closing, let me just say that Members would be amazed about the strong impact that this apparently negligible resolution can have over the tiny Haitian military of just 7,000 that brutally rules over a nation of 6 million people. I will stand on the words of the gentleman from Minnesota [Mr. OBERSTAR].

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

The CHAIRMAN. Is there a Member in opposition to the amendment?

If not, the Chair recognizes the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Mr. Chairman, I yield such time as he may consume to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Chairman, I thank the gentleman for yielding time to me.

I do not rise exactly in opposition, but I think it is needful for us to make clear to the House that this situation not only puts another lump or bulge onto a bill that we had hoped we could

keep rather clean in order to match up with the other body. But even beyond that legislative situation, there is in the accord of February 22 of this year, signed by President Aristide and the Parliamentary Commission that negotiated this current settlement in article 5 of that, paragraph 8 suggests that both President Aristide and the Parliamentary Commission oppose and condemn any intervention by foreign military in the affairs of Haiti.

The gentleman's amendment is a sense of the Congress. It is not a statute. The gentleman calls them, and they are peacekeepers, not necessarily foreign military. But the fact of the matter is, there is an intervention. There is a movement into Haiti at a very sensitive time when President Aristide and the Parliament and Mr. Teodor and the OAS are trying to broker something other than using armed forces.

I only say that this could be counterproductive in a way, and I think it is just important to bring that to the attention of the committee before the committee works its wisdom on the gentleman's amendment.

Mr. SMITH of Florida. Mr. Chairman, I yield myself such time as I may consume.

Let me close by saying that while I understand what the gentleman from Kentucky has just said, the reality is that what we are asking the President to do is to talk with the United Nations and the Organization of American States about a force of peacekeepers, no armed security. That is not contemplated within this amendment. We are talking solely about the possibility.

Remember, even if Mr. Aristide is returned, there is no guarantee they will not force him out once again. So all we are asking is the President to start consulting with the United Nations and the Organization of American States. It is a sense of Congress, but it sends a very powerful message to the military that if they do not cooperate, then something else eventually could happen.

I urge approval of this amendment.

Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Chairman, I have no objection to the amendment now that I have heard all about it at great length.

Does the gentleman from Florida [Mr. MCCOLLUM] have any objection to the amendment?

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

Mr. BROOKS. I yield to the gentleman from Florida.

Mr. MCCOLLUM. Mr. Chairman, I have no objection.

Mr. SMITH of Florida. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. SMITH].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 4, printed in House Report 102-436.

AMENDMENT OFFERED BY MR. GOSS

Mr. GOSS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. GOSS:

At the end insert the following new section:

SEC. 7. SENSE OF CONGRESS.

The Congress urges the President and the Attorney General to take all appropriate actions to ensure that no State is impacted, disproportionately, with respect to the provision of services for Haitian refugees and displaced persons entering the United States.

The CHAIRMAN. Under the rule, the gentleman from Florida [Mr. GOSS] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

The Chair recognizes the gentleman from Florida [Mr. GOSS].

Mr. GOSS. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Chairman, I would say to my good friend, the gentleman from Florida [Mr. GOSS] that I have looked over this amendment. I think it is somewhat redundant, but it does represent a viewpoint. The gentleman from Florida [Mr. GOSS] and the gentleman from Florida [Mr. LEWIS] were very much concerned about it.

I do not think it does any harm. It is a sense of Congress, and I would see no objection to accepting it and going on to final passage.

Mr. GOSS. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. LEWIS].

Mr. LEWIS of Florida. Mr. Chairman, I rise in strong support of the Goss amendment.

Mr. Chairman, I support the amendment offered by my colleague, Mr. GOSS.

Many of the Haitian refugees that have been given the opportunity to seek political asylum, will settle in Florida. It simply is not fair for the people of Florida to shoulder the entire burden of refugees without help from the Federal Government. As a matter of fact, Florida is still owed for expenses incurred during the Mariel boatlift.

The message of the President must be clear. The Federal Government has a responsibility to share the cost of caring for Haitian refugees.

Mr. FOGLIETTA. Mr. Speaker, Congress must take the lead now to delay the repatriation of Haitian refugees. Congress must pass H.R. 3844, which cleared the House of Representatives on February 27, 1992.

The Bush administration has sent thousands of Haitian refugees back to their country to meet persecution. Clearly, this policy is wrong and immoral. We cannot force these refugees into an uncertain and dangerous future. This breaks the rules of political asylum and world refugee procedures.

We have to ask, "Would the treatment of these people be any different if they had been fleeing a Communist regime in Eastern Europe or if they were trying to get out of Cuba?"

The administration's policy sends the message that these people aren't important enough, that they are too poor, and that they are not from an influential part of the world. But I disagree. The refugees are important, and they are suffering, 2,000 people are being returned each week. At this rate, all refugees will be returned within 2 weeks, but this won't solve the problem.

These Haitians are yearning to breathe free, as everyone did who landed on these shores. But the words on the inscription at the base of the Statue of Liberty apparently do not apply to Haitians.

With passage of this bill, the House is asking for time, time for things to settle down. This is the least the refugees could hope for.

Unfortunately, I was called away to Philadelphia. I want to place on the RECORD that I would have voted "aye" on final passage.

Mr. GOSS. Mr. Chairman, as others have pointed out, H.R. 3844 has serious drawbacks. However, I believe all Members can find common ground around the proposition that the burden of caring for refugees and displaced persons who enter the United States should be equitably shared.

The amendment I have offered acknowledges the disproportionate burden which Florida and some other States have borne over the last decade in looking after many thousands of persons fleeing the turmoil of Central America and the Caribbean. The arrival in the United States of these desperate people with little more than their hopes and their needs has brought our foreign relations home in a very personal—and costly way.

Florida, along with many of our sister States, has met the challenge which our geography has thrust upon us. However, our response circuits are now on overload.

Let me be clear: We are not confronting compassion fatigue. Floridians have always done their part, but our social services delivery systems and supporting community infrastructure are stretched to capacity. With the economy faltering, new arrivals are no longer finding an employment environment that can readily absorb them as contributing members of our society. This means a prolonged period of Government assistance.

Immigration control is a Federal responsibility. However, the Federal Government has historically reimbursed State and local governments for only about half the calculable costs of resettlement and absorption of new arrivals. Based on my State's experience with the Mariel boatlift, the unreimbursed cost to our State and local governments of the latest Haitian arrivals is expected to be more than $5 million the first year. Moreover, we don't have the capability to accurately measure the longer term costs to our social and physical infrastructure—for which there is no local reimbursement formula.

Given all this, the amendment before us conveys the sense of Congress that the Federal Government should—as a basic policy approach—look at all methods that could be employed to ensure that no State bears a dis-

proportionate impact of special immigration problems. As States continue to face serious budget shortfalls, the Federal Government should take steps to ensure that State and local taxpayers do not incur what is appropriately a Federal cost in attempting to provide services for Haitian and other refugees and displaced persons.

Mr. Chairman, we need national, not regional, solutions to national problems.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Is there a Member in opposition to the amendment?

If not, the question is on the amendment offered by the gentleman from Florida [Mr. GOSS].

The amendment was agreed to.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. MCNULTY] having assumed the chair, Mr. MFUME, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 3844) to assure the protection of Haitians in the United States or in United States custody pending the resumption of democratic rule in Haiti, pursuant to House Resolution 375, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

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

RECORDED VOTE

Mr. MCCOLLUM. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 217, noes 165, not voting 52, as follows:

[Roll No. 34]

AYES—217

Abercrombie
Ackerman
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Atkins
Bacchus
Bennett
Berman
Bilbray
Blackwell
Bonior
Borski
Boxer
Brooks
Brown
Bruce
Bryant
Bustamante
Cardin
Carper
Clay
Clement
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
DeFazio
DeLauro
Dellums
Derrick
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Dornan (CA)
Downey
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Ford (TN)
Frank (MA)
Frost
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Green
Guarini
Hall (OH)
Hamilton
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Hubbard
Huckaby
Hughes
Hunter
Hyde
Jacobs
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Jones (GA)
Jones (NC)
Jontz
Kaptur
Kennedy
Kennelly
Kildee
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Lehman (CA)
Lehman (FL)
Levin (MI)
Lewis (GA)
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Miller (WA)
Mineta
Mink
Mollohan
Moody
Moran
Morella
Morrison
Mrazek
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Owens (NY)
Owens (UT)
Pallone
Panetta
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Perkins
Peterson (FL)
Pickle
Poshard
Price
Rahall
Rangel
Reed
Riggs
Rinaldo
Roe
Roemer
Rohrabacher
Ros-Lehtinen
Rose
Roybal
Sabo
Sanders
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Sikorski
Sisisky
Skaggs
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Solarz
Spratt
Staggers
Stark
Stokes
Studds
Swett
Swift
Synar
Thornton
Torricelli
Towns
Traficant
Traxler
Unsoeld
Vento
Visclosky
Washington
Waters
Waxman
Weber
Weiss
Wheat
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NOES—165

Allard
Allen
Applegate
Archer
Armey
Baker
Barrett
Barton
Bateman
Bellenson
Bentley
Bereuter
Bevill
Billirakis
Bliley
Boehlert
Boucher
Brewster
Broomfield
Browder
Bunning
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Carr
Chapman
Clinger
Coble
Coleman (MO)
Combest
Coughlin
Cox (CA)
Cramer
Crane
Cunningham
Darden
DeLay
Doolittle
Dreier
Duncan
Edwards (OK)
Emerson
English
Erdreich
Ewing
Fields
Franks (CT)
Gallegly
Gaydos
Gekas
Gilchrest
Gillmor
Goodling
Goss
Gradison
Grandy
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hefley
Henry
Hobson
Holloway
Hopkins
Horton
Houghton
Hutto
Inhofe
Ireland
James
Johnson (TX)
Kanjorski
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lowery (CA)
Martin
McCandless
McCollum
McCrery
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Molinari
Montgomery
Moorhead
Myers
Nichols
Nussle
Oxley
Packard
Parker
Patterson
Paxon
Pease
Petri
Pickett
Porter
Pursell
Ramstad
Ravenel
Regula
Ridge
Ritter
Roberts
Rogers
Roth
Roukema
Sangmeister
Santorum
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Skelton
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thomas (WY)
Upton
Valentine
Vander Jagt
Volkmer
Vucanovich
Walker
Walsh
Weldon
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—52

Alexander
Aspin
AuCoin
Ballenger
Barnard
Boehner
Burton
Chandler
Coleman (TX)
Dannemeyer
Davis
de la Garza
Dickinson
Dicks
Dymally
Foglietta
Ford (MI)
Gallo
Geren
Gingrich
Hatcher
Herger
Hoyer
Johnston
Kleczka
Kolter
Laughlin
Levine (CA)
Lloyd
Marlenee
McDade
Moakley
Murphy
Ortiz
Orton
Peterson (MN)
Quillen
Ray
Rhodes
Richardson
Rostenkowski
Rowland
Russo
Sarpalius
Smith (OR)
Stallings
Tallon
Taylor (NC)
Thomas (CA)
Torres
Whitten
Williams

□ 1829

The Clerk announced the following pairs:

On this vote:

Mr. Hoyer for, with Mr. Rowland of Georgia against.

Mr. Kleczka for, with Mr. Boehner against.

Mr. Williams of Montana for, with Mr. Thomas of California against.

Mr. Aucoin for, with Mr. Taylor of North Carolina against.

Mr. Orton for, with Mr. Marlenee against.

Mr. Ford of Michigan for, with Mr. Quillen against.

Mr. Ortiz for, with Mr. Gallo against.

Mr. SHAYS changed his vote from "aye" to "no."

So the bill was passed.

The result of the vote was announced as above recorded.

□ 1830

TITLE AMENDMENT OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Mr. BROOKS: Amend the title so as to read: "A bill to assure the protection of certain Haitians in the custody of the United States, and for other purposes."

The title amendment was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 3844, the bill just passed.

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

There was no objection.

Mr. BALLENGER. Mr. Speaker, the House considered H.R. 3844. I was away from the House and could not be present for several votes. Had I been present, I would have voted "nay" on rollcall No. 32, "aye" on rollcall No. 33, and "nay" on rollcall No. 34.

1992 TRADE POLICY AGENDA AND 1991 ANNUAL REPORT ON TRADE AGREEMENTS PROGRAM—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Ways and Means:

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.*

LEGISLATIVE PROGRAM

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

Mr. SOLOMON. Mr. Speaker, on behalf of the Republican leader, I have asked for this 1 minute to engage the majority leader in a colloquy about the schedule, if the majority leader would be good enough to inform the House about the schedule for the rest of the week and next week.

Mr. GEPHARDT. Mr. Speaker, if the gentleman will yield, we are obviously finished today. There will be no votes on tomorrow.

On Monday, the House meets at noon, but there will be no legislative business.

On Tuesday, March 3, the House will meet at noon and will consider 12 bills on suspensions. Recorded votes on suspensions will be postponed until after debate on all suspensions, and I might add to the gentleman that in that this is a primary day in some States, we will try to work together to see that there are few, if any votes, advisable. After we hear the bills that are here, Members may better understand that there could be very few, if any, votes.

The suspensions are as follows:

H.R. 939, veterans' housing amendments.

H.R. 2184, Udall scholarship.

H.R. 2321, to establish the Dayton Aviation Heritage National Historical Park in Ohio.

S. 996, to terminate a reservation of use and occupancy at the Buffalo National River.

S. 1467, to designate the "Frank M. Johnson, Jr. Federal Building and U.S. Courthouse."

S. 1889, to designate the "Ewing T. Kerr Federal Building and U.S. Courthouse."

H.R. 2539, to designate the "Clarkson S. Fisher Federal Building and U.S. Courthouse."

H.R. 3818, to designate the "George C. Young U.S. Courthouse and Federal Building."

H.R. 3041, to designate the "L. Douglas Abram Federal Building."

H.R. 2475, to designate the "Mitchell H. Cohen U.S. Courthouse."

H.R. 2818, to designate the "Silvio O. Conte Federal Building."

H.R. 3118, to designate the "Theodore Roosevelt Federal Building."

On Wednesday, March 4 and the balance of the week, the House will meet at 2 p.m. on Wednesday. The House will meet at 11 on Thursday, and if we meet on Friday, to take up an House concurrent resolution with regard to the concurrent resolution on the budget for fiscal year 1993, subject to a rule, and H.R. 3732, the Budget Process Reform Act of 1991, again subject to a rule.

Mr. SOLOMON. Well, Mr. Speaker, if the majority leader could enlighten us, earlier the gentleman from Massachusetts [Mr. MOAKLEY], the chairman of the Rules Committee, had extended the time for filing amendments to the budget until 10 a.m. on Tuesday.

Under what time schedule which is in effect right now for the report to be filed on Monday, does the majority leader know that?

Mr. GEPHARDT. Mr. Speaker, if the gentleman will yield, we will be attempting to ask unanimous consent that the Committee on the Budget have until 8 p.m. on Monday, March 2, to file a report on the concurrent resolution on the budget.

Mr. SOLOMON. So the gentleman does intend to ask for that filing period of 8 p.m.

Mr. GEPHARDT. That is correct.

Mr. SOLOMON. Which would give the Members a chance to look at the report overnight.

Mr. GEPHARDT. That is correct.

Mr. SOLOMON. Well, I certainly thank the majority leader for answering our questions.

Mrs. BENTLEY. Mr. Speaker, will the gentleman from New York yield?

Mr. SOLOMON. I am glad to yield to the gentlewoman from Maryland.

Mrs. BENTLEY. Mr. Speaker, I would like to respectfully request the leadership that if any votes on suspensions are called for on Tuesday that they be carried over until Wednesday because of the primary vote in both Maryland and Georgia on Tuesday.

Mr. MFUME. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I am happy to yield to the gentleman from Maryland.

Mr. MFUME. Mr. Speaker, I would like to join the gentlewoman in making that request of leadership on both sides of the aisle, for the same reasons.

Mr. GEPHARDT. Mr. Speaker, if the gentleman yield further, let me say as I stated before, it is our great hope that votes will be avoided.

I would also, however, say that for the purpose of getting the budget finished next week, which we very much want to do, we need to get Members who are not engaged in primary elections on Tuesday to be here so that we can finish the work of the Rules Committee and in the Budget Committee and be able to move forward on Wednesday; but I would assure both my friends from Maryland and other States that have primaries that the leadership, and I would suspect the leadership on both sides, will do everything in our power to see that there are no votes on Tuesday.

Mr. SOLOMON. Mr. Speaker, as the majority leader has pointed out, of those 12 suspensions we have reviewed them over here. None of them are controversial, and I do not expect anyone on this side of the aisle to be asking for a vote on any of those 12 resolutions.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman for stating that. That certainly is our view.

Mr. SOLOMON. and Mr. Speaker, I thank the gentlewoman for bringing up the question.

ADJOURNMENT TO MONDAY, MARCH 2, 1992

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

DISPENSING WITH CALENDAR BUSINESS ON WEDNESDAY NEXT

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

PERMISSION FOR COMMITTEE ON THE BUDGET TO HAVE UNTIL 8 P.M. MONDAY, MARCH 2, 1992, TO FILE REPORT ON CONCURRENT RESOLUTION ON THE BUDGET, FISCAL YEARS 1993 THROUGH 1997

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that the committee on the budget have until 8 p.m., on Monday, March 2, 1992, to file a privileged report on the concurrent resolution on the budget for fiscal years 1993 through 1997.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

GENERAL LEAVE

Mr. MCCOLLUM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on the subject of the special order today of the gentleman from Florida [Mr. BILIRAKIS].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

ORDER OF BUSINESS

Mr. OWENS of New York. Mr. Speaker, I ask unanimous consent to transpose my name in the special order calendar with the gentleman from Ohio [Mr. STOKES], and I do this with the concurrence of my colleague, the gentleman from Ohio [Mr. STOKES].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

[Mr. DORNAN of California, addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

□ 1840

TOY INJURY REDUCTION ACT, H.R. 3809

The SPEAKER pro tempore (Mr. MCNULTY). Under a previous order of the House, the gentlewoman from Illinois [Mrs. COLLINS] is recognized for 5 minutes.

Mrs. COLLINS of Illinois. Mr. Speaker, yesterday the Subcommittee on Commerce, Consumer Protection, and Competitiveness held a hearing on the Toy Injury Reduction Act, House Resolution 3809, which I have sponsored.

Balloons, marbles, and balls are familiar to all of us. So are toys with small parts. While these common toys seem innocent, they can be dangerous and even life threatening to young children. Many of us have probably given one of these toys to a young child without realizing the potential danger. In addition, many of us have probably given a toy intended for children over age 3 to a child under that age, unaware that the toy is not recommended for children under three because it contains small parts which may present a choking hazard. Like many consumers, we probably thought that the age recommendation label on the toy referred to an educational development level, not safety.

We are not alone. The CPSC reported 146 choking-related deaths from January 1980 through April 1989. The analysis showed that common everyday balloons were responsible for over 40 percent of those deaths. In addition, 32 children choked to death on another familiar toy, the ball. Another old favorite—the marble—was also associated with many deaths and injuries.

Unfortunately, Mr. Speaker, every year, new youngsters are added to the list of those that have been injured or choked to death on small toys and small parts of toys. According to the CPSC, in 1990 alone, 23 deaths and an estimated 164,500 injuries were associated with toys.

Some of these children's lives could have been saved and others could have been spared serious health consequences if their parents had been warned that the toy in question presented a hazard to their child.

Some toy companies voluntarily use labels; however, in many cases, age warning labels are so blandly written that they fuel the erroneous idea that the age level is more related to educational development than to safety. This fact is illustrated in a recent study entitled "The Impact of Specific Toy Warning Labels," published in the Journal of the American Medical Association.

During the study, toy buyers at a shopping mall were surveyed to evaluate the adequacy of various toy labels. The study found that the current voluntary labels used by manufacturers "may not by sufficiently explicit to alert buyers of toys with small parts to the potential choking hazards to children under 3 years of age." The study concludes that an explicit label warns of the hazards, "might substantially reduce inappropriate toy purchases without imposing any substantial cost on the consumer, the government, or the manufacturer."

The Toy Injury Reduction Act requires warning labels on toys that are intended for children between 3 and 6, but pose a hazard to younger children due to small parts, and on certain toys which have been associated with many tragedies: balloons, games of skill with small balls, and marbles.

According to the CPSC, in 1990, 19 children under the age of 3 died at the hands of toy balls. The legislation alleviates this hazard by requiring minimum choke proof size requirements for balls intended for children under age 3.

This bill does not require labeling of anything but toys. And toys should be labeled because they are specifically intended for, marketed to, and targeted to children.

Children are invited to play and use these potentially hazardous consumer goods. When parents are buying a toy, and there is no explicit warning of its hazardous properties, parents just assume that the items must be safe for children to use when in fact, the opposite is true.

Mr. Speaker, proper labels will serve to educate toy purchasers so that they will know which toys to buy for their children.

Well, Mr. Speaker a recent study by the CPSC showed that the labeling costs to industry will be minimal. The CPSC's analysis showed that the cost to the entire toy industry of these requirements is less than $500,000. They may spend more on their lobby efforts. Most importantly, how can this minimal cost compare with saving the life of even one child?

Mr. Speaker, we need to put an end to these senseless toy-related deaths at once. Just recently during the holiday season, we were reminded again by the U.S. Public Interest Research Group in a study entitled "Trouble in Toyland," of the hazardous toys sitting on store shelves. In just a quick survey in local Washington metropolitan stores, U.S. PIRG found 21 hazardous toys sitting on store shelves just begging to be bought and placed into the hands of a youngster in time for the holidays.

In conclusion, Mr. Speaker, too many children are dying at the hands of something that is supposed to provide entertainment, promote imagination, and facilitate education. I hope we can start on the road to reducing these unnecessary deaths by passing the Toy Injury Reduction Act.

RESOLVING THE SAVINGS AND LOAN CRISIS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. MCCOLLUM] will be recognized for 5 minutes.

Mr. MCCOLLUM. Mr. Speaker, I rise tonight to speak for a moment about the savings and loan crisis aftermath and what is going on now with the Resolution Trust Corporation in its refunding.

When we passed the law back a few years ago in 1989, called FIRREA, to resolve some of the thrift problems, I am very pleased to say I voted against that law. But when we passed that law back in 1989, part of the provision in that was to begin the funding process for

the resolution of the institutions that were to be closed or merged or whatever that were failing. And in that process, Congress did a number of things, raised capital requirements and standards, also put some money out there.

Well, over the years since then we have allocated about $105 billion to the Resolution Trust Corporation for that purpose, and we are engaged in a process right now, through our committee, which will come to the floor shortly, allocating another $25 billion or so, maybe even a greater amount, but at least $25 billion, that will bring the total amount up to $130 billion that the RTC would have to use as loss funds for the losses incurred to the Government of the United States and to the taxpayers ultimately because of the failures of the savings and loans.

I do not think we need to lose all that money. And I think it was outrageous today in the Subcommittee on Financial Institutions Supervision, Regulation and Insurance, upon which I sit, when the chairman and others decided on the committee that there would be no amendments allowed to a clean bill, they called it, to provide for further money to be allocated to the RTC, the $25 billion additional, plus lifting a reservation cap that comes into play the first of the month of April to keep some that is already there from being spent.

We need to make measures clear to the RTC, to the office of Thrift Supervision, to the other regulators in this matter that they are to go the least costly method possible in any of these resolutions; that we do not want them out here spending money willy-nilly to close institutions unnecessarily. That is what is about to happen if we let this reauthorization proceed. We are going to be spending billions and billions and billions of American taxpayer dollars that we do not need to spend. I would like to elaborate on why I am so concerned and what precisely was not allowed today, and I hope that the full committee will allow an amendment on this subject. Certainly, the floor, if not the committee, will be given a chance to vote on it.

We have to go back before the failures occurred to look at the action of the Home Loan Bank Board that oversaw the savings and loans back in the early 1980's. When we had failures, we did not have any money to do anything with them in the insurance fund. So, Home Loan Bank Board, in many people's opinions and in mine too, made a mistake. They went out and they said to very healthy, good, well-managed savings and loans that, "If you will take on these bad failing ones, since we do not have any money to close them down, we will give you a credit for 40 years of what we call goodwill, supervisory goodwill, and you can write that off over 40 years."

Well, to a lot of these well-managed institutions, that was a pretty good deal because they got new retail outlets and they got business in the area and they did not have bad things on their books that they could not take care of. They had 40 years.

Well, not, when FIRREA was passed, that law in 1989, Congress did away with that, They said, "You have got to pay that off in 20 years." Not only that, but within 5 years, on a phaseout program, "You can no longer count this supervisory goodwill toward capital."

At the same time, we passed a law that said, "You have got to have a certain minimum amount of 2 percent of capital on your books."

Well, there are at least 70 institutions today that are perfectly well managed that are about to be closed, those that have the supervisory goodwill, that would not be closed but for the fact that they cannot count that goodwill anymore as capital.

If we paid them—they have about $2 billion, now much goodwill they have—if we paid them off the $2 billion, they would be very healthy. They would be the best capitalized savings and loans in the country. But the fact of the matter is we are about to close them all. The way they close institutions when RTC and OTS get a hold of this is through a process that costs taxpayers about 15 to 20 percent of the total assets of those institutions.

The total assets of those 70 institutions is $180 billion. Fifteen to 20 percent of that ranges in the neighborhood of $27 billion to $36 billion it is going to cost to close them. That is not the least costly method of resolving these institutions. The least costly method is by paying $2 billion, paying off that supervisory goodwill and getting rid of it that way.

□ 1850

Mr. Speaker, we ought to have the privilege of doing it that way instead of the other way. We ought to give the power to the OTS and the RTC to do that. We have not done that, and the committee up to this point in time, the Committee on Banking, Finance and Urban Affairs, has ducked that issue. I think it is a terrible thing to duck. I do not know any good argument for doing that. The least costly method is that method.

Mr. Speaker, I yield to the gentleman from Maryland [Mr. MFUME].

Mr. MFUME. Mr. Speaker, I thank the gentleman from Florida [Mr. MCCOLLUM] for yielding. I want to join him in his remarks.

Mr. Speaker, I was one of those on my side of the aisle that voted against this appropriation today of a large sum of money without any safeguards, without looking at what would be cost-effective to consumers, simply a willy-nilly approach of throwing bad money after more bad money. So, I commend the gentleman for taking this approach.

As the gentleman knows, it is not a favorable approach in our committee, but I have been of the firm belief for a long time that the RTC and OTS have mismanaged taxpayer dollars and ought to have some sort of basic discipline and guidelines under which they operate.

I thank the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Speaker, I thank the gentleman from Maryland [Mr. MFUME] for that very much.

I think my 5 minutes is probably about expired at this point, but I do thank my colleagues for listening to me. It is a problem, we need to resolve it, and, if we do not, it is going to cost multibillions of dollars.

INTRODUCTION OF LEGISLATION TO ENCOURAGE THE USE OF SAFER MEDICAL NEEDLES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. STARK] is recognized for 5 minutes.

Mr. STARK. Mr. Speaker, the AIDS epidemic continues to multiply and health care personnel to fight this public health care battle are essential. It is also essential that these health care workers be protected—to the maximum extent possible—from accidental exposure to HIV. Therefore, Representative RANGEL and I are today introducing a bill designed to provide a safer workplace for health care personnel in the years to come.

The bill basically will use the Tax Code to make it economical for health facilities to use safer needle devices. The tax provision will not take effect until 1997, so as to give manufacturers, marketers, and health care facilities time to develop the most reliable, low-cost, mass-produced safe needles possible. Using the Tax Code to place an excise tax on unsafe needles will ensure that there is a future mass market for safe needles, and this mass market will result in manufacturing economies of scale that should greatly reduce the price of currently available safe needles.

I would like to thank Congressman WYDEN, chairman, Subcommittee on Regulation, Business Opportunities and Energy for the very informative hearing held on February 7, 1992, on the needlestick issue. The information obtained at this hearing dramatized the need for quick legislative action to help solve the problem

GROWTH OF HIV AND HEPATITIS CASES

Individuals infected with HIV may require frequent and intensive health care intervention. It has been estimated by the CDC that 1.5 million Americans have contracted HIV. Of these approximately 206,000 have been diagnosed with AIDS. In addition there have been approximately 130,000 deaths due to AIDS.

It has been estimated that approximately 5 million health care providers in the United States alone are at risk for contracting diseases through exposure to infected blood and body fluids on a daily basis. According to the

latest CDC statistics, approximately 29 health care workers have seroconverted to HIV positive after known occupational exposures. Three of these have gone on to develop AIDS.

It has also been estimated that 200,000 to 300,000 people annually acquire Hepatitis B [HBV]. Of these, approximately 10,000 cases occur in health care providers. It has been estimated that annually 5 to 10 percent become chronic carriers of the Hepatitis B virus. In addition approximately 2,500 individuals die annually due to acute infection with hepatitis B; this number includes 300 health care workers per year.

These infections are most frequently transmitted in the hospital setting by percutaneous exposure, most often due to needlesticks, or mucous membrane exposure.

It has been estimated that each needlestick costs between $350–$800 (this only reflects the cost of treating the initial needlestick only; i.e. testing, counseling, screening, prophylactic AZT treatment. It does not include the cost of treatment if disease develops). The direct cost of testing after accidental needlesticks approximates $750 million per year according to "MedPRO Month". It has also be estimated that the additional cost of transitioning one hospital with needle safety devices would be approximately one-twelfth of the annual cost of treating one AIDS patient.

SAFER NEEDLES ARE POSSIBLE

People who have not thought about it will probably laugh at the idea of making a safe needle. AIDS is not a laughing matter. Actually, many new products have been introduced into the market that attempt to make devices with needles safer to work with. These products either do not use needles at all or cover the end of the needle with some form of protective housing that extends past the needle when it is not in use. However, they are not being used due to the cost increase over the price of conventional needles.

Preliminary data from a recent New York study reviewing needleless IV catheters, as well as those with protective housings and phlebotomy equipment, indicates health care providers favor the new designs. It should be pointed out that standards for the use of this equipment are only now being developed.

In a study conducted by the New York State Department of Health in 1991, after implementation of devices using safer technologies, overall the number of sharps related injuries decreased 30.8–55.9 percent and IV related injuries decreased 75–93.8 percent. Data gathered by Dr. Janine Jagger, et al, at the University of Virginia suggest that "88 percent by needlestick injuries could potentially be eliminated by product redesign or substitution." (David Bell, M.D., Chief, HIV Infections Branch, Hospital Infections Program, National Center for Infectious Diseases, Center for Disease Control, statement before the Subcommittee on Regulation, Business Opportunities, and Energy, February 7, 1992)

Unless something is done about the price differential, every year millions of at-risk health care workers will suffer in silent agony after receiving a needlestick and many of those will die needlessly from infections like AIDS and Hepatitis B.

TYPICAL COST DIFFERENTIALS

Few health care facilities have this equipment due to the cost involved. As an example, for a hospital to transition to a needleless IV system can cost as much as $10,000 for each 100 beds. Currently IV systems with safety devices can cost as much as 2.5 to 6.5 times the current market rate for devices without safety features. What may not be apparent to health care facility administrators is that the decrease in injuries that will result will offset the incremental cost increase. This is significantly less than the cost of treating an individual for AIDS and/or Hepatitis B. For example, the estimated average cost of treating an adult with AIDS can range from $40,000 to $80,000 depending on the severity of illness.

Regardless of the size of the cost differential, this is a safety step which should be taken. As K. Seifert, director of sales, Bio-Plexus, Inc., stated in his testimony before the Subcommittee on Regulation, Business Opportunities, and Energy, on February 7, 1992, "In any other high risk occupation; no one would be asked to justify the cost of safety goggles compared to losing an eye. The risk from a needlestick is not to sight but to life * * *."

CONCLUSION

Mr. Speaker, this is a tax bill, but I expect—I hope—it will never raise a dime. It's purpose is to signal the marketplace that a change is needed to save lives. Its purpose is to get rid of unsafe devices in an area where we know how to provide safe devices. Passing this bill in 1992 could ensure that by the beginning of 1997, health care professionals would be free from the fear of contracting deadly diseases from blood borne pathogens.

The full text of the bill follows:

H.R.—

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 32 of the Internal Revenue Code of 1986 (relating to manufacturers excise taxes) is amended by inserting after subchapter D the following new subchapter:

"Subchapter E—Certain Medical Items

"Sec. 4191. Imposition of tax.

"Sec. 4192. Definitions and special rules.

"SEC. 4191. IMPOSITION OF TAX.

"(a) GENERAL RULE.—There is hereby imposed a tax on any taxable needle sold by the manufacturer, producer, or importer thereof.

"(b) AMOUNT OF TAX.—The amount of the tax imposed by subsection (a) shall be determined in accordance with the following table:

In the case of sales during calendar year:	The tax per needle is:
1997	10 cents
1998	6 cents
1999	2 cents

"(c) TERMINATION.—No tax shall be imposed by this section on any sale after December 31, 1999.

"SEC. 4192. DEFINITIONS AND SPECIAL RULES.

"(a) TAXABLE MEDICAL ITEM.—For purposes of this subchapter—

"(1) IN GENERAL.—The term 'taxable medical item' means any item—

"(A) which is—

"(i) a syringe, or

"(ii) an item which is designed to be part of an intravenous system and to which a standard prescribed under paragraph (2) applies,

"(B) which is manufactured or produced in the United States or entered into the United States for consumption, use, or warehousing, and

"(C) which does not meet the applicable standard prescribed under paragraph (2).

"(2) ANTI-NEEDLESTICK PREVENTION STANDARDS.—Not later than January 1, 1996, the Commissioner of the Food and Drug Administration shall prescribe safety standards for syringes, and such components of intravenous systems as such Commissioner deems appropriate, for purposes of preventing accidental needlestick injuries.

"(b) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this subchapter—

"(1) UNITED STATES.—The term 'United States' has the meaning given such term by section 4212(a)(4).

"(2) IMPORTER.—The term 'importer' means the person entering the item for consumption, use, or warehousing.

"(3) CERTAIN USES TREATED AS SALES.—Any manufacturer, producer, or importer of a taxable medical item which uses such item before it is sold shall be liable for the tax imposed by section 4191 in the same manner as if such item were sold by such manufacturer, producer, or importer.

"(4) DISPOSITION OF REVENUES FROM PUERTO RICO AND THE VIRGIN ISLANDS.—The provisions of subsections (a)(3) and (b)(3) of section 7652 shall not apply to the tax imposed by section 4191."

(b)(1) Subsection (a) of section 4221 of such Code is amended by adding at the end thereof the following new sentence: "Paragraphs (2), (3), (4), and (5) shall not apply to the tax imposed by section 4191.".

(2) Paragraph (2) of section 6416(b) of such Code is amended by adding at the end thereof the following new sentence: "This paragraph shall not apply to the tax imposed by section 4191.".

(c) The table of subchapters for chapter 32 of such Code is amended by inserting after the item relating to subchapter D the following new item:

"Subchapter E. Certain medical items."

(d) The amendments made by this section shall apply to sales after December 31, 1996.

AFRICAN-AMERICAN HISTORY MONTH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. STOKES] is recognized for 60 minutes.

Mr. STOKES. Mr. Speaker, each year during the month of February, our Nation celebrates Black History Month. I have reserved this special order today along with the chairman of the CBC, the gentleman from New York [Mr. TOWNS] so that the House of Representatives can join in this national observance. I want to thank my colleagues who have taken time from their busy schedules to join me for this special order. We take pride in the opportunity to highlight and pay tribute to African-Americans who have contributed so much to this great Nation.

Our celebration of Black History Month dates back to 1926, when Dr. Carter G. Woodson, who is known as the father of negro history, initiated the observance of Negro History Week. He chose the dates embracing the birthdays of Abraham Lincoln and Frederick Douglass in February for the

opportunity to bring the achievements of African-Americans to the attention of the public. In 1972 the Association for the Study of Negro Life and History changed the name of Negro History Week to African-American History Week. And, in 1976, our Nation began its first month-long celebration of Black History Month.

Mr. Speaker, as we celebrate Black History Month, we celebrate an America more culturally enriched, intellectually developed, and technologically advanced because of the contributions of African-Americans.

The theme for the 1992 observance of Black History Month is "African Roots Explore New Worlds: Pre-Columbus to the Space Age." I want to use my time today to pay tribute to an individual who, in my opinion, best exemplifies this theme. An individual who, during his lifetime, not only brought a new dimension to African-American history, but enlightened the Nation and the world. That individual is the late author Alex Haley. We are deeply saddened by the recent passing of this literary giant.

Mr. Speaker, Alex Haley's 12-year search for his African ancestry produced a 1977 Pulitzer Prize winning novel, and a stirring television miniseries, "Roots: The Saga of an American Family."

In "Roots", Haley reached back seven generations to discover the birth of his great-great-great-great grandfather, Kunta Kinte, in the village of Juffure, on the Gambia River in West Africa. The saga recorded the kidnapping of Kunta Kinte into slavery; his passage across the ocean on a slave ship; and his sale to a Virginia slaveowner.

The book went on to describe the birth of Kunta Kinte's children; their passage from slavery to freedom following the Civil War; and the settling of the family in Alabama and Tennessee in the late 19th and 20th century.

Mr. Speaker, I am pleased at this time to yield to my distinguished colleague and friend, the gentleman from Nevada [Mr. BILBRAY].

Mr. BILBRAY. Mr. Speaker, this February is the 16th celebration of Black History Month. The idea of setting aside a period of time to acknowledge the heritage, achievements, and contributions of black Americans is attributed to Dr. Carter G. Woodson in 1926.

Dr. Woodson's contribution to American life and letters is enormous. The author of many scholarly books, his work has given us insights into how the Afro-American experience enriched American history. Dr. Woodson's work has served to shape our understanding of the American experience. The culture and experience of Afro-Americans is intertwined with our culture and identity as Americans.

In order to comprehend the contributions and achievements of Afro-Americans, information on the black experience in the United States had to be published. Dr. Woodson's most popular work, "The Negro in Our History," was published in 1922. Hitherto, the true facts of the Afro-American contributions to the discovery, pioneering, and development of the United States had not been adequately presented in the textbooks, media, and films.

Born of ex-slaves in the year 1875, 10 years after the Civil War, Dr. Woodson embodies so much of the courage and dignity at the heart of the Afro-American experience in the New World.

Self taught until the age of 17, he earned his Ph.D. from Harvard in 1912. He was an educator. His mission was to study and disseminate knowledge on African-American history. Understanding and appreciating the Afro-American experience not only enriches our national life, but it reminds all Americans of their ethnic roots and the uniqueness of the great American experience: the nurturing of mutual respect for differing traditions and backgrounds.

I find Dr. Woodson's life to be exemplary. He believed in the need and the value of understanding our history. He believed in the value of society's search for knowledge.

By offering the world an understanding of the richness of the African-Americans' history and culture, Dr. Woodson paved the way for generations of Afro-Americans. In the realms of government and community service, civil rights, arts, education, science, business, sport, and entertainment, Afro-Americans continue to contribute to American society. Talented men and women such as Booker T. Washington, W.E.B. Du Bois, Langston Hughes, Duke Ellington, Marian Anderson, Rosa Parks, Jackie Robinson, Dr. Martin Luther King, James Baldwin, Diana Ross, Toni Morrison, Thurgood Marshall, and Gen. Colin Powell continue to make great contributions. They have provided leadership. Their civic and cultural contributions continue to make history.

Mr. STOKES. Mr. Speaker, I thank the gentleman from Nevada [Mr. BILBRAY] for his remarks.

I yield to the distinguished gentleman from New Jersey [Mr. PAYNE].

Mr. PAYNE of New Jersey. Mr. Speaker, I would first like to thank my colleague from Ohio Mr. LOUIS STOKES for calling this special order today in honor of African-American History Month. The need to know our heritage is at such a crucial point. 29 days, or the usual 28, just does not seem enough. We should make every month African-American History Month by learning about our ancestors, and ourselves, all year long.

Today I would like to pay a special tribute to one of our greatest revolutionaries. This sister was a pioneer journalist, activist, suffragist, and antilynching crusader of the late 19th and early 20th centuries. This great African-American was Mrs. Ida B. Wells-Barnett. Born Ida B. Wells in 1862, her parents were both slaves in Holy Springs, MS. In 1878, she lost both her parents, along with other siblings, to the yellow fever epidemic that had invaded the Mississippi Delta. She was left alone to raise her remaining brothers and sisters at the tender young age of 16.

Ms. Wells became a teacher in Memphis, TN, where she wrote articles in local and national black publications exposing the corruption and poor conditions in the Memphis school system. It was because of these writings that she was eventually fired from her teaching position. It was also during this time in the mid-1880's that Ms. Wells sued the railroad company for throwing her off a train when she refused to move out of the segregated ladies' car into the smoking car. She won the lawsuit and was awarded $500. The railroad appealed and in 1887, the Supreme Court reversed the decision.

The loss of her job as a teacher mounted with the loss of her court case prompted Ms. Wells to become a full time journalist with the Memphis Free Speech newspaper where she would be afforded the opportunity to speak out on such injustices. She soon became editor. She also became one of the major figures in the struggle for human rights in America, and in the women's suffrage movement along with Susan B. Anthony.

Using her pen as a weapon against injustice, Ms. Wells advocated self-help and voluntarism in the African-American community, while challenging the forces of race hatred and segregation.

A product of the Reconstruction era, she went on to become a major figure in journalism and in social and political reform. She prompted most of the African-American population in Memphis to move west after the lynching of three African-American grocers.

She encouraged a boycott of the street cars by the remaining African-Americans in the community, predating the Montgomery bus boycott in 1955.

A staunch advocate of freedom of the press, Ms. Wells was supported early in her career by the legendary Frederick Douglass, and celebrated throughout African-American communities nationwide for her courageous leadership of the antilynching movement.

She wrote stinging articles in retaliation for the growing number of lynchings that were being perpetrated against African-Americans. Mobs as large as 100,000 gathered together to beat, burn, and eventually murder innocent men, women, and children. Train schedules were printed and extra cars put on for the convenience of the crowds.

Her writing angered white people to the point that they physically destroyed her paper and press. She went to New York and stayed in exile from the South for 30 years. Outraged in 1894 at the 197 persons lynched that year, she organized the first national antilynching campaign.

As the organizer of the antilynching campaign, Ida B. Wells was very politically active in New York. She kept the pressure on elected officials to investigate the false claims that led to the murder of these innocent victims.

When the elected officials dropped the ball, she picked it up by exposing through her writings the horrendous crimes being committed in the name of law and order. On one occasion she chastised President McKinley face to face for not pushing through antilynching legislation.

By the late 19th century, her stature was on a par with that later attained by such eminent contemporaries as Booker T. Washington and W.E.B. DuBois. She died in Chicago, IL, on March 25, 1931.

The ideas and strategies of Ida B. Wells have directly, or indirectly, influenced the thinking of almost every major African-American leader who has come after her; from A. Philip Randolph to Malcolm X and Dr. Martin Luther King, Jr.

In recent times, the legacy of Ida B. Wells has been virtually forgotten. For years, her work as an antilynching activist was ignored by social scientists and the media alike. Today, however, Ida B. Wells is being rediscovered. In 1987, she was inducted into the Tennessee Newspaper Hall of Frame. In 1988, the Society of Professional Journalists inducted her into its national hall of fame. And in 1990, the U.S. Postal Service issued over 200 million copies of Ida B. Wells commemorative stamps.

Her work is being duplicated in grassroots community organizations around the country. It is a shame and a disgrace that today although lynchings have ceased in practice we still have cases of police brutality and unexplained incidence against many minorities. Because these actions have not totally dissipated we must all keep up the fight until all Americans are safe in this society.

As we honor Ms. Wells, we honor all of our ancestors who made it possible for all of us to be who, and where, we are today. So Mr. Speaker, I ask my colleagues to join me in saluting Ms. Ida B. Wells by recognizing the outstanding achievements of this great African-American woman.

□ 1900

Mr. STOKES. Mr. Speaker, I thank the gentleman for his contribution.

I am pleased now to yield to the distinguished gentleman from New York [Mr. RANGEL], who distinguished himself so well in the well of this House this afternoon in his valiant fight on behalf of the Haitians.

I am pleased to yield to the gentleman from New York, my friend, Mr. RANGEL.

Mr. RANGEL. Mr. Speaker, I rise to commemorate Black History Month by paying special tribute to Katherine Dunham, one of America's preeminent performing artists. As a dancer and choreographer, she revolutionized modern dance in the 20th century by blending rhythms of America with those of Africa and the Caribbean.

First, I want to thank my friend, the gentleman from Ohio, Chairman LOUIS STOKES, who every year brings us to this well to allow other Members of Congress to share and raise our voices in recognition of the contributions that have been made by African-Americans, to join the ranks of our heroes and heroines.

Indeed, the gentleman from Ohio [Mr. STOKES] and his brother, Carl Stokes, the first African-American mayor of one of our great cities, are part of that living history in the contributions that we make, where people from all over have come to make this great Nation what it is today.

So we as black Americans during this month focus on extraordinary people and events as a way of educating our children and all Americans, so that someday we may celebrate them at all times, with one voice.

But as long as history has ignored the contributions of African-Americans, we must take this special time to come together and reflect on the patchwork of cultures that make America such a gorgeous mosaic. Most importantly, this is the time to celebrate who we are, as other Americans do remember the various backgrounds from which we sprang. As Americans we are indeed a glorious mosaic of nationalities, of colors and religions, who have come together to live in harmony.

I call on my colleagues to join with me in saluting Katherine Dunham. Today she lies, although in satisfactory condition, at St. Mary's Hospital in east St. Louis, on the 27th day of a fast. She entered this fast in protest to the treatment of the Haitian boat people which my colleague, Mr. STOKES, just mentioned. She pledged to take nothing but cranberry juice and water until our Government ceases and desists from deporting these unfortunate souls back to Haiti.

She is now 82, but she demonstrated her love for Haiti and the Haitian culture, and it inspired much of her work. She has had a love affair with Haiti beginning in the 1930's. She has done so many Broadway shows and movies, and her history of dancing and providing to art goes from Haiti to Harlem.

Mr. Speaker, it is indeed a great pleasure not only to read our history and the contributions that African-Americans have made, but to know that there are people that are still alive, and we have the honor to allow them not just to receive roses when they are gone, but to help them to smell those roses while they are alive.

When someone 82 years old can risk her life so that others might be aware of the consciousness that is so necessary for us to survive as a people and as a nation, then I feel that we ought to give her a lot of praise for what she has done.

When the question is asked, "What did you know about Haiti, and did you do anything about it," she, like us, Mr. Speaker, she knows and she has done something about it.

So let me join with others in praising the gentleman for his constant legislative contributions and in thinking enough about the problem to give us the opportunity to share our thoughts in the RECORD today.

Mr. STOKES. Mr. Speaker, I thank my distinguished friend from New York for his brilliant remarks regarding Black History Month and the contributions made here to this special order.

I am pleased at this time to recognize the gentleman who presided over the House this afternoon and did such an excellent job, we are all proud of him, the gentleman from Maryland [Mr. MFUME].

Mr. MFUME. Mr. Speaker, I thank the gentleman for the opportunity, and for his leadership in this House.

Mr. Speaker, I am happy to be part of this special order and to pay tribute this evening to the great people of African ancestry throughout both Baltimore City and Baltimore County, and those who perhaps are not of African ancestry but who have tried to reach out this month and in other months toward those who are in an effort to better understand and to realize and to hold high the very special contributions by people of color to this Nation.

We have a rather diverse area, like most metropolitan areas around this country. Baltimore City, Baltimore County, from East to West Baltimore, from Cantonsville to Randallstown, a number of organizations and individuals in their own way have brought about the commemoration of African-American history, not for the purpose of singling out just the month of February but for the purpose of using the month of February as a vehicle for the 11 months that follow.

□ 1910

The Eubie Blake Museum, the Baltimore Museum of Art, the Alvin Ailey Dance Theater of Maryland, Great Blacks in Wax Museum, the Arena Playhouse, the Walter's Art Gallery, Center Stage, the School Systems of both Baltimore City and Baltimore County, the African-American Newspaper, one of the oldest newspapers in this country, and the Baltimore Times,

have taken this month as a vehicle for the other months to chronicle in detail the contributions of people of color in this country, people of African ancestry, in the arts, in the sciences, in education, in sports, in politics, in publishing, and in the ministry.

So, as we in our own way in our part of this Nation remember through a number of different activities the contributions that we think about this evening, we also remember the poignancy of individuals who words are stinging reminders of not just how far we have come, but how far we must go.

It was in fact Langston Hughes who said,

> I too sing America. I am the darker brother. When company comes, they send me to the kitchen to eat.

He said,

> Oh, but I laugh and eat well and grow strong. For tomorrow when company comes, they won't dare send me to the kitchen then, for they will look at me and see how beautiful I am and be ashamed, for I too am America.

Hughes' words were prophetic and he uttered even better than he knew. For even in the latter half of this century, there are many who have yet to learn that lesson.

So as we in the Greater Baltimore area go about the task that others have throughout this Nation, we remember and we are poised never to forget that the contributions of African ancestored Americans are really American contributions; that they are one and the same, and they ought to be remembered as such.

It was only a few years ago that the late Dr. Benjamin Mays of Morehouse College, shortly before his passing, said to us in another poignant statement that he or she who starts behind in the race of life would have to either run faster or forever remain behind.

So those great people who laid down and made their bodies bridges that we might run across, some of us, and get to the Congress and make contributions elsewhere, even though they are gone, they ran faster, and their sterling examples remind us that no daring is fatal, that the maximum hope is always close to the maximum danger, and that for the true believers, the darkness would be light enough.

And so I commend and salute them. I commend and salute Dr. Carter G. Woodson for providing the vision to begin this celebration many, many years ago. And I commend also and thank the people of Baltimore City and Baltimore County, who in their own special way have tried to bring special meaning to this month.

I thank the gentleman from Ohio for allowing me to participate in this special order.

Mr. STOKES. Mr. Speaker, I thank the distinguished gentleman from Maryland [Mr. MFUME] for his contribution.

Mr. Speaker, at this time I am pleased to yield to the distinguished gentleman from New Orleans, Louisiana [Mr. JEFFERSON].

Mr. JEFFERSON. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise today to participate in this special order in observance of Black History Month. Organized by my distinguished colleague, the gentleman from Ohio, this special order is an integral part of our Nation's annual recognition of the history of its African-American citizens.

I commend Representative STOKES and Representative TOWNS, chairman of the Congressional Black Caucus, for their efforts to give Americans a better understanding of the contributions of African-Americans. Since Dr. Carter G. Woodson began the observance of Negro History Week in 1926, we have come a long way in elucidating the unique and noteworthy achievements of black Americans. Yet, there is still widespread ignorance about African-Americans and their contributions to America.

As the 20th century nears its close, it is appropriate to call the attention of Americans of all colors to the stellar contributions of this Nation's first African-American Supreme Court Justice. His life and his work are deeply rooted in the American ideals of freedom, justice, and equality. In this sense, this giant legal scholar and practitioner took all of us on a journey back to our roots of a true constitutional democracy in which the voice, the vote, and the aspirations of every American counts exactly the same. I speak, of course, of Hon. Thurgood Marshall, who has helped plant the seeds from which the revolutionary changes have grown in the way this Nation has sought to overcome the effects of slavery.

Today, the seeds sown by Justice Marshall have not only taken root, they are firmly embedded in American society. Many lawyers, particularly African-Americans, Hispanics, and women have been affected and inspired by this great man's contributions to the practice of civil rights law and by his persistent demands that this Nation make equality of opportunity a reality, not just an amorphous concept.

Thurgood Marshall, was born in Baltimore, MD, in 1908, and graduated with honors from Lincoln University in Pennsylvania and Howard University Law School. He began his career as a lawyer 59 years ago, when he was admitted to the Maryland Bar. Even as we speak, he continues his active love affair with the "jealous mistress" called the law.

From his first major case to desegregate the University of Maryland Law School, *Pearson* v. *Murray*, 169 MD. 469 (1935), to his distinguished tenure of the U.S. Supreme Court, Thurgood Marshall's mark on civil rights law and constitutional law has been indelible and enduring. Doors have been opened to blacks in education, employment, housing, voting, and public accommodations because of his stellar advocacy and brilliant litigation strategies.

Working with distinguished African-American lawyers such as Charles Hamilton Houston, William H. Hastie, Robert Carter, James Nabrit, Spottswood Robinson, Oliver Hill, Wiley Branton, Louis Redding, and many others, Thurgood Marshall conducted a concerted, intense assault on *Plessy* v. *Ferguson* (163 U.S. 537 (1896)) and its nefarious progeny. With each battle, legal segregation fell victim to justice unbridled and unleashed by Thurgood Marshall and the NAACP Legal Defense and Educational Fund [LDF] litigation team. By the time of the landmark *Brown* v. *Board of Education*, 347 U.S. 483 (1954), Marshall's litigation had eviscerated de jure segregation, leaving it too weakened to sustain the likes of Orval Faubus, George Wallace, Ross Barnett, and other arch segregationists. Although the enemies of democracy tried to halt the march of freedom and justice in America, there were no legal stanchions to support their brand of American apartheid.

Marshall's management of the LDF spawned numerous opportunities for young lawyers interested in civil rights litigation to secure solid practical training in civil rights law. I confess, Mr. Speaker, it inspired this speaker as well to become a lawyer. Women, Mexican-Americans, Puerto Ricans, as well as African-Americans, worked and learned well enough to form organizations similar to LDF, to address the needs of specific minorities and women. It is no exaggeration that without the LDF to serve as a model, devising litigation strategies to address the needs of Mexican-Americans, for example, would have been inordinately more difficult. So the roots for these vital organs of sound change in the legal system were established through the work of Justice Marshall.

With Thurgood Marshall's nomination to the U.S. Court of Appeals for the Second Circuit by President John F. Kennedy in 1961, he began a distinguished career as a public servant. After 4 years as an appellate judge, Marshall became U.S. Solicitor General, the first African-American to occupy this important position. There he continued his advocacy of civil rights, arguing successfully to uphold the Voting Rights Act of 1965 in *South Carolina* v. *Katzenbach*, 383 U.S. 301 (1966), and to overturn a California constitutional amendment prohibiting open housing legislation in *Reitman* v. *Mulkey*, 387 U.S. 369 (1967).

On October 2, 1967, Thurgood Marshall was sworn in as the 96th Justice of the U.S. Supreme Court, where he continued his full-time public service

until his retirement last year. Today, he continues to hear assigned cases by designation by the Chief Justice.

How we miss his spirit, his lawyerly skills, his intelligence, and his sensitivity.

Thank you, Justice Thurgood Marshall, for your work in the law 59 years. Our lives have been transformed immutably, and we shall never forget your contributions to our Nation. Your commitment to justice, your character, your competence, and your life's work are like a good tree whose roots are firmly fixed; like a tree planted by waters. It is for succeeding generations to continue nuturing that tree, and to continue to ensure that its roots, our roots hold and grip the solid rock of opportunity that is and will forever be his continuing contribution to African-Americans and to all Americans.

□ 1920

Mr. STOKES. Mr. Speaker, I thank the gentleman from Louisiana for his very fine remarks. I want to once again express my appreciation to my friend and colleague from New York [Mr. OWENS] for yielding his time to me on this occasion and to also recognize him for the outstanding leadership he gave along with the leadership of the gentleman from New York [Mr. RANGEL] on behalf of the Haitians on this floor here today, along with the great fight he has waged on their behalf long before today throughout the trials and tribulations that they have encountered having come to our country.

Mr. Speaker, I yield to the gentleman from New York [Mr. OWENS].

Mr. OWENS of New York. Mr. Speaker, from the time that African people were first brought to this country in chains, they understood that education was the key to freedom and self-determination. African people have a heritage of valuing education; many ancient African kingdoms founded elaborate school systems and some even had universities.

In the South, African slaves struggled to learn to read, often in secret, because in some States a slave who knew how to read would be killed or severely beaten. The plantation masters feared that a slave who could read might teach other slaves, who would then revolt against their condition, making real the saying "a little education is a dangerous thing."

In the North, free African-American communities also placed a premium on education as a means for advancement and empowerment. This was no less true in the African-American community of Brooklyn, NY, whose 12th Congressional District I represent. According to Brooklyn historian Robert J. Swan, during the 18th and 19th centuries the schools in Brooklyn, which was then a city, were rigidly segregated. The first African-American schools in Brooklyn were founded by African-American religious leaders. Peter Croger inaugurated a day and evening school for recently freed slaves and freemen in January 1815 in his home on James Street. It soon closed due to a lack of competent teachers.

Brooklyn's Common School System, which initiated public school education in the city, was established in May 1816, but the system decided that African-American children could only be educated in segregated facilities. In 1818, 45 African-Americans were taught in a room of a white school, and after 1824 William Read, an African-American graduate of the New York African Free School, was hired as their teacher. But by 1827, these students were forced to give up their space in the white school.

In October 1827, Brooklyn's first African Free School was opened by Henry C. Thompson, the city's first African-American businessman and the President of the Brooklyn African Woolman Benevolent Society, and Abraham Brown. The two men purchased land in Brooklyn and erected a building for a schoolhouse and other African interests. William Read taught there until his death in 1830, when George Hogarth became its second and most famous teacher. Hogarth grew to prominence in the African Methodist Episcopal Church movement and was ordained a deacon in 1832. By 1836, he was elected general book steward of the A.M.E. Church.

As is the case with many predominantly African-American schools today, the African Free School faced numerous financial difficulties, and it received less than half of the State funds appropriated for it. Despite the funding problems, Hogarth continued to teach, unpaid, until about 1840 when he resigned to devote himself to his religious activities on a fulltime basis. Augustus A. Washington, the school's next teacher, taught for about 1 year. In September 1841, William J. Wilson, one of early Brooklyn's most respected African-American intellectual leaders, was appointed principal.

In 1834, some African-Americans from Manhattan sought refuge from racial tensions there and settled in Carrville, located in Brooklyn's ninth ward. By 1839, a second African Free School was opened in Carrville. This school was also met with operating difficulties and was taken over by the white district trustees of neighboring Bedford's school. This school had a few African-American teachers.

In December 1840, a meeting of the Kings County Bar, concerned with the intellectual improvement of Brooklyn's African-American community, appointed a committee consisting of Brooklyn's Mayor, Cyrus P. Smith, its corporation counsel, Joshua Van Cott, and Nathan B. Morse, a judge of common pleas, for "devising a plan for the better education and moral culture of the Negro population" of Brooklyn. Two months later three African-Americans, George Hogarth, Sylvanus Smith, and Henry Brown were appointed by Mayor Smith as district trustees of the African School, becoming Brooklyn's first African-American district trustees.

But African-Americans were ignored by the Brooklyn Board of Education, which was established in 1843; African-Americans were not allowed to be represented on the Board, the African Free Schools were denied their share of public education funds and the schools were excluded from the jurisdiction of the Board of Education. In 1845, after petitions from the former African-American trustees, the entire city was made a district for colored children and the African-American schools were brought under the jurisdiction of the Board of Education on separate but equal status with white schools.

It was assumed by African-American school administrators that as a result of this action which formalized separate but equal education, African-American schools would finally receive the funds necessary to uplift African-American educational standards, but such was not the case. A few improvements were made. A new school building was erected on Raymond Street near Willoughby Street for Colored School No. 1 in 1847 and a new building was opened in Weeksville for Colored School No. 2 in 1853. But these buildings were inadequate for education as soon as they were opened. They remained underequipped, underrepaired, understaffed, and African-American teachers were underpaid. These schools had to serve the needs of all of Brooklyn's African-American children. As late as 1883, the Board of Education would not allow African-American children to attend white schools which were geographically closer to where they lived, forcing them instead to walk miles to the nearest Colored School.

Brooklyn's schools were not officially desegregated until late 1883. The first African-American to be appointed to the Board of Education, Phillip A. White, introduced a resolution to desegregate the schools, and it passed in December 1883 by a vote of 14 to 11. But "de facto" segregation still prevailed, and the "Colored Schools" continued to exist, maintaining the designation until 1887, when the names of the three Colored Schools were changed to P.S. 67, P.S. 68, and P.S. 69.

Phillip A. White died in 1891 and was succeeded on the Board by T. McCants Stewart, a lawyer, politician, and close friend of T. Thomas Fortune, founder of New York City's African-American newspaper the New York Globe and a persistent crusader for equal rights for African-Americans in all areas of life. Under Stewart's leadership the African-American children of P.S. 68 were

integrated with the new white school P.S. 83 at Bergen Street and Schenectady Avenue. Stewart's championship of racial equality and his political activism may have caused his removal from the Board of Education in 1894; shortly afterward, he emigrated to Liberia.

Stewart was succeeded on the board by Samuel R. Scrottron, entertainer Lena Horne's grandfather. Scrottron briefly succeeded in having an African-American Ph.D., William L. Bulkley, appointed to head a white department in P.S. 114 in Canarsie. However, the pressures of racial bigotry resulted in Bulkley's removal.

By the early 1900's it looked as though African-American children would finally be integrated into the white schools of Brooklyn, which was now a borough. Only one of the original colored schools remained in existence; the other two were forced to close due to the declining African-American population and health hazards. But de facto segregation reared its ugly head again in the 1920's. Southern African-Americans, looking for employment and an escape from racial oppression fled North to New York and to Brooklyn in record numbers, prompting white flight from the borough and reestablishing separate-but-equal education. Despite the 1954 Supreme Court decision that outlawed de facto public school education, Brooklyn's schools, like many urban public schools nationally, are once again underequipped, underfunded, dilapidated, and populated primarily by poor African-Americans and other poor students of color. In New York City the per pupil expenditure is $5,000 and going down as a result of budget cuts, thus ensuring that these urban schools remain unequal.

Despite various barriers throughout Brooklyn's history placed in the way of African-Americans' efforts to achieve a world class education, and the persistent savage inequalities that have made this goal almost impossible; despite education policies like the Bush administration's America 2000 education reforms that deliberately overlook the crises in public schools in poor communities such as those in my 12th Congressional District; African-Americans continue to insist that their children learn, and that the pubic schools meet their children's education needs.

Last year, in my capacity as the chairman of the Congressional Black Caucus Education Braintrust, I established a National Citizens Commission for African-American Education. The Commission will provide a critical review of existing national education policy while offering alternative national education policies and strategies for the benefit of African-American children. It will also provide national guidance to the African-American community for educational policies, strategies, programs and practical activities, as well as stimulate mobilizations for education in African-American communities all over America.

African-American parents of Brooklyn's past were clear on the fact that an education would save their children, and future generations of their young people, from growing up to become society's underclass laborers forever. Today's African-American parents in Brooklyn and elsewhere know that if we are to save African-American children from the fate of being obsolete drones in the work force of the next century, we need an overwhelming crusade to establish and maintain world schools for all children. Those early African-American Brooklyn pioneers who insisted on the best education available inspire us now as we press Federal, State, and local governments to provide funding and leadership for the massive national effort to end the savage inequalities of education opportunity.

Mr. STOKES. Mr. Speaker, I thank the gentleman from New York for his contribution to this special order.

Mr. Speaker, I yield to the gentleman from Oregon [Mr. KOPETSKI], and I am pleased to have him participate.

Mr. KOPETSKI. Mr. Speaker, I rise today to commemorate Black History Month by calling attention to several African-Americans who played important roles in the history of my home State of Oregon.

The theme for the observance of Black History Month for 1992 is "African Roots Explore New Worlds: Pre-Columbus to the Space Age." Oregonians are proud of the role African-Americans played in the exploration and settlement of Oregon and the Pacific Northwest. I want to highlight the lives of several of these African-Americans.

The first known African-American to land on Oregon's shores was Marcus Lopeus. Lopeus was a cabin man on the sloop *Lady Washington* during Capt. Robert Gray's first voyage to the Pacific Northwest in 1787–88. Unfortunately, in August 1788, Lopeus was killed by a band of Tillamook Indians as he and other members of the crew searched for drinking water. Captain Gray gave what is now known as Tillamook Bay the name "Murderers' Harbor" as a memorial to this tragedy.

An African-American slave, named York, was a member of the Lewis and Clark Expedition of 1804–06, the first Government-sponsored overland journey to the Pacific Coast and back. York proved to be a vital member of the expedition. He was lauded for his skill as a hunter, his knowledge of French, and his ability to live off the land. With the expedition party, York helped construct Fort Clatsop on the south side of the Columbia River. In one of the murals at our State capitol building in Salem, York is pictured with Lewis and Clark on the shores of the mighty Columbia River.

Sir James Douglas, known to fur traders as Scot West Indian, was the son of Scottish merchant John Douglas and a Creole woman of British Guiana. Mr. Douglas learned the fur trade as an apprentice, at age 16, to the North West Co., rising to second-class clerk when that company merged with the Hudson's Bay Co. in 1821. He rose quickly through the ranks of the Hudson's Bay Co. During the chief factor's absence in 1838–39, Douglas was placed in charge of Fort Vancouver and in 1839, he was promoted to chief factor. Hudson's Bay Co. obtained a royal grant to Vancouver Island in 1849, and 2 years later Douglas was appointed governor and vice admiral of the island. Under his leadership, agriculture and industry thrived in the newly settled region.

Early in Oregon's history, African-Americans also were mountain men, gold miners, cowboys, wealthy entrepreneurs, even founders of cities in the Oregon Territory.

In 1844, a wagon train pushed across the plains toward the Columbia River Valley. The expedition's leaders were Michael Simmons, an Irish immigrant, and an African-American, George Washington Bush. Mr. Bush had become wealthy from trading cattle in Missouri. The successful American claim against the British to the Puget Sound Territory was based on the Simmons-Bush settlement. But this brought Mr. Bush under the control of the Oregon Legislature laws, which excluded African-Americans from settling in the Oregon Territory. Mr. Simmons, elected to the legislature, sponsored a bill in 1854 to exempt Mr. Bush and his family from these laws, and asked Congress to grant him a homestead. Both bills passed, and in 1855 Congress granted Bush a 640-acre homestead between Tumwater and Olympia, WA, now called Bush Prairie in his honor.

During this celebration of Black History Month, I want to commend the efforts of the Oregon Historical Society which provided materials for schools through Oregon to help commemorate Black History Month. The Oregon Historical Society also held meetings with the Northwest African-American Writers' Workshops earlier this month to commemorate African-American authors, poets, and historians. In addition, the Oregon State Department of Transportation held a multicultural forum in Salem for its employees, celebrating and enhancing the national heritages coming together under our great roof of liberty and justice.

Mr. Speaker, I commend the Congressional Black Caucus for holding this special order today. I also want to thank Congressmen ED TOWNS and LOUIS STOKES, the gentleman from Ohio, for their efforts today recognizing the achievements of African-Americans.

Mr. STOKES. Mr. Speaker, I thank our distinguished friend and colleague for his interesting and articulate statement.

Mr. Speaker, I yield to the gentleman from Florida [Mr. HUTTO], a distinguished friend and colleague, and appreciate his participation in this special order.

Mr. HUTTO. Mr. Speaker, I thank the gentleman for yielding.

It is with great pride that I rise here today to participate in observance of Black History Month. Throughout our Nation's history many African-Americans have contributed in meaningful ways to our Nation's accomplishments. Today I wish to draw attention to a modern-day contributor, Nathaniel Smith, Jr., of Fort Walton Beach, FL.

Nate Smith had over 20 years of executive management experience in the U.S. Air Force. He gained extensive experience in management of time, money, and people while serving his country. These skills laid the foundation for his business success today. Nate and his wife, Jannie Vee, started Ver-Val enterprises as a small assembly shop in 1979. Originally, they operated out of their garage. Their initial work force consisted of Nate, Jannie, and his two daughters, Veronica and Valerie, from whose names the company's name was derived.

Since 1979, Ver-Val Enterprises has continued to grow and succeed. Nate, who is the company's president, works diligently to keep a solid business foundation. In fact, Ver-Val is recognized today as a key defense contractor. Over the past 11 years, Ver-Val has expanded their product line, and they now include design engineering, precision computer numeric controlled machining and metals fabrication.

In 1982-85, Ver-Val was involved in substantial plant expansion and in buying more complex machinery. These expansions enabled the company to compete for more sophisticated and larger programs.

Today Ver-Val is a dynamic company which has a reputation for providing superior products and reliable service. Ver-Val now has experienced management and has greatly diversified its products.

These honors and accomplishments are directly attributed to Ver-Val's president, Nate Smith. The company has received the Nation's Outstanding Minority Business Contractor of the Year Award. Nate personally has been recognized as the Minority Business Contractor of the Year for the Departments of Defense and Commerce in 1986. He was the Minority Federal Contractor of the Year for the Federal Government in 1986. He was the Regional Small Business Prime Contractor of the Year in 1985. He was the Small Minority Owned Business of the Year Award winner in 1984 for the Kennedy Space Center. The awards go on and on.

On the personal side, Nate is an active participant in his community. He is past president of the Regional Contractor Association, and past president of the Florida State Job Service Employer Committee. He is past president of the Economic Development Council in Okaloosa County, FL. He is a former member of the Private Industry Council in Okaloosa County, FL.

His appointed offices include membership in the Okaloosa Walton Community College Foundation. He is a delegate to the White House Conference on Small Business. He is a member of the board of the Florida Department of Commerce. He is a member of the Governor's commission on space and he is a member of the task force on economic development for the State of Florida.

During this time when we recognize and honor African-Americans in our Nation's history, I am proud to share with you the significant accomplishments of a modern-day hero. Nate Smith is a dynamic, enterprising American who has contributed to the success of America today. We in northwest Florida are exceptionally proud of Nate Smith.

□ 1930

Mr. Speaker, again I want to thank the gentleman from Ohio [Mr. STOKES], for taking this special order here today.

Mr. STOKES. Mr. Speaker, I thank the gentleman for his participation also.

Mr. Speaker, I now yield to a distinguished friend and colleague from the State of Pennsylvania [Mr. BLACKWELL].

Mr. BLACKWELL. Mr. Speaker, I thank the gentleman for yielding and would like to thank him for this opportunity afforded me today. I had intended today to speak about a great black man, W.E.B. DuBois, probably one of the greatest men who ever lived, and certainly one of my heroes, even in death. But because of the fact that we had someone pass in Philadelphia just this week who I feel was one of the great ones, I am pleased with the opportunity to offer this statement on the floor on behalf of the late Hon. John Allen.

Mr. Speaker, because February is the month that has been officially designated as Black History Month, I am so pleased with the opportunity to offer this statement in honor of the late John Allen.

This special order provides a valuable opportunity for us to celebrate the richness of our African-American heritage.

In the city of Philadelphia, there are numerous black Americans who have struggled throughout their lives paving the way for many of us to enjoy a greater quality of life. Philadelphia has long prided itself on being a city where many black Americans have made exceptional contributions to society.

Mr. Speaker, I would be remiss to pass up this opportunity to memorialize the late John Allen, who was a man of great conscience and integrity; a man who dedicated the greater part of his life helping his people. John made many sacrifices, thus it is more than fitting for me to dedicate my segment of this special order solely to him, indeed an envisionary.

John Allen is well known for being the founder of the renowned Freedom Theater in Philadelphia, which has long been regarded as one of the Nation's leading sites for the black performing arts.

John Allen was inspired to establish this institution because of a love of people. Since its inception, the institution has not only been referred to as a place that promotes a love for the arts but a love for the community. In 1966 in the midst of the civil rights movement, the Freedom Theater opened its doors—what a significant accomplishment.

John Allen was certainly a major figure in black history; one whose life was exemplary of the wonderful blessings yielded by hard work and dedication.

The lifestyle that John led was the type that should be emulated by our young people. He was dedicated to uplifting all people. He opened up the cultural facility in the area of north Philadelphia which is one of the city's most economically disadvantaged African-American neighborhoods. The facility exemplifies a successful attempt at revitalizing a community and introducing people to a certain culture of which they may not have otherwise been exposed. The emphasis that John placed on education, hard work, and community service was indeed his hallmark.

Even at the lowest points of his sickness, John continued to keep a positive attitude and fought on for excellence. He continued to harbor in his heart his vision of the Freedom Theater as a model for other African-American organizations wanting to improve the quality of life for thousands of people living in communities like north Philadelphia.

I am proud to relate to you how much of a special friend John was to me; no doubt he was an outstanding member of the African-American community who will be greatly missed.

Mr. Speaker, on behalf of the citizens of Philadelphia to John I say, God bless you, John. We love you. May your soul rest in peace.

Mr. STOKES. Mr. Speaker, I thank my distinguished friend and colleague for his contribution.

Mr. Speaker, I am pleased to yield to another friend and colleague who himself made history in the State of Tennessee a few years ago when he became the first African-American to be elect-

ed to the Congress from that State. I am pleased to yield to my distinguished friend, the gentleman from Tennessee [Mr. FORD].

Mr. FORD of Tennessee. Mr. Speaker, I thank the gentleman from Ohio for yielding. It is a pleasure to join with my colleagues in the Congressional Black Caucus and other Members of this body to pay tribute in this month of February as we think in terms of all of the accomplishments of African-Americans. It is an honor for me to take part in this special order in observance of Black History Month, and again I want to thank the gentleman from Ohio [Mr. STOKES] for observing this by taking this special order and for really saying to the House of Representatives that we want these special orders not only this year, but the gentleman has also in the past led these special orders and been so great in thinking in terms of February as Black History Month.

Mr. Speaker, it is a pleasure and an honor for me to take part in special orders in observance of Black History Month. The theme, "African Roots Explore New Worlds: Pre-Columbus to the Space Age," provides me the opportunity to pay tribute to the accomplishments and contributions of one great American, a man who awakened the consciousness of every American—both black and white—Alex Haley.

In his novel "Roots: the Saga of an American Family," Mr. Haley set forth an emotional shot which deeply affected the hearts and educated the minds of an untolled number of people.

As the first black Member of this body from the State of Tennessee, I was touched by the grueling story of Haley's family, a story that could have been told about my own family and the families of many African-Americans. As a youth growing up in Memphis, TN, I prevailed the indignities of racial hatred and the abuses of our system of justice. It was in the very city that I represent here in Congress that the late Reverend Martin Luther King, Jr. a giant among men, the leader of the greatest American freedom movement since the American Revolution in 1776, was cut down by an assassin.

Mr. Speaker, just as Dr. King's senseless assassination made the people of this Nation and the world brutally aware of the deep-seated prejudices engrained in the American tradition, Alex Haley's literary masterpiece, "Roots," in a far less violent way, so too, brought us face to face with the horrors and repression that are part of our American heritage.

History books and oral stories have provided us with a vast understanding of the suffering caused by slavery. But not until "Roots" did this nation have a real look at the corrosive and dehumanizing side of slavery. Only by bringing this saga to the television screen did we as a Nation have a chance to realize the human essence of this debasing and humiliating way of life.

The overwhelming impact of Alex Haley's "Roots" has in a single, Pulitzer-prize winning achievement raised an extraordinary level of interest of people everywhere to the great continent of Africa, its past and its future, and the contributions of Americans whose forefathers came from those shores.

Alex Haley's "Roots" may not have ended discrimination or violence, or inequality, but it did heighten Americans' awareness of our past and our heritage.

In addition, "Roots" issued a challenge to the people of this country—both black and white. A challenge to understand the American legacy of injustice so that we may work together in order to create a more compassionate and richer America heritage—not one founded on inequality and embarrassment, but rather one grounded in brotherhood, equality, and fairness.

Alex Haley has rightfully earned all honor bestowed on him. This American literary champion serves as an inspiration of immaculate hope for those who share the belief that their humble origins must always be a part of their strength.

All of use owe a great deal to Alex Haley. It took his genius, his vision, his research, and his commitment to the betterment of humankind to open the eyes of many Americans who would not have otherwise heard or understood the powerful words of the Declaration of Independence: "that all men are created equal."

□ 1940

Mr. STOKES. Mr. Speaker, I thank my friend, the gentleman from Tennessee, for his eloquent remarks concerning Alex Haley.

Earlier in my remarks, Mr. Speaker, before I began yielding, I was talking of Alex Haley, and I wanted to go on.

"Roots" has been hailed as a triumph of faith, creativity, and scholarship, a unique contribution to American History, and an invaluable reaffirmation of the black heritage. The book sold 6 million copies in hardcover edition, millions more in paperback, and has been translated into 37 languages. Haley's moving account of the black experience in America has touched people of all races, all over the world.

Mr. Speaker, Alex Haley grew up in Henning, TN, where his maternal grandparents lived. In 1939 at the age of 17 he joined the U.S. Coast Guard. It was during his Coast Guard career that Alex Haley's talent as a writer was discovered. He wrote free lance articles, articles related to Coast Guard activities, and even wrote love letters for his shipmates while at sea. In 1949 he was selected and served as chief journalist for the Coast Guard.

Upon his retirement from the Coast Guard in 1959, Alex Haley became a full-time writer. He received writing assignments from Readers Digest and conducted interview for Playboy Magazine with individuals including Miles Davis, Muhammad Ali, Dr. Martin Luther King, Jr., George Rockwell, and Malcolm X.

Alex Haley's interview with Malcolm X, the former leader of the nation of Islam, led to the writing of his first book, "The Autobiography of Malcolm X." The book was published in 1965, shortly after Malcolm X was Slain, and sold more than 6 million copies in eight different languages.

It was in 1964 that Alex Haley signed a contract with Doubleday & Co. to write a book about the South before the 1954 Supreme Court school desegregation ruling. The proposed title of the book was "Before This Anger." The book project turned into a journey of half-a-million miles and years of arduous research, culminating with the publication of "roots."

Alex Haley also published "A Different Kind of Christmas" in 1988, which is the story of a slave's escape on the underground railroad.

Mr. Speaker, I will always remember my first meeting with Alex Haley. That meeting took place during my first trip to Africa in 1971. Alex approached me in the airport in Senegal and introduced himself. He explained that he was traveling to Gambia to research a book he was writing. We talked at great length about Haley's book, "Before This Anger," which later became "Roots."

From that point we became friends and over the years remained in touch with one another. I remember with pride when, at my invitation, Alex traveled to my congressional district in Cleveland to speak before the 21st District caucus. Alex Haley was a warm and gentle individual, who spoke with great affection of his family and heritage. I have also benefited from a close friendship with his brother, George W. Haley, a distinguished lawyer who serves as chairman of the U.S. Postal Rate Commission.

Mr. Speaker, Alex Haley passed away on February 10, 1992 at the age of 70. At the time of his death, he was completing two books; one is a book on Henning, TN; the other is the story of his paternal grandmother, Queen Haley. With the passing of Alex Haley, our Nation has lost a literary giant, a skilled historian, and a great human being. We extend our sympathy to his wife, My Haley, and his brothers, George and Julius.

Mr. Speaker, Alex Haley hoped that "Roots" would encourage African-Americans—and indeed all races—to explore and take greater pride in their heritage. Haley once said that "You can never enslave somebody who knows who he is." As we celebrate our 1992 ob-

servance of Black History Month, we celebrate an America that is richer and more culturally aware because of the undertakings and accomplishments of Alex Haley. Today, as we celebrate our "Roots," let us remember the contributions of this great American.

Mr. Speaker, I want to again thank my colleagues who are joining me in paying tribute to Black History Month.

Mr. GUARINI. Mr. Speaker, the theme for this year's observance of Black History Month is "African Roots Explore New Worlds: Pre-Columbus to the Space Age." From those who were present on the ships of Columbus to individuals like Guion S. Bluford, Jr., one of the first black astronauts, African-Americans have played an essential role in expanding our understanding of our world.

Education is one of the surest paths to great discoveries and has always been an integral part of the black experience in America. This is because education has been one of the primary means by which black Americans have fought to free themselves from oppression and discrimination. Today, this struggle is still being fought, most notably, by the large number of black educators in America. Their frontier is the classrooms and colleges of our Nation. In part, it is through their efforts, that high school completion and college enrollment rates for young blacks recently reached an all time high. Between 1986 and 1990, enrollment increases in historically black colleges outpaced enrollment increase in all U.S. colleges by 12 percent.

Black Americans may look to their heroes throughout history as excellent examples of how education leads to empowerment, in spite of overwhelming odds. For example, the black scholar, Carter Godwin Woodson, who first conceived of the idea of Black History Month in 1926, was largely self-taught until the age of 17, overcoming the discrimination and poverty he experienced as a youth. In an earlier period, Frederick Douglass, struggled to educate himself and others in spite of the fact that he was a slave. Later he founded a newspaper in Rochester, NY, which gave momentum to the abolitionist movement.

One of the greatest examples of how an education can empower an individual is that of Malcolm X. The young Malcolm X knew only suffering and discrimination. When he was 4, he watched his house burn to the ground as white firefighters looked on. Malcolm was involved in a tragic life of violence and crime when he was thrown in jail for burglary at the age 21. During this time, however, Malcolm began to educate himself in his prison cell, mostly through correspondence courses and by reading the dictionary from A to Z. Through his self-teaching efforts, Malcolm grew to become one of the most powerful spokesmen for black empowerment this country has ever known. His words, his ideas, and his mind would have a profound effect on our country.

Throughout our history, there have been countless people working to increase understanding and improve the lives of others. In my congressional district in Hudson County, NJ, members of the Hudson County's African-American community are working to educate and expand the horizons of our fellow countrymen. Glenn Cunnigham, former Jersey City Council president and a noted historian and Arnold McKinnon and Dennis Benjamin of Jersey City Cable Television recently teamed up to create a documentary detailing the historical struggles and accomplishments of black Americans in Hudson County. This program entitled "Hidden Footprints" has helped to educate the current residents of Hudson County as to the rich, and largely unrecognized, history of black Americans in my district. Through such efforts to better understand black history, African-American citizens as well as others can come to better understand this rich heritage.

The thirst for knowledge and the spirit of discovery are alive and well within the African-American community in our country. On this day, I wish to join my distinguished colleagues in celebrating black American history and recognizing the black Americans who are making history by educating and empowering the people of our Nation.

Mr. DELLUMS. Mr. Speaker, it gives me great pleasure to rise and speak before you today in honor of Black History Month.

The history of African-Americans in this country has, to say the least, been distorted. Many of us were taught in one or two brief history lessons about Africans who, in 1619, were brought to this country in chains and for the next 400 years were subjected to the worst forms of oppression ever known to man. What we were not told was that as early as 1311 Africans were coming to North America exploring unknown lands. We never learned that the King of Mali himself made a voyage across the Atlantic in 1312. Most importantly we were never informed of the fact that Christopher Columbus had heard about these African mariners and went to Africa to hear their stories before crossing the Atlantic. Yet, thanks to African-American historians, writers and educators like Dr. Carter G. Woodson, who in February 1926 organized the first Negro History Week, the precursor to Black History Month, we have been able to acquire true knowledge about our people.

Although, Black History Month is not the only time we choose to reflect on and learn about our heritage, it is during this time, unlike any other throughout the year, that we as a people come together on a more frequent basis to disseminate information about our history on a greater scale. February is a month when we can take our children to almost any museum, library or cultural activity and learn interesting facts about our forefathers and mothers. These are not only important history lessons for our children but they are significant reminders to us of the legacy we must uphold and continue to see progress beyond the 21st century.

Clearly Mr. Speaker, Black History Month is a time of reflection, celebration and pride for many African-Americans, but we are not the only recipients of this valuable experience. The country as a whole is enriched by Black History Month. During this time of year many people of various ethnicities and races are exposed to our heritage and culture through a variety of activities offered. This knowledge oftentimes gives them a greater appreciation of the many contributions African-Americans have made not only to this country but also the world. A better understanding between cultures leads to a stronger community; this is imperative if we are to move our Nation above and beyond the confines of racism.

As we come to the close of Black History Month, let us not come to an end in the search for truth and knowledge. We must never forget the legacy of struggle, survival and perseverance left to us by the great kings and queens of Africa as well as our own African-American forebears. The memories of Sojourner Truth, Harriet Tubman, Denmark Vesey, James Weldon Johnson, Lorraine Hansberry, James Baldwin, Martin Luther King, Jr., Malcolm X, Patricia R. Harris, and Congressman Mickey Leland should only serve to fuel our fires in the continued quest for solving the many problems our communities face. We must not reflect upon our great past and at the same time look upon our future with contempt. All of us must rise to the occasion and pull our people from the wells of despair and hopelessness. It is up to us and we must meet the challenge head on.

Ms. WATERS, Mr. Speaker, I would like to thank Representative LOUIS STOKES for providing members of the Congressional Black Caucus the opportunity to observe National Black History Month.

I would like to open with a quote from Frederick Douglass:

> If there is no struggle there is no progress. Those who profess to favor freedom and yet depreciate agitation, are [people] who want crops without plowing up the ground, they want rain without thunder and lightening. They want the ocean without the awful roar of its many waters. This struggle may be a moral one, or it may be a physical one, and it may be both moral and physical, but it must be a struggle. Power concedes nothing without a demand. It never did and it never will * * * [People] may not get all they pay for in this world, but they must certainly pay for all they get.

By December of this year, one of the most exciting and extraordinary movies in history will be available. Directed by the dynamic and talented Spike Lee, the upcoming film about the life and times of Malcolm X will cause us to struggle within ourselves, to struggle with each other and to struggle with our history.

Tackling history is never easy. It is particularly difficult when it is recent history. Witness the controversy in which the movie "JFK" has engaged us. Many wondered whether or not this was the time in which to make a film about Malcolm X? And beyond that, others wondered if Spike Lee was the one to produce and direct a film about him?

None of these questions deterred Spike Lee. Lee accepted the challenge of trying to present the life of a man that has been as highly controversial in his death as he was when he lived. Spike Lee had the vision and the commitment to try and capture the life of Malcolm X on film. Without a doubt, in its completed state, the movie will produce as much controversy as the man himself. I can not predict whether or not even I will agree with Lee's interpretation of Malcolm X's life. However, I do want to note what I feel is a courageous act on the part of Spike Lee.

I am pleased and proud to add my voice to the documentation of the life of Malcolm X. I am doubly proud to have lived and witnessed Malcolm X, though I did not know him personally. And, I am pleased that I have the privi-

lege of calling his wife, Betty Shabazz, and his daughter, Attallah Shabazz, friends.

Who was Malcolm X? Why in 1992 is the discussion of Malcolm X one of the most highlighted discussions on college campuses of traditionally black institutions. Black students on other campuses are also discussing Malcolm X. All are attempting to establish their own relationship and understanding of the man, his life, his work and his teachings.

Each year, there are Malcolm X celebrations all over the country. The District of Columbia has one of the largest and most expensive celebrations of Malcolm X.

Revered and castigated, clearly, Malcolm X changed the political landscape of America forever. He provided a forum that forced us to confront who we are and what we have achieved as a nation and as a country.

For young black men today, Malcolm X stands as strong role model—a black man who felt good about himself and was proud of his heritage. Malcolm X had much respect for women and for committed relationships. He enjoyed being a father and was very devoted to his wife, Betty Shabazz. He understood that violence committed against ourselves serves only those who would just assume keep us down.

When Malcolm X entered the room a hush fell over the crowd. As he mounted the stage, the chills rose up the spine. Before speaking, his eyes would take in the entire audience as if he could hold the stare of each and everyone at the same time. And when he spoke, his voice riveted you to your chair. Malcolm was one of our greatest orators, one of our greatest thinkers, and he had a powerful vision for the black community.

He wanted African-Americans to be a strong, politically aware and active people. He organized voter registrations drives, promoted the organization of independent political organizations, and encouraged African-Americans to run as Independent candidates. He dreamed of African-Americans being politically mature. Malcolm X sought to change the entire political system in this country such that black people would be powerful enough to sweep all racists out of office.

Born in Omaha, NE, on May 19, 1925, Malcolm Little was one of eight children born to a West Indian woman and her Baptist minister husband. The violence of racism chased the Littles out of Omaha, burned their home in Lansing MI, and beat Malcolm's father nearly to death before leaving him on streetcar tracks to be killed.

After dropping out of school at the end of eighth grade, Malcolm Little drifted through life. He became known as Detroit Red, then Big Red. He dealt drugs, ran numbers, sold bootleg whiskey, pimped, pulled robberies. Eventually, he was caught, convicted, and jailed.

It was during his imprisonment at Concord State Prison in Massachusetts that Malcolm first learned about Elijah Muhammad and his street-tough theological and ethical teachings. These teachings inspired Malcolm to change his life. He worked to improve his vocabulary and reading skills. It was his habit of reading under the inadequate light of his prison cell which earned him the scholar's mark of wire-rimmed glasses.

It was after his release from prison that he met Elijah Muhammad. Muhammad could not help but be impressed by the critical mind, excellent oratorical and organizing skills of Malcolm X. Within a short amount of time, Muhammad named Malcolm X as his national representative and minister of Harlem Temple No. 7.

In April 1964, Malcolm X made a pilgrimage to Mecca. It was on this trip that he was exposed to white Muslims. Exposure to other countries and cultures proved to be transformative. He changed his name to El Hajj Malik el Shabazz to signify his new understanding of himself. World travel and his growing political sophistication forced Malcolm X to let go of his talk of white devils and developing a territory for African-Americans.

Previously, Malcolm X had been criticized for being violent and angry. He and Dr. Martin Luther King were often pitted against one another, philosophically. This was due, primarily, to Malcolm X's refusal to accept nonviolence as the means to empowering African-Americans. And, while he never did embrace nonviolence, he did begin to use conventional civil rights tactics such as boycotts and rent strikes.

Many of his thoughts and messages are very relevant to the crises facing our African-American community today. It is for this reason that we continue to salute Malcolm X.

He was assassinated 7 years ago on February 21, 1965. He is survived by his wife, Dr. Betty Shabazz, the director of communications and public relations at Edgar Evers College in Brooklyn; and his daughters, Attallah, Llyasah, Gamilah, and Qubilah.

Mr. CONYERS. Mr. Speaker, I thank you for this opportunity to join my esteemed colleagues in commemorating the history of African-American struggle and achievement. We have progressed as a people in every way since the first slaves were brought to America, and I truly believe that Black History Month gives Americans the opportunity not only to reflect upon the accomplishments of African-Americans, but to, through this reflection, somehow try and influence a group of young Americans who will carry on the traditions of black achievement, strength, and perseverance for years to come.

All Americans, black and white, benefited from the accomplishments of such inspirations as Dr. Martin Luther King and Ms. Rosa Parks, but none more so than young African-Americans. For them, the road has been paved by the brave and dedicated members of the civil rights movement—many of whom were young, many of whom lost their lives for their beliefs and their desire to be treated with respect, and with equality. Their simple desires caused a revolution, the fruits of which can be seen in African-American accomplishments today; for them, apathy was unheard of, complacency unknown. I am not saying that it has been easy for this new generation—prejudice is very much with us, and we see the cycle perpetuating itself everyday—but I am saying that, as the beneficiaries of the civil rights movement, they have the ability to continue the struggle for equality and to inspire others to achievement.

While the percentage of young black adults who completed 4 years of college doubled in the 1970's to 12.8 percent, this percentage has not improved in the last 12 years. And in the 1980's, the number of African-American students who earned degrees dropped—a 2-percent loss for bachelor's degrees, and a startling 34-percent drop for master's degrees. In fact, in the field of education alone, the number of master's degrees was cut in half. And, students who are enrolled in engineering and science courses, are even more rare—in just the last 10 years we have experienced a near 20-percent drop in the enrollment of African-Americans in these programs. Many may be wondering why, on a day when we are celebrating the accomplishments of African-Americans, I am relaying such sobering statistics. The answer is simple: Just as we have made great strides, we have suffered great setbacks, just as we have moved forward, we have been pushed backward. Just as we fought for desegregation of schools and educational equality for all, we have a President who wants to channel money into modern resegregation with his Schools of Choice Program.

In the 1970's, when the percentage of African-Americans attending college grew exponentially, three-fourths of the student financing was in the form of grants. The Pell Grant Program was credited with providing hundreds of thousands of men and women, of all races, the opportunity to pursue higher education. As many students are painfully aware, the Pell Grant Program was slashed under the Reagan administration, and continues to suffer under our current "Education" President, George Bush. Currently, the grant program provides a mere one-third of the total student financing available. Deprived of the chance to obtain a college education, thousands of our neediest young people are being sentenced to life devoid of real opportunity, devoid of hope. What do these young adults have to look forward to? A future of back-breaking manual labor, and jobs which lack the intellectual challenge they so desperately desired to find in higher education. And according to the latest statistics, the wages for those black adults who complete 4 years of college are nearly double those of their less fortunate counterparts. We are perpetuating an underclass of African-Americans for whom there is a diminishing chance of escape. As the proportion of Pell grants plummeted in the 1980's, the amount of guaranteed student loans increased. There are those who argue that guaranteed student loans are just as effective as Pell grants because GSL's are an entitlement. But one look at the state of higher education today tells quite a different story. Thousands of former students are economically unable to pay back these loans—this is especially true for the community colleges and vocational schools which provide their last best chance for minorities to obtain a degree. The administration's answer to these default rates is to exact punishment against the schools for the problem: as we speak, hundreds of schools have been notified that they will lose eligibility for all Federal student aid, including Pell grants. There is a solution to this vicious economic cycle: When the Higher Education Act comes before Congress this year, we will have the opportunity to make Pell grants an entitlement program. The House bill

would make the expanded Pell program effective immediately, and increase the maximum grant allowance to $4,500. To be sure, this will be an expensive initiative; but I have introduced a bill that will help channel money into this, and other essential programs. My Budget Process Reform Act will tear down the budgetary walls, allowing Congress to delve into the bloated Defense budget and put some of those billions of dollars to work for the American people. Educating our poorest and neediest children was one goal of the civil rights movement, and many years later, we may finally be on the verge of recognizing a small part of that goal.

Mr. CLAY. Mr. Speaker, as we pause to celebrate and honor the many contributions of black Americans, I am reminded of how great it would be if this were done as a matter of course, rather than limited to the month of February. Yet, I can recall when this celebration was called Negro History Week.

I suppose some small consolation can be found in the fact that this celebration now goes on 300 percent longer as Black History Month.

It is at times such as these, though, that I feel a special need to recall the contributions of so many of my forebearers who fought and died for freedom and justice—the ones who paid extraordinary dues in order that those coming after them might share more fully in the bountiful harvests brought forth by the toil, sweat, tears, and travails of their efforts.

Some of these early pioneers for justice and equality were honed in slavery, all victims of discrimination, all schooled in life's realities, yet unwavering in their faith in mankind.

They believed more deeply in the promise of democracy than did the Framers of the Constitution who viewed them as less than human. They embraced the essence of the Constitution like no others in America, perhaps because they had no other choice, as their very survival depended upon adherence by the majority to the very tenets embodied in that document.

Among this group to whom I would like to pay special tribute are the millions of black men and women trade unionists who often faced public humiliation, firings, beatings, and even lynchings to have their voices heard in the trade union movement.

While most persons are familiar with the name of A. Philip Randolph, that gentleman who at the 1959 AFL–CIO convention in San Francisco introduced a resolution demanding that racially segregated local unions be eliminated, there were countless other black Americans who fought, struck, and organized their way into the labor movement.

It is very fitting that our theme today, "African Roots Explore New Worlds: Pre-Columbus to the Space Age," could easily refer to those African brickmakers in ancient Egypt who refused to mix straw with clay until changes were made in their working conditions. Here, in this country as far back as 1763, freed black chimney sweepers in Charleston, SC, organized and demanded higher wages from their white employers.

Black workers learned early on how to survive and secure better wages and better working conditions. This was accomplished by creating their own trade organizations when the white unions would not open their doors. In 1850 the American League of Colored Laborers organized in New York City. Frederick Douglass was named vice president and later became its president. There was also the Colored National Labor Union organized in 1869.

Then, beginning in the early 1920's the Brotherhood of Sleeping Car Porters led a 12-year battle against the George Pullman Co. and were finally victorious in having this major American company recognize their brotherhood as a legitimate union.

The gates were now open for other groups to organize low-wage service workers and they, too, gathered strength as unions.

To all of these strong men and women from the ancient Egyptians to today's leaders, black Americans all, we owe a debt of gratitude. They have continued to lead the fight that will ultimately assure that all Americans will be treated fairly and compassionately in the work place.

Mr. TOWNS. Mr. Speaker, it is my distinct pleasure to rise during this special order to commemorate Black History Month.

Carter G. Woodson, a noted historian, launched Negro History Week on February 7, 1926. Dr. Woodson also founded the Association for the Study of Negro Life and History in 1915 and began publishing the Journal of Negro History in 1916.

Dr. Woodson was a gentleman and a scholar. However, he knew that many people would not read the journal or join the association. He also knew that it was unlikely that they would be encouraged to learn about the history and contributions of blacks in America, Africa, and the Caribbean. Dr. Woodson initiated Negro History Week as a way to provoke discussion and interests in the accomplishments of blacks. He believed that the commemoration of 1 week, celebrated in the segregated churches and schools of the North and South, would have the profound impact of reinforcing the dignity and self-respect of an embattled people. We must not forget that black Americans, in the early part of this century, lived in a society which was so strictly segregated that it recalled the apartheid practices in present day South Africa. The need for the average black American to have a sturdy foundation was vital to emotional and physical survival. This knowledge would not be a cloak in which to hide, but a shield to repel the everyday arrows of life. Woodson knew that knowledge could form the bedrock of this foundation and so he founded Negro History Week as a way to provoke discussion and interest in the accomplishments of blacks within and outside of the black community. Today, in an age where heroes are few and villains are certain, knowing about the contributions of people of African descent to the development of world civilization gives a guidepost to the true meaning of courage and success. We cannot help but look at these people who lived their lives in dignity and determination under incredible circumstances and not be inspired. It reminds me of one time when I saw a picture of the Great Wall of China. It occurred to me that thousands of people over the course of decades built this wall without concrete or modern earth-moving equipment. They built this wall out of will and a dream. And then I thought of the difficulties facing America, and especially black America, and it occurred to me that if the ancient Chinese could build this wall without equipment which we would consider necessary today, then we who are rich in intelligence, talent, will, and a history of incredible accomplishments can build beautiful structures out of our own raw materials. That is the purpose of Black History Month—to remind black America of its awe-inspiring past—to steady our footsteps in the present path and give form to our collective vision of the future. In essence, the message is this—if the black Americans who lived under slavery, segregation and legalized discrimination survived and sometimes thrived, then we, who live today can accomplish great things.

We must learn and use history to understand how to turn our dreams into reality. I believe that each black person we know about who contributed to American history is like a brick in our great wall. It is only by viewing it—brick upon brick that we can envision the wall. Today, I offer you a brick—the rest of the wall is up to you—to us all.

DR. SUSAN MCKINNEY

Dr. Susan Smith McKinney of Brooklyn, NY. was the first black woman to graduate from medical school and practice medicine in New York State. She was the third black woman to become a doctor in America.

Dr. McKinney was the daughter of Sylvanus Smith, a Brooklyn merchant. She began her professional career as a public school teacher in Washington, DC. After a few years as a teacher, she decided to enter medicine. In 1870, 5 years after the conclusion of the Civil War, she graduated valedictorian of her class at the New York Medical College for Women. At a time when a woman in medicine was rare and a black woman in any profession was almost unheard of, this brave woman was determined to make her contribution to society by daring to break down barriers and defy odds.

She practiced for more than 25 years and maintained two offices, one in Manhattan and the other on Dekalb Avenue, Brooklyn. She was one of the founders of the Brooklyn Woman's Homeopathic Hospital and Dispensary. Dr. McKinney served on the staff of the hospital until 1895. She also served as the principal physician at the Brooklyn Home for Aged People.

In addition to fulfilling the extraordinary demands placed upon her as a physician, wife and mother, Dr. McKinney found time to take part in the cultural and religious life of the community. An accomplished musician, she was an organist and choir director for 28 years at the Bridge Street African Methodist Church in Brooklyn. Additionally, she contributed to the intellectual life of the community by lecturing frequently on women in medicine.

Dr. McKinney died in 1918. In 1974, the former Sands Junior High School in Brooklyn was renamed for Dr. Susan S. McKinney. I tip my hat to the memory of this brave and determined African-American woman. Her life and work epitomized the strength and purpose that can and must live in all of us.

Mr. ERDREICH. Mr. Speaker, I would like to take a few moments to acknowledge and commend the many outstanding contributions of black Americans, both to the State of Alabama and the Nation, during this year's observance of Black History Month.

The celebration of Dr. Martin Luther King Jr.'s birthday last month reminds us of his efforts to stir the conscience of our Nation. Our remembrance of his vision brings back memories of our tumultuous past, progressive present, and promising future.

Of course, there are many others who, in their own way, were just as great in their efforts to assure that black Americans are afforded all the rights and privileges guaranteed all citizens of these United States in the Constitution. Their combined determination opened American society to all, providing the opportunity to excel in all professions and fields. Because of that, all of us in this Nation have benefited.

Birmingham, AL, which I represent in the House, was a focal point of the civil rights struggle, and we in Birmingham are keenly aware of the importance of access to political and economic opportunity for all citizens. The people of Birmingham have made a concerted effort to overcome the images of the past, applying its lessons and messages to creatively serve present and future needs.

From our Nation's earliest history until today, there is no facet of our society that has not enjoyed the contributions of and leadership from African-Americans. Their successes span across education, science, industry, literature, music, sports, and the arts. This includes people like Mary McLeod Bethune, noted educational leader who became the first black woman to receive a major appointment in the Federal Government: Jesse Owens, world-class athlete and U.S. Olympian; Shirley Chisholm, the first black woman elected to Congress; Edward W. Brooke, the only black U.S. Senator since Reconstruction; Dr. Charles Drew, who developed the first plasma bank; Dr. Daniel Hale Williams, who performed the first successful open-heart surgery; and Percy Lavon Julian, who was the first scientist to synthesize cortisone.

They include Sidney Poitier, the first black to win an Academy Award for Best Actor; Ralph Bunch, U.N. Ambassador and first black to win the Nobel Peace Prize; Gwendolyn Brooks, the first black to win a Pulitzer; Douglas Wilder, the first black Governor; and Colin Powell, the first black to head the National Security Council, and now, Chairman of the Joint Chiefs of Staff.

Many Americans do not know the term "the real McCoy" refers to the numerous creations of inventor Elijah McCoy, or that George Washington Carver gave us over 300 products from the peanut, or that Garrett A. Morgan invented the traffic signal and the gas mask.

I find it appropriate that the National Black History Month theme for 1992 is "African Roots Explore New Worlds: Pre-Columbus to the Space-Age" for it is the forenamed people that have laid the groundwork to take our Nation into the future.

As we observe this year's Black History Month, let us commit ourselves to remember the positive contributions from the past and to continue to work for policies that provide all citizens a chance to share in the opportunities our Nation offers. Let us give Dr. King's dream a continuing reality for tomorrow and all the tomorrows to come.

Mr. WEISS. Mr. Speaker, it is with great pleasure that I participate today in commemorating Black History Month 1992. I would like to thank my esteemed colleague, Congressman LOUIS STOKES, for once again organizing a special order allowing us to share our thoughts and hopes during this special celebration.

History is understood not simply as a list of dates and events that happened but also as the spirit in which those things happened. Black History Month gives us a chance to pay tribute to and remember those African-Americans who, in the past, have been omitted from our Nation's history.

Dr. Carter Woodson, a renowned historian, recognized that a substantial part of our past was ignored, if not undermined, by historians and the public. In 1915 he created the Association for the Study of Negro Life and History to ensure that black Americans would be recognized for the part they played in building this Nation. In 1926, to broaden his audience, Dr. Woodson proposed the creation of a week, set aside each year, to recognize the vital role played by African-Americans in history.

As time went on, it was evident that a week was not long enough to educate the public and celebrate black Americans' contributions to our history. The week was expanded to a month and 1992 marks the 17th year we will remember, celebrate, and admire the accomplishments of black Americans.

A man of African descent was instrumental in Columbus' discovery of America in 1492. But how many history books tell us that it was a black man who was the captain of the *Nina*? How many people know that Matthew Hensen, a black American, reached the North Pole before Robert Perry? It is my hope that Black History Month will let African-Americans look at their rich heritage with a sense of pride and accomplishment and help recognize the pieces of history that were forgotten or omitted.

This month is a time to reclaim black history and reflect on the struggle African-Americans have endured for this country. At the start of the American Revolution, Crispus Attucks, a black man, was the first patriot to die for freedom at the Boston Massacre. During the Civil War, Harriet Tubman and Sojourner Truth, both black Americans, risked their lives to free slaves. The bravery shown by these people has not been surpassed by anyone in our Nation's history.

The struggle for equality and civil rights began when Rosa Parks, with dignity and determination, stood up to racial discrimination and fought for her rights and the rights of all black Americans. The struggle for civil rights was embodied by Martin Luther King, Jr., one of the leading spokespeople in the fight for racial equality. Dr. King was perhaps one of the most influential people in this century and he best exemplifies the impact African-Americans have had on history. Hopefully this month has helped move us a step closer to Dr. King's dream of equality.

African-Americans have contributed to all facets of our history including areas such as medicine, the arts, and music. In 1893 Daniel Hale Williams, a black doctor in Cook County Hospital, was the first person to perform open-heart surgery. Research done on plasma and blood transfusion by Charles Drew, an African-American from Washington, has been the key to saving millions of lives. These are just a few examples of the impact African-Americans have had on medical procedures and research.

African-Americans have been and continue to be a strong influence on the literary world. From the Harlem renaissance of the 1920's which produced such writers as Zora Neale Hurston and Langston Hughes to their contemporaries like the late Alex Haley, the author of the renowned work "Roots," Toni Morrison, and Paule Marshall, African-Americans have been making major strides in literature.

African-Americans prominence in the music world can be traced back to W.C. Handy, a black bandleader who is considered the father of the blues. There are many other great musicians like Duke Ellington and Louis Armstrong who are known as the country's leading jazz musicians and Billy Holiday and Ella Fitzgerald, two famous black female entertainers. Today, the music world is overflowing with the talent of numerous black artists who have become a dominant force in the industry.

No one can forget to mention our country's great African-American athletes like Jesse Owens who made Olympic history winning four gold medals at the 1936 games and Wilma Rudolph, the 1960 Olympic Gold Medal sprinter. We must also express our hope and pride in all of our 1992 Olympic athletes and wish them well in the upcoming games. Today, we can be proud that African-Americans are representing the United States in the Olympics and in playing fields around the world.

One more example of an outstanding African-American athlete is found in Ervin "Magic" Johnson who, after testing HIV positive, retired from the Los Angeles Lakers and is now a leader in educating our country's youth about AIDS and AIDS prevention. This contribution undoubtedly will prove to be even more outstanding than his contribution to the sports world.

It would be impossible to list all the black men and women who have contributed to history and even harder to mention those who continue to add their talent, intelligence, and rich diversity to our country. However, it must be said that we truly need not look further than our own Chamber for outstanding examples of the contributions African-Americans continue to make to our Government and our world.

By reclaiming black history, our Nation is both rectifying the omissions of the past and enriching our national heritage with the brilliance and the dignity of black America.

Mr. FASCELL. Mr. Speaker, I rise to join our colleagues in celebration of Black History Month. Every February we pause to reflect on the achievements and contributions which African-Americans have made to our Nation. Because it sometimes seems that the advances on the playing fields precede those in the rest of society and because this is an Olympic year, I would like to take a moment to honor some of our African-American Olympians.

At the 1936 Summer Olympics in Berlin, Jesse Owens inspired his country and thrilled the world with his Olympic performance. The 1936 Summer Olympics were filled with an atmosphere of racial and ethnic tension resulting from the policies of Adolf Hitler's government.

Using the Olympics as a platform for his politics, Hitler waged a propaganda war of hate. By the end of the 1936 Summer Olympics in Berlin, Owens had won four gold medals, the admiration of the German people, and inspired generations of young Americans as well as generations of future Olympians from other nations. Proving the strength of the human spirit, the partisan German crowd cheered loudly in salute of Owens during the medal ceremony for his victory in the 200-meter dash.

Among his teammates was our former colleague, the late Ralph H. Metcalfe. An ally of Chicago Mayor Richard Daley, he eventually broke with Daley's political machine and became a powerful voice for reform and civil rights. His athletic achievements, his work in local government, and his work in the House of Representatives benefited more than his constituency; they improved our Nation.

Jesse Owens and Ralph Metcalfe served as positive role models for young Americans and inspired them to believe that their goals were reachable. At the 1968 Mexico City Summer Olympics, Bob Beamon shattered the world record on his way to winning the gold medal in the long jump. Beamon's record, which was not broken until last year, served as a goal for athletes around the world for 23 years. Beamon's performance served as an inspiration and a goal for over two decades of athletes in the same way as the performances of Owens and Metcalfe. Today, he continues to serve as a positive role model helping young people reach their goals in his capacity as a Parks and Recreation Manager with the Dade County Department of Parks and Recreation.

The accomplishments of these Olympians contributed to our Nation by providing our youth, both black and white, with role models. They showed that in an environment free of inequality, people, regardless of race, can compete and be the best in their respective fields. That is the lesson which that German crowd taught us in 1936, and it is a lesson which applies to an arena far greater than athletic competition. The achievements of these great athletes and the message of the German crowd is synonymous with Dr. Martin Luther King's vision of a society where people are only judged by the content of their character. As we continue to strive for Dr. King's dream, let us remember all these lessons.

Mr. PICKETT. Mr. Speaker, I thank the distinguished chairman of the Congressional Black Causus, Mr. TOWNS of New York, for requesting this special order to observe Black History Month, and to pay tribute to the millions of African-Americans—both the famous and not so famous—who have worked to make this Nation great and who are an integral part of our history.

It is ironic that this year's observance of Black History Month coincides with the death of Alex Haley, the renowned author and historian whose book "Roots" was so instrumental in creating an appreciation of black history in the United States. His talent and leadership will be sorely missed. It is fitting that the theme for Black History Month in 1992 is "African Roots Explore New Worlds: Pre-Columbus to the Space Age."

Black History Month is something in which all Americans can and should share because it is an important national observance. By recalling the enormous obstacles that blacks have had to overcome during our history, we are reminded that racial injustice must never again be part of the American experience. And this is particularly important right now, when some in our Nation have tried to revive bigotry and fan the fires of intolerance.

Thanks to Black History Month, Americans also find inspiration in the lives of men and women like Rosa Parks, Marian Anderson, George Washington Carver, Booker T. Washington, Andrew Young, Duke Ellington, Langston Hughes, and of course, Martin Luther King. These are just a few of thousands of blacks who through our Nation's history have made contributions to government, literature, arts, science and agriculture.

What makes their lives especially inspirational is that in many cases they made their contributions without being able to share fully in all that this Nation has to offer. Just think about the many young black Americans who fought and died for this Nation in World War I and World War II—before the civil rights movement opened the doors of opportunity to them. These unselfish Americans, though denied much, continued to make contributions for the good of their country anyway.

This sacrifice in the face of adversity is one of the most important lessons to be remembered in Black History Month, and it is one that perhaps illustrates best the pride, resolve, determination, and values of black Americans.

Again, I thank the distinguished chairman of the Congressional Black Caucus for requesting this special order, and I join him in urging all Americans to learn more about black history.

Mr. BACCHUS. Mr. Speaker, I rise today in celebration of Black History Month.

On these occasions, we remember places like Selma, Birmingham, Atlanta, and Washington.

We remember familiar names from the long struggle for equality, Martin Luther King Jr., Rosa Parks, Harriet Tubman, our distinguished colleague from Georgia, Congressman JOHN LEWIS, and many others.

Today I want to remember someone less well-known—a brave and gifted pioneer from the historic black community of Eatonville in central Florida.

Zora Neale Hurston, writer, anthropologist, and folklorist, made her way from small, impoverished Eatonville, following her dreams to New York City and Barnard College, where she studied anthropology.

Rather than pursue a life in traditional academia, she returned to Eatonville to become a chronicler of her times and her people.

Traveling throughout the South in the bitter thirties and forties, Ms. Hurston recorded a history of black culture, rich with images that remain timeless.

She once wrote, "Folklore is the boiled-down juice of human living."

She obviously found that juice in titles such as "Dust Tracks on a Road" and "Their Eyes Were Watching God."

She revealed to her readers the reality of African-American life.

For four decades she wove a tapestry about her people that had never been woven before.

The daughter of a tenant farmer, she knew as well as anyone the pain and suffering of African-Americans in the United States.

But from her mother who urged her to "jump at the sun," she learned the spirit that was the essence of the civil rights movement.

Her words tell of black life with a sense of pride, dignity, and an undying spirit.

Had she lived longer, Zora Hurston had only begun to see successes won by the civil right movement, fought by blacks and whites together in the streets, courtrooms, and in the Congress.

Were she alive, she surely would have found precious images to record the courage displayed in these battles.

Stetson Kennedy, president of the Florida Folklore Society, put it best when he said:

> The songs Zora sang in praise of her people bespeak the common humanity of us all.

As another admirer put it, Zora Hurston was a

> Shooting star which lit up the night skies * * * flashing across the heavens during the thirties and forties in a dazzling literary display that had all the world watching.

Mr. Speaker, I grew up just a few miles away from Zora Neale Hurston's hometown of Eatonville. I stand here today not only to remember her essential role in the telling of the history of the South.

But also to honor the many fine African-Americans who, like her, dreamed of freedom on the smaller battlefields like Eatonville for more than a century.

To Zora Neale Hurston and the many African-American citizens we are saluting today, your pride, spirit, and struggle are an inspiration to us all.

Ms. PELOSI. Mr. Speaker, I rise in proud celebration of Black History Month, which gives us an opportunity to celebrate the accomplishments of black Americans throughout our Nation.

This year's theme for the observance of Black History Month is "African Roots Explore New Worlds: Pre-Columbus to the Space Age." The African contribution to the New world is significant and African roots can be celebrated in many aspects of our lives.

Each year people from throughout the Bay Area attend a Gospel Mass and march through the city of San Francisco to commemorate the birth of Martin Luther King, Jr. I recently attended a labor and community breakfast in San Francisco on Reverend King's birthday. Dr. King was an untiring champion of civil rights for all peoples. By changing the conscience of our Nation he helped increase the strength of African roots.

The activities in San Francisco provide an opportunity to unite different segments of the community that have been instrumental in founding the civil rights movement. They also serve as a bridge between the remarkable history of black Americans and the young people who will lead us into the future.

I am hopeful that these young people will have increased educational and employment opportunities as we move toward a more just society where all peoples are on equal footing. The Civil Rights Act of 1991, despite its faults, will bring down more barriers of discrimination and racism that deny blacks equal opportunity to participate in American society. History will look back on us favorably if we work to improve the future for tomorrow's leaders.

Part of the San Francisco celebration is the presentation of the winning essays from the

annual Martin Luther King, Jr. Essay Competition. I would like to end my remarks, Mr. Speaker, by presenting to my colleagues the inspiration offered by the winning essays from this competition. Here are contributions from the younger generation with the promise of developing into writers of the stature of Alex Haley, or historians in the tradition of Dr. Carter G. Woodson, the man who has deservedly been called the father of black history.

REACHING THE DREAM OF DR. MARTIN LUTHER KING, JR.

(By Tamika Jones, 11th Grade, Lowell High School)

Dr. King's Dream is a roadmap of Human and Civil Rights set forth for all races, creeds, and colors to follow. In reaching for the Dream of Dr. Martin Luther King, youth of today must become involved in various school, community and church organizations in order to make a difference in our society. We must start with "self" to make sure that this Dream stays alive and accomplishes the goals he so graciously set forth for all mankind. To reach for Dr. Martin Luther King's dream, I devote time to improving the black community. For the past four years I have participated in the Beta Nu Chapter Xinos, and African American youth group sponsored by the National Sorority of Phi Delta Kappa, Inc. We are an assortment of gifted teens from the Bay Area. Our main goal is to contribute in making a more loving world. To accomplish our goal we encourage each other to do our best in school. We all know that education is the key that opens doors of opportunity and to success. We also act as a support group. We make every effort to lend a helping hand and a shoulder to cry on in times of need. If we're not there for our brothers and sisters, why should anyone else be?

We must cater to the needs of real people. When holidays such as Thanksgiving and Christmas come around, care baskets filled with food are donated to a needy family. Neither the children nor the elderly are forgotten. Presents are passed out to the youngsters at schools. The seniors of Laguna Honda Convalescent Home are showered with joy-filled carols and wishes of happy holidays from the youth group to which I belong.

In reaching for the dream of Dr. Martin Luther King, African Americans must love their neighbors as themselves, not just in words but also in action. All races must be treated equally; no more homeless, no more prejudice in the world and a good health plan and an excellent child care program for all Americans.

Reaching for the dream of Dr. Martin Luther King means keeping drugs out of the schools, neighborhoods, and homes. We must encourage our youths to obey their parents, to join positive organizations, to belong to worthwhile groups, to be a gang for love and peace, to strive to be the best in school and to have strong minds and determination, then we all succeed.

REACHING FOR HIS DREAM

(By Jamé Scott, Fourth Grade, Cleveland Elementary)

Dr. Martin Luther King Jr. had a dream. A dream of freedom! A dream of peace! He didn't care what color you were, he wanted everyone to be treated fair. He believed in equality and justice for all. He believed so strongly in his dream that he sent out to change the world, by changing unfair laws. Dr. Martin Luther King, Jr. and Rosa Parks started by protesting. They were beaten and thrown in jail, but they never gave up. He continued to struggle to achieve his dream in a peaceful way. He lived his dream by setting an example for others, and now we must continue the dream.

Some things have changed, thanks to his dream. I wish Dr. King was still alive to see the changes and to help make things better. I would like to march against drugs, the homeless and police brutality. He would talk to people about AIDS and he would get the gang leaders together to stop killing each other. Dr. King would be happy to talk with Nelson Mandela who was released from prison after 27 years, just last year. They would work together to stop the apartheid. Dr. King would be happy that the Berlin Wall came down. He would help stop hunger in all nations. I know this sounds like a dream, but that's what reaching for his dream is all about. Peace, love and justice for all.

My grandmother told me, "Everything starts off as a dream. You just be the best you can be, believe in yourself and one day you can have your moment in the sun." I have a dream! My dream is to become a child psychologist. I have to be a good student, a good person and a good Christian. This means I will obey the rules of my family, school, and the community. Through my teachings. I will set my own standards, principles and goals and I will try to achieve them. I'd also like to organize a group of children to go and read to the senior citizens and ill children in the hospital.

Thanks to Dr. King and his dream, I feel all dreams are possible. Keep reaching for the Dream!

REACHING HIS DREAM

(By Heather A. Bias, Eighth Grade, Dr. Martin Luther King, Jr. Academic Middle School)

Everyday, I am reminded of the victories and glories caused by Dr. Martin Luther King's fight for freedom. Because of his strength, he has brought the whole world into one classroom. I look around the from and see to the right of me, Asians. To the left of me I see Afro-Americans. In the front of me I see Jews and behind me there are Muslims. And where is this classroom you ask? In a proud school named after a proud man, Dr. Martin Luther King, Jr. He fought, he protested, he saw hope in a hopeless world. He did all this to fulfill a dream: A dream of a country where all people are equal; where no man or woman is judged by the color of their skin but by the content of their heart; where peace, love and justice are the words we live by.

This dream is being fulfilled everyday by the students at Dr. Martin Luther King, Jr. Academic Middle School. We have learned that there are not many races, but one race, the human race. Everyone who is alive belongs to this race. Therefore, we must all be treated the same. We have learned that though it is important to know where you come from, it is even more important to know where you're going and to strive for your dreams.

Everyday Martin Luther King helps me reach my goals. Whenever I think I can't do something and I'm just about to quit, I think of all the times when Martin Luther King could have quit, but didn't. He was one against the wind and he constantly fought to get what he wanted. Like the time I went to a National swim meet in Virginia. I took a look around at my competition and I almost gave up all hope of winning. But as fast as lightning, something told me not to give up. Something told me that somewhere, someone before me had a dream and didn't quit until it was fulfilled. Just that thought gave me strength to try to win, to go for the goals and fulfill my dream! Though Martin Luther King died over 25 years ago, we still work to keep his dream alive!

A DREAM TO BE SHARED

(By Tiffany Tischell McFarland, seventh grade, Dr. Martin Luther King, Jr., Academic Middle School)

Dr. Martin Luther King, Jr. was a good man and lots of potential and courage, and a mountain range of determination. I am enthusiastic too. I have a cascade of courage, and a waterfall of determination! I do think I can make a difference. The small unnoticed things I do now could some day add up to more important deeds, or may lead me to bigger dreams to fulfill. Even if I don't achieve all my goals in life, I feel that I will have tried my utmost to put all my efforts into it.

As a child I do the small things, not to be noticed but just to get myself started on being outgoing. I join in on a lot of extra curricular activities, after and during school. Mostly, I join these activities to extend my knowledge into a rainbow, such as learning of people's backgrounds, ways of understanding and different ways of learning. I also love being the leader of many things and being the first to do something just as Martin Luther King was a leader in the Civil Rights march. King was remembered as someone special and that's how I want to be remembered.

When I am in the middle of a conversation where people are being discriminated against, I tell people to stop because we are all equal in our Heavenly Father's eyes. We can't choose the way we come into this world. The only thing we can control is what we make of ourselves, the way we act, and how we respect ourselves and others.

I help in my community. In my homeroom we had a food drive for the homeless just in time for Christmas. I was very involved in it. I am the homeroom representative.

I am proud. I think that way, feel that way, live that way, and will achieve all things that way! I will lead myself on the road of success, remembering always Dr. King's dream.

Mr. MAZZOLI. Mr. Speaker, it is my pleasure and privilege to join my colleagues today in honoring the rich heritage of African-Americans. It is a fitting occasion since February is Black History Month.

Black History Month, which was first celebrated in 1976, is a significant reminder of the vital role African-Americans have played in our Nation's history. It brings to mind the many contributions African-Americans have made—often at a great personal sacrifice—to our country's development.

This year I am pleased to note the special contributions of two great African-Americans: Muhammad Ali of Louisville, KY, and Alex Haley, the prize-winning author.

Muhammad Ali, the three-time world heavyweight boxing champion, was born in Louisville and celebrated his 50th birthday earlier this month. He was arguably, the greatest boxer to ever step in the ring, winning the championship three times. He is one of the greatest athletes in the history of American sports, and one of the world's most recognizable celebrities.

Alex Haley, who died on February 10 at the age of 70, wrote "Roots," a history of his family's experience and more broadly the experience of African-Americans in the United States. As a book and later as a much heralded television mini-series, "Roots" had incalculable impact on Americans of all colors. Mr. Haley was scheduled to speak in Louisville on February 15, 1992 at the annual Louisville YMCA black achievers banquet.

Mr. Speaker, in addition to honoring the achievements of great African-Americans of the past, Black History Month is also a celebration of the present and the future.

I would like to acknowledge one organization in the Third District which recognizes and fosters African-Americans. The intergovernmental black history committee, founded in 1981 and composed of representatives from Federal, State and local government, calls attention to the contributions, both past and present, of African-Americans in the workplace, in the community and in the country. A senior member of my Louisville staff, Brenda Sweatt, is a member of this committee.

Mr. Speaker, I hope Black History Month encourages a greater awareness on every American's part of the fundamental and worthwhile contributions to the United States of America of African-Americans. And, I hope the month helps bring about an America of equality and opportunity for all its citizens.

Mr. FAZIO. Mr. Speaker, I join my colleagues today in this special order to recognize the accomplishments of African-Americans and their contributions to our Nation's history.

In 1926, Dr. Carter G. Woodson, the African-American scholar and historian, established the observance of Negro History Week. The son of former slaves, Dr. Woodson realized which way in which historians had traditionally promoted the myth of white superiority and, as a result, distorted and eliminated the African-Americans presence in their work. He therefore set aside a period in February—the week containing the birthdays of Frederick Douglass and Abraham Lincoln—to stimulate awareness of the role of the African-American and to begin correcting this imbalance. February 1992 marks the 16th observance of Black History Month, the expanded version of Dr. Woodson's week of commemoration.

Black History Month gives all Americans the opportunity to appreciate and understand the involvement of African-Americans in America's history and society. Arising from a legacy of slavery and oppression, African-Americans have made ongoing contributions to America's agriculture and industry. There is no area in which their ongoing presence and contributions are not felt—be it the military, government, education, literature, the sciences, entertainment, the arts, sports, or social reform—all while struggling for quality and freedom, and fighting to counteract the effects of the racism that continues to pervade our society.

Race politics are going to play a big role in this year's election. We are going to see the race card played over and over in an attempt to divide us as Americans, and thereby win votes. But Black History Month provides us all with the opportunity to focus on the cohesiveness and diversity that have made our country what it is. We need to focus on this occasion both as a celebration of how far we have come and a recognition of how far we have yet to go.

Mr. Speaker, I would like to close my remarks my commending the distinguished gentleman from New York, [Mr. TOWNS], the chairman of the Congressional Black Caucus; and the distinguished gentleman from Ohio, [Mr. STOKES] for calling this special order. I also thank my other colleagues for their participation today.

Mr. HATCHER. Mr. Speaker, as our country observes Black History Month, we are reminded of the numerous contributions black Americans have made to the development of this Nation and this world. Today I would like to introduce to my colleagues several of the south Georgia blacks who have enriched our history.

Georgia enjoys a particularly rich past that grew from many challenges. From its origins as a penal colony, to the headquarters of the civil rights movement, to home of the 1996 summer Olympics, Georgia moves forward with the determination shown by my constituent Alice Coachman of Albany, GA, in winning a gold medal in the 1948 Olympics.

South Georgians have also excelled in many other endeavors. This and every month of the year we must appreciate the unselfish efforts of heroes like Lt. Henry O. Flipper, who paved the way for blacks in military leadership.

Born a slave in Thomasville, GA, in 1856, Lieutenant Flipper overcame numerous obstacles to become the first black graduate of the U.S. Military Academy at West Point on June 15, 1877. After graduation, he made significant achievements in military and civilian arenas. He served as a calvary officer, a surveyor, a cartographer, a civil and mining engineer, a published author, newspaper editor, special agent for the U.S. Department of Justice, Assistant Secretary of the Interior, a pioneer in the Nation's oil industry, and a college instructor.

Like many other black heroes, Lieutenant Flipper did not receive the recognition he deserved in life, though I am sure recognition was not his motivation. Flipper and countless others were driven by the desire to create a better world for future generations and a chance to give all Americans the opportunity to fulfill their dreams. Unfortunately, my district recently added another hero to our rolls. On February 25, 1991, Serviceman James E. Worthy of Albany, GA, was lost in a Scud missile attack during the Persian Gulf war. The courage and distinction of Serviceman Worthy and all those who served should never be forgotten.

The term "Black History" is not only the study of blacks in history but also the study of blacks in American and international history. An often forgotten aspect of American history are the contributions in labor and agriculture of former slaves. We must remember the sons and daughters of the South and their years of dedication to a Nation that often seemed uninterested in them.

History is not reserved for names and events we can easily recite. The schools and churches that toiled selflessly to keep the black family strong and composed during bleak periods in our past also belong to history. In Thomasville, GA, the Bethany Congregational Church, an institution listed on the National Register of Historic Places, recently celebrated its 101st year of service. Like many black churches around our Nation, this church stands as a cornerstone of our community.

As America prepares to enter a new century, we must chart our course for the future with the events of past in mind. Black Americans have played an important role in the development of our Nation. This and every month we should remember these contributions.

Mrs. MORELLA. Mr. Speaker, it is with great pride that all Americans should recognize this month of February as Black History Month. Regardless of race or color, we all have benefited from the many contributions made by African-Americans in the fields of science, medicine, and technology.

In our everyday life, we are in constant interaction with inventions and other contributions first developed and created by African-Americans. These African-American innovators are numerous. There is Dr. Kenneth Clark, a renowned psychologist recognized for his pioneering studies on the effects of segregation. Dr. Clark's seminal research helped to influence the Supreme Court in its 1954 landmark case of Brown *v.* Board of Education, which outlawed segregated schooling. There is Dr. Charles Drew, a pioneer in the preservation of blood. Through Dr. Drew's innovations with blood plasma, thousands of lives during World War II were able to be saved. There is Dr. Percy Julian who left a legacy of life-saving and health-restoring discoveries. Dr. Julian's inventions and breakthroughs provided relief for millions of Americans suffering from rheumatoid arthritis, and glaucoma, among others. There is also Garrett A. Morgan, the inventor of both the traffic signal and the gas mask.

These examples are but a few of the many African-Americans who have been instrumental in maintaining our Nation's superiority in technology and competitiveness. History has proudly documented the numerous scientific, medical, and technological achievements of African-Americans. Inspired by the accomplishments of these and many other African-Americans, Black History Month heralds those achievements while also challenging our Nation's youth to similar feats of great glory.

Mr. Speaker, I urge all my colleagues to join with me in celebrating Black History Month.

Mr. RAY. Mr. Speaker, I rise today to participate in this special order commemorating Black History Month.

Earlier this month, it was my pleasure to help host the Third District's fifth annual Black History Month observance. I was joined in the program by the distinguished chairman of the Congressional Black Caucus, Mr. EDOLPHUS TOWNS of New York.

Mr. Speaker, I have come to look forward to this annual gathering to commemorate Black History Month. This month has been set aside throughout this country to recognize the individuals, organizations, and communities that have played key roles in America's history. It is entirely fitting that we have this annual event and pay tribute to those individuals who and those institutions which have contributed their efforts and dedicated their existence to the improvement of our blessed Nation.

The United States is the oldest, most enduring Government in the world. It is a democracy which has representative government and the power to change, to adapt, to meet new needs and new challenges. One of those challenges has been the creation of better race relations. This annual meeting has made a contribution toward this goal.

Mr. Speaker, I mentioned in my speech that there is a long list of men and women who have dedicated their lives to the cause of racial harmony and equity in America. The list includes the names of John Lewis, John F. Kennedy, Martin Luther King Jr., Benjamin Mays, Eleanor Roosevelt, Colin Powell, and John Amos. Each of these persons and many, many others—some black, and some white—some rich, some poor—some living and some departed—each tried or are currently trying in their own special way to work for a better America. This spirit continues to flow through many of us and our young people. And it will continue to bolster our free and democratic society.

It was a pleasure to have with us at the observance someone who has played an integral role in this development and who continues to be a moving force in helping others—Congressman EDOLPHUS TOWNS. New York is fortunate to have him as a representative, but we in Georgia should be proud of this gentleman too, for Congressman TOWNS has roots in this great State. His grandparents had a home in Reidsville, GA, and he spent many of his summers there.

Congressman TOWNS and I entered the House of Representatives the same year, following the elections of 1982. He came to Congress via the circle route, having been born in Chadbourn, NC, and having been active in the politics of New York. Congressman TOWNS is a spiritual and intellectual leader in Congress and was a welcome addition to our list of former speakers. Some of those fine individuals include Congressman JOHN LEWIS from Atlanta, former whip Bill Gray, Congressman MIKE ESPY from Mississippi, and Congressman LOUIS STOKES.

Mr. Speaker, I appreciate the opportunity to participate in this tribute to Black History Month, and thank Congressman TOWNS for his assistance in the wonderful observance in the Third District.

GENERAL LEAVE

Mr. STOKES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order of today.

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

There was no objection.

LONG-TERM HEALTH CARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. BILIRAKIS] is recognized for 60 minutes.

Mr. BILIRAKIS. Mr. Speaker, as the chairman of the Republican Research Committee's task force on the elderly, I believe long-term health care is an issue that deserves serious debate in the House of Representatives. Health care reform is a subject of national debate these days, but little has been said about long-term care, an issue that is on the minds of almost every senior citizen.

Long-term care services include medical, social, personal, and supportive services needed by people who have lost some capacity for self-care because of a chronic illness or condition. While these conditions occur in all age groups, the elderly are the largest group of individuals where these conditions result in both functional impairment and physical dependence on others for an extended time period.

My congressional district in Florida, which includes Clearwater, Dunedin, New Port Richey, and Holiday, has one of the highest percentages of older Americans over the age of 85. As you can well imagine, most of my constituents insist that any health care reform package must address the issue of long-term care.

Currently, the elderly face significant expenses for long-term care, especially nursing home care. Many times, nursing home care involves catastrophic expenditures that result in the impoverishment of many seniors. Private insurance coverage for long-term nursing home care is very limited and public support under the Medicaid Program is available only after people have first experienced financial catastrophe and have depleted their resources and income on the cost of their care.

In addition, very little coverage exists for home and community-based services which seniors and their families often prefer over institutional care.

In 1988, $53 billion was spent for nursing home and home care, which are two major categories for long-term care services. This figure represents about half of Medicare's total level of current spending. The greatest portion of this spending is for nursing home care.

About $43 billion was spent for nursing home care in 1988. Public programs, primarily Medicaid, paid almost 50 percent of the Nation's total nursing home bill. Many people needed long-term care become eligible for Medicaid because of the high cost of nursing home care, currently averaging $30,000 annually.

On the other hand, national spending for home care is very limited. In 1988, less than $10 billion, or 18 percent of total long-term care costs, was spent for home health services. Of this total, 70 percent was paid by public programs.

As the chairman of the elderly task force, I believe long-term care is an issue that must be addressed by Congress. In my opinion, 1992 is the appropriate time to do so—health-care reform is a top priority of the Congress.

Late last year, I introduced H.R. 3951, a comprehensive health reform package which included several provisions designed specifically to benefit older Americans. One section provides a one-time physical examination for new Medicare beneficiaries. I believe this is essential because it mandates preventive health care for seniors and it encourages medical professionals to provide medical screening services to older Americans. It also allows seniors the opportunity to discuss their dietary needs, physical activities and prescription drug use with a physician.

H.R. 3951 also includes long-term health care legislation that I have consistently introduced in the House of Representatives since the 100th Congress. H.R. 1535, the Elderly Americans' Economic Security Act, allows more families to remain together and delays expensive institutionalization of loved ones by giving primary care givers certain tax incentives.

In addition, the legislation encourages medical professionals, such as doctors and nurses, to donate services to homebound patients by granting them a tax deduction in the form of an extension of the charitable contribution for their services. Health providers who provide services to homebound patients cannot be immediate family members.

Finally, the bill allows certain withdrawals from individual retirement accounts [IRA's] for the purpose of funding long-term care. In this way, an individual may decide to spend his retirement savings for long-term care expenses if he believes it is necessary without suffering tax penalties.

I firmly believe long-term health care should be an important aspect of the health-care reform debate. Seniors must continue to be assured by Congress that this issue is as important as health care access and cost containment for health care. The Pepper Commission's recommendations for long-term care reform encouraged a public-private insurance model for financing long-term health care benefits. However, I believe my legislation is a good beginning and gives families and medical professionals quick financial relief when they provide care to elderly relatives.

The task force's purpose of to encourage more extensive debate on the issue of long-term care, including the financial concerns of the long-term health bills that have been introduced in the House or Representatives. It is my hope and the hope of the task force that Congress will place more emphasis on long-term care in the coming year, especially as our population continues to grow older and wiser.

Mr. LAGOMARSINO. Mr. Speaker, during debate on repeal of the Medicare Catastrophic Coverage Act of 1988, an overwhelming message was sent to Congress. That message was that seniors really wanted and needed long-term health care coverage. I don't think Congress heard the message clearly enough because we have not yet delivered what the people asked us to do.

Since our elderly population is continuing to grow and at the same time living longer lives, we must find a way to provide less costly long-term-care insurance for our seniors. Many of today's seniors live on fixed incomes and would face the possibility of bankruptcy should they be stricken with an unforeseen illness requiring a prolonged stay in the hospital or care in a nursing home facility. This is unconscionable and we cannot allow this to happen.

The Pepper Commission, which was established by the Medicare catastrophic legislation, and was retained when the law was repealed, had as one of its chief tasks to report to Congress on how to provide effective, affordable long-term health care coverage for the elderly.

While a recommendation was made, there was a one major flaw in the plan—how do we finance it.

As health care costs continue to escalate, it becomes even more essential to accomplish this objective. The vast majority of seniors I hear from tell me their No. 1 concern is the need to make cheaper long-term-care insurance a reality.

Hopefully, we will reach a consensus and enact legislation to address this issue once and for all.

Mrs. BENTLEY. Mr. Speaker, I want to thank my good friend from Florida, Mr. BILIRAKIS, for organizing this special order around an issue of great concern to our senior community—the issue of long-term care. This is certainly one issue that cannot be excluded from the current debate taking place about our health care system.

As a member of the Select Committee on Aging, I am acutely aware of the fact that the elderly segment of our population continues to increase as a percentage of the total population. Today there are nearly 31 million Americans over the age of 65—and by the year 2010, there will be close to 40 million. In addition, according to a recent GAO study, "The projected number of disabled elderly in the future could range anywhere from 14 to 27 million"; it goes on to say that, "The costs of long-term care for the elderly are projected to almost triple from $42 billion in 1988 to over $120 billion by 2018." But to truly understand the enormity of these figures, we must recognize that the average cost of a year's stay in a nursing home is $33,000. That's a number that many Americans faced with caring for a loved one can easily relate to.

As my colleagues here today will remember, the "Grandaddy" of the long-term-care initiative was the 550-page Pepper Commission report that was released in 1990. In that report, a variety of separate recommendations were outlined, many of which touched on the pressing need for long-term care. This included making disabled persons eligible for social insurance for both home and community based care, including adult day care and respite care; setting up a nursing home program to provide a floor of financial protection in order to prevent impoverishment; and covering users of nursing homes for the first 3 months of care, with a modest co-pay only.

However, in laying the foundation for a comprehensive health coverage program the Pepper Commission, quite obviously, anticipated resulting deficiencies. Accordingly, they specifically noted that "private long-term care insurance will fill gaps not covered by this plan." In addition, they urged Tax Code revisions to encourage the development of private long-term-care insurance in an effort to fill these gaps. These included treating premiums paid, and benefits received, as health insurance for tax purposes. However, many people were quite critical about the way in which the report appeared to gloss over the issue of how long-term-care plans should be constructed using an employer, rather than a Federal Government model.

There were, of course, some other marginal problems with the report. The price tag of the Pepper package was a bit steep, to put it mildly, and the financing mechanisms somewhat nebulous. One of our colleagues on the Budget Committee actually described the $70 billion price tag as being "beyond the outer boundary for serious discussion." As such, the scramble for an acceptable, all-encompassing reform package that improves delivery and access, while lowering costs, continues; in concert with a spirited national debate that includes doctors, hospitals administrators, insurance companies, HMO's pharmaceutical firms, State and local government officers, and political pollsters.

The bottom line is that caring for oneself, or one's family, in their later years, has become one of the greatest worries of most Americans. And as our senior population expands, we must also ensure that opportunities for defrauding and manipulating this segment don't expand as well. While Medigap and long-term-care insurance policies are welcome in order to fill our health care financing gap, unfortunately the temptation for some to take advantage has, and will, continue to occur. Thus, it is imperative that we keep an eye fixed toward ferreting out any abuse of the elderly, and through the cooperative efforts of the insurance industry, keep potential abuses to a minimum.

Clearly, we must continue to encourage and spur on companies to develop a strong long-term-care insurance market, while at the same time providing consumers with the confidence and the education that the market will be free from abuse. Only then will families and individuals invest their hard-earned dollars for future health care needs.

Mr. JAMES. Mr. Speaker, first, I would like to thank my distinguished colleague from Florida, Congressman BILIRAKIS, for his leadership in spearheading this effort to bring attention to the long-term-care crisis in this country.

The number of senior citizens throughout the Nation is expected to more than double by the year 2050. In Florida alone, it is estimated that by the year 2000 there will be approximately 3.87 million people over the age of 60. Assuming these numbers are realized, there is no doubt there will be an increased demand on our long-term-care resources.

How are we going to meet the demand for long-term care today and the increased demand tomorrow? This is a question Congress has been struggling to answer for years.

Obviously, Mr. Speaker, there are no short, simple answers. And while I am not an expert on the myriad problems facing health care by any means, I think that one aspect of any long-term-care solution can be found in the fastest growing health care delivery system today: home health care.

Home care is a great alternative to institutionalization. Why? Ask the patients. At one home health agency in Florida's fourth congressional district, Volusia Home Care, the nurses and therapists tell my staff how much the patients' attitudes and dispositions improve when they receive care in their homes, surrounded by loved ones and belongings.

Mr. Speaker, there are other reasons that home health care is beneficial, and one springs to mind that we in Congress should pay particular attention to: cost effectiveness.

Medicare reimburses home care agencies somewhere in the neighborhood of $65 a day for a nursing visit, a little higher for therapists, and considerably less for visits of nursing assistants. In many cases, the latter group, nursing assistants, or home health aides, are all that are needed to change a patient's bandage and check vital signs.

Now think about this, Mr. President: In some areas, hospital stays can cost upward of $400 per day. Seems to me that we can analyze more carefully some of these cases and see if some patients can get quality care in the home instead of in the hospital. It would save the Government millions and millions of dollars, and patients, on the whole are eminently happier in the home setting.

As I've said, there aren't any simple answers, but I believe home health care is one way that a long-term-care campaign can truly be sustained.

So in conclusion, Mr. Speaker, I think we in Congress should take a long, hard look at some alternatives to the conventional health care wisdom. And as I've said tonight, I think home health care should be a key component of any long-term health care plan.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MCCOLLUM) to revise and extend their remarks and include extraneous material:)

Mr. MCCOLLUM, for 5 minutes, today.

Mr. HASTERT, for 60 minutes each day, on March 3, 4, and 5.

(The following Members (at the request of Mr. MFUME) to revise and extend their remarks and include extraneous material:)

Mr. HUTTO, for 5 minutes, today.

Mr. STARK, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 60 minutes, on February 28.

Mr. STOKES, for 5 minutes each day, on March 3, 4, and 5.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. MCCOLLUM) and to include extraneous matter:)

Mr. HEFLEY in two instances.

Mr. CRANE.

Mr. MCDADE.

Mr. PACKARD.

Mr. SAXTON.

Mr. GRADISON.

Mr. GALLO.

Mr. ZIMMER.

Mr. MCGRATH.

Mr. DORNAN of California.

Mr. DUNCAN.

Mr. SCHIFF.

Mr. HORTON.

Mr. GUNDERSON.

Mr. GILMAN in three instances.

Mr. HASTERT.

Mr. GREEN of New York.

Mr. BURTON of Indiana.
Mrs. BENTLEY in two instances.
Mr. WALSH.
Mr. YOUNG of Florida.

(The following Members (at the request of Mr. MFUME) and to include extraneous matter:)

Mr. HOCHBRUECKNER.
Mr. MCCURDY.
Mr. LANTOS.
Mr. MAZZOLI.
Mr. TALLON.
Mr. ECKART.
Mr. APPLEGATE.
Mr. RAHALL.
Mr. TORRES.
Mr. DOWNEY.
Mr. FORD of Michigan.
Mr. KILDEE.
Mr. SLATTERY.
Mr. BILBRAY.
Mr. NEAL of Massachusetts.
Mr. EDWARDS of California.
Mr. BORSKI.
Mr. GUARINI.
Mr. VOLKMER.
Mr. MOODY.
Mr. TORRICELLI.
Mr. GEREN of Texas.
Mr. WAXMAN.
Ms. LONG.
Mr. DARDEN.
Mr. WILLIAMS.
Mr. ABERCROMBIE.
Mr. MARKEY.
Mr. ACKERMAN.

ENROLLED BILL SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 2212. An act regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes.

ADJOURNMENT

Mr. RANGEL. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 46 minutes p.m.), under its previous order, the House adjourned until Monday, March 2, 1992, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2906. A letter from the Assistant Secretary for Force Management and Personnel, Department of Defense, transmitting the Department's Defense Manpower Requirements Report for fiscal year 1993, pursuant to 10 U.S.C. 115(b)(3)(A); to the Committee on Armed Services.

2907. A letter from the Secretary of the Air Force, transmitting notification that four major defense acquisition programs have breached the unit cost by more than 25 percent, pursuant to 10 U.S.C. 2431(b)(3)(A); to the Committee on Armed Services.

2908. A letter from the Secretary of the Navy, transmitting notification of the proposed transfer of the obsolete aircraft carrier *Lexington* [AVT 16] to the Corpus Christi Area Convention and Visitors Bureau, Corpus Christi, TX, pursuant to 10 U.S.C. 7308; to the Committee on Armed Services.

2909. A letter from the Secretary of Housing and Urban Development, transmitting the biennial President's Report on National Urban Policy, pursuant to 42 U.S.C. 4503(a); to the Committee on Banking, Finance and Urban Affairs.

2910. A letter from the Chairman, Federal Housing Finance Board, transmitting the Board's report on comparability of pay and benefits, pursuant to Public Law 101-73, section 1206 (103 Stat. 523); to the Committee on Banking, Finance and Urban Affairs.

2911. A letter from the Chairman of the Board, National Credit Union Administration, transmitting the Administration's report on comparability of pay and benefits, pursuant to Public Law 101-73, section 1206 (103 Stat. 523); to the Committee on Banking, Finance and Urban Affairs.

2912. A letter from the Executive Director, Neighborhood Reinvestment Corporation, transmitting the annual report of the Corporation for 1991, pursuant to 42 U.S.C. 8106(a); to the Committee on Banking, Finance and Urban Affairs.

2913. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-160, "D.C. Health Occupations Revision act of 1985 Temporary Licensure of Social Workers Temporary Amendment Act of 1992", and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

2914. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-162, "Illegal Dumping and Operating an Open Dump Fine Increase Amendment Act of 1992," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

2915. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-161, "Education in Partnership with Technology Corporation Establishment Act of 1986 Capitalization Amendment Act of 1992," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

2916. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-159, "D.C. Depository Act of 1977 Amendment Act of 1992," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

2917. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-158, "Florida Avenue Baptist Church Equitable Real Property Tax Relief Temporary Act of 1992", pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

2918. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-157, "D.C. Unemployment Compensation Act Temporary Amendment Act of 1992," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

2919. A letter from the President, Chesapeake and Potomac Telephone Co., transmitting the C&P Telephone Co. statement of receipts and expenditures for the year 1991, pursuant to the Act of April 27, 1904, ch. 1628 (33 Stat. 374, 375); to the Committee on the District of Columbia.

2920. A letter from the Cochairman, Indian Nations At Risk Task Force, Department of Education, transmitting a copy of the final report of the task force, entitled "Indian Nations At Risk: An Educational Strategy for Action"; to the Committee on Education and Labor.

2921. A letter from the Chairman, Harry S. Truman Scholarship Foundation, transmitting the Foundation's annual report for 1991, pursuant to 20 U.S.C. 2012(b); to the Committee on Education and Labor.

2922. A letter from the Chairman, National Council on Disability, transmitting a report on the reauthorization of the Rehabilitation Act; to the Committee on Education and Labor.

2923. A letter from the Secretary of Education, transmitting the final reports for four Department of Education advisory committees; the Intergovernmental Advisory Council on Education, the Special Study Panel on Education Indicators, the National Learning Center, and the National Council on Vocational Education; to the Committee on Education and Labor.

2924. A letter from the Deputy Assistant General Counsel, Department of Energy, transmitting a notice of a meeting related to the International Energy Program to be held on February 18 and 19, 1992, at the OECD, in Paris, France; to the Committee on Energy and Commerce.

2925. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed license for the export of major defense equipment sold commercially to United Arab Emirates (Transmittal No. DTC-6-92), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

2926. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed license for the export of major defense equipment sold commercially to Switzerland (Transmittal No. DTC-46-91), pursuant to 22 U.S.C. 2776(d); to the Committee on Foreign Affairs.

2927. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed license for the export of major defense equipment sold commercially to Turkey (Transmittal No. DTC-7-92), pursuant to 22 U.S.C. 2776(c), (d); to the Committee on Foreign Affairs.

2928. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed license for the export of major defense equipment sold commercially to Japan (Transmittal No. DTC-3-92), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

2929. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed license for the export of major defense equipment sold commercially to Japan (Transmittal No. DTC-4-92), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

2930. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report on certain Chinese firms engaged in missile technology proliferation activities, pursuant to Public Law 101-510, section 1702(a) (104 Stat. 1743); to the Committee on Foreign Affairs.

2931. A letter from the Director, Office of Management and Budget, transmitting OMB estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal

year through fiscal year 1995 resulting from passage of H.R. 4095, pursuant to Public Law 101-508, section 13101(a) (104 Stat. 1388-582); to the Committee on Government Operations.

2932. A letter from the Director, Office of Management and Budget, transmitting OMB estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1995 resulting from passage of H.R. 1989, pursuant to Public Law 101-508, section 13101(a) (104 Stat. 1388-582); to the Committee on Government Operations.

2933. A letter from the Chairman, Federal Maritime Commission, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1991, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

2934. A letter from the General Counsel, Legal Services Corporation, transmitting a report on its activities under the Freedom of Information Act for calendar year 1991, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2935. A letter from the Marshal of the Court, Supreme Court of the United States, transmitting the annual report on administrative costs of protecting Supreme Court officials, pursuant to 40 U.S.C. 13n(c); to the Committee on the Judiciary.

2936. A letter from the Assistant Attorney General, transmitting a draft of proposed legislation to amend the Civil Liberties Act of 1988 and for other purposes; to the Committee on the Judiciary.

2937. A letter from the Chairman, Board of Directors, Panama Canal Commission, transmitting a draft of proposed legislation to authorize expenditures for fiscal year 1993 for the operation and maintenance of the Panama Canal and for other purposes; to the Committee on Merchant Marine and Fisheries.

2938. A letter from the Postmaster General, transmitting a copy of the 1991 Comprehensive Statement on Postal Operations which discusses postal programs and policies, pursuant to 39 U.S.C. 2401(g); to the Committee on Post Office and Civil Service.

2939. A letter from the Administrator, Environmental Protection Agency, transmitting the final report on the nonpoint sources of water pollution reduction activities and programs, pursuant to Public Law 100-4, section 316 (101 Stat. 590); to the Committee on Public Works and Transportation.

2940. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a draft of proposed legislation to authorize appropriations to the National Aeronautics and Space Administration for research and development, space flight, control and data communications, construction of facilities, and research and program management, and inspector general, and for other purposes; to the Committee on Science, Space, and Technology.

2941. A letter from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation entitled, "Veterans' Home Loan Improvement Act of 1992"; to the Committee on Veterans' Affairs.

2942. A letter from the Assistant Secretary of the Army (Civil Works), transmitting the Secretary's recommendations relating to the Cochiti Dam, NM, project; to the Committee on Appropriations and Public Works and Transportation.

2943. A letter from the Secretary of Energy, transmitting the second annual report by the Department on its activities relating to the Defense Nuclear Facilities Safety Board for calendar year 1991; jointly, to the Committees on Armed Services and Energy and Commerce.

2944. A letter from the Acting Administrator, Federal Aviation Administration, transmitting the study of potential use of engine condition monitoring systems on aircraft, pursuant to Public Law 101-508, section 9117(b) (104 Stat. 1388-365); jointly, to the Committees on Public Works and Transportation and Science, Space, and Technology.

2945. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a draft of proposed legislation to authorize the imposition of recreation user fees at water resources development areas administered by the Department of the Army; jointly, to the Committees on Public Works and Transportation and Interior and Insular Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. CONYERS: Committee on Government Operations. H.R. 3732. A bill to amend the Congressional Budget Act of 1974 to eliminate the division of discretionary appropriations into three categories for purposes of a discretionary spending limit for fiscal year 1993, and for other purposes; with an amendment (Rept. 102-446, Pt. 1). Ordered to be printed.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of Rule X the following action was taken by the Speaker:

H.R. 2056. Referral to the Committee on Merchant Marine and Fisheries extended for a period ending not later than March 6, 1992.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. HALL of Texas:

H.R. 4330. A bill to ensure that U.S. firms are accorded priority in the construction of the superconducting super collider; to the Committee on Science, Space, and Technology.

By Mr. CHANDLER (for himself, Mr. DICKS, Mr. SWIFT, Mrs. UNSOELD, and Mr. MORRISON):

H.R. 4331. 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; jointly, to the Committees on Foreign Affairs, Agriculture, and Interior and Insular Affairs.

By Mr. DE LUGO:

H.R. 4332. A bill to make technical corrections regarding the effect of provisions relating to the eligibility of certain insular areas for assistance under the HOME Investment Partnerships Act, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. GALLO:

H.R. 4333. A bill to amend title II of the Social Security Act to prohibit the buying and selling of Social Security account numbers; to the Committee on Ways and Means.

By Mr. GEREN of Texas (for himself, Mr. CLINGER, Mr. EMERSON, and Mr. PARKER):

H.R. 4334. A bill to amend title 49, United States Code, relating to deregulation of intrastate trucking; to the Committee on Public Works and Transportation.

By Mr. HASTERT:

H.R. 4335. A bill to amend title 23, United States Code, relating to motor carrier transportation, and for other purposes; jointly, to the Committees on Public Works and Transportation and the Judiciary.

By Mr. JACOBS:

H.R. 4336. A bill prohibiting the manufacture, sale, delivery, or importation of certain motor vehicles and rail cars that do not have seat belts, and for other purposes; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mr. TORRES:

H.R. 4337. A bill to require the Secretary of the Treasury to mint coins in commemoration of the 200th anniversary of the White House, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. KILDEE (for himself and Mr. FORD of Michigan):

H.R. 4338. A bill to suspend certain compliance and accountability measures under the National School Lunch Act; to the Committee on Education and Labor.

By Mr. MARKEY (for himself, Mr. MOAKLEY, Mr. STUDDS, Mr. ATKINS, Mr. EARLY, Mr. DONNELLY, Mr. KENNEDY, Mr. MAVROULES, and Mr. FRANK of Massachusetts):

H.R. 4339. A bill to amend the Federal Water Pollution Control Act to provide for improvement of the quality of Boston Harbor and adjacent waters; to the Committee on Public Works and Transportation.

By Mr. WILLIAMS:

H.R. 4340. A bill to provide employment opportunities to unemployed individuals in high unemployment areas in projects to repair and renovate vitally needed community facilities, and for other purposes; to the Committee on Education and Labor.

By Mr. PACKARD (for himself, Mr. RIGGS, and Mr. CUNNINGHAM):

H.R. 4341. A bill to amend the Internal Revenue Code of 1986 to permanently extend the research and experimental credit and to reinstate the investment tax credit; to the Committee on Ways and Means.

By Mr. PENNY (for himself, Mr. SMITH of New Jersey, Mr. MONTGOMERY, and Mr. STUMP):

H.R. 4342. A bill to amend title 38, United States Code, to expand job assistance programs for Vietnam era veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. MARKEY (for himself, Mr. HENRY, Mr. BONIOR, Mr. KOSTMAYER, Mr. SIKORSKI, Mr. SCHEUER, Mr. STUDDS, Mr. WAXMAN, Mr. WYDEN, Mr. UPTON, Mrs. KENNELLY, Mr. KENNEDY, Mr. FORD of Michigan, Mr. MILLER of California, Mr. BROWN, Mr. DELLUMS, Mr. STOKES, Mr. ANDREWS of Maine, Mr. ATKINS, Mr. AUCOIN, Mr. BEILENSON, Mrs. BOXER, Mr. CARR, Mr. CONYERS, Mr. DEFAZIO, Ms. DELAURO, Mr. DE LUGO, Mr. DWYER of New Jersey, Mr. FALEOMAVAEGA, Mr. FRANK of Massachusetts, Mr. GILCHREST, Mr. GOODLING, Mrs. JOHNSON of Connecticut, Mr. KILDEE, Mr. KOLTER, Mr. KOPETSKI, Mr. LEACH,

Mr. LEVIN of Michigan, Mr. LEVINE of California, Mr. MCHUGH, Mr. MAVROULES, Mr. MFUME, Mr. MINETA, Mrs. MORELLA, Mr. MRAZEK, Ms. NORTON, Mr. OLVER, Mr. OWENS of Utah, Mr. PALLONE, Ms. PELOSI, Mr. PURSELL, Mr. SANDERS, Mrs. SCHROEDER, Ms. SLAUGHTER, Mr. SOLARZ, Mr. TRAFICANT, Mr. TRAXLER, Mr. WALSH, Mr. WEISS, Mr. WOLPE, and Mr. YATES):

H.R. 4343. A bill to amend the Solid Waste Disposal Act to require a refund value for certain beverage containers, and to provide resources for State pollution prevention and recycling programs, and for other purposes; jointly, to the Committees on Energy and Commerce.

By Mr. RAHALL (for himself and Mr. MILLER of California):

H.R. 4344. A bill to amend the Surface Mining Control and Reclamation Act of 1977 to extend the Abandoned Mine Reclamation Program, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. SAWYER:

H.R. 4345. A bill to provide assistance to States to enable such States to raise the quality of instruction in mathematics and science by providing equipment and materials necessary for hands-on instruction; to the Committee on Education and Labor.

H.R. 4346. A bill to establish a national Albert Einstein Teacher Fellowship Program for outstanding secondary school science and mathematics teachers; to the Committee on Education and Labor.

By Mr. SOLOMON:

H.R. 4347. A bill to amend title 38, United States Code, to change the date for the beginning of the Vietnam era for the purpose of veterans benefits from August 5, 1964, to December 21, 1961; to the Committee on Veterans' Affairs.

By Mr. STAGGERS:

H.R. 4348. A bill to authorize appropriations for fiscal years 1993 through 1996 to carry out the Solid Waste Disposal Act, and for other purposes; to the Committee on Energy and Commerce.

By Mr. STARK (for himself and Mr. RANGEL):

H.R. 4349. A bill to amend the Internal Revenue Code of 1986 to impose an excise tax on sales on syringes and intravenous systems which do not meet antineedlestick prevention standards; to the Committee on Ways and Means.

By Mr. SYNAR (for himself, Mr. DURBIN, Mr. RITTER, Mr. OWENS of Utah, Mr. ANDREWS of Texas, Mr. LEVINE of California, Mr. JACOBS, Mrs. COLLINS of Illinois, and Mr. HANSEN):

H.R. 4350. A bill to amend the Federal Food, Drug, and Cosmetic Act to regulate the manufacture, sale, promotion, and distribution of tobacco and other products containing tar, nicotine, tobacco additives, carbon monoxide, and other potentially harmful constituents, and for other purposes; to the Committee on Energy and Commerce.

By Mr. THOMAS of California (for himself, Mrs. JOHNSON of Connecticut, Mr. MATSUI, Mr. STARK, Mr. LOWERY of California, Mr. TOWNS, Mr. LEVINE of California, Mrs. MORELLA, Mr. DOOLITTLE, Mr. CUNNINGHAM, Mr. GALLEGLY, Mr. CONDIT, Mr. POSHARD, Mr. LEHMAN of California, Mr. RIGGS, Mr. DIXON, Mr. LANTOS, Mr. FAZIO, Mr. MARTINEZ, Mr. LEWIS of California, and Mr. LAGOMARSINO):

H.R. 4351. A bill to revise the eligibility requirements applicable to emergency and extended unemployment compensation benefits; to the Committee on Ways and Means.

By Mr. TORRICELLI:

H.R. 4352. 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; jointly, to the Committees on Science, Space, and Technology, Energy and Commerce, and Banking, Finance and Urban Affairs.

By Mr. WILSON (for himself and Mr. BRYANT):

H.R. 4353. A bill to prohibit exports of unprocessed timber and wood chips to any country that does not provide reciprocal access to its markets for finished wood products and paper produced in the United States; to the Committee on Foreign Affairs.

By Mr. GILMAN (for himself and Mr. MANTON, Mr. FISH, Mr. DORNAN of California, Mr. HOCHBRUECKNER, Mr. MCGRATH, Mr. MCNULTY, and Ms. MOLINARI):

H.J. Res. 427. Joint resolution to designate March 17, 1992, as "Irish Brigade Day"; to the Committee on Post Office and Civil Service.

By Mr. DINGELL:

H.J. Res. 428. Joint resolution to authorize the President to proclaim the last Friday of April 1992 as "National Arbor Day"; to the Committee on Post Office and Civil Service.

By Mr. GUARINI (for himself and Mr. FROST, Mr. FASCELL, Mr. GALLO, Mr. FUSTER, Mr. SCHUMER, Mr. MCGRATH, Mr. STOKES, Ms. LONG, Mr. FAWELL, Mr. FLAKE, Mr. LAGOMARSINO, Mr. UPTON, Mrs. MINK, Mr. INHOFE, Mr. PRICE, Mr. MORRISON, Mr. LIVINGSTON, Mr. GALLEGLY, Mr. OWENS of New York, Mr. RANGEL, Mrs. COLLINS of Illinois, Mr. BILIRAKIS, Mr. BENNETT, Mrs. PATTERSON, Mr. JEFFERSON, Mr. ROYBAL, Mr. EMERSON, Mr. WHITTEN, Mr. ANDREWS of New Jersey, Mr. FAZIO, Mr. HYDE, Mr. ENGEL, Mr. DE LUGO, Mr. TRAFICANT, Mr. DELLUMS, Mrs. BOXER, Mr. LANTOS, Mr. BEVILL, Mr. SOLOMON, Mr. FISH, Mr. TOWNS, Mr. HORTON, Mr. WOLF, Mr. MARTINEZ, Mr. MCMILLAN of North Carolina, Mr. MCMILLEN of Maryland, Mr. GREEN of New York, Mr. DE LA GARZA, Mr. PAYNE of New Jersey, Mr. HUGHES, Mr. JONES of Georgia, Mr. RAVENEL, Mr. MANTON, Mr. LENT, Mr. PAYNE of Virginia, Mr. ROE, Mr. SCHEUER, Mr. RAHALL, Mr. TORRICELLI, Mr. PICKETT, Mr. QUILLEN, Mr. YATRON, Mr. RICHARDSON, Mr. LEHMAN of Florida, Mr. NAGLE, Mr. YOUNG of Florida, Mr. WALSH, Mr. CARDIN, Mr. HAYES of Louisiana, Mr. MCNULTY, Mr. HARRIS, Mr. NEAL of Massachusetts, Mr. VANDER JAGT, Mr. MAZZOLI, Mr. TALLON, Ms. PELOSI, Mr. JACOBS, Mr. WAXMAN, Mr. BROWDER, Mr. ROSE, Mr. MILLER of Washington, and Mr. DEFAZIO):

H.J. Res. 429. Joint resolution designating May 3, 1992, through May 9, 1992, as "Be Kind to Animals and National Pet Week"; to the Committee on Post Office and Civil Service.

By Mr. MORAN (for himself, Mr. DICKS, Mr. FAZIO, Mr. HOYER, Mrs. BOXER, Mr. MCMILLEN of Maryland, Ms. NORTON, Mr. LEHMAN of California, Mrs. BYRON, Mr. MATSUI, Mr. WHEAT, Mrs. MORELLA, Mr. DWYER of New Jersey, Mr. ACKERMAN, Mr. BARNARD, Mr. BORSKI, Mr. CARDIN, Mr. CHAPMAN, Mr. DIXON, Mr. DYMALLY, Mr. ERDREICH, Mr. EVANS, Mr. FRANK of Massachusetts, Mr. GUARINI, Mr. HAYES of Illinois, Mr. HOBSON, Mr. KOSTMAYER, Mr. LANTOS, Mr. MCCLOSKEY, Mr. MFUME, Mrs. MINK, Mr. RAY, Mr. SAXTON, and Mr. WOLF):

H.J. Res. 430. Joint resolution to designate May 4, 1992, through May 10, 1992, as "Public Service Recognition Week"; to the Committee on Post Office and Civil Service.

By Mr. TORRES (for himself and Mr. MCCANDLESS):

H.J. Res. 431. Joint resolution designating the week beginning April 19, 1992, as "National Credit Education Week"; to the Committee on Post Office and Civil Service.

By Mr. FEIGHAN:

H. Con. Res. 284. Concurrent resolution expressing the sense of the Congress that the President should pursue a multilateral initiative designed to bring to justice those responsible for the bombing of Pan Am Flight 103 over Lockerbie, Scotland, on December 21, 1988; to the Committee on Foreign Affairs.

By Mr. GILLMOR:

H. Con. Res. 285. Concurrent resolution expressing the sense of the Congress that the President has the authority to, and should, implement the indexation of the basis of assets for purposes of determining the amount of gain which is subject to taxation; to the Committee on Ways and Means.

By Mr. KOSTMAYER:

H. Con. Res. 286. Concurrent resolution expressing the sense of the Congress that an economic recovery program should include expenditures for certain State and local programs; to the Committee on Interior and Insular Affairs.

By Mr. GILLMOR:

H. Res. 383. Resolution to amend the Rules of the House of Representatives to prohibit the Committee on Rules from reporting rules waiving the germaneness requirement; to the Committee on Rules.

By Mr. GUNDERSON (for himself, Mr. STENHOLM, Mr. NAGLE, Mr. YATRON, Mr. RIGGS, Mr. MILLER of Ohio, Mr. JOHNSON of South Dakota, Mr. HERGER, Mr. MOODY, Mr. HORTON, Mr. HOUGHTON, Mr. BORSKI, Mr. KLUG, Mr. SENSENBRENNER, Mr. OBEY, Mr. PETERSON of Minnesota, Mr. WALSH, Mr. CONDIT, Mr. CAMPBELL of Colorado, Mr. MCDADE, Mr. PETRI, Mr. DORGAN of North Dakota, Mr. PANETTA, Mr. HOPKINS, and Mr. STAGGERS):

H. Res. 384. Resolution expressing the sense of the House of Representatives that the President should terminate certain current Generalized System of Preference petitions from Central and Eastern European Countries; to the Committee on Ways and Means.

By Mr. PACKARD (for himself, Mr. RIGGS, and Mr. CUNNINGHAM):

H. Res. 385. Resolution expressing the sense of the House of Representatives that any future reduction in defense spending should be used for deficit reduction; to the Committee on Government Operations.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

329. By the SPEAKER: Memorial of the 21st Legislature of Guam, relative to an exemption to the pest control fees charged to residents of Guam by the USDA; to the Committee on Agriculture.

330. Also, memorial of the Senate of the Commonwealth of Kentucky, relative to hon-

oring Gabor Roszik; to the Committee on Foreign Affairs.

331. Also, memorial of the Legislature of the State of Hawaii, relative to Federal trust obligations; to the Committee on Interior and Insular Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 53: Mrs. VUCANOVICH and Mr. FOGLIETTA.

H.R. 74: Mr. DOOLEY.

H.R. 78: Mr. WELDON.

H.R. 118: Mr. EWING, Ms. HORN, Mr. GEJDENSON, and Mr. RICHARDSON.

H.R. 576: Mr. DYMALLY, Mr. POSHARD, Mr. LIGHTFOOT, Mr. EVANS, Mr. DOOLEY, and Mr. LIVINGSTON.

H.R. 617: Mr. RAY, and Mrs. LLOYD.

H.R. 640: Mr. ALLEN.

H.R. 722: Mr. HORTON, Mr. RAMSTAD, and Mr. MURPHY.

H.R. 723: Mr. HORTON, Mr. RAMSTAD, and Mr. MURPHY.

H.R. 747: Mr. MCMILLEN of Maryland and Mr. ATKINS.

H.R. 816: Mr. HANSEN and Mr. ORTON.

H.R. 945: Mr. ORTON, Mr. DIXON, Mr. CONYERS, Mr. BROWDER, Mr. BORSKI, Mr. LIGHTFOOT, and Mr. ROTH.

H.R. 1063: Mr. BROOKS and Mr. WILSON.

H.R. 1076: Mr. BATEMAN, Mr. QUILLEN, Mr. LIPINSKI, Mr. MORAN, Mr. FROST, Mr. CAMP, and Mr. ENGEL.

H.R. 1145: Mr. GALLO and Mr. MFUME.

H.R. 1188: Mr. AUCOIN and Mr. KOLTER.

H.R. 1200: Mr. PACKARD.

H.R. 1241: Mr. PAXON, Mr. FAWELL, Mr. SCHIFF, Mr. SHAYS, Mr. HOYER, and Mr. ROTH.

H.R. 1257: Mr. MILLER of Ohio and Mr. RAMSTAD.

H.R. 1300: Mr. CLEMENT.

H.R. 1303: Mr. VANDER JAGT, Mr. KLECZKA, Mr. WILSON, Mr. DONNELLY, Mr. MAZZOLI, Mr. RAHALL, Mr. STARK, and Mr. GORDON.

H.R. 1348: Mr. TANNER.

H.R. 1354: Mr. DOWNEY, Mr. ROE, Mr. CONYERS, and Mr. PRICE.

H.R. 1393: Mr. SAVAGE.

H.R. 1405: Mr. OWENS of Utah.

H.R. 1500: Mr. EVANS, Mr. DOOLEY, Ms. KAPTUR, Mr. ASPIN, Mr. MCMILLEN of Maryland, and Mr. ATKINS.

H.R. 1536: Mrs. VUCANOVICH.

H.R. 1573: Mr. PETERSON of Florida and Mr. HAYES of Louisiana.

H.R. 1598: Mr. MCDADE, Mr. LEWIS of Florida, and Mr. SYNAR.

H.R. 1633: Mr. ENGLISH and Mr. BACCHUS.

H.R. 1774: Mr. MCMILLEN of Maryland and Mrs. COLLINS of Michigan.

H.R. 1969: Ms. HORN, Mr. ATKINS, Mr. COLEMAN of Texas, Mr. CONYERS, Mr. MORAN, Mr. MRAZEK, Mr. WAXMAN, and Mr. MCCLOSKEY.

H.R. 1987: Mr. LAROCCO, Mr. ANDREWS of New Jersey, Ms. PELOSI, Mr. PERKINS, Mr. FRANK of Massachusetts, Mr. MCCLOSKEY, and Mr. STAGGERS.

H.R. 2104: Mr. BOEHNER.

H.R. 2363: Mr. DEFAZIO, Mr. DOWNEY, Ms. NORTON, Mr. OLIN, Mr. TORRES, Mr. PALLONE, Mr. RITTER, and Mr. STAGGERS.

H.R. 2419: Mr. WALSH.

H.R. 2522: Mr. ATKINS.

H.R. 2540: Mrs. MEYERS of Kansas.

H.R. 2541: Mr. BRYANT.

H.R. 2565: Mr. JONES of North Carolina and Mr. FASCELL.

H.R. 2569: Mr. PACKARD.

H.R. 2595: Mr. PACKARD.

H.R. 2598: Mr. ALLEN.

H.R. 2693: Mr. COX of California.

H.R. 2773: Mr. BARTON of Texas.

H.R. 2796: Mr. GINGRICH.

H.R. 2915: Mr. ALLEN.

H.R. 3105: Mr. ACKERMAN and Mr. CHAPMAN.

H.R. 3138: Mr. STARK, Ms. ROS-LEHTINEN, and Mr. REED.

H.R. 3146: Mr. ALLEN.

H.R. 3164: Mr. WILSON, Mr. HERTEL, Mr. ROYBAL, Mr. BILBRAY, Mr. PACKARD, and Mr. SUNDQUIST.

H.R. 3171: Mr. FEIGHAN.

H.R. 3198: Mr. WEBER.

H.R. 3281: Mr. COYNE.

H.R. 3317: Mr. BAKER and Mr. ZELIFF.

H.R. 3373: Mrs. VUCANOVICH, Mr. SHARP, and Mr. HAYES of Illinois.

H.R. 3395: Mr. KLUG.

H.R. 3420: Mr. RIGGS, Mr. ROWLAND, Mr. WEBER, Mr. KOPETSKI, Mr. COLEMAN of Missouri, Mr. TAYLOR of North Carolina, Mr. ORTON, Mr. GLICKMAN, Mr. SKELTON, and Mr. SUNDQUIST.

H.R. 3441: Mr. SANTORUM.

H.R. 3462: Mr. FROST, Mr. VENTO, Mr. DURBIN, Mr. STUDDS, Mr. LAFALCE, Mr. RANGEL, and Mr. CAMPBELL of California.

H.R. 3470: Mr. HOBSON.

H.R. 3510: Mr. ANDREWS of New Jersey.

H.R. 3516: Mr. BLAZ and Mr. RITTER.

H.R. 3534: Mr. JEFFERSON, Mr. LEHMAN of Florida, Mrs. MINK, Mr. SERRANO, Mr. TOWNS, and Ms. WATERS.

H.R. 3536: Mr. JEFFERSON, Mr. LEHMAN of Florida, Mrs. MINK, Mr. SERRANO, Mr. TOWNS, and Ms. WATERS.

H.R. 3636: Mr. STOKES.

H.R. 3654: Mr. BILBRAY, Mrs. BYRON, Mr. CLEMENT, Mr. ECKART, Mr. HALL of Texas, Mr. HARRIS, Mr. HEFNER, Mr. HUGHES, Mr. HUTTO, Mrs. KENNELLY, Mrs. LLOYD, Mr. MCCURDY, Ms. OAKAR, Mr. ORTON, Mr. PETERSON of Florida, Mr. PICKETT, Mr. RAHALL, Mr. RICHARDSON, Mr. SAWYER, Mr. SPRATT, Mr. SWIFT, and Mr. WAXMAN.

H.R. 3732: Mr. YATES, Mr. SERRANO, Mr. KOPETSKI, Mr. BRUCE, Mr. VALENTINE, Mr. MOLLOHAN, and Mr. STAGGERS.

H.R. 3736: Mr. WISE, Mr. KOPETSKI, Mr. AUCOIN, Mr. SANDERS, Mr. PERKINS, Mr. BILBRAY, Mr. ATKINS, and Mr. RIGGS.

H.R. 3741: Mr. RITTER, Mr. SCHIFF, Mr. HEFLEY, Mr. EMERSON, Mr. MACHTLEY, and Mr. FROST.

H.R. 3764: Mr. GOODLING.

H.R. 3781: Mr. MARTIN, Mr. LENT, Mr. ANDREWS of Texas, Mr. ENGLISH, Mr. RAHALL, Mr. CRANE, Mr. TOWNS, Mr. WALSH, Mr. SUNDQUIST, Mr. JACOBS, Mr. LEHMAN of California, and Mr. CAMPBELL of California.

H.R. 3785: Mr. GUARINI and Mr. HOAGLAND.

H.R. 3799: Mr. SHAYS.

H.R. 3846: Mr. COUGHLIN.

H.R. 3876: Mr. THOMAS of California.

H.R. 3938: Mr. TOWNS, Mr. OWENS of New York, and Mr. FOGLIETTA.

H.R. 3969: Mr. ALLEN.

H.R. 3975: Mr. STAGGERS, Mr. FLAKE, Mr. DOWNEY, and Mr. CLAY.

H.R. 4002: Mr. GEPHARDT, Mr. WEISS, and Mr. FROST.

H.R. 4016: Mr. FAZIO, Mr. ROYBAL, Mr. ANDERSON, and Mr. TORRES.

H.R. 4020: Mr. GOODLING.

H.R. 4032: Mr. GOSS.

H.R. 4034: Mr. ABERCROMBIE, Mr. WAXMAN, and Mr. ATKINS.

H.R. 4045: Mr. MINETA, Mr. SANDERS, and Mr. MAVROULES.

H.R. 4063: Mr. BILBRAY.

H.R. 4083: Mrs. UNSOELD, Mr. OWENS of Utah, Ms. OAKAR, Mr. KOSTMAYER, Mr. APPLEGATE, Mr. JACOBS, Mr. RINALDO, Mr. GONZALEZ, Mr. ROGERS, Mr. BILBRAY, Mr. WOLPE, Mr. COLEMAN of Texas, and Mr. SANGMEISTER.

H.R. 4099: Mr. HANCOCK, Mr. THOMAS of Wyoming, and Mr. STUMP.

H.R. 4100: Mr. LANTOS and Mr. STAGGERS.

H.R. 4111: Mr. DE LUGO, Mr. MCNULTY, Mr. OLIN, Mr. FROST, Mr. HATCHER, Mr. HUGHES, and Mr. OWENS of New York.

H.R. 4189: Mr. POSHARD.

H.R. 4190: Mr. BREWSTER, Mr. MILLER of Ohio, Mr. FROST, and Mr. MOLLOHAN.

H.R. 4206: Mr. MARKEY, Mr. WEISS, Mr. DE LA GARZA, and Mrs. SCHROEDER.

H.R. 4211: Mrs. JOHNSON of Connecticut, Mr. BENNETT, Mr. MURPHY, Mrs. SCHROEDER, Mr. DORNAN of California, Mr. JACOBS, Mr. FRANK of Massachusetts, Mr. TAYLOR of Mississippi, Mr. FIELDS, Mr. SANTORUM, Mr. ALLEN, Mr. BERMAN, Mr. ROHRABACHER, Mr. ZELIFF, Mr. HUTTO, Mr. SHAYS, Mr. COX of California, Mr. DUNCAN, Mr. ZIMMER, and Mr. TAYLOR of North Carolina.

H.R. 4220: Mrs. LLOYD, Mr. HOLLOWAY, and Ms. LONG.

H.R. 4221: Mrs. JOHNSON of Connecticut and Mr. AUCOIN.

H.R. 4230: Mr. MURPHY and Mr. FROST.

H.R. 4234: Mr. BARNARD, Mr. SLATTERY, Mr. LEHMAN of California, Mr. MORAN, Mr. RIDGE, Mr. LEWIS of Florida, and Mrs. JOHNSON of Connecticut.

H.R. 4256: Mr. EMERSON, Mr. KLUG, AND Mr. BRUCE.

H.R. 4268: Mr. DELAY, Mr. CAMPBELL of California, Mr. GINGRICH, Mr. CAMPBELL of Colorado, Mr. WEBER, Mr. CUNNINGHAM, and Mr. ZIMMER.

H.R. 4277: Mr. MARTINEZ, Mr. MURTHA, and Mr. FROST.

H.R. 4287: Mr. MCNULTY.

H.R. 4288: Mr. LIVINGSTON.

H.J. Res. 239: Mr. HAYES of Illinois and Mr. MACHTLEY.

H.J. Res. 318: Mr. KILDEE, Mr. ROSE, Mrs. JOHNSON of Connecticut, Mr. TRAXLER, Ms. PELOSI, Mr. NEAL of North Carolina, Mr. GILMAN, Mr. MORAN, Mr. MONTGOMERY, Mr. UPTON, Mr. MARTINEZ, Mr. LEWIS of California, Mr. MOORHEAD, Mr. WHEAT, Mr. STAGGERS, Mr. BONIOR, Mr. PETERSON of Florida, Mr. PRICE, Mr. MACHTLEY, Ms. OAKAR, Mr. CARR, Mr. PARKER, Mr. VALENTINE, Mr. RAY, Mr. SOLOMON, Mr. SCHUMER, and Mr. DELLUMS.

H.J. Res. 336: Mr. ESPY, Mr. HORTON, Mr. WEISS, Mr. SOLARZ, Mr. MCMILLEN of Maryland, Mr. ROE, Mr. FALEOMAVAEGA, and Mr. DE LUGO.

H.J. Res. 351: Mr. KOPETSKI.

H.J. Res. 355: Mr. SAVAGE.

H.J. Res. 358: Mr. ERDREICH, Mr. SKEEN, Mr. HATCHER, Mr. SERRANO, Mr. ESPY, Mr. GEJDENSON, Mr. MCGRATH, Mr. NAGLE, Mr. GONZALEZ, Mr. ATKINS, Mr. MURPHY, Mr. KOPETSKI, Mr. OWENS of Utah, Mr. RICHARDSON, Mr. LAROCCO, Mr. LEVINE of California, Mr. TOWNS, Mr. MCMILLEN of Maryland, Mr. LIPINSKI, and Mr. MORAN.

H.J. Res. 388: Mr. CLEMENT, Mr. MFUME, Mr. HENRY, Mr. ERDREICH, Mr. TALLON, Mr. LEVIN of Michigan, Mr. TRAXLER, Mr. FOGLIETTA, Mr. HORTON, Mr. WAXMAN, Mr. CALLAHAN, Mr. MCDADE, Mr. FASCELL, and Mr. TRAFICANT.

H.J. Res. 408: Mr. APPLEGATE, Mr. ROE, Mr. TOWNS, and Mr. GUARINI.

H.J. Res. 409: Mr. POSHARD, Mr. MCMILLEN of Maryland, Mr. FALEOMAVAEGA, Mr. GUARINI, Mr. CLEMENT, Mr. ERDREICH, Mr. JEFFERSON, Mr. BRUCE, Mr. ROE, Mr. SKEEN, Mr. BUSTAMANTE, Mr. HORTON, Mr. MARTINEZ, Mr. DEFAZIO, Ms. NORTON, Mr. MURPHY, Mr.

PALLONE, Mr. THORNTON, Mr. KOPETSKI, Mr. TORRES, Mr. MAZZOLI, Mrs. KENNELLY, Mr. CHAPMAN, Mr. ANTHONY, Mr. BREWSTER, Mr. SAWYER, Mr. BURTON of Indiana, Mr. ANNUNZIO, Mr. NATCHER, Mr. AUCOIN, Mr. SAVAGE, Mr. ROEMER, Mr. LUKEN, Mr. HUGHES, Mr. MOAKLEY, Mr. HEFLEY, Mrs. UNSOELD, Mr. DORGAN of Dakota, Mr. FEIGHAN, Mr. ROYBAL, Ms. LONG, Mr. DARDEN, Mr. HYDE, Mr. BALLENGER, Mr. DE LA GARZA, Ms. PELOSI, Mr. MCCLOSKEY, Mr. HARRIS, Mr. FASCELL, Mr. HOAGLAND, Mr. COX of California, Mr. ROBERTS, Mr. BOEHLERT, Mr. GILMAN, Mr. THOMAS of Wyoming, Mr. ROSE, Mr. WISE, Mr. MONTGOMERY, Mr. GEPHARDT, Mr. JONTZ, Mr. ALEXANDER, Mr. MCNULTY, Ms. DELAURO, Mr. APPLEGATE, Mr. LEVIN of Michigan, Mr. ZIMMER, Mr. LEWIS of California, Mr. BONIOR, Mr. HAYES of Illinois, Mr. DURBIN, Mr. JENKINS, Mr. WAXMAN, Mr. COSTELLO, Mrs. MINK, Mr. DWYER of New Jersey, Mr. FOGLIETTA, Mr. OWENS of New York, Mr. LIPINSKI, Mr. SANGMEISTER, and Mr. DELLUMS.

H.J. Res. 416: Mr. HORTON, Ms. NORTON, Mr. TOWNS, Mr. LIPINSKI, Mr. ROE, Mr. FALEOMAVAEGA, Mr. SOLOMON, Mr. POSHARD, and Mr. HAMILTON.

H.J. Res. 417: Mr. KOPETSKI, and Mr. GUARINI.

H. Con. Res. 92: Mr. BARNARD, Mr. AUCOIN, Mr. KLUG, and Mr. KOSTMAYER.

H. Con. Res. 130: Mr. CHAPMAN.

H. Con. Res. 224: Mr. MACHTLEY, Mr. COSTELLO, Mr. SOLOMON, Mr. WHEAT, and Mr. MURPHY.

H. Con. Res. 256: Mr. KILDEE, Mr. MCDERMOTT, Mr. SKAGGS, Mr. ORTON, Mr. FALEOMAVAEGA, Mr. LANTOS, Mr. TOWNS, Ms. HORN, Mr. ATKINS, Mr. RHODES, Mr. ROYBAL, and Mr. SANDERS.

H. Con. Res. 264: Mr. SOLOMON and Mr. LIPINSKI.

H. Res. 315: Mr. COBLE and Mr. GOSS.

H. Res. 332: Mr. PETRI, Mr. ARMEY, Mr. WALSH, Mr. CAMP, Mr. MCCANDLESS, Mr. GOODLING, Mr. SCHIFF, and Mr. MOORHEAD.

H. Res. 333: Mr. LIPINSKI.

H. Res. 350: Mr. KILDEE, Mr. STAGGERS, Ms. KAPTUR, Mr. KENNEDY, Mr. KOSTMAYER, and Mr. MOODY.

H. Res. 359: Mr. TORRES.

H. Res. 372: Mr. ACKERMAN, Mr. TRAXLER, Mr. SCHEUER, Mr. FRANK of Massachusetts, Mr. MACHTLEY, Mr. FASCELL, Mr. ARMEY, Mrs. MEYERS of Kansas, Mr. RHODES, Mr. SOLARZ, Ms. MOLINARI, Mr. BEILENSON, Mr. LIPINSKI, Mr. PORTER, Mr. LANTOS, Mr. KOSTMAYER, Mr. KOPETSKI, Mr. WALSH, Mr. FALEOMAVAEGA, Mr. MCNULTY, Mr. LEHMAN of Florida, and Mr. FROST.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1662: Mr. ORTON.

H. Res. 194: Mr. SKEEN.

PETITIONS, ETC.

Under clause 1 of rule XXII,

141. The SPEAKER presented a petition of the Legislature of Rockland County, NY, relative to the deportation of Haitian refugees; which was referred to the Committee on the Judiciary.

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.

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

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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.

EXTENSIONS OF REMARKS

FIFTY YEARS AFTER PEARL HARBOR

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. CRANE. Mr. Speaker, the observation of the 50th anniversary of Pearl Harbor last year has led to some renewed concern about the possibility of Japanese aggression toward the United States in the future. I believe that such suspicions are unfounded and only serve to divide our two peoples and divert our attention away from the real modern day security threats of the Pacific region.

I submit to my colleagues the following article, by Margaret Calhoun that appeared in the Freedom Bulletin on December 12, 1991, which embraces a future of democracy and economic prosperity by promoting the breakdown of mutual suspicions in United States and Japanese relations.

FIFTY YEARS AFTER PEARL HARBOR, UNITED STATES-JAPANESE SUSPICION, NOT JAPANESE MILITARISM, IS GREATEST THREAT TO PACIFIC RIM

(By Margaret Calhoun)

The intense media interest in the 50th anniversary of the Japanese attack on Pearl Harbor has led in some quarters to fears of a resurgent Japanese nationalism directed into military aggression.

These fears, based largely on memories of Imperial Japan's behavior before and during World War II, cannot be substantiated by any factual examination of the present Japanese defense posture and defense spending or by Japanese territorial or political motivations.

The real threat to the region today is from formidable offensive forces maintained by the People's Republic of (North) Korea and the People's Republic of China. China has nine times as many tanks and ten times as many aircraft as Japan. North Korea's tank force is three times that of Japan's, its ships are four times greater in number and its Air Force twice as large.

The People's Republic of China has successfully tested hydrogen bombs, and further heightening Japanese concerns in the region is a North Korean defector's claim that North Korea may have a second underground base for the development of nuclear weapons, substantiated by recent French satellite photography.

Communist regimes still rule Laos and Vietnam, and a communist faction is likely to dominate any coalition government that emerges in Cambodia.

The Japanese defense budget is the third largest in the world, but it has no long-range bombers and few amphibious forces. The magnitude of the Japanese defense budget is due in part to the commanding strength of the yen and to the high cost of sophisticated defensive weapon systems, including an estimated $2.2 billion worth of U.S. products the Japanese are buying for fiscal 1991.

Japanese defense spending is a tiny percentage of the country's gross national product (GNP), and this despite strong U.S. government pressures on the Japanese to increase defense spending to more than one percent of GNP and to increase their defensive perimeter to 1,000 miles from the Japanese shore.

Pacifist, and especially anti-nuclear, sentiment, a legacy of Hiroshima and Nagasaki, still runs high in Japan. The Japanese appear content to abide by their U.S.-written constitution and its prohibition against the maintenance of other than strictly defensive military forces.

In fact, former Prime Minister Toshiki Kaifu found it exceedingly difficult to win permission from the Diet to send peacekeeping forces to the Persian Gulf in support of Desert Storm.

Ultimately, only minesweepers were deployed, in a limited capacity.

In discussions about Japan, many U.S. policymakers admit to resenting Japan's growing economic power and the expense of U.S. forces defending Japan. Yet at the same time, they express concern about latent Japanese militarism.

If the U.S. government does not choose to spend further resources to protect Japan, then it must concede, in the absence of a counterforce to the mainland Chinese, the North Koreans and other Asian communist regimes, the Japanese right to defend itself against potentially hostile neighbors.

An Oct. 16 article in the New York Times spoke of an escalating anti-Americanism, especially among Japanese youth; the phenomenon was described as kenbei. Kenbei reflects a growing concern in Japan over the decline of the American work ethic and morality and the quality of U.S. products. The sentiment is expanding, based on friction over trade, cultural differences and other points of disagreement. The Japanese perceive that Uncle Sam is bullying Japan on trade matters in a way inconsistent with the American standard of fair play and justice.

One August newspaper poll by the Tokyo-based Yomiuri reported that 24 percent of those polled regarded the United States as a security threat (rising to 33 percent among young respondents), while only 22 percent said they saw the Soviet Union as a threat, despite its evident political instability and challenges from the republics over control of nuclear weapons.

Such a skewed perspective is not beneficial to either country, especially when Japan and the United States are long-standing co-signatories of a mutual defense pact and major trading partners. Differences over trade matters should not confuse the shared outlook between the United States and Japan on many other issues.

American bitterness toward the Japanese which is based on memories of Pearl Harbor or resentment of modern Japan's economic vitality and competitiveness make no sense; it deflects attention that should be directed to countries with formidable military capability that may pose genuine threats to U.S. strategic interests or those of our allies.

Ignorance and fear of the Japanese is not conductive to intelligent and mutually beneficial foreign or economic policies. Japan-bashing, which borders on thinly veiled racism, exploits anti-Japan sentiment to create a political consensus for protectionism, giving the Japanese a pretext to deny markets to American interests. Legitimate trade disputes between the United States and Japan should not be confused with national security matters.

The Japanese in the post-World War II era have found their real national strength to be in the realm of business and international trade, and therein is the challenge to the United States and other competing industrialized nations. It is wrong to believe that military aggression inevitably follows economic hegemony. Impoverished nations historically have been more inclined toward foreign adventurism. No democracy has started a major war in the 20th century.

The risk of military confrontation will likely continue to emanate from dictatorships and regimes guided by expansionist ideologies. The Japanese know well from the Soviet Union's economic collapse the perils of military conquest and unsustainable defense expenditures.

DEFENSE PLANNING FOR A NEW WORLD: LET'S NOT MATCH CHAOS WITH CHAOS

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. DORNAN of California. Mr. Speaker, I recently returned from a trip to the former Soviet Union and although I, along with everyone else in this Chamber, am very pleased that this former adversary is moving away from communism toward democracy, there are still very dangerous threats to further reforms inside this new federation, including a military coup. I can best term what I saw in this former military superpower as chaos. In response to such rapid and revolutionary changes, many here in Congress are intensifying their efforts to reduce our defense budget beyond cuts already planned by the administration.

Is this the proper and prudent way to respond to such change, such chaos? As President Bush said in his State of the Union Address: "* * * the world is still a dangerous place. Only the dead have seen the end of conflict. And though yesterday's challenges are behind us, tomorrow's are being born. * * * The reductions I have approved will save us an additional $50 billion over the next 5 years. By 1997 we will have cut defense by 30 percent—actually 37 percent—since I took office. These cuts are deep, and you must know my resolve: This deep, and no deeper."

Yesterday, during hearings on the Army's 1993 fiscal year budget, Army Chief of Staff Gen. Gordon Sullivan echoed the President's warning to those who call for even deeper defense cuts. In a recent editorial by General Sullivan, which I would like to include in its entirety at the end of my remarks, he cautions:

"* * * we cannot repeat the mistakes of the past, when armistice was followed by reckless optimism and defense was purged as if the world was permanently safe." Note the word "reckless."

As we consider this year's defense budget, let us heed the warnings of President Bush and General Sullivan. Let's not match chaos with chaos. Let's not be reckless.

HOW THE ARMY SEES A NEW WORLD—WE'RE SMALLER AND NON-NUCLEAR, BUT DEFENSE IS STILL OUR MISSION

(By Gordon R. Sullivan)

The anniversary of the ground campaign to liberate Kuwait is a perfect time to reflect on what the end of the Cold War means for the U.S. Army. This week, Secretary of the Army Stone and I will testify before the House Armed Services Committee and talk about the Army's response to the new realities of international security.

We recognize that this is a period of transition, but we'll still focus on the guideposts that have served us well: The Army will be a trained and ready total force, serving the United States whether the task be an Operation Desert Storm, an Operation Just Cause, the counter-narcotics battle on the Andean ridge or disaster relief. Put simply, we are a strategic force capable of rapid, decisive victory anywhere in the world.

The international environment continues to change on a scale that seemed unimaginable only a few years ago. The precepts of the Cold War—ideological hostility, bipolar military competition, and the cohesive and capable Soviet military threat—are no longer valid.

But while no one can doubt that the demise of communism as an ideological force and the break-up of the Soviet Union and the Warsaw Pact are overwhelmingly positive events, there are good reasons to temper our optimism: high uncertainty inherent in the emerging global security environment and continuing threats to our vital national interests.

We all wish for a peaceful world, but history does not give us much cause for optimism. As former secretary of defense Robert McNamara observed recently, there were 124 wars leading to 40 million death between World War II and the Persian Gulf War. These conflicts were not the result of ideological differences between East and West but of the age-old causes of war—boundary disputes, economic conflicts and ethnic tensions. The end of the Cold War does not eliminate these sources of conflict; indeed, it may even exacerbate them.

What conditions could threaten the vital interests of the United States? The answers are conditional and circumstantial and will change over time. But certain conditions are likely to spawn conflict:

Ideology that is inimical to ours and that underwrites violent change.

Unfair or governmentally restricted competition for resources and markets that threatens our economic well-being.

Ethnic and religious differences compounded by disputes over land, resources and leadership roles.

The proliferation of modern military technology throughout the developing world.

Threats, in short, exist; one might wish them away, but they remain. To insist upon precise definition as a prerequisite for prudent planning is to ignore the conditions under which they exist, the ever-changing circumstances of people and nations, and the dynamics that propel us into an uncertain future.

International politics has a nasty habit of not behaving as even the most rigorous analysis would suggest it should.

The fundamental tenets of a new U.S. military strategy, to use military language, are these: strategic deterrence and defense, forward presence, crisis response and reconstitution of forces and industrial capacity. This strategy supports the enduring objectives of national security strategy by providing the capabilities needed to move rapidly to defend our interests in vital regions such as Europe, Northeast Asia and the Persian Gulf. It also allows the military services to meet our global responsibilities with smaller, more flexible military forces while permitting us to reconstitute a larger force if a more robust threat emerges.

The Army already has begun to reshape itself. The Cold War Army of five corps and 28 divisions will be reduced to four corps and 20 divisions by 1995. We already have eliminated four active divisions from the force structure—two in the United States and two in Europe. Ultimately, the Army will be organized into 12 active divisions, six National Guard divisions and two cadre divisions.

This force structure reflects the results of a deliberate process initiated in the late 1980s, and if it seems cautious, it is because it is cognizant of history. As President Bush observed in his State of the Union Address, we cannot repeat the mistakes of the past, when armistice was followed by reckless optimism and defense was purged as if the world were permanently safe.

There are major changes:

For example, today's Army is non-nuclear. For the first time in my career, it no longer has short- and medium-range nuclear weapons in the force.

During the Cold War, nearly half of the fighting strength of the Army was stationed overseas; the majority of the post-Cold War Army will be stationed in the United States.

And we will not longer plan for wars of attrition. The Army, in conjunction with air and naval forces, will conduct conventional operations based on a mature "Air Land Battle" doctrine that combines the attributes of versatility, deployability and lethality to overwhelm an adversary.

Still, it would be foolhardy to abandon capabilities that have been built and sustained over the past 20 years, and that's what we'll be arguing this week on Capitol Hill. Here are the most important points in our vision of tomorrow's Army.

We need to maintain the edge in warfighting that was demonstrated in Panama and the Persian Gulf. The key is the balanced integration of high quality personnel, capable equipment and competent warfighting doctrine.

We will continue to recruit outstanding men and women. We are reviewing our doctrine to incorporate the lessons of the last two years. Our modernization program will focus on improving the lethality of our early-deployment forces, on maximizing the effectiveness of our on hand equipment and on the leap-ahead technologies that will ensure our technological superiority in the decade ahead. Training holds it all together, and today we are back on the practice field, working hard at combat training centers that are the best in the world.

We need to reshape the force to accommodate the new strategic environment. By the end of this fiscal year, the active force strength will be reduced from a Cold War level of 780,000 to 640,700 soldiers—over 84,000 are coming out this year alone, most of them from Europe. By the end of fiscal 1993, the active component will be reduced by another 41,800 soldiers. National Guard and Reserve strength also will be reduced by over 200,000 and realigned to meet future requirements, and we will lose over 100,000 civilians from our workforce. By 1995, the total force will consist of 535,000 active soldiers and 567,400 reservists.

We need to preserve sufficient dollars for training, leader development and modernization while getting more out of the resources we have. And we should find new ways to do business—new strategic concepts for managing war reserve stocks, new business practices in our logistics base, restructuring of our major commands.

Between fiscal 1990 and fiscal 1992, Army budget authority declined over 14 percent. The proposed budget for fiscal 1993 reflects another decline of nearly 5.5 percent from fiscal '92. I am committed to retaining the necessary training tempo, leader development programs as well as the quality-of-life programs for our soldiers and their families.

Operations Desert Shield and Desert Storm validated our view that all components of the total army—active, National Guard and reserve—are critical to battlefield success. But to get the most out of our reduced force structure in the future, we need to strengthen the interrelationships of these components.

The point, after all, is basic. For over 200 years, the Army has responded to the challenges of change. Today, it is adapting to a changed world—with an unchanging idea: When we are called again, we will be ready.

THE RETIREMENT OF RICHARD J. KERR

HON. DAVE McCURDY

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. McCURDY. Mr. Speaker, the nature of their work virtually ensures that the contributions made by U.S. intelligence officers to our country will not receive public recognition. With few exceptions, the names of the men and women who hold senior positions in our intelligence agencies are unfamiliar to most Americans, and their careers go unremarked upon except by those with whom they serve.

On March 2, Richard J. Kerr will retire after 32 years of dedicated public service with the Central Intelligence Agency [CIA]. Dick Kerr, who is currently Deputy Director of Central Intelligence, has had a distinguished career, and I did not want him to take his leave without publicly acknowledging his efforts on behalf of our Nation.

Dick began his association with the CIA as an analyst, and he brought an analyst's perspective to all of his assignments. His varied career included administration, military liaison, and coordination of intelligence community affairs. These experiences served him well not only within the CIA when he became Deputy Director for Intelligence, but later when he was appointed by Judge William Webster as the Deputy Director of Central Intelligence. In that position, and during his tenure as Acting Director of Central Intelligence, Dick had numerous opportunities to display his considerable talents as a manager and leader.

The members of the Intelligence Committee are particularly familiar with Dick's dedication

to his work, as well as his keen intellect and sharp wit. We have appreciated his cooperative attitude toward oversight of intelligence activities by Congress, which was best reflected by his willingness to facilitate the committee's access to the information it needed to discharge its responsibilities in this area. We respected his professionalism and had confidence in his integrity.

Mr. Speaker, Dick Kerr has served with distinction in some of the most demanding and important positions in our Government. His was a career of high achievement which should be a source of great pride for him and his family. I want to wish Dick every success as he turns his attention to new challenges.

CONGRESSMAN HEFLEY CONGRATULATES BRIG. GEN. ROBERT L. STEWART ON HIS SERVICE TO THE U.S. ARMY

HON. JOEL HEFLEY

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. HEFLEY. Mr. Speaker, Gen. Robert L. Stewart, U.S. Army, Director of Plans, U.S. Space Command will be retiring. I would like to commend him for service to his country for the past 28 years in a wide variety of billets as an Army aviator and astronaut with the National Aeronautics and Space Administration and as a general officer.

General Stewart's duty as an Army aviator included a combat tour in Vietnam and flight testing of the AH–64 Apache helicopter. During his combat tour, General Stewart accumulated 1,035 combat flight hours and was subsequently awarded four Distinguished Flying Crosses, the Bronze Star, two Purple Hearts and 33 Air Medals. Later in his career, General Stewart attended the U.S. Naval Test Pilot School and was subsequently assigned to the U.S. Army Aviation Engineering Flight Activity at Edwards Air Force Base, CA. There, he was the senior test pilot on the AH–64 Apache and led the development of an electronic automatic flight control system for the UH–60A Blackhawk helicopter.

General Stewart's service as an astronaut with NASA began in 1978. He made vital contributions to the Shuttle Program through direct mission support and participation on two space flights. General Stewart was instrumental to the success of the first commercially sponsored experiment for the space transportation system—the continuous flow electrophoreses experiment. Also, General Stewart employed his superb engineering and test pilot skills while assisting the contractor's development of the shuttle's flight control system. During his two shuttle flights, he set numerous records—the first Army officer in space, the first astronaut to conduct untethered extravehicular activities—twice—and the first astronaut to evaluate refueling of satellites already in orbit. As a result of his activities, General Stewart received the Army Aviator of the Year Award, the American Helicopter Society's Feinberg Memorial and the American Institute of Aeronautics and Astronautics Herman Orbeth Award.

Following his selection as brigadier general, he was assigned deputy commander, U.S. Army Strategic Defense Command. As deputy commander, he was responsible for the Army's participation in the strategic defensive initiative and in the theater missile defense programs. Following that, General Stewart brought his space and missile defense expertise to U.S. Space Command as Director of Plans. At Space Command, he championed may initiatives to provide space to the tactical forces. The contribution of space systems to the success of our forces in Desert Storm is tribute to his efforts.

We in the U.S. House of Representatives owe Brigadier General Stewart a great deal for his contributions to space exploration and national defense. In light of these accomplishments, General Stewart's wife, Mary, should have a great deal of pride in contribution to the U.S. Army, her community and our country. We wish both General Stewart and his wife well in their future endeavors.

HONORING THERESE O'CONNOR

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. ENGEL. Mr. Speaker, it is with great pleasure that I today recognize the retirement of Therese J. O'Connor after 20 years of dedicated service to St. Joseph's School for the Deaf in the Bronx, the last 6 as executive director of the school.

In order to teach children with learning disabilities, it takes a special person with unique talents. For the students of St. Joseph's School, Therese O'Connor has been such a person. She combined patience and firmness in a way that let her students know she was willing to help in any way possible, but she was not willing to allow them to sell themselves short or cut corners.

I had the opportunity to work with Therese O'Connor when local funding to St. Joseph's was threatened by budget cuts. What I saw at that time was not an administrator concerned with her future or well-being, but a human being consumed with concern for a group of vulnerable young people. We won that funding battle, just as Therese O'Connor has won countless battles over the past 20 years.

That, Mr. Speaker, is the legacy she leaves to the teachers, parents and students of St. Joseph's School: Hard work, dedication, and compassion can conquer any obstacle.

HADASSAH'S EIN KEREM HOSPITAL

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. GILMAN. Mr. Speaker, on a recent visit to Israel, the United States Ambassador to Jordan, Roger Harrison, was involved in a very serious traffic accident. Due to the outstanding quality of care at Hadassah's Ein Kerem Hospital, Ambassador Harrison is alive and well and has returned to his post in Amman. Upon arrival at the hosptial, Ambassador Harrison was in critical condition. His life was in danger. Upon his arrival, the Ein Kerem staff began resuscitation efforts which undoubtedly saved his life.

One week after the accident then United States Ambassador to Israel, William Brown said he visited with Ambassador Harrison and was elated to find him doing so well.

This incident was not the first time that the Hadassah hospitals have provided care to Americans on an emergency basis. On July 6, 1989, there was a terrible bus accident involving many American citizens. Due to the quick response and outstanding skill of Hadassah, many lives have been saved.

For many years, the Agency for International Development has supported Hadassah hospitals in Israel through the American Schools and Hospitals Abroad Program. We are proud of AID for supporting such a fine institution, which provides excellent care to both its own citizens and Americans.

Permit me to join Ambassadors Brown and Harrison in expressing my deep appreciation for the tremendous efforts of Hadassah Ein Kerem in their superb care for Ambassador Brown and for their continuing excellence in providing world-class healthcare.

BEARING ARMS AND HOUSING SOLDIERS

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. EDWARDS of California. Mr. Speaker, I would like to share with my colleagues the third in a series of eight editorials that appeared in the Atlanta Constitution, commemorating the 200th anniversary of the Bill of Rights. This editorial gives a brief history of the second and third amendments of the Constitution, which deal with the right to bear arms and with the housing of soldiers. As you know, crime is a significant problem in our country. An increasing number of our citizens are falling victim to violence, and even death, caused by legally and illegally owned weapons. As the interpretation of the Constitution has evolved to reflect the changing times, we may need to look toward a stricter interpretation of the second amendment to protect our citizens.

Article II: A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

Article III: No Soldier shall, in time of peace be quartered in any house, without consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

BEARING ARMS AND HOUSING SOLDIERS

This is the third in a series of editorials leading to the 200th anniversary Dec. 15 of the ratification of the Bill of Rights.

Nowhere in the Bill of Rights is the divergence between judicial and popular opinion greater than in the Second Amendment, which protects "the right of the people to keep and bear Arms."

The federal courts, in the few Second Amendment cases to come before them, have

focused on the amendment's opening: "A well-regulated Militia, being necessary to the security of a free State . . ." The courts have thus concluded that what is protected is simply the existence of state militias.

The right to bear arms can be linked to the Third Amendment, which regulates the quartering of soldiers in private houses. At issue in both cases is the implied danger posed to civilians by government troops.

In 1791, Americans were understandably leery of standing armies. The Revolution had been fought against King George's professionals, many of whose officers were quartered in colonial homes against the will of the inhabitants. The war, indeed, began when the British marched to Concord, Mass., to seize arms in the possession of local militias.

Early drafts of the Bill of Rights make clear that "militia" meant ordinary citizens gathered together as an armed force. The idea was to give civilians the wherewithal to resist military tyranny.

Nowadays, only those on the radical fringes of society bear arms in order to protect themselves from the government. The mainstream gun lobby invokes the Second Amendment on behalf of hunters and those interested in resisting would-be criminals.

But no rights are absolute. The right to vote for congressional representatives (secured in Article 1 of the Constitution) does not give a person the opportunity to vote anywhere or any time or free from registration. Similarly, the right to bear arms, even understood expansively, could not mean the right to possess any weapon (a nuclear warhead?), to procure a handgun without a waiting period, or not to have to register a gun.

Indeed, the Second Amendment could be interpreted to *require* stricter limits on the types of weapons that can be owned, waiting periods for the purchase of all others and universal gun registration. The security of a free state, and a well-regulated militia, might well demand it.

BIOGRAPHY OF TECUMSEH

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. FALEOMAVAEGA. Mr. Speaker, through Public Law 102–188 (S.J. Res. 217, H.J. Res. 342), Congress and the President designated 1992 as the "Year of the American Indian." This law pays tribute to the people who first inhabited the land now known as the continential United States. Although only symbolic, this gesture is important because it shows there is sympathy in the eyes of a majority of both Houses of the Congress for those Indian issues which we as a Congress have been struggling with for over 200 years. In support of the "Year of the American Indian," and as part of my ongoing series this year, I am providing for the consideration of my colleagues a short biography of Tecumseh, a Shawnee known for his abilities as a warrior and statesman. This biography was taken from a U.S. Department of the Interior publication entitled "Famous Indians, A Collection of Short Biographies."

TECUMSEH (SHAWNEE)

Tecumseh, the Shawnee warrior-statesman widely considered the greatest American Indian leader of all time, was a famed fighter against white settlers while still a young man in the Ohio River country. Warfare with whites was a family tradition: Tecumseh's father, also a chief, had died fighting frontiersmen in 1774 when Tecumseh was a boy of six. Two older brothers later fell in battles with colonial soldiers.

Daring and courageous warrior that he was (his name may be translated as "Shooting Star"), Tecumseh was noted for his humanity. He would not torture prisoners, nor allow his people to follow this widespread practice.

By the 1780's, Tecumseh was acknowledged as the leading Indian statesman of the Ohio area. Profoundly disturbed by the growing menace to Indian lands and life represented by white expansion, he worked out a great plan for his people's future. The only Indian hope, he believed, lay in uniting. He dreamed of a powerful confederation of tribes which would create a great Indian state centered around the Ohio Valley and the Great Lakes.

Tecumseh's surviving brother was a visionary who called himself Tenskwatawa the Prophet. In 1805, Tenskwatawa, who claimed to have had revelations from the spirit world, announced a new dogma to Shawnees and their allies. There must be, he proclaimed, no more intermarriage with whites, and Indians were to abandon all the white man's ways. Only when they returned to the old way of life would Indians find the peace and happiness their ancestors had enjoyed. Indian witchcraft and the white man's firewater were denounced alike.

Tenskwatawa's prophecy named his brother, Tecumseh, as the leader who would unite the Indians and guide their return to traditional ways. The two brothers established an Indian settlement on the Wabash River, near the mouth of the Tippecanoe. There Tecumseh settled more than 1,000 Shawnees, Delawares, Wyandots, Ottawas, Ojibwas, and Kickapoos as the beginning of his great alliance. Liquor was forbidden in the Indian villages, and tribesmen lived according to ancient patterns.

Tecumseh then traveled across the country, urging Indians from Florida to St. Louis to unite. The Shawnee chief was a magnificent figure whose impact was felt by Indians and non-Indians alike. A white observer of the period who heard him speak reported that Tecumseh's voice "resounded over the multitude . . . hurling out his words like a succession of thunderbolts."

To every American and British leader who would listen Tecumseh argued tirelessly that the U.S. Government had no right to buy land from a single tribe, since the entire Ohio Valley country had belonged to all the tribes in common. His repeated position was that the Treaty of Greenville, made in 1795, had guaranteed the tribes, as one people, all Ohio land which had not specifically been ceded to the whites.

The Northwest Territory's new Governor, William Henry Harrison, was all too conscious of these provisions protecting Indian interests in the Greenville Treaty, and was equally determined to undo them. He and Tecumseh, the area's two outstanding figures, met frequently. Harrison refused to recognize the Shawnee chief's arguments; Tecumseh refused to give up his plan for Indian unity. "It is my determination," he told Governor Harrison, "nor will I give rest to my feet until I have united all the red men."

Hoping to obtain British help, Tecumseh traveled frequently to Canada. He returned with gifts of ammunition, arms, and clothing from his friends, but could not yet be sure enough of English support, nor of complete Indian cooperation, to risk an open attack.

Meanwhile, Governor Harrison was steadily undermining the Greenville Treaty by making separate agreements with some 11 tribes. He dismissed Tecumseh's protests with the dubious logic that the Shawnees, Tecumseh's own people, had not been involved in these deals. Harrison recognized a formidable adversary in Tecumseh, whom he described in a letter to the Secretary of War as "one of those uncommon geniuses which spring up occasionally to produce revolutions." If the whites were any weaker, Harrison went on to say, Tecumseh might succeed in setting up a great empire within the United States.

In the spring of 1811, while Tecumseh was in the south attempting to persuade Creeks, Choctaws, and Chickasaws to join his alliance, Indians at Tippecanoe launched a series of thefts and other harassments of colonists. Harrison, taking advantage of Tecumseh's absence, sent some 900 soldiers to Tippecanoe.

In disobedience of Tecumseh's explicit instructions, Tenskwatawa ordered the Indians to attack, touching off the Battle of Tippecanoe. At its end, the Indians were defeated, scattered, and disillusioned as well, for they had believed the Prophet's claim that white men's bullets would be made harmless.

Tecumseh returned to find his alliance shattered, his hopes all but destroyed. He went to Canada as the War of 1812 was beginning, and the British, who greatly respected him, made the Shawnee chief a brigadier general. Resplendent in uniform, Tecumseh led white and Indian troops in four major battles against the Americans.

In October, 1814, the British made their last stand in the Battle of the Thames in Ontario. Tecumseh in the uniform of a British officer. Uniform, cap, and medal were added to this 1808 pencil sketch after the Shawnee chief was commissioned during the War of 1812. The red cap was ornamented with colored porcupine quills and a single, black eagle feather.

Allied English and Indian forces were completely defeated by Harrison (by then also a brigadier general) and his men. Tecumseh himself fell in the battle, at 45 finally defeated by his old adversary.

Perhaps he had felt the approach of death, for the great leader had changed from army uniform to Indian buckskins before the battle. His body was never found.

ANOTHER CALL FOR THE LINE-ITEM VETO

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. DUNCAN. Mr. Speaker, it has become readily apparent that this liberal Congress does not have the will or desire to restrain spending. This Government is too big, taxes too much, spends too much, and has been the primary cause of our current economic woes.

Americans would be shocked if they knew where their hard-earned tax dollars are going. It's just ridiculous.

If the line item is a useful tool for 43 Governors, then it most certainly will be useful for the President.

I want to bring to the attention of my colleagues, on both sides of the aisle, an inform-

ative editorial which recently appeared in the Wall Street Journal.

JUST DO IT

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

George Bush or Ronald Reagan didn't say that; Bill Clinton did. As one of 43 state Governors who now have and use the line-item veto, the Arkansan has made it a plank in his presidential campaign. He understands, even if Congress and most of the media still don't, that the line-item debate is about accountability in spending, not partisanship.

Former California Governor Jerry Brown also supports the item veto. Paul Tsongas calls it "an effective way of reducing waste in government." Republican Pat Buchanan as usual goes even further, saying, "I won't beg for a line-item veto. I will use the line-item veto the President already possesses." The National Taxpayers Union has found that the only presidential candidates who don't support the item veto are the two denizens of Congress, Senators Bob Kerrey and Tom Harkin. Could this be . . . a coincidence?

But the two Senators have a chance to make amends this week, when Senators John McCain of Arizona and Dan Coats of Indiana offer their annual item-veto amendment. They have 28 other co-sponsors, including Democrats Jim Exon of Nebraska and David Boren of Oklahoma.

More precisely, the Coats-McCain proposal would revive a President's power to "rescind," or delete, egregious spending items. That constitutional power has been dormant since 1974, when Congress steamrollered a President weakened by Watergate to eliminate the long-established power to impound funds. A President can still send up a package of pork for rescission, but the money is spent unless Congress votes not to; of course it never does. The Coats-McCain amendment would make the rescission itself automatic; Congress would have to override if it still wanted the most outrageous pork.

The threat this poses to logrolling-as-usual can be seen in the fanatic opposition it inspires in Democrat Robert Byrd and Republican Mark Hatfield. They are the two ranking Members of the Appropriations Committee, a.k.a. Pig Heaven. Mr. Byrd has lately devoted his energy to trying to move much of the U.S. Government out of Washington to his state of West Virginia.

Mr. Byrd will argue that every Senator likes pork, which is exactly why the item veto is needed. Like any addict, Senators need to be stopped before they spend again. An item veto puts the President back into the spending game in a way that restores accountability. It's true that an item veto couldn't touch entitlements, but it at least would give a President more bargaining power with the Senate's Big Byrds.

President Bush agrees with scholars who say the Constitution already gives him the power to use an item veto, and claims to be looking for the right item to strike. If he is serious, Mr. Bush has a great opportunity now. If he asserts his item-veto power, Congress will be forced to defend its pork in public. The matter would go to the courts, which might side with Congress, but that would leave matters no worse than they are now. Moreover, Mr. Bush would at least have focused public attention on the main problem, congressional spending.

Mr. Bush's tax-pledge reversal has left him with a credibility problem; the public won't believe his promises unless he shows he's also willing to act. Just do it, Mr. President.

U.S. CHAMBER OF COMMERCE SUBMITS THE "NATIONAL BUSINESS AGENDA"

HON. DAVE McCURDY

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. McCURDY. Mr. Speaker, on Monday morning, February 24, 1992, almost 2,000 leaders of the American business community met at Constitution Hall to present leaders of the Federal Government with their recommendations on how America can prosper in a post-cold-war world.

This plan, the "National Business Agenda," was presented directly to President Bush by a fellow Oklahoman and the Chairman of the Board of Directors of the U.S. Chamber of Commerce, C.J. "Pete" Silas, at the National Business Action Rally.

I want to commend Mr. Silas, chairman and chief executive officer of Phillips Petroleum, for presiding over a new era in the chamber's history, one that reemphasized grassroots solutions.

By reaching out to the thousands of American communities with local chambers of commerce, the U.S. Chamber has developed an agenda that reflects local business concerns. It is based largely on the feedback received at six regional legislative action forums held by the U.S. Chamber last fall. The agenda includes recommendations on such issues as elementary and secondary education reform, access to health care, and rebuilding America's infrastructure.

And while I do not agree with every position taken in the chamber document, I am satisfied that the business community has brought many constructive ideas to the national debate on America's future.

C.J. "Pete" Silas gave up his chairmanship of the U.S. Chamber at the rally on Monday. The success of this event represents the crowning achievement of his 1-year tenure.

TRIBUTE TO ST. JOSEPH'S PARISH IN TILTONSVILLE, OH

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. APPLEGATE. Mr. Speaker, I rise today to pay tribute to the members of St. Joseph's Church in Tiltonsville, OH, who are celebrating their 75th anniversary as a Roman Catholic parish. Over the years the church has played an active role in the community; promoting better schools, improved public facilities and programs for the needy.

St. Joseph's parish was formally organized early in 1917 by Bishop James Hartley. Father John Queally, the parish's first pastor, initiated the plans for the building of the original church and recovery. The construction of the church was completed in May 1918 under the direction of Father Peter Crelly, the second pastor at St. James. The rectory, which was funded entirely by Father Joseph A. Weigand, was built adjacent to the church later that year.

In an attempt to raise the funds necessary to repair the church and rectory, Father Constantine Superfisky developed organizations in which the parishioners could participate. Father Connie, as he affectionately became known, remained pastor until 1977. The activities he organized ranged from the St. Joseph's Athletic Association to the Parent Teacher's Association which assisted with the creation of the St. Joseph's School. The school, opened in 1950 was the only Catholic school in Warren Township until it closed in 1983. Father Connie's fundraising efforts were a huge success and led to the active involvement which makes the church an invaluable asset to the community.

The rapid expansion of the parish was inevitable, by 1956 plans were initiated to build a church twice as large as the original. The first mass in the new church, designed to accommodate 500 people, was led by Father Connie on March 19, 1958.

In February 1964 St. Joseph's parish was divided and St. Lucy's parish at Yorkville was formed. At the same time the parish began to feel the effects of the Vatican Council II. Fortunately, these changes were gradual and the adjustments were well managed. Father Connie remained the central force within St. Joseph's until 1976, when his health began to fail. He passed away 2 years later but his contributions to his parish and the Ohio Valley will be remembered for many years to come.

A memorial fund was established in his name by his successor, Father Vincent J. Huger. He remained with the church for 7 years and continued to implement the reforms dictated by the Vatican II. He continued Father Connie's legacy of activity and community involvement establishing many innovative activities for the parish.

The current pastor, Rev. Thomas C. Petronek, has established several programs designed to expand the spiritual growth and well being of the people of St. Joseph's. The 75th anniversary of the parish will culminate in a huge celebration on March 1, 1992, featuring a jubilee mass presided over by the new bishop.

Mr. Speaker, it is my distinct privilege and honor to ask my colleagues to join me in acclamation of the St. Joseph's parish.

A DEDICATED PUBLIC SERVANT

HON. DICK ZIMMER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. ZIMMER. Mr. Speaker, Joe Pucillo is one of the finest individuals in my district, and a shining example to the rest of us in public life. For more than three decades Joe has shaped and guided the Somerset County community of Franklin Township.

Joe has served Franklin Township well on its industrial committee, its planning board, an advisory council to the board of education, and as civil defense director. He has been a councilman, mayor, fire commissioner, and county freeholder.

Joe went door to door to collect donations so his local volunteer fire company could buy

equipment. In the late 1950's he helped organize the township into fire districts. Now Franklin Township has 10 fire houses, $1 million of fire-fighting equipment and many families whose homes were saved from fire because of Joe's efforts.

Before Joe was a freeholder, all of the county's offices purchased supplies separately. Freeholder Pucillo suggested the county might save money if bulk purchases were made by a central office. His colleagues adopted the idea, but it was only one of many changes that Joe brought about.

When Joe moved to Franklin Township in 1948, it was a quiet, rural New Jersey community. Now 40,000 people live there, and Joe has touched all of their lives in one way or another.

On Saturday, this dedicated public servant will be honored by the residents of Franklin Township at a testimonial dinner. I would like the Members of this body to add their praise in recognition of a man who has achieved what we try to do every day. Through his public service, he made life better for those around him.

CONGRESSMAN KILDEE HONORS PEPPY ROSENTHAL

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. KILDEE. Mr. Speaker, I rise today to honor an individual who has done so much to improve the quality of life for so many people in my hometown of Flint, MI, Mrs. Peppy Rosenthal. Mr. Speaker, Peppy has been a wonderful friend and a tremendous advocate for the needy in our community.

Born in the Ukraine in 1935, Peppy endured a most difficult and painful childhood. During World War II, the Nazis invaded Peppy's hometown and created a Jewish ghetto. Fortunately, Peppy and her family, which consisted of her mother and father, escaped the ghetto and hid from the Nazis in a farmer's barn. One night, while her father was searching for a new hiding place, the farmer told them that they would have to leave the barn soon. Peppy's mother went to find her husband. A short while later, Peppy's father returned, but she never saw her mother again. Peppy's mother had been killed by the Nazis. Peppy and her father lost all their relatives in the Holocaust. After the war, Peppy lived in displaced camps across Europe, finally settling in Italy. In 1950, Peppy and her family moved to Flint, MI to begin a new life. A few years later, she met Morrie Rosenthal and they married in 1956.

Mr. Speaker, it is very important to understand Peppy's childhood, because like so many others, it shaped the way she has viewed her life. Peppy understands the ugliness of prejudice and racism, she has felt the pains of hunger, and she knows the loneliness of being disenfranchised. During the early 1960's, Peppy became involved in the civil rights movement. She did not get involved because it was politically the right thing to do, she fought for civil rights because she knew that the injustice of one person, is an injustice to all people. She soon became close friends with Edgar Holt, Floyd McCree, and Helen Harris, people who shaped her life.

Peppy attended school at C.S. Mott Community College and the University of Michigan-Flint where she obtained her bachelor's degree in sociology. Soon after graduating, she worked as a home counselor for the Flint School System and then began working for Bob Leonard at the Genesee County Prosecutor's Office in the Consumer Affairs Division. In this office, Peppy distinguished herself as an advocate for the people of Genesee County. However, it was her most recent position with the Genesee County Community Action Agency that Peppy was most able to put her skills to work.

As the director of the Neighborhood Service Center, Peppy was responsible for helping the most economically vulnerable people in our community. Peppy greatly expanded the Summer Food Feeding Program in our community, including many of the black churches. Moreover, Peppy administrated the Temporary Emergency Food Program, a program which provided Federal commodities to the poor. The way she administered the program was so innovative that it has been copied by several food providers around the country. She helped to establish the women's shelter, a food bank, and a clothing center. Not only has she operated these programs to help the poor, she has hired welfare recipients who have become some of her best caseworkers at the G.C.C.A.A. Neighborhood Service Center. Peppy has been very active throughout the community serving on the boards of the Urban League of Flint, Urban Coalition, Flint Jewish Social Services, Flint Jewish Federation Community ARE, League of Women Voters, and the YWCA.

But Peppy's work goes deeper than these programs and boards, her most important attribute is being a tireless and relentless advocate for our community. Over the years, Peppy has repeatedly and successfully fought the U.S. Department of Agriculture to provide for more food for the poor. She has gone to court on behalf of clients to prevent them from losing their homes, and she has worked with local utilities to ensure that children and senior citizens would have water and heat. There is no question that Peppy has literally saved lives in this community. As an advocate for the poor, the elderly, and the children, she has cut through the bureaucracy of government. When a person comes to Peppy for help, they know she will do whatever it takes to help them. And when other social service providers in our community have a difficult problem with a client, they know to call Peppy because she will know exactly what to do. Peppy's phone calls on behalf of her clients are legend. Whether its calling her Congressman, mayor or State representative for help, or the local grocery store for excess food, Peppy knows how government works. But one thing is clear, she never asks for help for herself, but only for her clients. And her clients are from all over our community, black and white, labor and management, and young and old. Peppy is respected and loved in all communities.

Mr. Speaker, Peppy has recently retired from G.C.C.A.A. and we will all miss her in that position. She has touched so many lives in our community and has made Flint a better place to live. We look forward to seeing Peppy, and her grandson Jordan, making the rounds throughout the community. I know she will continue the fight for human dignity and justice, a fight she has fought so well all of her life.

ROBERT ENGLAND RETIRES AFTER 20 YEARS OF SERVICE TO THE MARITIME INSTITUTE OF TECHNOLOGY AND GRADUATE STUDIES

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mrs. BENTLEY. Mr. Speaker, I rise today to recognize Robert E. England upon his retirement after 20 years of service to the Maritime Institute of Technology and Graduate Studies.

An outstanding administrator, Robert England will retire from his position as residence director at the age of 68. Robert England's career is one marked by distinction and integrity. A lifelong resident of Baltimore, Bob served as a signal corpsman in the Army during World War II. While in the service, he was stationed at Attu and Kiska Islands off Alaska. From 1947 to 1972, he worked his way up from clerk to general manager at the Southern Hotel and later went to work for the Lord Baltimore Hotel.

It should be noted that these once premier hotels lost much of their standing about the same time Bob left. Many who know Bob credit him with the quality and service the hotels had become known for and attribute the lost stature of these Baltimore institutions to his departure.

However, the Maritime Institute of Technology and Graduate Studies in Linthicum Heights, MD, has had the good fortune of Bob's expertise and professionalism. Bob personifies the American work ethic and American dream. He established his reputation with hard work and dedication.

It is with utmost respect and admiration that I congratulate Robert England upon his retirement. To invest two decades of one's life to one particular job reflects a great deal of devotion and satisfaction with one's place in life. The contributions of Robert England to the Maritime Institute of Technology and Graduate Studies and to the maritime industry are unmistakable. Bob's hard work and dedication are a testimony to his fortitude of character and spirit.

Mr. Speaker, my fellow colleagues, it is with utmost respect and admiration that I commend Robert E. England upon a job well done. May God bless him with continued health and happiness in the years ahead.

CONGRESSMAN HEFLEY CONGRATULATES COL. TERRY M. MCKENZIE ON HIS SERVICE TO THE U.S. AIR FORCE

HON. JOEL HEFLEY

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. HEFLEY. Mr. Speaker, Col. Terry M. McKenzie, Vice Director of Plans at Headquarters, U.S. Space Command [USSPACECOM], will soon be retiring after 26 years of dedicated service in the U.S. Air Force. I would like to acknowledge his distinguished military career.

Colonel McKenzie has demonstrated unsurpassed leadership and has made vital contributions to the security posture of the United States. Most notable have been his achievements in progressively more demanding leadership and management positions involving tactical command and control [C2], strategic defense, and space.

As an innovator in the tactical C2 mission area, Colonel McKenzie provided day-to-day management of all tactical air control systems in the United States, including 25 E–3 AWACS aircraft. He led a 300-person tactical control unit through 10 exercises, including a 5,000-mile deployment with an experimental mobility package that reduced airlift by half. Colonel McKenzie served as part of the cadre which developed initial E–3 organizational and operational plans.

In strategic defense, Colonel McKenzie was directly involved in formulating operational requirements and employment concepts for ballistic missile defense [BMD]. He guided the USSPACECOM's BMD management organization and orchestrated the Command's interaction with SDIO. Colonel McKenzie spearheaded development of the BMD Operations Concept briefing to the JCS and the briefing to Congress on Cheyenne Mountain Upgrade programs by the CINC. Also an expert in air defense operations, Colonel McKenzie led the development of the Government acceptance criteria for the first Region Operations Control Center and employment concepts for the OTH–B radar, North Warning System, and Seek Skyhook System.

Lastly, Colonel McKenzie's most recent senior staff assignments at USSPACECOM have contributed in establishing USSPACECOM as the primary DOD voice on military space issues. While at USSPACECOM, Colonel McKenzie excelled as the executive assistant to the Commander in Chief, directing his personal staff and ensuring effective execution of staff actions in the headquarters. He also served as the vice director of the plans directorate—a strategic planning staff developing policy, doctrine, and concepts for space.

His contributions to the space mission included guiding the requirements development for space systems and USSPACECOM's involvement in DOD's acquisition process. As the command's senior staff director for planning, programming, and budgeting activities, Colonel McKenzie planned and participated in preparation of USCINCSPACE congressional testimony and controlled interface with JCS/service legislative liaison organizations and congressional committee staffs. Colonel McKenzie's valuable leadership and decision-making includes daily contact on policy and strategy issues such as arms control, launch, space debris, and commercialization.

We on the Armed Services Committee and in the House of Representatives owe Colonel McKenzie a great deal. His endeavors throughout his career will have untold positive impacts on both our national security and space postures for years to come. Given Colonel McKenzie's successful military career, his wife, Pam, should have a great deal of pride in her contribution to the Air Force family, her community and our country.

Col. Terry McKenzie will be retiring on April 1, 1992. We wish both Terry and Pam well as they embark on a new chapter in their lives.

TERRORISM IN ANY FORM CANNOT BE CONDONED

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. GILMAN. Mr. Speaker, I rise to inform my colleagues that yesterday morning a bomb exploded outside a building housing the Syrian mission to the United Nations in New York City. Across town, later that morning, another unexploded bomb was found with a note attached proclaiming "Free Syrian Jews."

As one of the cochairmen of the congressional caucus for Syrian Jewry, I want to express my condemnation of this action, and indeed, of all forms of terrorism. Syria's tiny Jewish community is held hostage by Syrian President Hafez El-Assad, and two Syrian Jews are currently in prison on scurrilous charges. Resorting to violence on their behalf, however, is not the answer.

This irresponsible act was immediately denounced by the Conference of Presidents of Major Jewish Organizations, the Council for the Rescue of Syrian Jews, the Jewish Community Relations Council of New York, and the National Jewish Community Relations Advisory Council. The congressional caucus for Syrian Jews joins them in condemning this bombing, and pledges to continue its efforts of freedom for Syria's Jews through diplomacy, public pressure, and other nonviolent means. Terrorism in any form cannot be condoned.

TRIBUTE TO BERT FEINBERG

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. ENGEL. Mr. Speaker, it is with great honor that I pay tribute to the Riverdale Community Center on its 20th anniversary, and particularly the president of its board, Bert Feinberg.

Two decades ago, Bert and his neighbors realized that there was no place in their community for teenagers to enjoy safe and enjoyable activities. With the rising scourge of drugs and crime on the streets, someone had to do something to prevent the youth of Riverdale from falling into trouble and despair. Bert Feinberg, with a little help from his friends, has been that someone.

What started out as a group of kids playing ball in a courtyard has grown into a multiservice agency that serves over 3,500 people a year in programs for everyone from preschoolers to senior citizens. All the people who have contributed to the success of the Riverdale Community Center are to be commended for their hard work and dedication to the community.

They have all had the good fortune of working side-by-side with Bert Feinberg, whose activities in the community are certainly not limited to the community center. For all he has done at the center and as a member of Community Board 8 and the Riverdale Temple, his friends and neighbors say "thank you" to Bert Feinberg.

INTRODUCTION OF LEGISLATION EFFECTING THE TRUCKING INDUSTRY

HON. PETE GEREN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. GEREN of Texas. Mr. Speaker, I am joined by Congressman WILLIAM CLINGER of Pennsylvania, Congressman MIKE PARKER of Mississippi, and Congressman BILL EMERSON of Missouri in introducing legislation today that would exempt private trucking operations from certain unreasonable intrastate trucking regulations.

State economic regulation of intrastate shipping has a direct impact on consumers. Over 42 States exercise some degree of economic regulation of intrastate trucking. Intrastate rates are consistently higher than interstate rates for similar cargoes and distances. It doesn't make sense to pay less to ship an item from California to Texas, than to ship an item from city to city within Texas, Pennsylvania, Mississippi, or any other State.

In some cases, companies have chosen to locate their facilities in adjacent States to take advantage of deregulated interstate regulations. This action has deterred economic development in most of these States.

The bill we are introducing today relates only to private trucking operations and private carriers. Other legislation is pending in the House Public Works Subcommittee on Surface Transportation that addresses other aspects of the intrastate trucking regulation issue.

Private carriers are restricted by most States from hauling goods for related companies—for example, parents, subsidiaries or affiliates, or outside companies. Many States prohibit private carriers from using leased trucks and drivers from the same source, thus requiring large capital investments to run a private fleet.

This legislation would allow private carriers to: Haul goods from related companies—parents, subsidiaries or affiliates—for compensation; use trucks and drivers leased from a single source—leasing company or other carrier;

lease their own trucks and drivers to other carriers; set up transportation subsidiaries that can haul for the parent or related companies without State regulation, and haul for other shippers under the same rules as common and contract carriers; and use vehicles and personnel that are dedicated by other carriers to the exclusive use of a company's private fleet.

Mr. Speaker, the cost of intrastate regulations to shippers and carriers has been estimated in the hundreds of millions of dollars. These costs are passed on to consumers.

The time has come for us to address the issue of intrastate trucking regulation. The time is now.

I hope that my colleagues will review this legislation and join us in supporting this important bill.

SOUTH AFRICA ON THE EDGE

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. PORTER. Mr. Speaker, when I visited South Africa and saw first-hand the situation there, I was convinced that change in South Africa was inevitable. The change envisioned is the complete abolition of apartheid, the institution of a balanced democratic government which allows participation by all citizens, respect for human rights, and economic opportunity for everyone—in short equality and racial harmony.

Last week, the momentum for this type of positive change in South Africa encountered a major roadblock and all of the gains that have been made in the last several years have been put in jeopardy.

On February 19, the Conservative Party (CP) candidate Andries Beyers defeated the National Party (NP) candidate Theuns Kruger by 2,140 votes out of a total of 17,397 cast in a by-election in the town of Potchefstroom. This seemingly unimportant election outcome prompted the Conservative Party to claim that the ruling National Party and President F.W. de Klerk no longer have the confidence of white people of South Africa and can no longer represent whites at the Conference for a Democratic South Africa (Codesa). Codesa is presently in the process of preparing a draft constitution for South Africa that will be used as a blueprint for creating a new, non-segregated government for all South Africans.

In an incredible gamble, President de Klerk has made a bold move to reaffirm his authority to proceed with reforms by calling for a national, whites only referendum to determine who the whites want to negotiate on their behalf at Codesa. Mr. de Klerk announced that if the National Party lost this referendum, he and the National Party would resign, throwing the South African political situation into chaos. If the NP wins, President de Klerk will have a clear mandate to proceed and the type of change he envisions has a chance to become a reality. If, on the other hand, the Conservative Party prevails, a new constitution is almost certainly out of the question, and apartheid will, in affect, be reaffirmed. The frustration of continued exclusion from decision making that directly affects their lives may be too much for long suffering South African blacks, and civil war is a real possibility.

In the past several years the international community has begun to take steps to reincorporate South Africa into the community of nations. These steps have been directly tied to the progress South Africans have made toward improving the fairness and equity of their political and economic systems. The world has watched very closely for signs of improvement and extended support when they appeared. But it is crystal clear that the world will be just as quick to pull back and throw up a wall of isolation around South Africa if the commitment to progress does not continue.

The consequences of regressing are unmistakable. The international community and, based on history, the United States Congress, will respond quickly and decisively by withdrawing this support and isolating South Africa as never before. I have overhead other Members, including several in the Senate, suggest the possibility of reimposing United States sanctions on South Africa if progress stalls or moves backward. This would be a very unfortunate move, in my opinion, but it is one that I think very likely if progress in South Africa ceases.

The world has sent South Africa a repeating message: There is no future in segregation—not for the individuals who live in South Africa and not for South Africa as a nation. The vote there on March 17 will determine more than the fate of the constitutional negotiations. It will determine the future of South Africa and its place in the world community.

A TRIBUTE TO RAUL JULIA

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. SERRANO. Mr. Speaker, today I rise to pay tribute to a highly talented individual who is the pride and joy of Puerto Ricans everywhere; Raul Julia. This internationally renowned Puerto Rican-born artist is presently here in Washington performing the title role in "Man of La Mancha" at the National Theater. Most recently he has been seen in the very successful film, "The Addams Family," in the role of Gomez, and will shortly be seen on screen again in the soon-to-be-released film "The Plague."

Mr. Julia is much admired both by critics and his acting colleagues for his exceptionally diverse artistic abilities. A complete entertainer, he can act, sing, and dance superbly. His has been a consuming, lifelong interest in theater. His very first role was the part of a devil in a play while in the first grade of school. He continued to perform in school productions as well as various amateur productions while studying for his bachelor's degree at the University of Puerto Rico and from graduation on, he was determined to dedicate himself fully to the acting profession.

Mr. Julia worked with various local theatrical groups and performed in nightclubs in Puerto Rico. In 1964, the actor Orson Bean watched him in a nightclub in San Juan and was so impressed that he urged him to move to New York City and study acting under the drama coach Wynn Handman. Mr. Julia soon won his first role as Astolfo in a Spanish production of "Life Is a Dream" by Calderon de la Barca.

For the next 12 years, his repertoire ranged from Shakespeare to Chekhov to musicals, first off-Broadway and, then in 1968, he made his Broadway debut as Chan in "The Cuban Thing." Mr. Julia enchanted public and critics alike with his commanding stage presence and his versatility. Excellent reviews ultimately led to four Tony nominations, including one in 1971 for best actor in a musical.

On stage, frequently under the direction of the late Joseph Papp, Mr. Julia performed in productions of "The Proposal," "Macbeth," "Titus Andronicus," "As You Like It," "The Taming of the Shrew," "King Lear," "Two Gentlemen of Verona," "The Cherry Orchard," "Othello," "Indians," "The Castro Complex," "No Exit," "Your Own Thing," "Paradise Gardens East," "Conerico Was Here to Stay," "The Persians," "The Emperor of Late Night Radio," "The Robber Bridegroom," "Via Galactica," "Dracula," "Betrayal," "Where's Charley?," "Nine," "Design for Living," "Arms and the Man," "The Threepenny Opera," and currently as Don Quijote in the well-received 25th anniversary production of "Man of La Mancha."

Mr. Julia made his film debut in 1971 in three productions: "The Organization Man," "Been Down So Long It Looks Like Up," and "The Panic in Needle Park." Other films include "The Gumball Rally," "The Eyes of Laura Mars," "One From the Heart," "The Tempest," "Compromising Positions," "Mack the Knife," "The Morning After," "Tequila Sunrise," "The Penitent," "Moon Over Parador," "Kiss of the Spider Woman," "Romero," "Presumed Innocent," "The Rookie," and "Havana."

Mr. Julia has been acclaimed for his ability to take on a broad range of roles. Successfully overcoming the stereotypical casting practices from which too many actors suffer, Mr. Julia has paved the way for Puerto Rican and other Hispanic artists by establishing that a performer's ability to succeed in a role is not dependent upon his or her ethnicity.

In addition, Mr. Julia is also active in the Hispanic Organization of Latin Actors [HOLA], which promotes the development of theater in the Spanish language and through which the preservation and advancement of Hispanic culture is promoted. Another organization to which Mr. Julia has devoted considerable time over the past two decades is the Hunger Project, whose aim is to eradicate world hunger by the year 2000.

This generous, gifted man has dedicated himself to bringing joy into our lives through his many talents as well as his contributions to the battle against the devastating hunger which plagues such a large percentage of the world's population. With his talent and his concern for the underprivileged, Mr. Julia is a great source of inspiration to Americans everywhere. His example will enable future generations to enjoy the benefits of an artistic environment in which every aspiring artist will have the opportunity to display his/her range of talents regardless of ethnic background.

Mr. Speaker, please join me today in expressing our gratitude to Mr. Julia for his contributions to the advancement of Hispanics, for his commitment to ending world hunger, and for providing us with countless hours of pleasure through his magnificent artistic performances.

RECOGNITION OF EMILY D. GRAHAM ON HER SCHOLARSHIP AWARD

HON. JIM COOPER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. COOPER. Mr. Speaker, I rise today to commend Emily Denise Graham on her selection as a regional recipient in the AAU/Mars Milky Way High School All-American Award.

Emily is a senior at Tullahoma High School in Tullahoma, TN. She has been recognized for her excellent academic record, her leadership abilities, and her involvement with several community service projects. As a regional recipient, Emily has received a $10,000 scholarship and is now competing for a $40,000 national award.

Emily is currently ranked second in her class, a member of the varsity track, cheerleading and swimming teams, active in drama and music, a leader in her church, and active in student government. She has been a positive influence in her school and her community, and is continuing her dedication to helping others by considering a career in medicine.

It's great to know that even in this day and age, there are many young men and women like Emily eager to learn and help. I'm sure her college years will be as positive as her early years, and I hope that all she will continue to share all she has learned with the people in her life.

Everyone who knows Emily is thrilled she has been selected as a scholarship winner. I'm sure her parents, teachers, and friends are very proud, and I wish Emily the best of luck in the national scholarship competition and in her future.

NATIONAL SCHOOL LUNCH PROGRAM

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. KILDEE. Mr. Speaker, today I am introducing legislation to delay the implementation of regulations carrying out the coordinated review effort under the National School Lunch Program for 1 year.

The 1989 reauthorization of the School Lunch Program included a new provision requiring the development of a unified system to ensure accountability through reasonable audits and reviews. A major component of this provision required that such activities be coordinated "in a manner that minimize[d] the imposition of additional duties on local food service authorities."

Congressional intent was to simplify an already burdensome system of audits and compliance activities and to reduce paperwork. A 1988 report by the National Center for Education Statistics [NCES] found that school meal reporting requirements accounted for 44 percent of the reporting burden on schools.

The committee has received numerous complaints from local school districts, State school food service authorities, and test pilot sites detailing their concerns that the regulations are overly complex, disorganized, punitive, and burdensome.

This legislation will ensure that there is adequate time to refine the instruments necessary to conduct the audits, address issues of equity and training, and complete successful field testing.

FUNDING THE BOSTON HARBOR CLEANUP

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. MARKEY. Mr. Speaker, I rise today to introduce legislation to provide Federal funding for the cleanup of Boston Harbor. This legislation, which I am introducing with my colleagues from Massachusetts, Mr. MOAKLEY, Mr. STUDDS, Mr. ATKINS, Mr. MAVROULES, Mr. KENNEDY, Mr. DONNELLY, Mr. FRANK, and Mr. EARLY, parallels legislation introduced in the Senate by Senators KERRY and KENNEDY. It would provide a major new commitment to cleaning up Boston Harbor over the next 5 years.

The legislation we have proposed today would provide $1 billion in Federal funding for the cleanup of the harbor over the next 5 years—approximately 20 percent of the total cost of the project.

President Bush made the water quality problems in Boston Harbor a major campaign issue in 1988. And although his proposals for $100 million in fiscal 1992 and 1993 are a good first step, this is only a drop in the bucket for a project that will cost over $6 billion. While the President brought national attention to Boston Harbor, he has not brought national funding in any significant amount. This bill will authorize funding the Federal Government's fair share to Boston Harbor.

The need for this legislation is clear: The Massachusetts Water Resources Authority estimates that water and sewer rates in the Boston area will increase over 30 percent each year. In 1992, rates for Boston ratepayers will be double the national average for major metropolitan areas and by 1998 they will have increased over 600 percent in 10 years. Within the next few years, water and sewer charges will even surpass property rates in some areas. This is a burden that simply can not be shouldered by Boston residents alone.

The benefits of the Federal funding we propose for the local economy are substantial. Using MWRA estimates, the $1 billion in Federal funding authorized by this Boston Harbor funding bill would mean a yearly reduction of $150 per household and a reduction of $4,500 over the 30 year life of MWRA bonds.

A study prepared by Cambridge Systematics, Inc., estimates that during the 1990's the project will provide approximately $3 billion to the Boston area economy—or $2 for every $1 spent locally. With one of the highest unemployment rates in the country, the estimated 4,000 jobs that would be created by the project would have a significant impact.

During the 1970's and 1980's, the Federal Government passed major clean water regulations and established Federal grant programs to assist States and localities in meeting these goals. Cities across the country received Federal matching grants representing between 55 and 75 percent of the cost of water and sewage treatment works.

Boston and a handful of other coastal cities did not receive these Federal grants because they were in the process of seeking a modification of the Federal regulations when the grant program ran out. The EPA eventually decided not to allow modifications in the clean water requirements, leaving those cities to build sewage treatment plants without the Federal grant program.

The legislation we are introducing today to provide $1 billion in Federal funds under the Clean Water Act for Boston Harbor will not bring Federal funds to Boston in amounts provided to other cities. But it represents a necessary and thoroughly fair Federal commitment to cleaning up one of the most beautiful and productive harbors in this country.

H.R. 4339

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 "Boston Harbor Cleanup Funding Act."

SEC. 2. BOSTON HARBOR.

Title V of the Federal Water Pollution Control Act is amended—

(1) by redesignating section 519 as section 520; and

(2) by inserting after section 518 the following new section:

"SEC. 519. BOSTON HARBOR AND ADJACENT WATERS.

"(a) The Administrator shall establish a grant program to make grants to the State of Massachusetts for use by the Massachusetts Water Resources Authority for constructing wastewater treatment works for the areas served by the Massachusetts Water Resources Authority.

"(b) The Federal share of any construction project described in subsection (a) of this section shall not exceed 75 percent of the cost of construction of the wastewater treatment work.

"(9c)(1) for the purposes of carrying out the grant program under this section, there are authorized to be appropriated $1,000,000,000 for fiscal years 1993, 1994, 1995, 1996, and 1997.

"(2) The amounts authorized by paragraph (1) shall remain available until expended.

"(3) The amounts authorized by paragraph (1) shall be in addition to any other amounts authorized to be appropriated under titles II and VI of this Act.".

THE PRESIDENT SHOULD TERMINATE CERTAIN GSP PETITIONS

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. GUNDERSON. Mr. Speaker, I rise today to bring to the attention of my colleagues a matter of great concern and to ask the support of my colleagues in expressing the sense of the House of Representatives that the President should terminate certain current generalized system of preferences petitions from Central and Eastern European countries.

I believe that every Member of this body supports the efforts which have led to freedom for those Eastern European nations which were dominated for decades by the Soviet Union. We have already done a great deal to support those emerging democracies and I believe those efforts should continue.

However, the administration and specifically certain elements in the U.S. Department of State, in their enthusiasm to help these emerging democracies and in their obvious ignorance of the true state of American agriculture, have chosen to attempt to use the generalized system of preferences, the GSP Program, to reward certain of those emerging democracies with duty free access to the U.S. market.

GSP petitions which had been rejected on May 3, 1991 after a thorough investigation were opened for re-review on July 12, 1991, on Goya cheese, prepared or preserve mushrooms, grape wine, and other products.

The granting of these petitions would cause great harm to the affected elements of the U.S. economy but I will direct my remarks to the particular petition of which I have the most direct knowledge, and which has the potential to do the greatest harm to dairy farmers all over this Nation including my State of Wisconsin.

To anyone who has studied this issue and read the documentation, it is quite clear that the proponents of these petitions within our own Government, while well intentioned, are attempting to provide economic benefits to these emerging democracies, in this case, Hungary, through the GSP Program because straightforward foreign aid is very difficult in our current budgetary dilemma.

Granting GSP status to Goya cheese would in fact help Hungary which is a producer of this hard grating Italian-type cheese. But what has not been clear previously is that the principal beneficiary of granting GSP status of Goya cheese would be the European Community and South American countries, particularly Argentina and Uruguay, which ship twice as much Goya to the United States as Hungary. Therefore it should be obvious that not only do we run the very real risk of placing domestic cheese producers in jeopardy, we do so by benefitting countries other than the one which initiated the Goya cheese petition.

Moreover, recent testimony before the GSP Subcommittee of the Trade Policy Review Group revealed that the principal beneficiary of the Goya petition would likely be the American proponent of the Goya petition, the Duna Cheese Co., a Dutch-owned firm. If the Hungarian petition if approved, the American farmer would be put in the position of subsidizing not only the European Community, but a large Dutch trading company, all at a time when the income of American dairy farmers is at an all-time low.

Starting almost 1 year ago, we made a very strong case to Ambassador Carla Hills, the U.S. Trade Representative, concerning our objections and the obvious disadvantages of favorably considering this petition. On March 8, 1991, I wrote to Ambassador Hills stating in part:

> I strongly believe that duty-free treatment of Goya cheese would seriously dislocate domestic hard cheese products and negatively affect the Federal price support program and injure U.S. dairy farmers.

I also told Ambassador Hills then what those who are coming forward now to oppose this petitions will tell you, that is:

> Goya cheese is directly competitive with domestically produced Italian-type cheese. It is estimated that elimination of the 25 percent duty could undercut U.S. hard cheese by a minimum of 30 cents per pound, making it virtually impossible for U.S. manufacturers to compete against this imported product.

Those were the facts then and those are the facts today. That this matter was pushed forward for consideration again a mere 3 months after the petition's initial rejection is a clear indication that this matter is not being considered on its merits but on other foreign policy considerations. It is simply the manipulation of the law based on foreign policy considerations to the detriment of the American dairy industry.

We have under present GATT rules a cheese quota of 1½ percent of domestic production which equals 2,160 million pounds. We would advocate that those who seek to help Hungary, justifiably, pursue the same course of action which we have advocated with other new or emerging democracies. Thus, we believe strongly that the present quota, some of which is not used, should be reallocated to these emerging democracies. It is especially important that during this crucial time for discussion and negotiations of both a new GATT agreement and a North American Free-Trade Agreement [NAFTA] that our Government not randomly pursue policies which would totally undermine our present trade policies.

In our communications to Ambassador Hills we have noted that none of the items being re-reviewed are covered by a quota and could be imported in quantities that would severely hurt domestic interests. For instance, U.S. industry sources in whom we have great confidence indicate that granting GSP status on Goya cheese could result in as much as 50,000 to 100,000 tons of Goya from all sources entering the United States to compete with domestic product.

To put this into perspective, 50,000 metric tons of Goya cheese represents the equivalent of approximately 1 billion pounds of farm produced milk; 100,000 tons would represent 2 billion pounds milk equivalent. The milk production that would be displaced would be converted into additional dairy products sold to USDA's Commodity Credit Corporation [CCC] under the domestic price support program.

Recently, just a 1-percent surplus in domestic production caused a 30-percent drop in dairy prices received by farmers resulting in a 13-year record low price for fluid milk. Clearly the dairy industry in this country cannot financially weather the price drop a GSP decision of this magnitude could cause.

Industry analysts predict that approving this GSP request could result in as much as 2 billion pounds, milk equivalent, of additional CCC purchases. This would add over $200 million to the cost of the program. Part of any additional cost would add to the Federal budget deficit while part might be paid directly by dairy farmers under the dairy assessment program. I would remind you that those dairy assessments come from the farmer's milk check, in other words, directly off his bottom line.

Under the provisions of the Food, Agriculture, Conservation, and Trade Act of 1990, dairy farmers will be assessed for the projected cost of CCC dairy product purchases in excess of 7 billion pounds, milk equivalent. The Secretary of Agriculture recently projected CCC purchases for calendar year 1992 at 6.2 billion pounds, milk equivalent. It is easy to see that, should the Goya petition be allowed, there would be an almost immediate and direct impact upon the price of milk and on dairy farmer income.

Dairy farmers have already taken very strong and painful steps to bring their production in line with demand. The granting of this petition would have the effect of being extremely discouraging to farmers who have worked so hard to solve their own production management problems.

Should the Goya cheese petition be allowed, we believe that not only would there be immediate and devastatingly large duty-free shipments of Goya cheese into the United States from Hungary, Argentina, and Uruguay, but a number of other countries would shift production to Goya cheese in order to take advantage of this situation. It is clear that allowing Goya to enter this country duty free would without question spell the end for domestic production of Italian-type hard grating cheese.

Mr. Speaker and my colleagues, I hope that you will agree with me that this House resolution should be passed on a expedited basis to put this body on record in opposition to the re-review of these rejected GSP petitions.

And I want to make it clear to all concerned if we are unable to head off this ill-conceived effort, then the time may have come for us to take a serious look at this program. If the GSP Program is to be misused as it has been in this case to the detriment of American dairymen and workers, then it may very well be time that we in the Congress put a stake in the heart of what is fast becoming a monster.

TRIBUTE TO ROBERT H. WHITSTOCK

HON. DICK ZIMMER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. ZIMMER. Mr. Speaker, I rise today to pay tribute to one of New Jersey's most spirited and admired citizens, Robert H. Whitstock.

As part of the Seeing Eye organization for 35 years, Bob has helped countless blind people gain greater personal independence through guide dogs, and he has been a major reason why the institution was recognized as one of President Bush's "Thousand Points of Light." But equally important, he has been a friend to the Seeing Eye's students and staff and, as one of only two blind employees, he has worked to prove that blindness is not a handicap.

Despite obstacles, Bob excelled as a student, graduating from Hamilton College in 1952 with honors. He then received a degree from Harvard Law School and became a member of the New York Bar. Before joining the Seeing Eye in 1957, he was a history instructor at the New York Institute for the Blind.

When he started work at the Seeing Eye, Bob once said that his predecessor, Morris Frank, "had accomplished miracles. And [he] didn't want to let people down by doing less."

Well, Bob Whitstock has performed his own miracles and, upon his retirement, I think it is safe to say that he never let anyone down. He is an inspiration to his profession and to anyone who has had the good fortune to know him.

I would like to thank Bob Whitstock for his tireless efforts and dedication to helping others, and wish him continued happiness and success.

VISITING NURSE ASSOCIATIONS' OF AMERICA WEEK, FEBRUARY 16–22, 1992

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mrs. BENTLEY. Mr. Speaker, as you may know, the week of February 16–22 marked the observance of Visiting Nurse Associations' of America Week. I am proud to report that the Visiting Nurse Association of Baltimore will be 97 years old this year and has made more than 1 million visits to over 100,000 patients.

Founded in 1895 by Evelyn Pope, a young graduate nurse, the Visiting Nurse Association [VNA] of Baltimore is Maryland's oldest and largest nonprofit home health care delivery organization and covers a five county region in central Maryland.

Throughout history, the VNA has endured the test of time and has seen Baltimore through the great Baltimore fire of 1904, tuberculosis, flu epidemics, typhoid fever, and now AIDS. With 500 employees, the VNA of Baltimore has grown tremendously from the early days when its first office opened over a candy shop on South Charles Street.

Regardless of race, color, creed, sex, age, or national origin, VNA is dedicated to, "the provision of efficient and effective health care services to patients in their homes." Their goal is, "to assist each patient to regain optimal health and independence, maintain their current level of function or experience a peaceful death." As long as costs can be supported by reimbursement sources, contributions and/or grants, the VNA is available to all citizens regardless of their ability to pay as a basic health resource.

Home health care has an important psychological benefit for both patients and family and helps to contain costs by allowing the patient to remain at home. The recipients of this service cut across all segments of society. The VNA provides a broad range of services from therapy services to maternal and child care services.

Health care is indeed a very important and current issue for many Americans today. The Visiting Nurse Association of Baltimore has sought to service others through giving of themselves. Their hard work and dedication truly is commendable.

Mr. Speaker, my fellow colleagues, it is with utmost respect and admiration that I ask you to join me in recognizing the Visiting Nurse Association. Throughout our Nation they have faithfully brought healing and compassion to countless individuals.

TRIBUTE TO MR. JOHN PAUL DOYLE

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. PALLONE. Mr. Speaker, on Friday, March 6, a tribute is planned for a very special individual with the proceeds intended to benefit a very special cause. That evening in Eatontown, NJ, some of the many friends of Mr. John Paul Doyle of Brick, NJ, are planning a surprise event, which will also help raise funds for the establishment of the John L. and Sarah J. Doyle Annual Lecture at Rutgers University.

John Paul Doyle has been one of the most distinguished public officials in the State of New Jersey in general, and in the Ocean County area in particular, for some two decades. Mr. Doyle was elected to the State assembly in 1973, one of the first Democrats elected to the legislature from Ocean County in more than a half century. He was reelected eight times, serving until January of this year. During his tenure, Mr. Doyle distinguished himself as a leader on shore protection and environmental issues, initiatives to promote New Jersey's tourism industry, programs for the elderly and disabled, and tax relief issues. He also held the position of majority leader from 1982 through 1985 and deputy speaker in the 1990–91 session.

A graduate of Rutgers University and Rutgers Law School, Mr. Doyle has decided to give something back to his alma mater, the State University of New Jersey. Thus, he is working to create an annual lecture at the University's Eagleton Institute of Politics for students and political scientists. In addition, John Paul Doyle has dedicated the lecture series to his parents, his late father John L. Doyle, and his mother Sarah J. Doyle who resides in Brick. Further testifying to the closeness of the Doyle family, John Paul's brother and four sisters will be in attendance at next Friday's surprise tribute.

Mr. Speaker, it is a great loss that John Paul Doyle is no longer a member of the State assembly to serve the people of the State of New Jersey. But he continues to be an active member of the community, and the people of our State will continue to benefit from his work for years to come. I am proud to call him my friend, and I wish him many years of continued happiness and success.

CONGRATULATIONS TO HOLLYWOOD TEMPLE BETH EL

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. WAXMAN. Mr. Speaker, I ask you and my distinguished colleagues to join me in congratulating Hollywood Temple Beth El on their 70th anniversary. On January 26, 1922, Hollywood Temple Beth El was founded to serve the needs of the flourishing Jewish community in Los Angeles. For the past 70 years, it has fulfilled this duty through industry and perseverance and continues to be an asset and an inspiration in the Jewish community.

On April 5, 1992, Hollywood Temple Beth El will be celebrating its 70th anniversary. On this momentous occasion, the temple will be honoring two dedicated and committed members for their civic, humanitarian, and religious causes—Arthur and Frances Linsk.

The Linsks have been invaluable members of Hollywood Temple Beth El and assist the temple in maintaining its position as the nucleus of the community. Arthur Linsk is the current chairman of the board and past president of Hollywood Temple Beth El. His numerous philanthropic ventures include member of the board of Shriner's Hospital for Crippled Children, 33d degree Mason, and past master of Loyalty Lodge No. 529 F&AM.

Frances Linsk is currently a member of the executive board of Hollywood Temple Beth El and past president of the temple's sisterhood. Her outstanding performance in these positions has benefitted the temple and the community. She is also a past matron of Ionic Menorah Chapter for the Eastern Star.

Congratulations to Hollywood Temple Beth El in its 70 years of service to the community. May it continue to prosper and fulfill its goals of teaching spiritual and ethical values to young and old alike and providing an inspiration for civic welfare.

PUBLIC SERVICE RECOGNITION WEEK

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. HOYER. Mr. Speaker, today I rise to express my support for public service recognition week introduced today by my colleague, JIM MORAN from Virginia. This resolution would designate the week of May 4–10, 1992 as "Public Employees Recognition Week."

Every Member of Congress has public employees who police their streets, fight their fires, teach their children, and protect their environment. Many public employees work for significantly less money than their private sec-

tor counterparts, and many, like police officers and firefighters, take risks that the average worker never faces. Nevertheless, they continue in their work because they love it, and because they feel a special sense of duty and commitment to the society in which they live.

As a representative from a county with a significant number of Federal employees, not to mention the State, county, and local employees I deal with in my daily life, I can say that our public servants have earned my respect. These men and women truly embody the spirit of President John F. Kennedy's challenge to us during his inauguration over 30 years ago when he said, "Ask not what your country can do for you—ask what you can do for your country."

I know many Congressman will welcome the opportunity to support this resolution, and that we are all looking forward to the week of May 4. Our public employees serve the demands and aspirations of this country, and we should all be proud to say thanks, we are a better Nation for your service.

IT IS TIME TO KNOW THE NAMES OF THE MEMBERS WHO BOUNCED CHECKS

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. BURTON of Indiana. Mr. Speaker, on October 3, I voted for, and the House passed House Resolution 236, which directs the Ethics Committee to investigate the operations of the House Bank and to determine whether specific Members of Congress repeatedly abused the banking privileges. Under House Resolution 236, the committee must compile a list of Members who abused the House Bank and determine what penalties are appropriate.

Mr. Speaker, it is now the end of February, and we still do not know the names of the Members who routinely and repeatedly bounced checks. As of today, the committee has not finished its investigation and no list of offending Members has been made available to the public or even to Members of Congress.

The American people want and deserve to know who these check kiters are. Until these names are disclosed, we're all being tarred with the same brush. This sentiment was expressed to me just last week by one of my constituents, Jim Frank from Greenwood, Indiana.

Mr. Speaker, it is time to disclose the names of the Members who routinely and repeatedly abused the banking privileges so we can restore integrity to the House of Representatives.

SYRIAN JEWRY

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. GREEN of New York. Mr. Speaker, I rise today to condemn in the strongest possible terms the placing of a pipe bomb outside of the Syrian mission to the United Nations, and a second one in another New York neighborhood. As a longtime advocate of freedom for Syrian Jewry, I am deeply saddened by such senseless violence, which has no place amongst our cries for freedom for the 4,000 Jews held hostage in Syria. I am thankful that no one was hurt in the attack.

I am hopeful that we can soon achieve freedom for all Syrian Jewry. Their desperate plight demands our full and immediate attention, and their cause is done a profound disservice by those who have committed these senseless acts of violence.

THE NEED FOR A FEDERAL TECHNOLOGY POLICY

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. TORRICELLI. Mr. Speaker, much of the debate over a tax fairness package this week has centered on the need to provide an immediate boost to the recession-plagued economy and immediate relief for working families. But we cannot ignore the need for legislation to address the structural deficiencies in our economy that have made this recession so devastating. Over the past 20 years, we have lost our technological edge. Unless we come up with a long-term strategy for addressing that problem, we will be unable to maintain our standard of living and meet our future domestic needs.

Statistics abound to demonstrate the extent to which the United States has lost its technological superiority. Our share of the global aerospace market—a market that we virtually created—has dropped from 79 percent in 1970 to 62 percent in 1988. In 1983, we held 81 percent of the computer equipment and software market, but that figure dropped to 61 percent in 1989. Of course, the most notable example of America's fall from technological superiority is the automobile market, where our global market share has dropped from 46 to 23 percent between 1965 and 1988.

Even more troublesome than looking at the past is looking at the future. The Commerce Department recently identified 12 emerging technologies that it said featured a combined U.S. market potential of $350 billion by 2000. Unfortunately, the report indicated that if current trends continue, the United States will fall behind Japan in most of them and trail the European Community in several of them.

America's ability to sustain its superpower status in the 21st century will depend on its economic strength. That strength will be defined by our ability to research, develop, and commercialize critical technologies. We cannot continue to rely on the invisible hand of the free market to maintain our preeminence in those technologies. Instead, we must foster greater cooperation between Government and industry in technology policy.

Today I am introducing the Advanced Technologies Capital Consortium Act. I am pleased to note that identical legislation is being introduced today in the Senate by Senator JOHN D. ROCKEFELLER.

This bill will provide Government support for a private consortium that will invest in the innovation and commercialization of critical technologies, which are those identified by the National Critical Technologies Panel in its biannual report. The following are the bill's major provisions:

Creation of an advanced technologies capital consortium [ATCC] to be made up of private enterprises, academic institutions, foundations, and/or State and local governments who are engaged in R&D of critical technologies.

The Secretary of Commerce would be directed to make grants and loans to the ATCC, which would be matched by the consortium on at least a 50–50 basis. This money would be used by the ATCC to invest in critical technologies by providing grants and loans to, or equity investments in, firms that are engaged in cutting edge research, development, application, or commercialization in critical technologies.

The ATCC would be comprised of at least four private sector corporations who are themselves engaged in critical technologies work. Participants would likely be large employers who already invest substantially in R&D in the United States. They would have to be either United States-owned or incorporated in the United States with a foreign parent from a country that treats U.S.-owned companies fairly. They would also have to commit to manufacturing in the United States any technology arising from ATCC support.

The bill would establish and advisory committee made up of key government officials, and modeled on the Sematech precedent, to advise the ATCC and the Secretary of Commerce on appropriate technology goals for the activities of the ATCC and a plan to achieve those goals.

The ATCC would invest pursuant to a agreements with the recipient firms which describe how intellectual property or profits would be shared if the new technologies are commercialized.

The ATCC would be directed to expeditiously transfer technology owned or developed by the ATCC to its participating members, who would use it to improve manufacturing productivity.

Funding for the ATCC would be authorized at no more than $200 million per year; $100 million would be authorized for the first year and $200 million for each of the next 2 years.

This legislation will help remedy our inability to effectively identify, develop, and deploy needed technologies in a timely fashion. In addition, it is designed to deal with growing deficiencies in the venture capital market.

We have the world's best research infrastructure, the result of billions of dollars of investment in Government labs and universities over the past 40 years. We have 15 million companies involved in every known discipline that can translate new research discoveries into useful products, processes and services. But what we lack—and what this legislation is designed to give us—is an available pool of venture capital to ensure that these resources are mobilized.

There are those who will immediately brand this legislation as a mechanism for picking winners and losers. But that argument fails to

recognize that our Government needs to approach technology policy with a coherent strategy. Establishing a critical technologies list several years ago has helped us determine what is important. Now it's time to act in support of that list in a logical way.

Mr. Speaker, there is no longer any doubt that the Government must play a role in encouraging private R&D in critical technologies and industries. I believe that the best means of accomplishing this goal is to combine Government funding and advice with industry funding, experience, and profit motive. This approach will ensure that those technologies that are most important to America's competitiveness are researched, developed, and brought to market by American firms. I therefore urge my colleagues to support the Advanced Technologies Capital Consortium Act.

JEAN R. YAWKEY—A TRUE BASEBALL FAN

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. IRELAND. Mr. Speaker, it is with great sadness that I report to this House that Boston Red Sox majority owner Jean R. Yawkey died yesterday at the age of 83. Mrs. Yawkey passed away at the Massachusetts General Hospital in Boston 6 days after suffering a severe stroke. Jean Yawkey meant more to the Boston Red Sox, the Baseball Hall of Fame, the city of Boston and the city of Winter Haven, Florida, than I can put into words. She led a distinguished, quiet life dominated by impressive actions.

When long-time Red Sox owner Thomas A. Yawkey died in 1976, Mrs. Yawkey became the general partner of the syndicate which runs the team. During that time her beloved baseball club won the Eastern Division of the American League three times and lost their only World Series appearance during that period to the New York Mets in 1986. Jean Yawkey attended every Red Sox home game, cheered her team on and meticulously kept daily score in a custom-bound set of score cards. Even though it was reported that her health started to fail last year, she attended all home games. Since 1984 Mrs. Yawkey had been a director of the National Baseball Museum and Hall of Fame. She was the only woman ever elected to serve on that board. As was her husband before her, she was a well-known philanthropist and was beloved in both the Boston and Winter Haven communities.

Mr. Speaker, I had the great honor to be able to call Jean Yawkey a friend. Several times a season I would go to Boston and visit with her in her box and cheer for the good ol' Red Sox. I have had the privilege of working with and knowing the Yawkey family and all the Red Sox family since the team moved their spring training headquarters to Winter Haven many years ago.

As long as I remember the grace of Ted Williams at the bat, the splendor of Carl Yastrzemski in the field, the speed of Roger Clemens on the mound, the genius of Dick Williams in the dugout, I will also remember the beauty of the true devoted fan in the rooftop box, Jean Yawkey—for indeed the greatest baseball diamond in America is the true "field of dreams," Fenway Park. The great moments that Tom and Jean Yawkey have afforded millions of baseball fans over the years will, I am sure, continue with the ongoing Red Sox organization. My thanks to the Yawkeys for so many magical baseball moments over the years as well as for the many personal memories they afforded me. God bless Jean Yawkey.

TRIBUTE TO MRS. CAROLYN CHESNUT

HON. GEORGE (BUDDY) DARDEN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. DARDEN. Mr. Speaker, today I rise to recognize Mrs. Carolyn Chesnut on 50 years of service with Mount Vernon Mills, Riegel Textile Division, in Trion, GA. She will retire on March 27.

Mrs. Chesnut joined Mount Vernon Mills on February 18, 1942, during the heat of World War II. Her retirement comes on the brink of an expansion of manufacturing facilities which could result in the Trion Denim Mill becoming the world's largest denim manufacturer.

For 47 years, Mrs. Chesnut has worked in the personnel department of Mount Vernon, Riegel Division. For many years her responsibilities included orientation of new employees. The warm and special way in which she welcomed newcomers always made them feel right at home in the company's family of friends.

Mrs. Chesnut always has performed her duties with unfailing dedication and dignity, serving as a role model to all who know her. She is the recipient of the Zero Defects Achievement Award, the highest honor bestowed upon employees of Mount Vernon Mills, Riegel Textile Division, for outstanding performance.

Mrs. Chesnut's special story is told in the following article published in the February 26 edition of Trion Facts. At this time, I would like to share this story with my distinguished colleagues, and ask that they join me in wishing Mrs. Chesnut the best in her retirement years. She has more than earned it.

[From the Trion Facts, Feb. 26, 1992]

CAROLYN CLEVELAND CHESNUT COMPLETES 50 YEARS SERVICE

It's not been done more than five or six times within the whole of Riegel organization and to be listed with this distinguished list is indeed a singular honor. Beginning with your writer's earliest recollection of 50 year employees, C.H. McCullough moving up through people like Albert Croy, Ann Henderson, John Martin, Hobert Henderson, J.C. Woods, just to mention those within Trion's corporate limits, you are in distinguished company indeed and now we add the name of Margaret Carolyn Cleveland Chesnut. Remember the lady who signed you up for work, asked you all those questions about Combined Charities donations, home address, dependents and insurance and asked you to sign your work card, that's her. She's been doing that ever since 1945 when she first came into Personnel.

Let's not start there however because there is quite a bit more before that. She's a native of Gaylesville, Ala., where she now resides but between then and now she's established roots with just about every facet of the company that has been the recipient of her 50 years service. She is the daughter of the late Frank and Elsie Cleveland, came from a family of two brothers and two sisters (besides Carolyn). She finished High School at Gaylesville, came to Trion looking for a job and was hired the very first time she applied. She came to see Mr. Skip Henderson, was hired on the spot for the Glove Department of the General Office and went to work. After doing clerical and filing work she became Senior Clerk in 1945 in Shipping and Billing and transferred to Personnel Department where she became receptionist and interviewer and has been doing that now for the past 47 years.

After her father died, Carolyn's mother, Elsie, became the hostess for the fabulous Trion Inn where anybody and everybody who was connected with the Trion Company (before it became Riegel) stayed at one time or another. Glove Mill girls in large numbers occupied the top floor (which was off limits to boyfriends or any males for that matter) and she lived there for a time within easy walking distance of the work. The Personnel Department was located at that time out on the east side of the Finishing Plant facing the railroad tracks. Within its confines she was associated with and worked with such legendary figures as George Collette, John D. Taylor, Bob Powell, Sam Cook, two previous editors of the Trion Facts, Sarah Agnew (later Myers), Mary Jo Logan and then C.B. Bricker when he moved into Personnel and assumed the responsibility for the FACTS from Sarah, and of course our own J.V. "Shorty" Hawkins.

She married Judson Chestnut on June 25, 1949, they lived about one year at the Inn and then moved to the old Plaza Apartments just west of the General Office. Sometime in the 60s the old Plaza became history but before this happened, they moved back to Gaylesville where their son, George, was born and where they now reside. Thus began the commuting that must of a certainty established some kind of record in that field because she has been commuting to and from Gaylesville for about 34 years. The distance has been covered by a round trip through all kinds of severe weather, road conditions, ice storms and what have you but if it is possible to get into Trion at all, Carolyn makes it through, you can depend on that.

In her work at Personnel the direct responsibility for the Quarter Century Club has been on her shoulders, keeping the records up to date, an accurate list of active and inactive members filing employment records that are referred to very often by Riegel managers and staff people for vital information seeing that employees who earn merit pins are properly recognized and presented with their awards. The list of members is used to seat the club member during the Annual Quarter Century Banquet which incidentally is coming up shortly. Occasionally a long time member passes from the scene and must be recorded and proper sentiment sent to the family.

The Personnel was directly concerned with the huge Army-Navy E Awards in 1943 when the production lines of people at The Trion Company were recognized for outstanding war work and Personnel was responsible for listing the Personnel in service and arranging the details of the presentation. It was held out in the park in front of the Glove

Mill which is now offices of the Finishing Plant Manager and Production and Scheduling.

In 1945 the merger of the Trion Company and Riegel formed the Riegel Textile Corporation which existed until the consolidation with Mount Vernon in the mid 80s. The huge Centennial celebration in Trion recognized our progress from 1845 to 1945 and laid the burden of a lot of records and production work at the feet of Personnel and although not directly involved in the preparation she practiced and played a role in the acting out on the hillside at the Trion Golf Course, one of the biggest celebrations ever seen in Trion. She still found time for a lot of sports activities including being on the undefeated baseball team in 1945 and was pictured along with Gartrelle Duff, Roberta Langston, Dot LeCroy (Camp), Marvorine Bricker, Daphne Williams and also played softball, tennis for the Independent Girls teams. A busy young lady was Carolyn Cleveland Chesnut.

Carolyn's love of music, especially classical music, is one of her hobbies and this is easily understandable because Judson and Carolyn's son, George, is an accomplished pianist, extremely talented and gifted. George now resides in Atlanta where he is organist and Choir Director at an Episcopal Church. George has played background music for the Quarter Century Party and also performed a recital on several occasions including a concert in Trion at one time a few years ago at the First Baptist Church. George has taken numerous training on an accelerated basis for his music and is a master at the keyboard. She also loves her home and loves to work on the outside around the homeplace, plus she loves to read.

As a result of her dedication and loyalty, she was recognized in December 1972 and again in October 1974 as an Achievement Winner in Riegel's prestigious ZD Program and the Corporate Trip which came later from previous winners. She has achieved several perfect attendance years at Personnel which came as a direct result of that extra effort which could achieve it.

Throughout the years, Carolyn Chesnut has been a bulwark of efficiency and dedication. Coming to work through all kinds of difficulties, doing mountains of paperwork, playing sports on her own time, coordinating critical records of the elite merited group, she has seen numerous of Trion's most dedicated people retire from jobs on which a lifetime was spent and keeps the lifeline open on communication among these elite building blocks through the passing of time.

She has not only been a witness to history but also a vital working cog in its wheels, providing part of the glue that holds it together. She loves her company, is one of its most dedicated supporters and has earned her niche in history. Recently an article was written naming her as one of the three longest achievers in Riegel history, along with Sybil Williams and Harry Farrow. Harry and Sybil have since retired leaving her alone in the 50 year category. Sybil came to work only about two months after Carolyn in 1942 and Harry in June 1942 creating this exclusive threesome at which Carolyn stood at the head of the table.

Carolyn now joins an exclusive group of 50 year merited employees which is limited to less than 10 out of all the former Riegel/Trion Co. people which goes back to people like Mr. "Son" Wooten who had 58 years to his credit and was so recognized during Trion's fabulous Centennial celebration in 1945. Others include J.C. Woods, John Martin, Mr. C. H. McCullough, Hobert Henderson, Ann Henderson, Albert Croy, those that come to mind.

Carolyn is the only one of this group still actively working. She's a very special lady and has accomplished a very special job for over 50 years.

Congratulations to Carolyn Cleveland Chesnut on her Golden Anniversary with Riegel Mount Vernon. At this writing she is still actively working in Personnel and is planning an upcoming retirement later this Spring.

JOBS FOR THE 1990'S

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. WILLIAMS. Mr. Speaker, today I rise to introduce legislation to provide jobs for our Nation's unemployed. Currently, there are 7.1 million Americans unemployed. Future layoffs are being announced almost every week in our national news media. It is clear that America's workers need useful employment now.

My legislation will provide productive employment opportunities to unemployed individuals in the repair and rehabilitation of essential community and educational facilities; in the conservation, rehabilitation, and improvement of public lands; and in public safety, health, social services, and other activities necessary to the public welfare. Funds will be available to cover the necessary labor costs as well as for the acquisition of tools, equipment, and materials.

A summary of the legislation follows:

WILLIAMS' JOBS BILL DESIGN

This could produce 320,000 jobs at the fiscal year 1992 authorization level ($4.5B) and wage levels in the legislation. These jobs would start within 30 days after funds are allocated.

Out of the funds appropriated for this act, 80 percent shall be spent on government and private nonprofit jobs which will repair and rehabilitate public facilities; provide public safety, health, or social services; or rehabilitate or improve public lands and the environment. The mix of jobs within the 80 percent is to be determined locally, based on local needs. Of the remaining 20 percent, half goes to repair and renovation activities at elementary and secondary schools and half goes for higher educational facilities.

Allocations are made to local governments and Indian tribes with unemployment rates in excess of 6.5 percent, and funds flow directly to the administrative entity of the JTPA service delivery area in which the local government is located. An area of contiguous census tracts equaling a population of 10,000 or more, and with unemployment rate in excess of 6.5 percent, could also be eligible.

Not less than 75 percent of the funds shall be used for wages and benefits and not more than 10 percent shall be used for administration; the remainder shall be used for materials and supplies.

From the funds allocated for jobs with governments and nonprofits: 2 percent shall be reserved for Indian tribes; 5 percent for the Governor for State jobs within eligible jurisdictions; and 93 percent for eligible jurisdictions.

Wages shall be paid which are not less than the highest of the Federal, State, or local minimum wage or the prevailing wages for individuals employed in similar occupations. Wages may be supplemented from local resources.

The average Federal share of wages for jobs created under this Act cannot exceed 75 percent of the national "average weekly earnings of production or nonsupervisory workers on private, nonfarm payrolls" (a Bureau of Labor Statistics term of art, which annualized is about $18,900 and 75 percent is about $14,000).

The authorization is: $4.5 billion for fiscal year 1992 and an authorization for succeeding fiscal years of the product of 4 percent of the total number of unemployed individuals multiplied by 75 percent of the national "average weekly earnings of production or nonsupervisory workers on nonfarm payrolls" (thus, what we are saying is that we want an authorization to provide jobs for only 4 percent of the unemployed at wages that are only 75 percent of the average wage); [this multiple would yield: 8.9 million unemployed 4% $18,900 75% = $5 billion at a 7.1% unemployment rate].

RESTORING TAX CREDITS FOR SOLAR ENERGY

HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. ATKINS. Mr. Speaker, the Tax Fairness and Economic Growth Act does a great many things; it restores progressivity to the Tax Code and encourages economic growth. But I rise today because the bill does not do one of the things that I think is important for the future of this country: redirect resources toward renewable energy.

Our Tax Code currently favors the use of nonrenewable fossil fuels. About 2.5 billion dollars' worth of tax incentives were given last year to the fossil fuels industry. Renewable solar energy, however, received less than 2 percent of that. Furthermore, instead of creating more equity, the version being considered today makes the situation worse by allowing the solar energy investment tax credit to expire in June.

Reliance on imported oil has risen to over 50 percent. Imported oil also comprises the largest component of the U.S. trade deficit. The United States currently has the lead in several promising solar technologies, however, without continuing assistance, this advantage will vanish to our economic competitors. We have been struggling in this Congress to develop a comprehensive energy policy. We have also tried to stimulate the economy and provide jobs. Mr. Speaker, we must not forget there is a strong connection between our energy choices, a healthy environment, and a sustainable economy. According to a report of the Union of Concerned Scientists, the Natural Resources Defense Council, the American Council on an Energy-Efficient Economy, and the Alliance to Save Energy, renewable energy could make up half of our Nation's energy needs by the year 2030, but only if the Government becomes a leader in this area.

Mr. Speaker, the small initial subsidy represented by this tax credit aids this fledgling industry and provides a foundation for an

economy built on renewable, clean energy. I would like to have seen these tax credits included in the bill. I hope this situation will be rectified and we can work to keep it in conference with the Senate.

NATIONAL MANUFACTURING WEEK POINTS UP NEED FOR TELECOMMUNICATIONS EQUIPMENT MANUFACTURING BILL

HON. JIM SLATTERY

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. SLATTERY. Mr. Speaker, I rise today to recognize National Manufacturing Week. The skill and ingenuity of American manufacturers and workers has long been the envy of the world.

But we're all painfully aware that several critical sectors of our manfacturing economy have lost their competitive edge. As a nation, we must ensure that other industries do not experience the same fate that earlier befell our automobile, steel, and consumer electronics industries.

As we recognize American manufacturers this week, it is ironic that one sector—telecommunications—is not as strong as it could be. The restrictions imposed by the Modification of Final Judgment [MFJ] have prevented seven capable American corporations, and their workers, from designing, developing, or manufacturing telecommuncations equipment.

The irony is even more apparent when we see front-page headlines in the New York Times: "Research Spending Is Declining in U.S. As It Rises Abroad." This February 21, 1992, article, citing a National Science Board report, notes that, "American spending on research and development has begun to fall for the first time since the 1970's, even as foreign rivals increase their investment in research."

Last year, my colleague from Louisiana, Mr. TAUZIN, and I introduced legislation which would reverse this trend in a critical sector of our economy, telecommunications. This bill, H.R. 1527, would repeal the manufacturing restriction on the regional Bell companies, offering them the economic incentive to conduct research and development.

The Senate has already passed S. 173, a companion to H.R. 1527. On the occasion of National Manufacturing Week, I urge my colleagues to take action to strengthen a critical manufacturing sector of our Nation by supporting H.R. 1527.

AMERICAN HEART MONTH

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. STOKES. Mr. Speaker, I stand in support of American Heart Month. By a joint resolution in December 1963, Congress requested that the President issue an annual proclamation designating February as American Heart Month. In an Oval Office ceremony on Valentine's Day, the President signed this year's proclamation.

I urge my colleagues to join me in saluting the efforts of the Federal Government and the American Heart Association and its 3.5 million volunteers in battling this country's No. 1 killer—cardiovascular diseases, including heart attack and stroke. According to the AHA, the Nation's largest voluntary health organization dedicated to the reduction of disability and death from cardiovascular diseases and stroke, from 1979 to 1989 the adjusted death rate for coronary heart disease and stroke dropped 30 percent and 32 percent, respectively. However, the AHA points out that in spite of this drop in the age-adjusted mortality rate, in the same time frame, the actual number of cardiovascular deaths fell only 2.6 percent.

The research, prevention, and education programs of both the AHA and the National Institutes of Health have produced handsome results; however, much more needs to be done. The AHA reports that cardiovascular diseases claim a life in the United States every 34 seconds and more than one in four Americans suffer from one or more of these diseases at an estimated cost in 1992 of $108.9 billion in health care and lost productivity.

While I recognize the seriousness of all cardiovascular disease, I would like to highlight my grave concern about one of these diseases in particular—stroke. Stroke—a cardiovascular disease that affects blood vessels supplying oxygen and nutrients to the brain—is the third largest killer in the United States and a leading cause of disability.

The American Heart Association estimates that in 1992 stroke will strike 500,000 Americans, killing over 145,000. Moreover, some epidemiologists believe that there is a resurgence in the number of new cases of stroke. Research has shown that African-Americans are more prone to die or be disabled from stroke, possibly as a result of higher incidence of high blood pressure—the most significant risk factor for stroke. In fact the December 1991 edition of "Stroke," one of AHA's six scientific journals, reports two studies showing African-American stroke victims suffer more disability and recuperate at a slower rate than white patients.

The AHA reports that stroke survivors in the United States now number about 3 million; but, many of these victims confront mental and physical disabilities and extraordinary medical expenses. The AHA estimates that in 1992 stroke will cost the United States $16.7 billion in related health care costs and lost productivity.

Yet, the Department of Health and Human Services research investment against stroke totals only $94 million. The National Institute of Neurological Disorders and Stroke [NINDS], the Federal focal point for all neurological research, including research on stroke diagnosis, treatment, rehabilitation, and prevention; devotes only $60.295 million in the fight against America's third largest killer and chief cause of disability. However, I applaud the NINDS for conducting two studies in an effort to explain the disproportionate incidence and mortality rates from stroke between African-Americans and white Americans. Investigators are assessing stroke risk factors, including diet, smoking, and high blood pressure.

During the third year of the Decade of the Brain, I urge my colleagues to provide significant growth in funds to allow the NINDS to move toward the goal for stroke identified in the National Advisory Neurological Disorders and Stroke Council's June, 1990 Implementation Plan: Decade of the Brain, "prevention of 80 percent of all strokes and protection of the brain during the acute strokes within the Decade of the Brain." Increased resources for stroke research are vital in light of the scientific opportunity in this area and the Nation's growing older population. According to the American Heart Association, about 72 percent of stroke victims are 65 years of age of older.

RADIOACTIVE RUSSIANS

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. WALSH. Mr. Speaker, I rise to praise the efforts of relief organizations such as the Children of Chernobyl Relief Foundation, a group that provides aid to children who are suffering from the ravages of Chernobyl.

The children of Chernobyl Relief Foundation is a nationwide, humanitarian relief organization that specializes in aiding the children affected by the 1986 catastrophe. In less then 3 years this organization has arranged six major airlifts of medical supplies to the Ukrainian Republic. More importantly, the Children of Chernobyl Relief Foundation is the only major Chernobyl aid provider which has developed a system of meticulous safeguards, to make sure that the aid provided actually reaches its destination.

The need for a massive infusion of medical aid to the Ukraine is undeniable. As of January, the Ukrainian Ministry of Health reported that there was a critical shortage of basic medicine and food in hospitals. The administration's recent airlift of medical supplies to the region through its "Provide Hope" operation has temporarily eased the shortage of medical supplies. However, the need for continual airlifts of medical supplies to Ukrainian hospitals is imperative

There were thousands of children evacuated from the region most heavily contaminated by Chernobyl's radiation. A frighteningly large number of these children are already suffering from cancer, leukemia, thyroid disorders, birth defects, and other immune deficiencies. The world's response to Chernobyl and its victims has been spotty. The victims of Chernobyl, particularly the children who have been most severely affected by the explosion, can not be abandoned. I urge my colleagues to push for additional humanitarian relief to Ukraine and to exhort the administration to show more of a commitment to the children of Chernobyl.

A TRIBUTE TO ILLINOIS STATE REPRESENTATIVE MYRON OLSON

HON. J. DENNIS HASTERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. HASTERT. Mr. Speaker, on Saturday, January 25, 1992, the people of Illinois lost a dedicated public servant. Seventieth District State Representative Myron Olson collapsed at his home after shoveling a heavy weekend snow.

Myron and his wife, Rosemary, made their home in Dixon, IL, The boyhood home of another great American: President Ronald Reagan.

There must be something about Dixon and Lee County that produces the finest, because both men shared a great compassion for people, a contagious sense of humor, a tireless dedication to serving those in need, and a passionate love of America.

Clark Kelly, a seasoned political reporter for the Dixon Telegraph, summed up the feelings of so many in a front page tribute on January 27.

Myron was a public servant in the truest sense of the word. He was a friend. He didn't ask your brand of politics. You came to him for help and if it was in his grasp, he helped. If it wasn't, he would turn you over to someone who could.

Myron loved politics but he hated phoniness. He wanted to know where you stood up front. It didn't matter if you had a different opinion.

I honestly believe Myron did not have an enemy in the world. With him, what you saw was what you got.

Today, Myron is gone. There is an emptiness in my heart because guys like Myron only come around once in a lifetime.

He left a legacy that those who come after him can build on, but try as they might they will never top him.

I have lost a friend. God gained a public servant. I have no doubt He welcomed Myron on Saturday with open arms saying "well done thou good and faithful servant."

Dixon is a place where Americans still wave the flag with pride. On the day of Myron's funeral the huge flag on the courthouse lawn gently waved in the cold winter breeze at half staff in tribute to a fallen friend. Myron Olson's life was a credit to that flag and to the great Nation it represents. We are richer because we had the privilege to know him.

NATIONAL MARROW DONOR REGISTRY TOPS HALF A MILLION VOLUNTEERS

HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. YOUNG of Florida. Mr. Speaker, there is good news to report today. The National Marrow Donor Program has reached a major milestone as the national donor registry has toppled half a million volunteers. They have taken the quick and simple blood test required to be listed in the registry to offer the living gift of life and hope to otherwise terminally ill patients throughout our Nation and the world.

When I began my work more than 6 years ago to establish this national registry, I was told by many medical experts and researchers that this program would never work and that we would never succeed in recruiting more than 50,000 donors. Proudly I report that in less than 4½ years, we have met and surpassed that pessimistic prediction 10 times over as we continue our work to build a national registry of 1 million volunteer donors.

As I have said so often, the secret to the success of this program is people, people who are willing to be part of this modern medical miracle that is saving lives every single day. More than 1,150 patients have found matched unrelated donors through the registry in the past 4 years and we are now facilitating an average of 40 transplants per month. Last month alone, a record 55 transplants were completed.

This is not only a national program that touches virtually every American community, but it is a global program which enables marrow to cross international boundaries several times each month.

Having sponsored and been involved with hundreds of donor recruitment and education drives throughout our Nation, I can tell you that the response to our life-saving message has been overwhelming. Whenever an individual or group learns about the program, they can't wait for their opportunity to roll up their sleeves and take the simple blood test that is required to join the registry.

Every individual involved with this program is a true American hero. This includes the medical researchers who pioneered and continue to perfect the marrow transplantation and tissue typing techniques, the doctors and nurses who care for our patients, the donor and transplant center coordinators who share the excitement of every donor and patient who have been matched for a transplant, the staff of the National Marrow Donor Program throughout our Nation who live this program every waking hour, the volunteers who have come forward to join the national registry and give hope to another human being, the patients who cling to the hope that a donor will be found and that their transplant will be a success and will help further the science, and finally the thousands of volunteers who have taken this program on as a cause and who have recruited donors in their places of work, their neighborhoods, and throughout their communities.

I think of the hundreds of families that initiated donor recruitment drives in their hometowns to give hope to a loved one. And I think of the thousands of other individuals who took on the cause to recruit donors simply because they wanted to help another person in need. Such was the effort that was begun last year by one woman in the small town of Longview, TX, which developed into a groundswell that has enveloped the entire State of Texas and its neighboring States. Called "Because I Care," this crusade has organized walks to raise funds for tissue typing and organized donor recruitment drives throughout the Southwest. It is symbolic of the great American spirit of voluntarism through which we have experienced so much success these past 4 years.

Mr. Speaker, my colleagues in the House can take great pride in the roll they have played in supporting the growth of the National Marrow Donor Program. They can be sure that the moneys we have appropriated for the program through the Navy and National Institutes of Health gave birth to the national registry and have provided it with its base of support. These funds have been wisely but frugally spent to be sure that the program gets the most for every dollar invested. The portion of these funds dedicated to donor recruitment programs has provided the boost that was needed to spur the growth of the registry. They also enabled the National Marrow Donor Program to devote special attention to the need to target minority groups to ensure that the registry reflects our Nation's great ethnic diversity. Less than 2 percent of the first 20,000 volunteer donors were minorities. Today they number more than 60,000, or 14 percent, with 20 percent of the new volunteers coming into the registry being from minority groups.

With more than 70 donor centers and 40 transplant centers, the National Marrow Donor Program continues to expand its reach across our country to meet the growing demand for donors and transplants. The program also continues to expand its technical base to bring on line the most sophisticated computer technology to expedite critical communications with transplant and donor centers, doctors, patients, and volunteers.

The record of success of this program is unparalleled and the results of the success are seen every day when another patient walks out of a transplant center cured of leukemia or any 1 of 60 other fatal blood disorders. But there remains much more to be done, because even though we match donors and patients at the rate of more than 1 per day, we need to match them at the rate of 24 per day if we are to treat every American patient in need of a transplant.

Continued Federal support will help us to achieve this goal by continuing to build the national registry. These funds will also help ensure that the registry continues to expand its ethnic diversity so that all racial groups are well represented and have the opportunity to find a matched donor.

Other support is required, however, and will continue to come from community wide efforts such as those held in all parts of our Nation from St. Petersburg, FL, to Longview, TX, to Spokane, WA, and to right here in our Nation's Capital. An important source of this support has come from American businesses and industries large and small. Many business executives who have learned of the program have agreed to undertake and sponsor donor education and recruitment drives for their employees. More than 500 businesses and corporations have joined these efforts. Among them are some of our corporate giants such as 3M, BP America, and General Mills. In my district alone, 25 businesses, including the Home Shopping Network which was one of the first corporate sponsors, have sponsored wide scale donor recruitment efforts.

Mr. Speaker, establishing and funding the National Marrow Donor Program has been one of the most rewarding experiences of my life. With the continued support of my col-

leagues in the House, and the volunteers throughout our Nation without whose energy and excitement it would not be possible, I soon will be able to report to you that we have reached our next milestone, that being a national registry of 1 million donors and a registry which enables us to find a donor for every patient in need of a transplant. This is a great cause that can unite our Nation and the nations of our world in this medical miracle which allows one human being to give the gift of life to another.

NATIONAL ASSOCIATION OF FEDERAL CREDIT UNIONS

HON. NEIL ABERCROMBIE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. ABERCROMBIE. Mr. Speaker, 1992 marks the 25th anniversary of the National Association of Federal Credit Unions.

In my own State of Hawaii, more than half a million people—half the population of my State—are credit union members.

They are part of a nationwide movement founded not for profit, not for charity, but for service.

That credo of service is reflected in the way credit unions are managed in Hawaii and throughout the Nation.

Credit unions are owned by their depositors—share holders—and run by directors elected by those same depositors.

Credit unions are grassroots American democracy in action: One person, one vote.

Credit unions represent the communities they serve.

They are the communities they serve.

For that reason, Mr. Speaker, I invite my colleagues to join me in saluting the National Association of Federal Credit Unions on its 25th anniversary.

It delivers the message loud and clear: Twenty-five years of service to America's credit unions is 25 years of service to America.

AMERICANS ARE TIRED OF PARTISAN POLITICS

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1992

Mr. PACKARD. Mr. Speaker, America has emerged the victor of the cold war, and it now faces a new economic challenge. We must address the issue of economic conversion as we scale back our Defense budget in the post-cold war era. California has been hit especially hard as the cold war has drawn to a close, and every congressional district in the Nation will feel the impact. We must now address how we will convert our military victory into an economic victory as we face these new economic challenges.

I support the Defense cuts that were proposed by the President. I believe that savings from reduced defense spending should go toward reducing our spiralling Federal deficit. For this reason, today I introduced legislation expressing the sense of Congress that this and any future reduction in Defense spending should be used for deficit reduction.

The economy has already been hit hard by the recession and by current Defense reductions. Thousands of workers have been laid off and are forced to take lower skill jobs or, worse, are forced to join the Nation's growing number of unemployed.

Even before the President announced new and deeper cuts to the Defense budget, the Defense budget project estimated that as many as 800,000 jobs would be lost as a result of the Defense cuts that are underway. Deeper cuts will force even more workers into an already weak job market.

Congress must implement legislation that will spur the economy and create jobs. I believe we can revitalize the economy and balance the negative impacts incurred from reduced Defense spending. By encouraging growth in the Defense and aerospace industry we can help to offset these negative impacts. Therefore, I am introducing legislation to both permanently extend the research and development credit and to permanently reinstate the investment tax credit. The tax credit allows a credit for 20 percent of a firms's investment in research and development. Their investment tax credit allows business a tax credit of 10 percent against the cost of investments such as machinery and equipment. Together, these two tax credits will help to foster the strong economic climate necessary to help the economy fill the gap created by decreased Defense spending.

I urge my colleagues to cosponsor these two pieces of legislation. The defense and aerospace industries can lead the Nation as we establish a high technology economic sector. A strong, vigorous domestic economy will allow America to compete in the global economy.

I also rise today in support of H.R. 4200 offered by the Republican leader, Mr. MICHEL, and Mr. ARCHER. I'd like to reiterate my distaste for partisan steamroll tactics that forced the Republicans to consider our proposal under a rule which will predetermine the outcome.

By denying us the motion to recommit, they have effectively stifled any real consideration of our proposal. You cannot formulate sound policy if you gag everyone who offers an alternative vision, I have no illusions about the importance of this debate, however, I am afraid that in this case the Democrat's partisan politics have prevailed over sound economic policy.

Instead of concentrating on the redistribution of wealth, like our friends across the isle, the Michel-Archer substitute concentrates on creating economic expansion. Congress must pass a budget that reinvigorates our economy and creates jobs. It is difficult to justify the democrat's attempt to sacrifice America's economic expansion under the guise of fairness. What the Michel-Archer substitute seeks to do is to reinvigorate the economy and create jobs. Our object should be to create and maintain incentives to make the economy grow.

I think it is interesting to note that the Democrats are working to pass a competing economic package that increases taxes on upper income taxpayers in order to finance a tax cut for middle-class Americans that would amount to just $1.09 per day per family. This hardly provides relief or creates growth. This proposal is simply an attempt to escalate the issue of tax fairness into class warfare in an election year. I find this appalling. Americans are tired of partisan politics. They want action.

THE NATURAL RESOURCE DAMAGE ASSESSMENT INITIATIVE

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. HOCHBRUECKNER. Mr. Speaker, as we discuss the administration's budget request for the U.S. Fish and Wildlife Service, I would like to highlight the importance of the natural resource damage assessment initiative.

As you know, the Environmental Protection Agency [EPA] has identified more than 33,000 hazardous waste sites in the United States. More than 1,200 are listed on EPA's National Priority List and are subject to all of the provisions of the Comprehensive Environmental Response, Compensation, and Liability Act [CERCLA], commonly referred to as Superfund. The natural resource damage assessment provisions of CERCLA provide trustee agencies, such as the Department of Interior through the Fish and Wildlife Service, with the authority to claim damages from those responsible for injuring fish and wildlife or their habitat. This "polluter pays" concept puts the burden of cleaning up hazardous waste sites and restoring injured resources where it belongs—in the hands of those responsible for the contamination and not the taxpayer.

In fiscal year 1991, the Fish and Wildlife Service [Service] received an appropriation of $1.5 million to initiate a natural resource damage assessment program. This funding supported, in whole or in part, the efforts of approximately 75 permanent and temporary personnel and enabled the Service to initiate five high priority damage assessments. Additionally, these damage assessment personnel were responsible for negotiating more than $25 million in reparations from responsible parties to restore habitat impacted by toxic chemicals and to provide compensation for lost use. Additionally, as part of the settlements, the Service was usually reimbursed for all costs associated with conducting the assessments and settling the cases. This represents an outstanding return on the investment.

In fiscal year 1992, the Service proposed a $10 million natural resource damage assessment initiative to establish a revolving trust fund in order to build on the successes achieved with the congressional add. Ultimately, that proposal evolved into a $5 million Department of Interior initiative, but only after the Service's $1.5 million congressional add was offered as a decrease. The final result of this action is that the Service was left without funding to support the personnel already hired to initiate damage assessments and to negotiate settlements. Furthermore, the revolving

fund was earmarked for all agencies in the Department of Interior to share and, ultimately, final congressional action reduced the fund to $4.3 million. Although the Service is in the process of appealing to the Department of Interior for a portion of the $4.3 million to support personnel, the outcome is uncertain. It will be impossible for the Service to attract and retain qualified personnel if a permanent funding base is not forthcoming and an unprecedented opportunity to restore injured natural resources at the polluters', and not the taxpayers', expense will be lost.

IRISH BRIGADE DAY, HOUSE JOINT RESOLUTION 427

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. GILMAN. Mr. Speaker, I would like to take this opportunity to draw the attention of my colleagues to a resolution I have introduced today, House Joint Resolution 427, which designates March 17, 1992 as Irish Brigade Day.

Throughout the history of our Nation, Irish-Americans have made vital contributions to the defense of liberty and freedom. My resolution recognizes the contributions of Irish-Americans to our Nation, both in fighting for our independence and assuring our Nation's survival.

In the early days of our Nation's struggle for survival, the officers and men of the Irish Brigade in the service of France volunteered to fight for American liberty in 1775, 3 years before the entry of France in our War for Independence.

Furthermore, the officers and men of the Regiment of Walsh of the Irish Brigade volunteered to serve as American Continental Marines with John Paul Jones on the *Bonhomme Richard* and fought for American liberty in our War for Independence at Savannah, GA. Additionally, Irish troops at Glouster Point, VA under Count Arthur Dillon of the Legion of Lauzin in the Army of Rochambeau closed the ring around Cornwallis at Yorktown, thus assuring victory for Washington and independence for the United States.

More recently in the 20th century, the U.S. Army Command and General Staff School at Fort Leavenworth, KS, in its hallway of combat leaders, has chosen Col. William "Wild Bill" Donovan of the 69th Regiment of New York (165th U.S. Infantry) as "The Epitome of Combat Leadership" in World War I.

A resolution proclaiming March 17, 1992, as Irish Brigade Day would be a fitting tribute to the sacrifices and contributions of these great American heroes and would honor our veterans and Irish-Americans who have sacrificed so much for our country.

Mr. Speaker, I request that the full text of House Joint Resolution 427 be inserted at this point in the CONGRESSIONAL RECORD, and I invite my colleagues to cosponsor this resolution.

H.J. RES. 427

Whereas the United States of America is a nation of immigrants and the contributions of Irish immigrants and their descendants to the defense of the Public liberty has been a hallmark of Irish Americans;

Whereas the officers and men of the Irish Brigade in the service of France volunteered to fight for American liberty in 1775, three years before the entry of France in our War for Independence;

Whereas the officers and men of the regiment of Walsh of the Irish Brigade volunteered to serve as American Continental Marines with John Paul Jones on the "Bonhomme Richard";

Whereas the Irish Brigade fought for American liberty in our war for Independence at Savannah, Georgia and Irish troops at Glouster Point, Virginia under Count Arthur Dillon of the Legion of Lauzin in the Army of Rochambeau closed the ring around Cornwallis at Yorktown, thus assuring victory for Washington and independence for the United States;

Whereas throughout history, the Irish military and naval contribution to the United States has included many noted heroes;

Whereas the predominantly Irish Thompson Battalion of Pennsylvania became the keystone of Washington's Continental Army and under Anthony Wayne, the Infantry Line of Pennsylvania was known as the "Line of Ireland";

Whereas the United States Army Command and General Staff School at Fort Leavenworth, Kansas in its Hallway of Combat Leaders, has chosen Colonel William "Wild Bill" Donovan of the 69th Regiment of New York (165th U.S. Infantry) as "the epitome of combat leadership" in World War I; and,

Whereas Irish-Americans continue the tradition of honorable military service in the defense of the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 17, 1992, is designated as "Irish Brigade Day", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

THE INTRODUCTION OF HOUSE RESOLUTION CALLING FOR THE TERMINATION OF CERTAIN GSP PETITIONS

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. HORTON. Mr. Speaker, I am pleased to rise today to join my colleagues Mr. GUNDERSON and Mr. STENHOLM and others in introducing this resolution calling on the President of the United States to terminate the current generalized system of preferences [GSP] proceedings for products considered and rejected in the 1990 GSP annual review and to reinstate the President's determination of May 3, 1991.

On July 12, 1991, the administration announced, as part of a trade enhancement initiative for Central and Eastern Europe, that recently rejected GSP petitions from Central and Eastern European countries would be reconsidered. This despite current regulations requiring a 3-year wait before rejected GSP petitions can be refiled absent specific intervention by the President.

The GSP Program is being used to achieve certain short term foreign policy goals at the expense of many American industries, including dairy and wine that are so vital to the economy of New York State.

I support United States efforts to assist the post-Communist countries of Central and Eastern Europe. But I do not think we ought to make unilateral trade concessions to do so. And this assistance ought not to be granted at the expense of American business and American jobs. Yet, that is exactly what granting GSP status to the Central and Eastern European countries will do.

The American dairy industry has been extremely hard hit recently. Last year dairy farmers received the lowest price for their milk in nearly 15 years. The dairy industry has been suffering for quite some time. Since 1980, New York State has lost approximately 30 percent of its dairy farms, and estimates are that we could lose another 10 percent unless the price of milk improves.

The U.S. wine industry suffers from a large trade imbalance. In 1989, this imbalance was in the order of $835 million. Increased excise taxes and Government regulations have already saddled the wine industry with additional costs and led to decreased sales. The excise tax alone will result in the industry paying an additional $1.5 billion to the Government over the next 5 years.

Granting GSP status to Hungary and the 130 other GSP nations would severely hurt the American dairy, wine, and other industries. It is neither a good precedent nor fair policy to reconsider GSP petitions less than 100 days after they were rejected.

Once again, I want to commend Mr. GUNDERSON and Mr. STENHOLM for the steadfast work on this issue. I hope the committee of jurisdiction will expediently report this bill to the full House and urge my colleagues to support this resolution so that we may send a strong, unmistakable message—American firms must have free and fair access to foreign markets in order for foreign companies to receive similar treatment from the United States.

SERVING IN CONGRESS—THEN AND NOW

HON. DENNIS E. ECKART

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. ECKART. Mr. Speaker, I rise today to take note of an article written by my friend and Ohio colleague, Congressman DON PEASE, which appeared in the February 13, 1992, issue of the Christian Science Monitor. As a retiring Member of Congress myself, I agree with many of the points raised by Congressman PEASE about the changing political climate and his frustrations with the job of a Congressman. I commend the article, which follows, to your attention.

[From the Christian Science Monitor, Feb. 13, 1992]

SERVING IN CONGRESS—THEN AND NOW

(By Don J. Pease)

As I begin my final year in Congress before retiring, I look back 15 years and realize how

very much the "rules of play" for congressmen have changed.

Shortly after I assumed office in 1977, a senior colleague counseled me: "Don, pay attention to your constituent newsletters—they will re-elect you."

My colleague's advice reflected his experience as a congressman during the 1960s and 1970s. It was good advice, but even as it was given, it had already begun losing its relevancy. Today, it almost seems quaint.

Back then, three or four newsletters per year from one's congressman made a real impact. Today, the ways in which citizens learn about Congress and their representatives are vastly different.

Furthermore, citizen attitudes about the news they receive regarding Congress reflect critical social and economic changes in the United States.

From the 1950s into the 1970s, America was expanding and prospering. Federal revenue grew even faster than the nation's economy. Congress could enact new social programs without trimming back existing programs and without hiking the federal debt significantly. Presidents, both Republican and Democratic, cheerfully signed legislation creating the new programs. In times of recession, taxes could be cut and public works boosted.

In short, the news from Congress was mostly good, and it was reported to citizens mainly by the print media—newspapers and magazines—which had the time and space to provide depth and perspective to readers who in turn had the time and inclination to pay attention.

Politically, there was relative stability. Citizens generally identified with one major political party or the other. Local political organizations had active adherents and made a real difference in elections. Campaigns for Congress were straightforward, moderate in cost, and predictable.

Then a number of things occurred to profoundly affect how congressional campaigns are run and national laws are made.

Chief among them was the growth of television, which began to hit its stride in the 1970s as an influence on Congress. I can think of at least four ways TV has changed the political landscape.

For starters, it has helped distract Americans from former norms of civic responsibility. In some areas more than 54 cable TV channels now tempt citizens away from civic involvement and away from reading newspapers, magazines, and books that might give them more knowledge and perspective regarding public affairs. The average American family now watches roughly 50 hours of TV each week.

Second, the networks tend to trivialize news from Congress. Essentially, television is an entertainment medium, and that truth is manifest in network news broadcasts. Most Americans, especially young people, now get the bulk of their news from TV. In my view, they are poorly served by 30-minute newscasts in which each news item receives a minute or two of air time.

Third, 30-second TV commercials have, since the mid-1970s, become the dominant force in closely fought congressional elections.

When voters enter the booth on election day, they likely will have been influenced more by a two-week string of negative TV spots than by two years of legislative effort, personal campaigning, newspaper articles, newsletters, and candidate forums. It is not TV's fault that 30-second spots are so powerful, but the power has an immeasurable punch at the polls.

Finally, 30-second commercials pack a one-two punch, and the second is their enormous cost—a single spot on one station in a major media market can cost more than $10,000. Representatives and their challengers must reckon not only with the power of TV ads but with the necessity of raising hundreds of thousands of dollars to pay for them.

Mention of campaign fundraising calls to mind political action committees and the interest groups that organize PACs. Many members have turned to PACs for needed funds, thereby endowing them with greater importance.

Like television, PACs have developed over two decades into a major influence on Congress. Through the use of ever more sophisticated computer data banks, Americans are constantly encouraged to act according to pecuniary or "hot button" individual interests with little regard to community or national interests.

In contrast to earlier periods, interest groups are now a significant source of information to voters regarding Congress. To be sure, the information is fragmented, with each interest group reporting only congressional action and individual representatives' votes on issues of concern to its members. But information is conveyed. A member of Congress must assume that each vote cast gets reported back home to the constituents who care most about that particular vote.

To round out my contrasts with then and now, let me cite the informational role (often destructive, in my opinion) of radio talk show hosts; the decline of local political parties along with nearly all public-affairs organizations; the growth of two-worker and single-parent families for whom there is little discretionary time for civic involvement; and the plethora of recreational diversions that affluence has brought.

And, most especially, the change in the nation's economy. Growth rates have declined, family incomes have stagnated, the rapid escalation of federal revenue has ceased, federal deficits have skyrocketed, spending has become a "he-wins-you-lose" proposition. The political situation is anything but stable.

How do members of Congress react to these large changes in the atmosphere in which the legislative game is played? Two reactions stand out in my mind.

First, members of Congress are increasingly skittish. That is to say, members are cautious and careful. they are acutely aware, for example, that votes on certain issues—abortion, homosexuality, flag-burning, crime—can be turned into negative TV commercials. Too frequently "safe" votes win out over "right" votes.

Representatives prefer not to bring controversial bills to a vote in the House or, if a vote is unavoidable, they water bills down to make them less objectionable to interest groups. Major legislation (like last year's banking bill) crawls through months of work in committee because members are loath to make necessary compromises that might offend one group or another.

On issues of broad interest, such as tax increases, some members refuse to jeopardize their own careers for what others may consider the national interest. The 30-second negative TV spot syndrome makes it extraordinarily difficult for congressional leadership to corral a majority of votes on such legislation.

Besides being skittish, members of Congress cope with the new rules of the game by being adaptable.

Press aides assiduously pursue networks and local stations for appearances for their bosses. Representatives produce their own TV shows and mail them to local stations; they react instantly to breaking news with self-initiated satellite transmissions; they learn to comment on complex issues in 10-second sound bites.

At campaign time, members of Congress develop their own 30-second negative TV commercials to blunt the TV attack of opponents. They steel themselves to the notion of budgeting $20,000 for a media consultant; $25,000 for a pollster to guide the content of TV spots; and $400,000 and up to pay for air time.

If special-interest groups use increasingly sophisticated technology to target Congress, members adapt with modern technology of their own. In-office computers spew out "personal" replies when some group generates thousands of postcards on an issue. The name of anyone who ever writes to his or her representative goes into a massive data bank for future mailings.

Adaptability extends, of course, to campaign finance. If campaigns cost a half million dollars or more, then the money must be raised. Representatives, even those who hate raising money, become very good at it. Political action committee directors are cultivated, home-district PAC contacts are established, PAC "events" (at $300 to $1,000 per attendee) are organized by a representative's own fund-raisers or by hired professionals.

Nor do congressional fundraisers neglect the marvels of computer technology. Prospective large ($1,000) donors as well as smaller donors go into the computer not only from within a congressman's district, but also from the entire nation.

And so, with adaptability the watchword, the work of Congress goes on. Candidates run and the winners go to Washington. Congress organizers, hearings are held, decisions are made, legislation is enacted. The nation's problems get addressed (how well may be another question).

Still, I yearn on occasion for the times when problems were more tractable, when the nation's economy was growing, when federal fiscal resources were adequate, when voters were more engaged in the democratic process, when television, computers, special-interest groups, and fundraising were not so influential on elections and legislation.

The age-old question arises: It's change, but is it progress?

SOCIAL "INSECURITY"

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. GALLO. Mr. Speaker, in the past year I have been contacted on more than one occasion by constituents who received commercial solicitations through the mail with their Social Security numbers printed on the envelopes.

Just last week, I read in an education publication that some states are using Social Security numbers as a student identifier on public computer networks which contain detailed personal as well as scholastic information concerning each student and his or her family. With the widespread and growing use of Social Security numbers as the key to unlocking a person's entire history, financial and otherwise, I feel the time has come to protect this private identifier from the fraud and abuse to which it may currently be prey.

My investigations into the matter of Social Security number protection reveal that although there are extensive rules governing when a person is obligated to disclose his or her number, there are no restrictions on the third party sale or disclosure of a person's Social Security number for commercial purposes. I believe this is a dangerous practice which not only violates a consumer's right to privacy, but also opens the system to abuse.

Today, I am introducing legislation to prevent potential misuse of the system. My bill would ban trade in Social Security numbers on the open market by making the unauthorized sale or disclosure of these numbers subject to criminal penalties. I respectfully request the support of my colleagues in making this practice illegal, as it should be.

A CONGRESSIONAL SALUTE TO BARBARA NYDEN RODSTEIN

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to an outstanding woman and a remarkable achiever whom I greatly admire, Barbara Nyden Rodstein. On April 2, 1992, in recognition of her tireless efforts on behalf of the community, Barbara will serve as chair of the Southern California Conference for Women Business Owners.

Many know Ms. Nyden Rodstein as the founder, chair, and chief executive officer of the Los Angeles based Harden Industries, a domestic manufacturer of bath fixtures and accessories but, few know of the support and guidance she gives to others wishing to start out on their own. Established in 1982, Harden Industries quickly grew to become an international success with revenues exceeding $25 million. Its products are sold in 46 countries with distribution and sales offices in major cities around the world. Harden Industries has corporate headquarters and factories in Los Angeles and employs over 500 people worldwide.

One of the many ways in which Barbara gives her time and talents to the community is by serving as the only woman on the University of Southern California's entrepreneur advisory council. She is also the entrepreneur in residence at the University of California at Los Angeles [UCLA], where she shares her success story with future entrepreneurs. In addition, she has recently formed the Harden Entrepreneurial Learning Programs which offers H.E.L.P and direction to students.

Barbara's noteworthy contributions to her community have not gone unnoticed for she has received numerous awards and honors. In March of 1990, she received the 1990 Business Woman of the Year award from the National Association of Women Business Owners group. In May of 1991, she was honored by the Los Angeles Boy Scouts of America and in November of 1991 was chosen as the kick-off speaker for the National Entrepreneur Institute's President Forum event. She has been commended by the California State Senate, Los Angeles Mayor's office, the Los Angeles County supervisors, the Los Angeles City Council, and received a special note of recognition from President George Bush.

Barbara Nyden Rodstein has earned admiration and respect both as a business woman and as a community leader. She is identified as a symbol of success and hope. On this most deserving occasion my wife, Lee, joins me in extending this Congressional Salute to Barbara Nyden Rodstein, and we wish her all the best in the years to come.

A TRIBUTE TO BILL GRAHAM

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. LANTOS. Mr. Speaker, on March 1, 1992, the Holocaust oral history project will honor the late Bill Graham, the great impresario who tragically lost his life in a helicopter crash last year. Today I ask my colleagues to join me in paying tribute to Bill, one of the great philanthropists and champions of artistic expression in this country.

Producing his first concert in 1965, Bill Graham established himself as an industry leader by setting the highest standards of ethics and excellence in the business. His undertakings were characterized by their diversity and their ability to electrify. In the course of his career, he brought us performances by Buddy Rich; Fats Domino; B.B. King; Ray Charles; Ravi Shankar; the Neville Brothers; Lynard Skynyrd; the Twyla Tharp Dance Company; Alvin Ailey American Dance Theatre; Rodney Dangerfield; Dough Henning; the Peking Opera; Le Cirque Du Soleil; Moscow Circus; Bob Dylan; the Rolling Stones; Crosby, Sills, Nash, and Young; George Harrison, Santana—the list goes on and on.

As the impressive list of his accomplishment shows, Bill was a man of extraordinary talent and incomparable drive. His mark on the world of entertainment will neither be matched nor forgotten. However, to fully understand and appreciate his life work as a purveyor of art and as a torchbearer for freedom of artistic expression, it is important to know the story of his youth, to know the world into which Bill was born. Indeed, to understand his past is to understand the vitality and force of his life.

Like many of those who will be remembering Bill during the Holocaust oral history project's celebration of his life, he was a survivor of Nazi horror. He was born in 1931, as Wolfgang Grajonca to Russian Jewish parents in Berlin. Two days after his birth, his father died in an accident and his mother, needing work, was forced to send Bill and the youngest of her five daughter to an orphanage.

Bill and his sister were in France as part of a student exchange program when the German armies invaded in 1939. With a Red Cross worker, he and his sister, along with 65 other children, fled France. Their grueling odyssey took them to Marseilles and Toulouse, across the Pyrenees to Barcelona, Madrid, and Lisbon, then on to Casablanca, Dakar, Bermuda, Cuba, and, finally, New York. Bill was 1 of only 11 children to survive the journey. His sister was among those who perished.

And so Bill escaped the terror of the Nazi regime, a time and place where freedom of expression was nonexistent, where artists and thinkers whose work did not extol the virtues of the Nazis and their perverted concept of culture were labeled degenerates, vilified, and murdered.

When I think of the culture Nazis fought to impose on Europe, the society they sought to dictate, the words of Hanns Johst, the celebrated Nazi poet, come to mind: "When I hear the word 'culture', I reach for my gun." That was the world Bill left behind.

But, as many survivors know, one never completely departs the world of tyranny once they inhabit it. Too often, escape is only physical; memories tether us to that world forever and the horror is never forgotten.

I imagine that it was the sad experience of his youth that fueled his drive to promulgate and promote free artistic expression in all of its forms. Indeed, the freedom of expression, thought by many to be a birthright, was something Bill never took for granted. He knew firsthand the intolerable alternative, and his life's work reflected that knowledge.

Mr. Speaker, when we gather next week in San Francisco to remember Bill Graham, there will be a great deal of sorrow. He was taken from us suddenly, and the abruptness of his death was a great shock to those who knew and loved him. But it will be more than sorrow filling the room. We are meeting to celebrate Bill's full and fruitful life: His fateful escape from tyranny, his unparalleled contribution to the field of entertainment, and his steadfast commitment to the cause of artistic freedom and expression. Bill Graham has graced us all, and we will never forget him.

BE KIND TO ANIMALS AND NATIONAL PET WEEK

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. GUARINI. Mr. Speaker, over 50 percent of the households in our country own a pet. Those Americans who own a pet know that living with animals involves a great deal of responsibility. Animals depend on people and it is important for individuals to commit to caring for them properly and to guard against their cruel and irresponsible treatment. As in previous years, today, I am introducing a joint resolution to designate a week in May as "Be Kind to Animals and National Pet Week." This legislation will help promote kinder treatment of animals and show appreciation for those who work to help and protect them.

"Be Kind to Animals and National Pet Week" will recognize the efforts of veterinary medical professionals as well as animal protection organizations, State humane societies, and local animal care agencies throughout our country. By providing medical treatment, spaying and neutering services, and shelter for unwanted, abused, and abandoned animals, these individuals work every day to improve the health and welfare of our pets. Their dedicated services deserve to be honored.

"Be Kind to Animals and National Pet Week" will help raise public awareness of the

need to treat the animals who depend on us responsibly. Children especially, must be taught in our schools and communities that as members of a humane and civilized society, we must provide for the animals we live with. As Americans we must renew our commitment to showing respect for all living creatures.

In addition to offering friendship and companionship, pets help people in many other ways. Studies show that senior citizens who own a pet visit their physicians less often and handle stress better. Growing up with a pet in the house has even been shown to enhance social skills and self-esteem in children.

In previous years, you and a majority of my colleagues supported legislation to establish the first week of May as "Be Kind to Animals and National Pet Week." I urge the support of my distinguished colleagues again and ask them to join me in passing this worthwhile resolution.

ABANDONED MINE RECLAMATION FUND

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. RAHALL. Mr. Speaker, today I along with the chairman of the Committee on Interior and Insular Affairs, George Miller, am introducing legislation to fulfill a commitment made to coalfield residents.

This commitment was one made by the Surface Mining Control and Reclamation Act of 1977. In this law we sought to address the plight of the people of the Appalachian Region, and those in coal mining regions of the Nation as a whole, whose lives are affected on a daily basis by the health, safety and environmental hazards associated with abandoned mine lands. Established by this law was an Abandoned Mine Reclamation Fund, financed by a reclamation fee assessed on every ton of mined coal. To date, under this program, many of the scars left over from past mining practices—the moonscapes, the burning refuse piles and old mine shafts—have been reclaimed. Lands are being contoured, revegetated and brought back to productive uses.

Yet, I am advised that when the existing authority to collect the reclamation fee expires at the end of fiscal year 1995, approximately $1.6 billion worth of high-priority health and safety threatening sites will remain unreclaimed.

The Bush administration recognizes this fact. Just this week, to its credit, the Interior Department transmitted to the Congress a draft bill to extend the authority to collect abandoned coal mine reclamation fees for an additional 2 fiscal years, through to September 30, 1997. As the transmittal letter from Assistant Secretary Dave O'Neal stated, much more remains to be done under this program and I agree with him.

However, what remains to be done cannot be accomplished by a simple 2-year extension. I am today proposing an extension of the fee collection authority through the year 2007. The amount of money raised under this proposal should allow us to reclaim and restore all of the most pressing sites, and to make some progress in addressing those which do not threaten public health and safety, but degrade the environment.

Also with this legislation I am seeking to accommodate one concern raised by the coal industry. At present, the coal industry is subsidizing the reclamation of abandoned non-coal mine lands. It is, in effect, paying for the past sins of the hardrock mining industry.

It is time, indeed long past the time, that we establish a new fund financed by the non-coal mining industry to provide for this type of abandoned mine reclamation. I am attempting to accomplish through legislation to reform the Mining Law of 1872.

The bill I am introducing today seeks to dedicate and refocus those fees paid by the coal industry to abandoned coal mine lands, rather than allowing this money to be used for non-coal projects once a State reclaims all eligible coal projects.

Mr. Speaker, I would also note that the program financed under this measure works to save coalfield citizens from the hazards associated with abandoned coal mine lands. But we must not forget the abandoned coal miner. And this gentleman from West Virginia certainly will not.

Finally, it is my intention to seek to include this measure in any national energy strategy legislation considered in the House of Representatives.

If we are to have a national energy policy it is my thought, and I am sure that of others, that we must balance energy development with social and environmental considerations.

THE NATIONAL BEVERAGE CONTAINER REUSE AND RECYCLING ACT OF 1992

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. MARKEY. Mr. Speaker, today I am introducing the National Beverage Container Reuse and Recycling Act of 1992. This legislation combats the problems of shrinking landfill space, skyrocketing waste disposal costs, misspent energy and natural resources, and litter-strewn roadsides by setting in place a national beverage container recycling program. If passed, this bill would save millions of dollars in energy costs, divert a significant portion of the solid waste stream, foster the growth of a recycling infrastructure, and help reverse the throwaway ethic our Nation has embraced. And, most importantly, it will be at no cost to taxpayers.

The 200 million tons of municipal waste our Nation generates yearly is shameful testimony to the throwaway ethic. Of that total, containers and packaging are not only the single largest component, they are also the most easily recovered and account for over two-thirds of waste recycled. We can conquer the problem of one-way, throwaway beverage containers and have already done so in the 10 States, including my own, that have in place container deposit systems much like those the beverage industry abandoned three decades ago. Under these programs, which are the law in California, Connecticut, Delaware, Iowa, Maine, Massachusetts, Michigan, New York, Oregon, and Vermont, the consumer pays a deposit on each container purchased and is refunded that amount when the container is returned for recycling or refilling. Consumers in the deposit law States have proven the effectiveness of such legislation by reaching recycling rates of as high as 95 percent.

With just 30 percent of the U.S. population, these 10 States account for most of the beverage containers recycled nationwide. Over 90 percent of all plastic containers recycling, over 70 percent of glass recycling, and nearly half of aluminum recycling takes place in the deposit law States. Furthermore, recycling in the remaining States has been facilitated by the recycling infrastructure created by the programs of deposit States.

Consumers—and voters—have demonstrated the popularity of deposit laws. A public opinion survey conducted by the General Accounting Office [AGO] revealed that 70 percent of Americans support national deposit legislation. Significantly, deposit laws are most popular among those consumers in the best position to judge—the residents of deposit law States like Massachusetts and Oregon. And despite tireless industry efforts, no State has ever repealed a deposit law.

Our legislation would challenge States to accomplish a 70-percent recycling rate for beer, wine cooler, and soft drink containers.

To meet this goal, which falls well below the recycling rates accomplished by most current deposit States, States have the flexibility to put in place deposit or curbside systems of any sort. The bill prescribes a 10 cent deposit law for States that do not take the initiative to reach the 70 percent goal. Under our legislation, unclaimed refunds from deposits—estimated by the Congressional Budget Office to total as much as $1.7 billion—would be available to assist States in other recycling programs.

Despite the environmental, consumer, and fiscal benefits of deposit legislation, the beverage and packaging industries continue to defend the status quo. For the last two decades, these groups have engineered the defeat of deposit legislation in numerous States. The arguments put forth by the beverage industry have varied over the last 20 years. Today, they say, it might harm curbside recycling programs. They say this even in the face of substantial evidence that demonstrates the value of deposit laws working in tandem with curbside programs.

The city of Seattle recently completed a study on the compatibility of its successful curbside system with a deposit law, which the State of Washington does not now have in place. The report concluded that "the presence of a bottle bill would increase recycling levels of beverage containers and reduce the city's overall solid waste management costs." A city of Cincinnati study and even an industry-funded Franklin Associates report have produced figures that support the same conclusion.

Most importantly, deposit laws can help subsidize the costs of curbside programs by providing States with a new source of revenue from unclaimed deposits. And finally, curbside

programs, valuable as they are, are simply not an option in many parts of the country, especially in rural areas. In these cases, deposit systems represent the only chance for substantial recycling gains.

The beverage industry heralds its support for comprehensive recycling in advertisements that have appeared in many publications. But to them, comprehensive recycling excludes deposit legislation, the only approach that forces them to take an active role together with consumers and local governments in recycling. I agree that deposit laws alone are not the answer to our solid waste dilemma; comprehensive recycling means that the recycling battle must be joined on more than just one front.

As the 102d Congress prepares to consider one of the most critical issues it will face, the reauthorization of the Resource Conservation and Recovery Act [RCRA], deposit legislation must be considered a keypart of our overall approach to waste management issues.

I have joined with PAUL HENRY, who has championed deposit legislation in the House for years, and over 60 other Members including House Majority Whip BONIOR, Chief Deputy Majority Whip KENNELLY, and committee Chairmen FORD, MILLER, BROWN, DELLUMS, and STOKES in the introduction of this bill. We look forward to working with the members of the Energy and Commerce Committee when RCRA comes before the committee.

Finally, I urge my colleagues to support comprehensive recycling by cosponsoring the National Beverage Container Reuse and Recycling Act of 1992.

Mr. Speaker, I insert the text of the bill in the RECORD following my remarks:

H.R. 4343

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 Beverage Container Reuse and Recycling Act of 1992".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The failure to reuse and recycle empty beverage containers represents a significant and unnecessary waste of important national energy and material resources.

(2) The littering of empty beverage containers constitutes a public nuisance, safety hazard, and aesthetic blight and imposes upon public agencies, private businesses, farmers, and landowners unnecessary costs for the collection and removal of such containers.

(3) Solid waste resulting from such empty beverage containers constitutes a significant and rapidly growing proportion of municipal solid waste and increases the cost and problems of effectively managing the disposal of such waste.

(4) It is difficult for local communities to raise the necessary capital needed to initiate comprehensive recycling programs.

(5) The reuse and recycling of empty beverage containers would help eliminate these unnecessary burdens on individuals, local governments, and the environment.

(6) Several States have previously enacted and implemented State laws designed to protect the environment, conserve energy and material resources and promote resource recovery of waste by requiring a refund value on the sale of all beverage containers, and these have proven inexpensive to administer and effective at reducing financial burdens on communities by internalizing the cost of recycling and litter control to the producers and consumers of beverages.

(7) A national system for requiring a refund value on the sale and all beverage containers would act as a positive incentive to individuals to clean up the environment and would result in a high level of reuse and recycling of such containers and help reduce the costs associated with solid waste management.

(8) A national system for requiring a refund value on the sale of all beverage containers would result in significant energy conservation and resource recovery.

(9) The reuse and recycling of empty beverage containers would eliminate these unnecessary burdens on the Federal Government, local and State governments, and the environment.

(10) The collection of unclaimed refunds from such a system would provide the resources necessary to assist comprehensive reuse and recycling programs throughout the Nation.

(11) A national system of beverage container recycling is consistent with the intent of the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 et seq.).

(12) The provisions of this Act are consistent with the goals set in January 1988, by the Environmental Protection Agency, which establish a national goal of 25 percent source reduction and recycling by 1992, coupled with a substantial slowing of the projected rate of increase in waste generation by the year 2000.

SED. 3. AMENDMENT OF SOLID WASTE DISPOSAL ACT.

(a) AMENDMENT.—The Solid Waste Disposal Act is amended by adding the following new subtitle at the end thereof:

"SUBTITLE K—BEVERAGE CONTAINER RECYCLING

"SEC. 12001. DEFINITIONS.

"(1) The term 'beverage' means beer or other malt beverage, mineral water, soda water, wine cooler, or a carbonated soft drink of any variety in liquid form intended for human consumption.

"(2) The term 'beverage container' means a container constructed of metal, glass, plastic, or some combination of these materials and having a capacity of up to one gallon of liquid and which is or has been sealed and used to contain a beverage for sale in interstate commerce. The opening of a beverage container in a manner in which it was designed to be opened and the compression of a beverage container made of metal or plastic shall not, for purposes of this section, constitute the breaking of the container if the statement of the amount of the refund value of the container is still readable.

"(3) The term 'beverage distributor' means a person who sells or offers for sale in interstate commerce to beverage retailers beverages in beverage containers for resale.

"(4) The term 'beverage retailer' means a person who purchases from a beverage distributor beverages in beverage containers for sale to a consumer or who sells or offers to sell in commerce beverages in beverage containers to a consumer.

"(5) The term 'consumer' means a person who purchases a beverage container for any use other than resale.

"(6) The term 'refund value' means the amount specified as the refund value of a beverage container under section 12002.

"(7) The term 'wine cooler' means a drink containing less than 7 percent alcohol (by volume), consisting of wine and plain, sparkling, or carbonated water and containing any one or more of the following: non-alcoholic beverage, flavoring, coloring materials, fruit juices, fruit adjuncts, sugar, carbon dioxide, preservatives.

"SEC. 12002. REQUIRED BEVERAGE CONTAINER LABELING.

"Except as otherwise provided in section 12007, no beverage distributor or beverage retailer may sell or offer for sale in interstate commerce a beverage in a beverage container unless there is clearly, prominently, and securely affixed to, or printed on, the container a statement of the refund value of the container in the amount of 10 cents. The Administrator shall promulgate rules establishing uniform standards for the size and location of the refund value statement on beverage containers. The 10 cent amount specified in this section shall be subject to adjustment by the Administrator as provided in section 12008.

"SEC. 12003. ORIGINATION OF REFUND VALUE.

"For each beverage in a beverage container sold in interstate commerce to a beverage retailer by a beverage distributor, the distributor shall collect from the retailer the amount of the refund value shown on the container. With respect to each beverage in a beverage container sold in interstate commerce to a consumer by a beverage retailer, the retailer shall collect from the consumer the amount of the refund value shown on the container. No person other than the persons described in this section may collect a deposit on a beverage container.

"SEC. 12004. RETURN OF REFUND VALUE.

"(a) PAYMENT BY RETAILER.—If any person tenders for refund an empty and unbroken beverage container to a beverage retailer who sells (or has sold at any time during the period of 3 months ending on the date of such tender) the same brand of beverage in the same kind and size of container, the retailer shall promptly pay such person the amount of the refund value stated on the container.

"(b) PAYMENT BY DISTRIBUTOR.—If any person tenders for refund an empty and unbroken beverage container to a beverage distributor who sells (or has sold at any time during the period of 3 months ending on the date of such tender) the same brand of beverage in the same kind and size of container, the distributor shall promptly pay such person (1) the amount of the refund value stated on the container, plus (2) an amount equal to at least 2 cents per container to help defray the cost of handling. This subsection shall not preclude any person from tendering beverage containers to persons other than beverage distributors.

"(c) AGREEMENTS.—(1) Nothing in this subtitle shall preclude agreements between distributors, retailers, or other persons to establish centralized beverage collection centers, including centers which act as agents of such retailers.

"(2) Nothing in this subtitle shall preclude agreements between beverage retailers, beverage distributors, or other persons for the crushing or bundling (or both) of beverage containers.

"SEC. 12005. ACCOUNTING FOR UNCLAIMED REFUNDS AND PROVISIONS FOR STATE RECYCLING FUNDS.

"(a) UNCLAIMED REFUNDS.—At the end of each calendar year each beverage distributor shall pay to each State an amount equal to the sum by which the total refund value of all containers sold by the distributor for resale in that State during that year exceeds the total sum paid during that year by the distributor under section 12004(b) to persons

in that State. The total of unclaimed refunds received by any State under this section shall be available to carry out pollution and recycling programs in that State.

"(b) REFUNDS IN EXCESS OF COLLECTIONS.—If the total of payments made by a beverage distributor in any calendar year under section 12004(b) for any State exceed the total refund value of all containers sold by the distributor for resale in that State, the excess shall be credited against the amount otherwise required to be paid by the distributor to that State under subsection (a) for a subsequent calendar year designated by the beverage distributor.

"SEC. 12006. PROHIBITIONS ON DETACHABLE OPENINGS AND POST-REDEMPTION DISPOSAL.

"(a) DETACHABLE OPENINGS.—No beverage distributor or beverage retailer may sell, or offer for sale, in interstate commerce a beverage in a metal beverage container a part of which is designed to be detached in order to open such container.

"(b) POST-REDEMPTION DISPOSAL.—No retailer or distributor or agent of a retailer or distributor may dispose of any beverage container labeled under section 12002 or any metal, glass, or plastic from such a beverage container (other than the top or other seal thereof) in any landfill or other solid waste disposal facility.

"SEC. 12007. EXEMPTED STATES.

"(a) IN GENERAL.—The provisions of sections 12002 through 12005 and sections 12008 and 12009 of this subtitle shall not apply in any State which—

"(1) has adopted and implemented requirements applicable to all beverage containers sold in that State which the Administrator determines to be substantially identical to the provisions of sections 12002 through 12005 and sections 12008 and 12009 of this subtitle; or

"(2) demonstrates to the Administrator that, for any period of 12 consecutive months following the date of the enactment of this subtitle, such State achieved a recycling or reuse rate for beverage containers of at least 70 percent.

If at anytime following a determination under paragraph (2) that a State has achieved a 70 percent recycling or reuse rate the Administrator determines that such State has failed, for any 12-consecutive month period, to maintain at least a 70 percent recycling or reuse rate of its beverage containers, the Administrator shall notify such State that, upon the expiration of the 90-day period following such notification, the provisions under sections 12002 through 12005 and sections 12008 and 12009 shall be applicable to that State until a subsequent determination is made under subparagraph (A) or a demonstration is made under subparagraph (B).

"(b) DETERMINATION OF TAX.—No State or political subdivision which imposes any tax on the sale of any beverage container may impose a tax on any amount attributable to the refund value of such container.

"(c) EFFECT ON OTHER LAWS.—Nothing in this subtitle shall be construed to affect the authority of any State or political subdivision thereof to enact or enforce (or continue in effect) any law respecting a refund value on containers other than beverage containers or from regulating redemption and other centers which purchase empty beverage containers from beverage retailers, consumers, or other persons.

"SEC. 12008. REGULATIONS.

"Not later than 12 months after the enactment of this subtitle, the Administrator shall prescribe regulations to carry out this subtitle. The regulations shall include a definition of the term 'beverage retailer' in a case in which beverages in beverage containers are sold to consumers through beverage vending machines. Such regulations shall also adjust the 10 cent amount specified in section 12002 to account for inflation. Such adjustment shall be effective 10 years after the enactment of this subtitle and additional adjustments shall take effect at 10 year intervals thereafter.

"SEC. 12009. PENALTIES.

"Any person who violates any provision of section 12002, 12003, 12004, or 12006 shall be subject to a civil penalty of not more than $1,000 for each violation. Any person who violates any provision of section 12005 shall be subject to a civil penalty of not more than $10,000 for each violation.

"SEC. 12010. EFFECTIVE DATE.

"Except as provided in section 12008, this subtitle shall take effect 2 years after the date of its enactment."

"(b) TABLE OF CONTENTS.—The table of contents for such Act is amended by adding the following at the end thereof:

"SUBTITLE K—BEVERAGE CONTAINER RECYCLING

"Sec. 12001. Definitions.
"Sec. 12002. Required beverage containers labeling.
"Sec. 12003. Origination of refund value.
"Sec. 12004. Return of refund value.
"Sec. 12005. Accounting for unclaimed refunds and provisions for State recycling funds.
"Sec. 12006. Prohibitions on detachable openings and post-redemption disposal.
"Sec. 12007. Exempted States.
"Sec. 12008. Regulations.
"Sec. 12009. Penalties.
"Sec. 12010. Effective date."

TRIBUTE TO BILL HALPIN, LONG-TIME REPORTER IN SCRANTON, PA

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. McDADE. Mr. Speaker, the people of northeastern Pennsylvania lost a dear and trusted friend when William "Bill' Halpin died on February 25, just days before his 65th birthday. Bill Halpin, whose 44-year career in journalism was marked by his uncanny ability to get a story, will be missed by his colleagues at the Scranton Times and the Tribune, and by his many friends and readers.

Bill Halpin was a credit to his craft, possessing all the necessary tools of his trade. He had a natural curiosity which drove him to get all the facts. He was tenacious, managing to dodge secretaries and unlisted phone numbers to get through to the people he needed to talk to before his deadline. He was versatile and quick study, enabling him to cover a wide variety of assignments. He presented the news clearly and objectively, not letting his own opinions dominate his stories.

Bill Halpin also had a knack for getting information that others could not, and took pride in his ability to earn a scoop. His colleagues observed that Bill seemed to know things almost before they happened. His reputation for fairness and his direct manner as an interviewer helped him cultivate sources who did not feel comfortable speaking to other reporters, sources who had confidence in his judgments and his integrity.

Whenever I received a call from Bill Halpin, I knew that the interview would be direct and to the point. He did not hesitate to ask tough questions, but he made sure that my responses were treated fairly in print. He came to each story with an open mind and a willingness to listen. I cannot recall any instances where I questioned the accuracy or the motives of Bill Halpin.

After serving in the Army, Bill began his journalism career as a part-time sportscaster in 1948 for WARM radio in Scranton while working full-time with the Internal Revenue Service. When WARM–TV was launched in 1954, Bill wore many hats, as a producer, director, news coordinator, and on-air personality. He moved to print journalism in 1965, taking a job with the old Scrantonian-Tribune before moving to the Scranton Times 3 years later.

He was assigned a variety of beats during his career—the courts, the police, city hall, and many others—and brought his readers closer to the subjects he covered. He explained and enlightened by not only getting answers to the questions his readers might ask, but also by using his insight to get more information.

Bill was a fine journalist, and also a devoted family man. He and his wife, Ann, raised four sons and eight daughters. He was also active in community sports, serving as basketball referee for high school, college and professional contests for 33 years, and as a high school football official for 28 years. For many years he was executive secretary of the Catholic basketball league, and served for one year as sports information director at the University of Scranton.

On behalf of all the citizens of northeastern Pennsylvania, I would like to extend our condolences to his wife, Ann Halpin; his sons, William Halpin Jr., Gregory Halpin, Anthony Halpin, and Thomas Halpin; his daughters, Barbara Lavelle, Grace Halpin, Ellen Dailey, Susan Kelly, Bernadette Phillips, Ann Slifer, and Mary Swift, his sister, Florence Siegel, and his 13 grandchildren.

TRIBUTE TO THE CITY UNIVERSITY OF NEW YORK CONSORTIUM FOR DEVELOPMENTAL DISABILITIES

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. DOWNEY. Mr. Speaker, on October 7, 1991, Public Law 102–119 to amend the Individuals with Disabilities Education Act was signed into law by the President. Through the able leadership and vision of my colleague MAJOR OWENS (D–NY), chairman of the Subcommittee on Select Education, section 9, subsection C of this law "Grants For Personnel Training" will provide funds for up to 5 grants to States to support the education and

career advancement of human services workers providing care in public and private agencies to persons with mental retardation and developmental disabilities.

Mr. Speaker, section 9, subsection C was designed as a way to replicate the successful work of the City University of New York Consortium for Developmental Disabilities. The City University of New York [CUNY] has become a national leader in providing education opportunities for the workers who provide quality care to persons with mental retardation and developmental disabilities.

Through the leadership of Reaching Up, a not-for-profit organization formed to support the education and career advancement of direct care workers, CUNY, and the New York State Office of Mental Retardation and Developmental Disabilities, more that 1,000 student-workers at different CUNY colleges are taking courses in the developmental disabilities field. The CUNY consortium is creating the educational alternatives, career opportunities, and financial incentives that are necessary to improve the recruitment and retention of a highly motivated and a well-trained human services workforce.

Simply put, "The quality of life of the most vulnerable people in our society is inextricable linked to the quality of life of the workers who care for them." It is through this premise that CUNY has inaugurated this model program to help in the education and career advancement of direct care workers.

I commend the partners of the CUNY Consortium for their innovative program to reduce the catastrophically high turnover rates of direct care workers who provide the most basic assistance to persons who are mentally retarded, and I urge the replication of this model to other related fields such as mental health, day care, and home health care.

NATIONAL CREDIT EDUCATION WEEK

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thurday, February 27, 1992

Mr. TORRES. Mr. Speaker, today I am introducing, together with Congressman McCANDLESS, a joint resolution designating the week of April 19, 1992, as National Credit Education Week. As chairman and ranking minority member of the House Banking Subcommittee on Consumer Affairs and Coinage, we believe that there is a strong need for increased consumer credit education.

The increasing sophistication and complexity of the financial marketplace necessitates that consumers be given simple and understandable information about financial products in order to make informed decisions. Educated consumers are better able to use credit wisely thus increasing economic stability and marketplace competition. During National Credit Education Week, volunteers will conduct programs classes, essay contests, and credit fairs in cities around the country to increase consumers' knowledge of credit choices, rights, and responsibilities.

While National Credit Education Week is an annual event, this is the first year that Congress has been asked to show our support through a joint resolution. Consumer groups, as well as associations of individuals employed in the credit industry, strongly support this resolution. A companion resolution has been introduced in the other body.

I sincerely hope that my colleagues will join us in support of this important resolution by signing on as cosponsors.

NEAL DENOUNCES DEPORTATION OF JOSEPH DOHERTY

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. NEAL of Massachusetts. Mr. Speaker, I take this opportunity today to tell you that the American judicial system has borne a heavy blow, and the culprits sit in our White House and our Department of Justice. As witnessed by their forced repatriation of Joseph Doherty, they would have it so that the rights of a due process, that we in the United States hold up as a beacon to the world, would come only second to geopolitical considerations.

Joseph Doherty was interned for over 8 years without the right to a fair and speedy hearing; without the right to post bail. These actions were not the doings of some Middle Eastern potentate, but of our own Attorney General and President. Seven times the Attorney General blockaded Mr. Doherty's request for a hearing into his claim of political asylum. This was done despite the fact that, in 1983, a Federal court judge declared that Joe Doherty was squarely within the meaning of a "political offense exception to extradition." Let me remind you that this is a man that has committed no crime in the United States.

Northern Ireland is a war zone, but this administration chooses to greet the pleas for justice in the north, that have risen from the Irish-American community, with an attitude of callousness and ignorance.

When will the two faces of this administration's foreign policy be united so that we can look the people of the United States in the eye and say, yes, we are battling for liberty across the globe and not just where it is politically convenient, or lucrative? Northern Ireland remains as the last bastion of British domination and oppression. Thirty million Irish-Americans see our President time and again prop up the soiled history of British imperialism in Northern Ireland.

Now Joseph Doherty sits in a Belfast prison convicted of the same crimes for which the British will never stand trial. And our executive branch is an accomplice in this ignominious deed because they have not made the leaders of Britain equally accountable.

INTRODUCTION OF DEFICIT REDUCTION TRUST FUND ACT

HON. ROBERT E. WISE, JR.

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. WISE. Mr. Speaker, Americans are gravely concerned about the Federal budget deficit. This year's deficit will reach nearly $400 billion, which is more than $1,500 for each man, woman, and child in America. At the same time, our vital public infrastructure—roads, bridges, sewer systems—continues to decay, and we cannot afford to support the technological research upon which our future competitiveness depends.

I have introduced legislation that helps to reduce the budget deficit, but that also allows for vital investments in our country's future. My legislation establishes a trust fund called the deficit reduction account. This fund will accumulate money raised from new taxes or program savings and use it to reduce the deficit—and not for new spending.

But my legislation doesn't stop there. The interest from the deficit reduction account would be deposited into a companion account, the Build America Fund. After 5 years have passed, the accumulated interest and any subsequent interest from the deficit reduction account could be used for vital capital-intensive public investment programs that require assured long-term funding. Projects like highways, sewer systems, bridges, the space program, scientific research, and education programs such as Pell grants could receive additional funding from the Build America Fund.

This legislation will give the American people a double bang for their buck. First, it will involve no new spending and will yield true deficit reduction. Second, the interest accrued from the deficit reduction account will be devoted to genuine public investment that will help to make our country economically stronger. Furthermore, this proposal offers a reasonable compromise between those who wish to reduce the deficit and those committed to increasing long-term public investment.

Mr. Speaker, I encourage my colleagues in the House to consider this legislation seriously. In this time of severe budgetary constraint, the Deficit Reduction Trust Fund Act will establish a responsible means for achieving deficit reduction and increased public investment at the same time.

IN RECOGNITION OF ADAM LYLE HICKENBOTHAM, REGIONAL RECIPIENT OF THE SIXTH ANNUAL AAU/MARS-MILKY WAY HIGH SCHOOL ALL-AMERICAN AWARD

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. BILBRAY. Mr. Speaker, I rise today to honor an outstanding young man, Mr. Adam Lyle Hickenbotham, who has set an impeccable example for young people all over our Nation. Adam, a senior at Eldorado High School in Las Vegas, was recently selected as a regional recipient of the sixth annual AAU/Mars-Milky Way High School All-American Award. This award is part of an ongoing program that recognizes student achievers and encourages academic advancement through higher education. Adam is one of eight exceptional high school seniors selected as a regional recipient from across the country for their outstanding academic, athletic, and community service accomplishments.

As an exceptional student who is a member of the National Honor Society and who ranks first in his class, Adam has not only been selected as a National Merit Scholar semifinalist and been placed in the Academic Hall of Honor for academic achievement in over 13 various courses, but he has also received many awards for his success in math, including best paper from Eldorado High School in the Nevada prize exam.

As a member of the track and cross country varsity teams, Adam came in first in the freshman/sophomore championships, and he came in first six times in the Western Relays. He was awarded the Coach's Heart Award which is given each year to the team member that trains hardest during practice.

On top of all his academic and athletic responsibilities, Adam manages time in his hectic schedule to participate in several community service activities. He has done fundraisers for Opportunity Village and the Muscular Dystrophy Association, as well as volunteer work for the American Red Cross and the American Lung Society. Also, Adam spent over 200 volunteer hours planning and building a playhouse for the Stanford Elementary School kindergarten class in order to earn his Eagle Scout ranking.

The selection of the regional recipients was made by a panel of nationally recognized educators, Olympians, and community service achievers. Adam received a $10,000 scholarship for his college education. The eight recipients will now attend an awards banquet held in their honor where two national recipients—one man and one woman—of the AAU/Mars-Milky Way High School All-American Award will be named. Each will receive a $40,000 scholarship which may used for the college of their choice.

Adam Hickenbotham is a fine example of what our young people today are capable of becoming. I rise today to pay tribute to the accomplishments of an extremely gifted young man whom I am proud to say is a member of the Las Vegas community. Adam sets an example for what is attainable to young people everywhere through hard work, dedication, and desire. I urge my fellow Members to join me in congratulating Adam's awards that bring pride not only to our local community, but to the entire Nation.

TRIBUTE TO JAMES J. CUORATO

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. BORSKI. Mr. Speaker, I rise today to honor my constituent, Mr. James J. Cuorato, on his 50 years of Government service.

Mr. Cuorato began his Government service in March 1942 as a junior engineer aide with the Army Signal Corps in Philadelphia. His career at the Signal Corps was interrupted in 1948 by his induction into the U.S. Army. Mr. Cuorato was honorably discharged and returned to the Signal Corps until 1953.

Mr. Cuorato then transferred to Frankford Arsenal and the procurement field as a GS–7 procurement analyst. He progressed to a contract negotiator and a GS–13 supervisory contract specialist until the Frankford Arsenal was closed in 1976. While at the arsenal Mr. Cuorato was the administrative vice president of the Toastmasters Club, president of the Frankford Arsenal Management Association, and the civilian representative on the board of governors of the arsenal's officer's open mess.

Mr. Cuorato transferred to the Naval Air Warfare Center in Warminister in 1976 and has been responsible for supervision of the nine negotiators and contracting interns supporting the workload generated by the sensors and avionics technology directorate, the computer directorate, and miscellaneous support codes at the Center. He is the contracting officer for all of the Center's ADP procurements and is authorized to execute contracts of up to $10,000,000 in value.

In 1986, Mr. Cuorato was the winner of the Technical Director's Administrative Support Award as a culmination of the many individual letters of appreciation received from the departments that he supported. Since starting at the Center, Jim has received a total of 23 awards and commendations. Several of the commendations were at the secretariat level.

Mr. Speaker, I join his family, friends, and coworkers in honoring James Cuorato for his lifetime of dedication to Government service.

SUPPORT LOAN GUARANTEES FOR ISRAEL

HON. RAYMOND J. McGRATH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. McGRATH. Mr. Speaker, I am very disturbed by the recent comments made by the Secretary of State concerning Israel's request for a $10 billion loan guarantee from the United States.

I not only find the remarks by the Secretary before the House Subcommittee on Foreign Operations repulsive but what is especially offensive is the timing of his comments. Middle East representatives are again gathered here in Washington and have assembled at an even-keeled table. However, the Bush administration's unyielding policy toward the loan guarantee issue is insensitive and has tilted the bargaining table sharply toward the Arab delegates.

What the administration does not understand is that the mere threat of withholding the guarantee has an adverse effect on the peace process by linking a pure humanitarian effort with a strategy for reconciliation between several adversaries. I take exception to the statement by the Secretary of State and the President that the settlements in the West Bank and the Gaza Strip are an impediment to peace in the Middle East. For one, the number of refugees that have settled in these areas is very small. Labeling these settlements as a hindrance to the peace process is a feeble attempt to lay blame on an ally who is dedicated to tranquility in a region that has known war for centuries.

In addition, by delaying the guarantee, the administration continues to ignore the responsibilities this country has to the Jewish emigrees from the former Soviet Union. For decades, the United States, together with Israel, has been at the forefront of efforts to secure emigration for Jews who were unable to practice their religion in the Soviet Union. Now, after this struggle has borne fruit, should this Nation just turn its back on the thousands of Jewish emigrees? We must ensure that the Soviet Jews that have been granted freedom of passage to Israel be provided living conditions free from the instability and fear that had plagued their lives in the Soviet Union. The loan guarantee is merely another step in a process that this country has long committed itself. To bail out on the guarantee would be nothing less than an act of desertion by the United States.

Also, what the administration fails to accept is that stalling the guarantee also has an adverse effect on business in this country. The Israelis have agreed to purchase prefabricated structures built by American manufacturers to house the Jewish emigrees. With America's financial situation, especially our building trades, at a standstill, this purchase plan would have injected a much-needed boost to our economy.

Mr. Speaker, yet another fact the administration fails to realize is that the loan guarantee is just that—a guarantee; the United States is simply a cosigner on behalf of Israel. It is nothing more than a good will effort on behalf of the United States so that Israel may borrow using the most beneficial market rate. Yet, the White House has used this nominal request by Israel as a means to set policy and implement radical reorganization of our Middle East policy.

Finally Mr. Speaker, I believe that putting conditions on loan guarantees is another attempt to punish Israel. Those in Washington who advocate conditions for the guarantee continue to make no mention of the Arab boycott of Israel; the continued state of belligerency that the Arab nations have maintained against Israel since its inception; and the refusal of all Arab nations, with the exception of Egypt, to recognize Israel. Until these issues are resolved, I will continue to oppose any policy structured to condemn only Israel.

INTRODUCTION OF THE TOBACCO AND NICOTINE HEALTH AND SAFETY ACT

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. SYNAR. Mr. Speaker, today I am introducing legislation to correct a serious omission in the regulatory authority of the Food and Drug Administration. While the FDA has jurisdiction to protect consumers from unsafe foods, drugs, cosmetics and medical devices, it is powerless to do anything about one of the deadliest consumer products—tobacco. It is time to correct this situation.

Each day 1,200 Americans die from cancer, heart disease, chronic obstructive lung disease, and stroke as a result of cigarettes. Some 50,000 scientific studies on the relationship between smoking and disease have been

conducted. The results are conclusive. Tobacco use is the single most preventable cause of death. Tobacco products are implicated in the deaths of 434,000 people each year.

Although the FDA has the authority to regulate foods, drugs, cosmetics and medical devices, the first law establishing the agency did not list tobacco in the legislation's narrow definition of a drug. While the definition of what is a drug has been expanded several times since, cigarettes themselves have never been classified as drugs. However, in two court cases the FDA has been found to have indirect authority to regulate tobacco products when advertising implies that the product is intended for some purpose other than smoking pleasure. Specifically, when the product in question is being sold for the purpose of mitigating or preventing disease or is intended to affect the function or structure of the body, the FDA can regulate tobacco as a drug.

The FDA has exercised this limited authority in the past. For example, the agency classified a nontobacco cigarettelike device which delivered nicotine to the system of the user in a similar fashion and appearance to a cigarette as a drug because it was intended to satisfy a nicotine dependence and to affect the structure or, one or more functions of the body. Nevertheless, there are numerous petitions urging the FDA to take action on other tobacco products which have not been acted on.

Even if the FDA exercised its limited authority in every case, it would not be enough. The FDA still would not have the jurisdiction to regulate nicotine, additives, and other constituents in tobacco products, or sales of cigarettes to minors. Excluding tobacco products from the FDA's comprehensive regulatory scheme makes no sense.

Three-wheeled all terrain vehicles [ATV's] were implicated in far fewer deaths and yet the Consumer Product Safety Commission and the U.S. Justice Department acted swiftly to protect the public's safety by placing conditions on sales of the vehicle. When the EPA discovers that a pesticide may cause cancer in humans, it is quickly pulled from the market. When the FDA determines that a medical device poses health risks, such as the silicone breast implant, severe restrictions on its sale are proposed. In contrast, the sale, manufacture, and promotion of tobacco products continues unregulated despite the scientific evidence that the products cause death, disability, and disease.

The Tobacco and Nicotine Health Safety Act of 1992 would give the FDA the authority to regulate tobacco products in a manner consistent with other comparable products.

Specifically the bill would do the following:

Create a new section in the Food, Drug and Cosmetic Act authorizing FDA regulation of tobacco products.

Require tobacco manufacturers to fully disclose all chemical additives in tobacco products.

Give the FDA the authority to reduce the level of harmful additives or to prohibit the use of those additives altogether.

Prohibit the sale of tobacco products to any person under the age of 18.

There is simply no justification for treating tobacco differently than comparable consumer products. If tobacco is to remain on the market, it should be regulated by the FDA. Why should the FDA have the power to regulate nicotine in every circumstance except tobacco? Why should the tobacco industry be exempt from the FDA's disclosure and safety requirements regarding chemical additives? Why should the implied or direct health claims about tobacco products, which no agency requires be substantiated by medical science, be treated any differently than the implied health claims of corn flakes? The obvious answer to all of these questions is: It shouldn't. If anything tobacco deserves closer scrutiny than cereal or orange juice. The Tobacco and Nicotine Health Safety Act is long overdue.

I am pleased that my colleagues DON RITTER, DICK DURBIN, MIKE ANDREWS, and WAYNE OWENS are joining me in this effort.

HONORING LEO SKULNICK, BETTY SKULNICK, HERBERT PERLMAN AND MIMI SCHNALL

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. ACKERMAN. Mr. Speaker, I rise today to recognize the accomplishments of Young Israel of Hillcrest Community under the leadership of its president, Kevin Leifer, and its spiritual leader, Rabbi Simcha Krauss. During the past few years the Young Israel of Hillcrest, in Queens County, has emerged as one of the foremost Orthodox congregations in the country. It is particularly fitting to pay tribute to this Young Israel at a time when it recognizes four outstanding individuals who tireless efforts in building the community, and overwhelming concern for the well being of others, exemplify the highest traditional values.

Leo "Mendy" Skulnick and his wife, Betty Skulnick, two distinguished members of Young Israel, have been designated as honorees in recognition of their years of selfless devotion to the people of Queens. Mendy Skulnick attended Yeshivas Shlomo Kluger and Rabbi Jacob Joseph in Manhatten and Yeshiva Torah Vadaath in Brooklyn. He holds a bachelor's and master's degree from City College. A master teacher, for more than 3 decades he has inspired the children of New York City to treat their classmates with kindess and concern as they pursue excellence.

Leo Skulnick's influence in Hillcrest itself is even more profound. As gabbai of the Young Israel, he walks in the footsteps of Aaron, the High Priest, engendering peace and good fellowship among all members of the community. These efforts are complemented by his capacity to extend a unique personal warmth that has touched the heart of innumerable individuals. Mendy's support and empathy bring joy at simchas and comfort in times of pain. His life truly exemplifies the maxim of Hillel, the sage: "Love your neighbor as yourself."

Mendy's success in these many undertakings is due in large part to the partnership and love of Betty. A noted educator, Betty Skulnick has taught in Flushing High School for more than a decade and a half. Her reputation for excellence is proclaimed by thousands of students from the Flushing, Corona, and Whitestone communities.

Herbert Perlman and Mimi Schnall, the Tzarchei Tzibbur awardees, have devoted their efforts and attention to the synagogue and community. Their ceaseless endeavors and willingness to sacrifice for others bring to mind the devotion of Abraham and Sarah, whose concern for humanity inspired others to work for the welfare of their friends and neighbors.

I ask my colleges in the House to join me in wishing mazel tov to Leo Skulnick, Betty Skulnick, Herbert Perlman, Mini Schnall and their families, and in extending our hopes that they have many more years of good health to continue their important work for the people of Hillcrest and all Queens.

INTRODUCTION OF THE WASTE MANAGEMENT ACT OF 1992

HON. HARLEY O. STAGGERS, JR.

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. STAGGERS. Mr. Speaker, today, I am introducing the Waste Management Act of 1992.

This legislation is an opportunity for the Federal Government to take a significant step toward protecting our communities and our vital natural resources.

My bill will provide for a substantial reduction in waste. It will improve recycling efforts. It will support community-based recycling programs. Moreover, it will give States the right to refuse out-of-State waste.

Under this bill, a State with an approved State plan, with a certificate of compliance, is allowed to prohibit the transportation of solid waste into such a State. Generally, this will allow States to effectively take care of their own trash and give them the flexibility to determine what, if any, additional out-of-State waste they will accept. Many States, like West Virginia, are rightfully concerned about the amounts of garbage that are being dumped in their State. This legislation is designed to give States an opportunity to control their own destiny.

Currently, States cannot refuse out-of-State garbage because the interstate commerce clause of the Constitution has been used to classify waste and garbage as a commodity. My bill says that if a State is taking care of its own waste, then it should not be forced to take another State's garbage.

My proposal would authorize $250 million per year to be spent in a number of ways to promote management practices that protect human health and the environment. This would be done in a variety of ways, including source reduction and recycling of solid waste, source separation, and creation of new markets for recycled materials. This bill sets a goal of reducing municipal solid waste by 40 percent by the year 2001.

Under this legislation, communities will receive information and essential support to develop recycling programs. Education of the public about waste recycling and source reductions are critical to any effort to achieve

meaningful results. One of the key aspects of my proposal is to provide for local boards of education to develop educational programs about solid waste, especially recycling.

This legislation also authorizes grants in the amount of $12 million a year for counties and communities to develop and implement recycling programs and to develop markets for recycled materials.

The Waste Management Act of 1992 is a blueprint for addressing the environmental problems confronting our communities. This legislation can improve the quality of life in our communities. It can help to secure a better future for our children and generations of Americans to come.

NOT BUSINESS AS USUAL

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. SAXTON. Mr. Speaker, I sat through all of the debate on the various economic proposals we had yesterday. And each time I went back to my office, I answered phone calls from constituents back in New Jersey who were expressing more and more disbelief at what we were doing down here. They viewed yesterday's debate as little more than a political charade.

After sleeping on it, I have come to the conclusion that I cannot go along with business as usual and cast the politically correct vote today—which would be to vote against the Democrats' bill and for our Republican bill.

This is not—or it least it should not—be a political issue. This is an economic issue. Our constituents are not looking for political answers, they are looking to economic answers—and neither of the major proposals before us contain those answers.

Surely, the Bush-Republican plan does propose some important first steps. But my constituents are looking for more than first steps and I have said from the outset that the White House proposal does not go far enough. The Democrat proposal is even shorter on economic substance.

My constituents are looking for answers not contained in either of these measures and I have decided to vote "no" on both.

Let's go back to work and come up with a meaningful, truly bipartisan economic package. My unemployed workers are looking for new jobs, not snow jobs.

TRIBUTE TO HON. TIBO CHAVEZ

HON. STEVEN SCHIFF

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 1992

Mr. SCHIFF. Mr. Speaker, I rise today to pay tribute to a great New Mexican: the Honorable Tibo Chavez, who died November 25 in Albuquerque at the age of 79.

To quote the Albuquerque Journal: "Judge, Lieutenant Governor, State senator, senate majority leader, political power, civil servant, author, historian—all are words that describe the distinguished career of Tibo Chavez."

Judge Chavez served the last 13 years of a very distinguished career as a district judge in his beloved Valencia County, where he was born 79 years ago.

He also served 22 years in the New Mexico State Senate, and served 4 years as Lieutenant Governor. As a State legislator, he was a moving force behind a number of important bills that benefited the entire State of New Mexico—the implied consent law—the State's first attempt to get drunk drivers off the streets—the Fair Employment Practices Act, the Commission on Aging, the Commission on Youth, and the State Monuments Designation Act.

Judge Chavez also established a scholarship in history at the University of New Mexico's Valencia Campus, funded with proceeds from two books he authored: "El Rio Abajo" and "New Mexican Folklore of the Rio Abajo."

Judge Chavez continued a long family tradition in New Mexico. His ancestors first came to the land of enchantment in the 1600's in the company of Gen. Diego De Vargas.

To again quote the Albuquerque Journal, "In politics, in the judiciary, in preservation of folk history and Hispanic culture, Chavez left a mark on New Mexico and will be missed."

Judge Chavez was a great New Mexican who gave a great deal to Valencia County and to the entire State. His many contributions will serve as a timeless monument to his memory.